

HOUSE BILL NO. 5479

February 22, 2024, Introduced by Rep. Schriver and referred to the Committee on Government Operations.

A bill to amend 1976 PA 223, entitled

"An act to create an agency concerned with crime victim services; to prescribe its powers and duties; to provide compensation to certain victims of crimes; to provide for the promulgation of rules; and to provide for penalties,"

by amending section 5a (MCL 18.355a), as amended by 2018 PA 525.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 5a. (1) A health care provider is eligible to be paid for
- 2 a sexual assault medical forensic examination under this section
- 3 only if that examination includes all of the following:
- 4 (a) The collection of a medical history.

1 (b) A general medical examination, including, but not limited
2 to, the use of laboratory services and the dispensing of prescribed
3 pharmaceutical items.

4 (c) One or more of the following:

5 (i) A detailed oral examination.

6 (ii) A detailed anal examination.

7 (iii) A detailed genital examination.

8 (d) Administration of a sexual assault evidence kit under
9 section 21527 of the public health code, 1978 PA 368, MCL
10 333.21527, and related medical procedures and laboratory and
11 pharmacological services.

12 (2) A health care provider shall not submit a bill for any
13 portion of the costs of a sexual assault medical forensic
14 examination to the victim of the sexual assault, including any
15 insurance deductible or co-pay, denial of claim by an insurer, or
16 any other out-of-pocket expense.

17 (3) A health care provider seeking payment under this section
18 for a sexual assault medical forensic examination shall do all of
19 the following:

20 (a) Advise the victim, orally and in writing, that a claim
21 ~~shall~~**will** not be submitted to his or her insurance carrier without
22 his or her express written consent, and that he or she may decline
23 to consent if he or she believes that submitting a claim to the
24 insurance carrier would substantially interfere with his or her
25 personal privacy or safety.

26 (b) If the victim gives his or her consent as provided under
27 subdivision (a), submit a claim for the cost of a sexual assault
28 medical forensic examination to the victim's insurance carrier,
29 including, but not limited to, Medicaid and Medicare.

1 (4) A health care provider may seek payment from 1 or both of
2 the following if reimbursement cannot be obtained from the victim's
3 insurance or insurance is unavailable:

4 (a) The commission under this section.

5 (b) From another entity other than the victim.

6 (5) A health care provider that is reimbursed for a sexual
7 assault medical forensic examination by a victim's insurance
8 carrier shall not submit to the commission any portion of the claim
9 reimbursable by the insurance carrier.

10 (6) A health care provider that is reimbursed for a sexual
11 assault medical forensic examination by another entity shall not
12 submit to the commission any portion of the claim reimbursable by
13 the other entity.

14 (7) The commission shall pay a health care provider not more
15 than \$1,200.00 for the cost of performing a sexual assault medical
16 forensic examination, including, but not limited to, the cost of 1
17 or more of the following:

18 (a) Not more than \$700.00 for the use of an emergency room,
19 clinic, or examination room, and the sexual assault medical
20 forensic examination and related procedures other than services and
21 items described in subdivisions (b) and (c).

22 (b) Laboratory services related to the sexual assault.

23 (c) Dispensing pharmaceutical items related to the sexual
24 assault.

25 (8) A claim for compensation under subsection (7) ~~shall~~**must**
26 be submitted to the commission in a form and in the manner
27 prescribed by the commission.

28 (9) Except with the victim's consent or as otherwise provided
29 in this subsection, information collected by the commission under

1 this section that identifies a victim of sexual assault is exempt
2 from disclosure under the freedom of information act, 1976 PA 442,
3 MCL 15.231 to 15.246, ~~shall~~**must** not be obtained by subpoena or in
4 discovery, and is inadmissible as evidence in any civil, criminal,
5 or administrative proceeding. Information collected by the
6 commission under this section that identifies a victim of sexual
7 assault is confidential and ~~shall only~~**must** be used **only** for the
8 purposes expressly provided in this act, including, but not limited
9 to, investigating and prosecuting a civil or criminal action for
10 fraud related to reimbursement provided by the commission under
11 this section.

12 (10) A victim of sexual assault ~~shall~~**is** not ~~be~~ required to
13 participate in the criminal justice system or cooperate with law
14 enforcement as a condition of being administered a sexual assault
15 medical forensic examination. For payments authorized under this
16 section or for payments made to victims under section 6,
17 administration to the victim of a sexual assault medical forensic
18 examination satisfies the requirements for prompt law enforcement
19 reporting and victim cooperation under sections 6 and 10.

20 (11) As used in this section:

21 (a) "Health care provider" means any of the following:

22 (i) A health professional licensed or registered under article
23 15 of the public health code, 1978 PA 368, MCL 333.16101 to
24 333.18838.

25 (ii) A health facility or agency licensed under article 17 of
26 the public health code, 1978 PA 368, MCL 333.20101 to
27 ~~333.22260.~~**333.22121.**

28 (iii) A local health department as that term is defined in
29 section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

1 (b) "Sexual assault" means a criminal violation of sections
2 520a to 520n of the Michigan penal code, 1931 PA 328, MCL 750.520a
3 to 750.520n.

4 (c) "Sexual assault medical forensic examination" means that
5 term as described in subsection (1) (a) to (d).

6 Enacting section 1. This amendatory act does not take effect
7 unless Senate Bill No. _____ or House Bill No. 5477 (request no.
8 01038'23) of the 102nd Legislature is enacted into law.