

Legislative Analysis



SEXUAL ASSAULT VICTIMS' FORENSIC MEDICAL INTERVENTION AND TREATMENT ACT

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5838

Sponsor: Rep. David Woodward

Committee: Criminal Justice

Complete to 6-29-04

A SUMMARY OF HOUSE BILL 5838 AS INTRODUCED 4-29-04

The bill would create the Sexual Assault Victims' Forensic Medical Intervention and Treatment Act, define terms, create the Sexual Assault Victims' Forensic Medical Intervention and Treatment Fund, and allow an assessment to be imposed on persons convicted of criminal sexual conduct (CSC) or an attempted CSC.

Sexual Assault Victims' Forensic Medical Intervention and Treatment Fund. The fund would be created within the state treasury; money in the fund at the close of a fiscal year would remain in the fund and not lapse to the general fund. The treasurer could receive money or other assets from any source for deposit into the fund and he or she would have to credit to the fund interest and earnings from fund investments.

Money could not begin to be expended from the fund until one year after the bill's effective date. The Family Independence Agency could then expend money, upon appropriation, to do the following:

- Distribute at least 80 percent of the money to entities that: perform the procedures required by sexual assault evidence kits, provide specialized assistance to victims, operate under the auspices of or in partnership with a local sexual assault crisis center, comply with the standards of training and practice of the International Association of Forensic Nurse Examiners or its successor organization, and provide access to forensic medical intervention and treatment services 24 hours a day.
- Expend not more than 15 percent for forensic medical intervention related training and technical assistance for staff members.
- Expend not more than 5 percent for administrative costs.

Money would be distributed by the FIA by awarding grants and contracts in a manner so as to reflect the population, geographic area, and rural and urban diversity of the state according to standards developed jointly by the department and the Department of Community Health. The FIA could require an annual audit of income and expenditures from the fund and would have to provide an annual report of incomes and expenditures to the legislature by February 1 of each year.

Assessment. Unless specifically waived by the court, a court would have to order an individual convicted of or who had pled guilty to criminal sexual conduct (CSC) to pay an assessment of \$251 to the clerk of the court. This would also apply to juveniles under

the jurisdiction of the juvenile division of probate court or family division of circuit court for whom an order of disposition was entered for a juvenile offense that if committed by an adult would be a CSC or attempted CSC. The assessment would be in addition to any other fine or assessment including restitution to the fund ordered by the court under provisions of the Crime Victim's Rights Act. Payment of the assessment would be a condition of probation or parole.

The clerk of the court would have to transmit, on the last day of each month, \$250 of each assessment collected during the month to the state treasurer for deposit into the fund. The clerk would also have to transmit \$1 to the court's funding unit to pay for the court's processing of the assessment.

Definitions. A "sexual assault crisis center" would mean a public or private agency that offered specialized direct assistance to victims that included, but was not limited to, the following:

- A 24-hour telephone hotline answered by a sexual assault counselor or trained volunteer.
- Crisis intervention and advocacy services.
- Service coordination.
- Community awareness or education programs on sexual assault services.

"Victim" would mean a person who consulted a sexual assault counselor for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by sexual abuse or sexual violence.

"Criminal sexual conduct" would mean a violation of Section 520b (1st degree), 520c (2nd degree), 520d (3rd degree), 520e (4th degree), 520f (second or subsequent offense of 1st, 2nd, or 3rd degree CSC), or 520g (assault with intent to commit CSC) of the Michigan Penal Code.

"Counselor" would mean an employee of a sexual assault crisis center whose primary purpose would be to render advice, counsel, or assist a victim.

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on the state and local units of government, depending on the amount of funding collected under the bill and whether it supplemented or supplanted state funds spend on the services described by the bill. In 2001, there were 2,519 adult felony dispositions for the offenses specified by the bill. Comparable data on the numbers of juvenile adjudications are not available; however, according to the Family Independence Agency, there were 158 juvenile offenders placed following adjudications for sexual offenses.

Legislative Analyst: Susan Stutzky

Fiscal Analyst: Marilyn Peterson

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.