

Act No. 391
Public Acts of 2008
Approved by the Governor
December 26, 2008
Filed with the Secretary of State
December 29, 2008
EFFECTIVE DATE: December 29, 2008

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Senators Hardiman, Jansen, Jacobs, Kuipers, Scott, Birkholz, Kahn and Patterson

ENROLLED SENATE BILL No. 1629

AN ACT 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:

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

(a) The collection of a medical history.

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

(c) One or more of the following:

(i) A detailed oral examination.

(ii) A detailed anal examination.

(iii) A detailed genital examination.

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

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

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

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

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

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

(a) The commission under this section.

(b) From another entity other than the victim.

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

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

(7) The commission shall pay a health care provider not more than \$600.00 for the cost of performing a sexual assault medical forensic examination, including, but not limited to, the cost of 1 or more of the following:

(a) Not more than \$400.00 for the use of an emergency room, clinic, or examination room, and the sexual assault medical forensic examination and related procedures other than services and items described in subdivisions (b) and (c).

(b) Not more than \$125.00 for laboratory services.

(c) Not more than \$75.00 for dispensing pharmaceutical items related to the sexual assault.

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

(9) Except with the victim's consent or as otherwise provided in this subsection, information collected by the commission under this section that identifies a victim of sexual assault is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, shall not be obtained by subpoena or in discovery, and is inadmissible as evidence in any civil, criminal, or administrative proceeding. Information collected by the commission under this section that identifies a victim of sexual assault is confidential and shall only be used for the purposes expressly provided in this act, including, but not limited to, investigating and prosecuting a civil or criminal action for fraud related to reimbursement provided by the commission under this section.

(10) A victim of sexual assault shall not be required to participate in the criminal justice system or cooperate with law enforcement as a condition of being administered a sexual assault medical forensic examination. For payments authorized under this section, the victim's request for a sexual assault medical forensic examination satisfies the requirements for prompt law enforcement reporting and victim cooperation under sections 6 and 10.

(11) As used in this section:

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

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

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

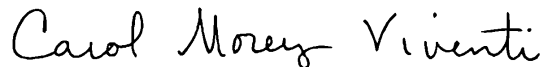
(iii) A local health department as that term is defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

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

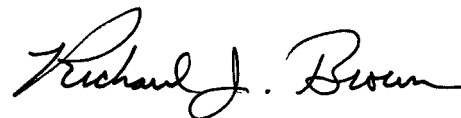
(c) "Sexual assault medical forensic examination" means that term as described in subsection (1)(a) to (d).

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6602 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor