

SENATE BILL No. 1190

December 14, 2016, Introduced by Senators SCHUITMAKER and WARREN and referred to the Committee on Judiciary.

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 added by 2008 PA 391.

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.

1 (c) One or more of the following:

2 (i) A detailed oral examination.

3 (ii) A detailed anal examination.

4 (iii) A detailed genital examination.

5 (d) Administration of a sexual assault evidence kit under
6 section 21527 of the public health code, 1978 PA 368, MCL
7 333.21527, and related medical procedures and laboratory and
8 pharmacological services.

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

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

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

23 (b) If the victim gives his or her consent as provided under
24 subdivision (a), submit a claim for the cost of a sexual assault
25 medical forensic examination to the victim's insurance carrier,
26 including, but not limited to, ~~medicaid and medicare~~**MEDICAID AND**
27 **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 ~~\$600.00~~ **\$1,200.00** for the cost of performing a sexual assault
 16 medical forensic examination, including, but not limited to, the
 17 cost of 1 or more of the following:

18 (a) ~~Not more than \$400.00~~ **\$600.00** for the use of an emergency
 19 room, 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)~~, **AND (D)**.

22 **(B) \$150.00 FOR COLPOSCOPY OR HIGH-RESOLUTION DIGITAL**
 23 **PHOTOGRAPHY, OR BOTH, TO DOCUMENT INJURY OR OTHER EVIDENCE RELATED**
 24 **TO THE SEXUAL ASSAULT.**

25 **(C) ~~(b) Not more than \$125.00 for laboratory~~ LABORATORY**
 26 **services RELATED TO THE SEXUAL ASSAULT.**

27 **(D) ~~(c) Not more than \$75.00 for dispensing~~ DISPENSING**

1 pharmaceutical items related to the sexual assault.

2 (8) THE DEPARTMENT OF HEALTH AND HUMAN SERVICES MAY DETERMINE
3 REIMBURSEMENT RATES TO A HEALTH CARE PROVIDER FOR LABORATORY
4 SERVICES AND THE COST OF DISPENSING PHARMACEUTICALS UNDER THIS
5 SECTION IN ACCORDANCE WITH THE REIMBURSEMENT RATES ALLOWED UNDER
6 MEDICARE FOR SIMILAR SERVICES AND EXPENSES.

7 (9) ~~(8)~~—A claim for compensation under subsection (7) ~~shall~~
8 **MUST** be submitted to the commission in a form and in the manner
9 prescribed by the commission.

10 (10) ~~(9)~~—Except with the victim's consent or as otherwise
11 provided in this subsection, information collected by the
12 commission under this section that identifies a victim of sexual
13 assault is exempt from disclosure under the freedom of information
14 act, 1976 PA 442, MCL 15.231 to 15.246, shall not be obtained by
15 subpoena or in discovery, and is inadmissible as evidence in any
16 civil, criminal, or administrative proceeding. Information
17 collected by the commission under this section that identifies a
18 victim of sexual assault is confidential and shall only be used for
19 the purposes expressly provided in this act, including, but not
20 limited to, investigating and prosecuting a civil or criminal
21 action for fraud related to reimbursement provided by the
22 commission under this section.

23 (11) ~~(10)~~—A victim of sexual assault ~~shall~~ **IS** not ~~be~~ required
24 to participate in the criminal justice system or cooperate with law
25 enforcement as a condition of being administered a sexual assault
26 medical forensic examination. For payments authorized under this
27 section, **OR FOR PAYMENTS MADE TO CLAIMANTS UNDER SECTION 6**, the

1 ~~victim's request for~~ **ADMINISTRATION OF** a sexual assault medical
2 ~~forensic examination~~ **EVIDENCE KIT** satisfies the requirements for **A**
3 **VICTIM'S** prompt law enforcement reporting and ~~victim~~ cooperation
4 under sections 6 and 10.

5 (12) ~~(11)~~ As used in this section:

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

7 (i) A health professional licensed or registered under article
8 15 of the public health code, 1978 PA 368, MCL 333.16101 to
9 333.18838.

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

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

14 (b) "Sexual assault" means a criminal violation of sections
15 520a to 520/ of the Michigan penal code, 1931 PA 328, MCL 750.520a
16 to 750.520/.

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

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.