

SUBSTITUTE FOR  
SENATE BILL NO. 1629

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,"

(MCL 18.351 to 18.368) by adding section 5a.

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.

5            (B) A GENERAL MEDICAL EXAMINATION, INCLUDING, BUT NOT LIMITED  
6        TO, THE USE OF LABORATORY SERVICES AND THE DISPENSING OF PRESCRIBED  
7        PHARMACEUTICAL ITEMS.

8            (C) ONE OR MORE OF THE FOLLOWING:

1 (i) A DETAILED ORAL EXAMINATION.

2 (ii) A DETAILED ANAL EXAMINATION.

3 (iii) A DETAILED GENITAL EXAMINATION.

4 (D) ADMINISTRATION OF A SEXUAL ASSAULT EVIDENCE KIT UNDER  
5 SECTION 21527 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL  
6 333.21527, AND RELATED MEDICAL PROCEDURES AND LABORATORY AND  
7 PHARMACOLOGICAL SERVICES.

8 (2) A HEALTH CARE PROVIDER SHALL NOT SUBMIT A BILL FOR ANY  
9 PORTION OF THE COSTS OF A SEXUAL ASSAULT MEDICAL FORENSIC  
10 EXAMINATION TO THE VICTIM OF THE SEXUAL ASSAULT, INCLUDING ANY  
11 INSURANCE DEDUCTIBLE OR CO-PAY, DENIAL OF CLAIM BY AN INSURER, OR  
12 ANY OTHER OUT-OF-POCKET EXPENSE.

13 (3) A HEALTH CARE PROVIDER SEEKING PAYMENT UNDER THIS SECTION  
14 FOR A SEXUAL ASSAULT MEDICAL FORENSIC EXAMINATION SHALL DO ALL OF  
15 THE FOLLOWING:

16 (A) ADVISE THE VICTIM, ORALLY AND IN WRITING, THAT A CLAIM  
17 SHALL NOT BE SUBMITTED TO HIS OR HER INSURANCE CARRIER WITHOUT HIS  
18 OR HER EXPRESS WRITTEN CONSENT, AND THAT HE OR SHE MAY DECLINE TO  
19 CONSENT IF HE OR SHE BELIEVES THAT SUBMITTING A CLAIM TO THE  
20 INSURANCE CARRIER WOULD SUBSTANTIALLY INTERFERE WITH HIS OR HER  
21 PERSONAL PRIVACY OR SAFETY.

22 (B) IF THE VICTIM GIVES HIS OR HER CONSENT AS PROVIDED UNDER  
23 SUBDIVISION (A), SUBMIT A CLAIM FOR THE COST OF A SEXUAL ASSAULT  
24 MEDICAL FORENSIC EXAMINATION TO THE VICTIM'S INSURANCE CARRIER,  
25 INCLUDING, BUT NOT LIMITED TO, MEDICAID AND MEDICARE.

26 (4) A HEALTH CARE PROVIDER MAY SEEK PAYMENT FROM 1 OR BOTH OF  
27 THE FOLLOWING IF REIMBURSEMENT CANNOT BE OBTAINED FROM THE VICTIM'S

1 INSURANCE OR INSURANCE IS UNAVAILABLE:

2 (A) THE COMMISSION UNDER THIS SECTION.

3 (B) FROM ANOTHER ENTITY OTHER THAN THE VICTIM.

4 (5) A HEALTH CARE PROVIDER THAT IS REIMBURSED FOR A SEXUAL  
5 ASSAULT MEDICAL FORENSIC EXAMINATION BY A VICTIM'S INSURANCE  
6 CARRIER SHALL NOT SUBMIT TO THE COMMISSION ANY PORTION OF THE CLAIM  
7 REIMBURSABLE BY THE INSURANCE CARRIER.

8 (6) A HEALTH CARE PROVIDER THAT IS REIMBURSED FOR A SEXUAL  
9 ASSAULT MEDICAL FORENSIC EXAMINATION BY ANOTHER ENTITY SHALL NOT  
10 SUBMIT TO THE COMMISSION ANY PORTION OF THE CLAIM REIMBURSABLE BY  
11 THE OTHER ENTITY.

12 (7) THE COMMISSION SHALL PAY A HEALTH CARE PROVIDER NOT MORE  
13 THAN \$600.00 FOR THE COST OF PERFORMING A SEXUAL ASSAULT MEDICAL  
14 FORENSIC EXAMINATION, INCLUDING, BUT NOT LIMITED TO, THE COST OF 1  
15 OR MORE OF THE FOLLOWING:

16 (A) NOT MORE THAN \$400.00 FOR THE USE OF AN EMERGENCY ROOM,  
17 CLINIC, OR EXAMINATION ROOM, AND THE SEXUAL ASSAULT MEDICAL  
18 FORENSIC EXAMINATION AND RELATED PROCEDURES OTHER THAN SERVICES AND  
19 ITEMS DESCRIBED IN SUBDIVISIONS (B) AND (C).

20 (B) NOT MORE THAN \$125.00 FOR LABORATORY SERVICES.

21 (C) NOT MORE THAN \$75.00 FOR DISPENSING PHARMACEUTICAL ITEMS  
22 RELATED TO THE SEXUAL ASSAULT.

23 (8) A CLAIM FOR COMPENSATION UNDER SUBSECTION (7) SHALL BE  
24 SUBMITTED TO THE COMMISSION IN A FORM AND IN THE MANNER PRESCRIBED  
25 BY THE COMMISSION.

26 (9) EXCEPT WITH THE VICTIM'S CONSENT OR AS OTHERWISE PROVIDED  
27 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 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 BE USED FOR THE PURPOSES  
8 EXPRESSLY PROVIDED IN THIS ACT, INCLUDING, BUT NOT LIMITED TO,  
9 INVESTIGATING AND PROSECUTING A CIVIL OR CRIMINAL ACTION FOR FRAUD  
10 RELATED TO REIMBURSEMENT PROVIDED BY THE COMMISSION UNDER THIS  
11 SECTION.

12 (10) A VICTIM OF SEXUAL ASSAULT SHALL 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, THE VICTIM'S REQUEST FOR A SEXUAL ASSAULT MEDICAL FORENSIC  
17 EXAMINATION SATISFIES THE REQUIREMENTS FOR PROMPT LAW ENFORCEMENT  
18 REPORTING AND VICTIM COOPERATION UNDER SECTIONS 6 AND 10.

19 (11) AS USED IN THIS SECTION:

20 (A) "HEALTH CARE PROVIDER" MEANS ANY OF THE FOLLOWING:

21 (i) A HEALTH PROFESSIONAL LICENSED OR REGISTERED UNDER ARTICLE  
22 15 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO  
23 333.18838.

24 (ii) A HEALTH FACILITY OR AGENCY LICENSED UNDER ARTICLE 17 OF  
25 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20101 TO 333.22260.

26 (iii) A LOCAL HEALTH DEPARTMENT AS THAT TERM IS DEFINED IN  
27 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 520/OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520A  
3   TO 750.520/.

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 House Bill No. 6602 of the 94th Legislature is enacted into  
8   law.