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# Final Report of the Commission to Propose An Alternative Process for Forensic Examinations for Sexual Assault Victims

Maine State Legislature

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**STATE OF MAINE  
119TH LEGISLATURE  
FIRST REGULAR SESSION**

**Final Report  
of the**

**COMMISSION TO PROPOSE  
AN ALTERNATIVE PROCESS FOR  
FORENSIC EXAMINATIONS  
FOR SEXUAL ASSAULT VICTIMS**

**January 2000**

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Representative William S. Norbert, Chair  
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## Table of Contents

	Page
<b>Executive Summary</b> .....	i
<b>I. Introduction</b> .....	1
<b>II. Presentations to Commission</b> .....	2
<b>III. Current Laws and Procedures Governing Forensic Examinations</b> .....	6
<b>IV. Other States' Processes and Methods</b> .....	8
<b>V. Findings and Recommendations</b> .....	12

## Appendices

- A. Legislation authorizing the Commission: Resolve 1999, Chapter 84
- B. List of Commission Members
- C. Recommended Legislation
- D. The Violence Against Women Act: Funding Provisions
- E. 30-A M.R.S.A. §287
- F. Proposed State of Maine Sex Crimes Kit Inventory and Evidence Collection Instructions
- G. Memorandum from the Director of the Victims' Compensation Program
- H. Research on Other States' Reimbursement Programs for Sexual Assault Forensic Examinations
- I. Victims of Crime Act Funding Provisions

## Executive Summary

The Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims was created pursuant to Resolve 1999, chapter 84 during the First Regular Session of the 119th Legislature. The original legislation was sponsored by Representative William Norbert, a member of the Joint Standing Committee on Judiciary and co-chair of the commission.

The commission's charge was to hold public meetings, invite the participation of experts and interested parties, gather information and request necessary data from public and private entities in order to:

- (1) Review the current process for providing forensic examinations, medical treatment and reimbursement for these services to sexual assault victims;
- (2) Identify the forensic examination, medical treatment and reimbursement needs of sexual assault victims;
- (3) Review other states' processes for providing forensic examinations, medical treatment and reimbursement for those services to sexual assault victims with a focus on how and by whom the examinations are provided, whether reporting is required and what source of funding pays for the examinations and necessary medical treatment; and
- (4) If appropriate, make necessary recommendations to propose changes to the State's current process for providing forensic examinations, medical treatment and reimbursement for these services to sexual assault victims.

The commission was convened on September 27, 1999 and held 4 meetings.

The commission makes the following recommendations:

- **The commission recommends that all hospitals and health care practitioners in the State use a uniform forensic examination kit to perform forensic examinations for sexual assault victims. The commission recommends that the Department of Public Safety define by rule the kit contents and instructions, which should include a checklist for examiners to follow. The Department of Public Safety should follow the State's contract process and put kit production out to bid and should contract with a vendor to make the uniform standard kit. The Department of Public Safety should be responsible for furnishing the uniform kits by coordinating with the Division of Purchases Central Warehouse for the storage and distribution of sexual assault forensic examination kits to all hospitals and health care practitioners who perform these examinations.**

- **The commission recommends that the Victims' Compensation Board create the Forensic Examination Payment Account, a separate account of the Victims' Compensation Fund, to pay for forensic examinations for sexual assault victims. Hospitals and health care practitioners should bill the board directly for payment of the examination fee, and the board should pay hospitals and health care practitioners for the actual costs of the examinations, up to a maximum of \$500 per examination. The Victims' Compensation Board should determine by rule what a forensic examination includes for purposes of payment. At a minimum, an examination for purposes of reimbursement should include: all services directly related to the sexual assault forensic examination for evidence gathering purposes and related testing and treatment for pregnancy and sexually transmitted diseases. Victims are not required to make a report to law enforcement in order for the board to pay for the examinations, and victims should not be billed for forensic examinations. This process is not intended to preclude application to other payors, such as insurers or the Victims' Compensation Fund, for payment of medical treatment provided to the sexual assault victim in addition to the forensic examination.**
- **The commission recommends that victims of sexual assault not be required to report the assault to law enforcement in order for the Victims' Compensation Board to pay for a forensic examination.**
- **The commission recommends that hospitals and health care practitioners bill the Victims' Compensation Board directly, using only a tracking number to identify the kit. This tracking number should not be the victim's Social Security number.**
- **The commission recommends that, if the victim does not report the crime at the time of the examination, the law enforcement agency nearest to the hospital where a sexual assault forensic examination is performed should receive, transport and store the completed forensic examination kit for at least 90 days. If a victim who initially did not file a report with law enforcement subsequently decides to do so within the 90-day period, the victim should notify the hospital where the examination was performed to determine the tracking number on the kit and to determine what agency is storing the kit.**
- **The commission recommends that Maine adopt the Sexual Assault Nurse Examiner Program's practice and certification standards that meet the requirements of the International Association of Forensic Nurses. The commission also recommends that eventual oversight of Maine's SANE program be provided by a state agency. The commission recommends that the Maine Coalition Against Sexual Assault, through the SANE Advisory Board:**

- (1) Recommend which state agency SANE would best be governed by;**
  - (2) Develop statewide SANE protocols; and**
  - (3) Report its findings to the Joint Standing Committee on Criminal Justice by January 31, 2001.**
- **Finally, the commission recommends that hospitals begin to work toward using SANEs or Sexual Assault Forensic Examiners (SAFEs), who may be nurses, doctors or other medical professionals trained in forensic examination procedures, to perform all forensic examinations.**

## **I. INTRODUCTION**

### **A. Study Creation and Charge**

The Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims was created pursuant to Resolve 1999, chapter 84 during the First Regular Session of the 119th Legislature. The legislation was sponsored by Representative William Norbert, a member of the Joint Standing Committee on Judiciary and co-chair of the commission. The commission's charge was to hold public meetings, invite the participation of experts and interested parties, gather information and request necessary data from public and private entities in order to:

1. Review the current process for providing forensic examinations, medical treatment and reimbursement for these services to sexual assault victims;
2. Identify the forensic examination, medical treatment and reimbursement needs of sexual assault victims;
3. Review other states' processes for providing forensic examinations, medical treatment and reimbursement for those services to sexual assault victims with a focus on how and by whom the examinations are provided, whether reporting is required and what source of funding pays for the examinations and necessary medical treatment; and
4. If appropriate, make necessary recommendations to propose changes to the State's current process for providing forensic examinations, medical treatment and reimbursement for these services to sexual assault victims.

The resolve required the commission to report its findings, conclusions, and any recommended legislation to the Joint Standing Committee on Criminal Justice. (See **Appendix C.**) Members of the commission included: 2 members of the Joint Standing Committee on Criminal Justice; one member of the Joint Standing Committee on Judiciary; the President of the Maine Prosecutors Association; the Victims Services Coordinator for the Department of Corrections; the Director of the Victims' Compensation Program; the Chair of the Maine Coalition Against Sexual Assault; a member of the Department of Public Safety; a member of the Maine Chiefs of Police Association; a member of the Department of Human Services, Bureau of Children and Family Services; a member of the Maine Hospital Association; a survivor of sexual assault; a Sexual Assault Nurse Examiner; and a member of the Maine Emergency Physicians Association. (See **Appendix B.**)

The commission was convened on September 27, 1999 and held a total of 4 meetings.

## **B. History**

Historically, most states billed victims of sexual assault for forensic medical examinations requested by law enforcement to obtain evidence related to a crime. With the passage of the Violence Against Women Act (1994) and the Victims of Crime Act (1984), states have been encouraged to review and improve standards of care for victims of crime. (See **Appendix D** for VAWA provisions.) Currently, states pay for sexual assault forensic examinations through a variety of payment sources.

In Maine, advocates for sexual assault victims brought to the attention of the Legislature that victims of sexual assault are sometimes billed for forensic examinations. This occurs despite the fact that district attorneys are responsible for the costs of the forensic examination if the victim does not have insurance and the examination is performed in order to collect evidence for prosecution. (See 30-A M.R.S.A. §287 at **Appendix E**.)

The goals of the commission were to develop an alternative plan for the payment of forensic examinations and to improve the process in Maine for providing treatment to victims of sexual assault. In addition, the commission identified and discussed these related issues:

- Improving the quality of care provided to all victims of sexual assault;
- Standardizing the protocols used by hospitals to treat victims of sexual assault;
- Standardizing all sexual assault forensic evidence collection kits statewide;
- Protecting patient confidentiality in the billing process;
- Screening victims for flunitrazepam and other “date rape” drugs;
- Providing all victims with referrals to sexual assault services;
- Ensuring that victims of sexual assault are not responsible for payment of medical bills related to the forensic examination;
- Placing a reasonable cap on the fee that will reimburse hospitals for the services that they provide during a forensic medical examination; and
- Expanding the Sexual Assault Nurse Examiner (SANE) program, as well as improving the competency levels of those individuals providing treatment to victims of sexual assault.

## **II. PRESENTATIONS TO COMMISSION**

During its 4 meetings, the commission held one public hearing and invited the participation of many experts, a number of whom were commission members. The following presentations were made to the commission.



## **A. SANE (Sexual Assault Nurse Examiners)**

The Director of the Maine Coalition Against Sexual Assault, who was a commission member, provided the commission with information on the recent development of the SANE program in Maine. Since the inception of Maine's SANE program 3 years ago, training in the collection of forensic evidence has resulted in more successful prosecutions and better care for sexual assault victims. A commission member and SANE from Eastern Maine Medical Center also provided information, noting that there are currently 47 nurses in Maine who have received SANE training. Of those, approximately only 10 are full-time SANEs. The remaining nurses have not completed the required clinical studies and therefore are not credentialed. It is anticipated that within the next six months there will be an additional 40 full-time SANEs in the state. The Maine Coalition Against Sexual Assault (MeCASA) currently provides SANE training in Maine.

A representative of the Maine Hospital Association discussed the experience that many hospitals in the state share regarding the treatment of sexual assault cases without SANEs on staff. Small hospitals may have only a physician's assistant or a registered nurse on staff, so sexual assault victims may have to wait for their own physician to arrive to perform the examination or until the first staff person is available. Due to the fact that the provider collecting evidence may not break the chain of custody, delays may occur in beginning the process so the provider is free to be with the victim until the examination is completed. Commission members raised the concern that although hospital personnel may be responsible for being aware of policies relating to forensic examinations, they may lack expertise in that area if they have never performed this type of examination or utilized a forensic examination kit.

An advocate for sexual assault victims presented information to the commission regarding a program developed in Brunswick called Project Midcoast Response. Project Midcoast Response began 3 years ago as a collaborative effort among 4 hospitals, district attorneys, law enforcement officers and sexual assault advocacy groups working together to standardize the delivery of services to victims of sexual assault. SANE is an important piece of this project. Currently, there are 3 SANEs performing forensic examinations at any of the 4 hospitals as needed, and the goal is to double the number of SANEs serving these hospitals to 6 to ensure 24-hour a day coverage. The project also adopted standard operating procedures for all law enforcement officers and hospital emergency rooms and has provided training to 100 first-responding officers. Project members will look next at shared liability issues and how to compensate SANEs who are employed by one hospital yet provide care to victims in all 4 hospitals involved in the project.

Information also was provided regarding the Sexual Assault Response Team (SART) effort. SARTs are composed of hospital personnel, district attorneys, victims' advocates and law enforcement officers who focus on providing comprehensive services to sexual assault victims. Currently in Maine there are 5

complete SART teams, and most areas have started forming informal relationships based on this model.

## **B. Victims' Compensation Program**

The Director of the Victims' Compensation Program, who was a commission member, provided information to the commission regarding the purpose of the program and the general eligibility requirements. The program is designed to provide compensation to victims who have suffered personal injury, including psychological injury as a result of the threat of bodily injury, and are in need of financial assistance as a result of those injuries. The Victims' Compensation Board sits as a fact-finding board that makes independent determinations based on a preponderance of the evidence standard and administers funds to victims only as a payor of last resort. Victims first must exhaust insurance benefits and other sources of aid prior to receiving financial reimbursement from the program. From December of 1993 through October 1, 1999, the board had received 1261 applications, 119 of which were from victims of sexual assault. Currently, the fund has about \$1.7 million. (See III. Current Laws and Procedures Governing Forensic Examinations, B. Victims' Compensation Program below for further discussion of the program.)

## **C. Responsibilities of District Attorneys**

The district attorney for Knox, Lincoln, Waldo and Sagadahoc counties, who was a commission member, discussed the current statute regarding payment for forensic examinations and the duties that the law imposes on district attorneys. (See III. Current Laws and Procedures Governing Forensic Examinations, A. Payment of Forensic Examinations by Offices of the District Attorney for a detailed discussion of the statute and current county practices.)

## **D. Forensic Examination Kits**

A forensic chemist from the State Crime Lab of the Department of Public Safety, who was also a commission member, presented an overview of the basic components of a forensic examination kit. Although examiners are required to use a kit that meets minimum requirements, the kits vary significantly. Private vendors, hospitals and individual physicians all make forensic examination kits. Some kits have no instructions or confusing instructions at best. Due to the variety of kits used by examiners, evidence is not always collected in the most accurate or proper manner. These differences can result in poor or useless evidence collection and can make the forensic chemist's job very challenging. The commission agreed that the use of a uniform standardized kit by all examiners would better ensure proper evidence collection and processing. Having a qualified and experienced examiner perform the examination also is important to ensure the integrity of the evidence. (See **Appendix F** for proposed evidence collection instructions and forms, and V. Findings And Recommendations for further discussion of forensic examination kits.)

## **E. A Survivor's Perspective**

A survivor of sexual assault, who was a commission member, shared her personal story, including how inexperienced medical staff caused her forensic examination to be extremely lengthy and arduous. Her story illustrates the importance of having experienced medical personnel trained in the procedures and protocols for forensic examinations. Each hospital develops standards and procedures for handling sexual assault cases, and hospitals' priorities and procedures, as well as the training of their staffs, vary greatly. She stressed that a uniform kit should be used in all hospitals and that an advocate with whom the victim is comfortable should be involved in the entire process--from hospital intake and examination to the prosecutorial stage.

The commission also viewed a video called "Help, Hope and Healing" that included survivors of sexual assault, victims' advocates, nurses and law enforcement officers telling their personal stories and experiences dealing with sexual assaults.

## **F. Number of Forensic Examinations Performed Annually**

The Associate Vice President of Operations for Maine Medical Center, who was a commission member, estimated that there were approximately 200 forensic examination kits used by hospitals in 1998. The hospitals' coding systems identify the diagnosis or reason for seeking medical care. Since there is no consistent approach to data collection of this type in Maine, the number of forensic examinations was estimated from information gathered from a variety of sources. The detailed information on the number of kits used or the extent of the examination cannot be gleaned from diagnosis codes, but only from medical record review.

Maine Medical Center purchases 20 to 30 kits a year, and while the hospital does not charge for the kits themselves, the hospital charges for a sexual assault examination like any other emergency room visit. This means that the hospital bills for time, medical supplies and medical care and does not separate the kit or the collection of forensic evidence from the rest of the treatment costs for billing purposes.

The State Crime Lab estimates receiving approximately 250 to 300 kits per year. Currently, no standard or accurate method exists to track the actual number of forensic examination kits used and the number of forensic examinations performed annually.

## **G. Other States Processes and Methods for Forensic Examinations, and History of SANE**

Commission staff provided information regarding other states' processes, procedures and methods for providing forensic examinations. The information included an analysis of 40 states' policies regarding: police reporting,

confidentiality, payment for examinations (funding sources), forensic examination kits and kit storage, SANEs and SANE training. SANE programs first were established in Memphis, Tennessee in 1976 and in Amarillo, Texas in 1979, with programs following across the country and in Canada. The International Association of Forensic Nurses (IAFN) was formed in 1992 as a result of the collaboration between 31 programs with the goal of increasing international understanding of the benefits of SANE. As of 1996, the IAFN has adopted Standards of Practice that include the following: goals of SANE, definition of the practice area, conceptual framework of SANE practice, components of evaluation and documentation, forensic evaluation components, and SANE minimum qualifications. (See III. Current Laws And Procedures Governing Forensic Examinations for details on Maine's experience and IV. Other States' Processes And Methods for details on other states' experiences.)

### **III. CURRENT LAWS AND PROCEDURES GOVERNING FORENSIC EXAMINATIONS**

The following is a brief history of current laws and policies that govern sexual assault forensic examinations in Maine.

#### **A. Payment of Forensic Examinations by Offices of the District Attorney**

The office of the district attorney of the county in which an alleged gross sexual assault occurs is responsible for the expenses related to the physical examination of a victim if the examination is conducted for the purpose of obtaining evidence for prosecution. (See 30-A M.R.S.A. §287 at **Appendix E**.) Pursuant to the statute, the office of the district attorney is responsible for the costs of an examination only if the victim does not have insurance that will cover the costs and only if the county has a specific account appropriated specifically for payment of the examinations. Not all counties budget for these costs, and those that do often budget very little. While district attorneys strongly encourage victims to seek forensic examinations and treatment, they do not always consider the costs involved.

Of the counties that do have a special account to pay for examinations, each varies in how they classify the payment process. Cumberland, Hancock, and Washington counties have no budget line item for the payment of forensic examinations, although Hancock County has a private fund that pays for the expenses of medical care and counseling. Oxford County has no line item in its budget for this purpose. York County has spent approximately \$6,400 in the past 3 years and is billed for approximately 3 examinations per year. Androscoggin and Franklin counties each have a budget line that fluctuates based on each county's previous year of spending. Kennebec and Somerset counties each have a budget line item of \$100 to \$500 and typically pay for one to 2 examinations per year. The majority of the examinations are paid for by insurance or Medicaid. The budget line items for Penobscot County and Piscataquis County are not exclusively for forensic examinations. Penobscot County has paid for 24 examinations

between 1996 and 1998, including 2 examinations that were performed in 1998 by a SANE. Piscataquis County has not paid for any examinations between 1996 and 1998. Both Piscataquis County and Penobscot County require approval by the on-call district attorney before an examination is conducted. Waldo, Knox, Lincoln and Sagadahoc counties each have a budget line item for forensic examinations that ranges from \$600 to \$800, although only pediatric examinations have been paid for in the last few years. Aroostook County has a budget line item of \$1,500 to cover payment of forensic examinations, transcript costs and investigations. Aroostook County has paid for one examination in the last 3 years.

Payment for forensic examinations by district attorneys has been complicated by hospital billing methods, the requirement that the victim not carry insurance, and the required special county forensic payment account. District attorneys typically do not receive itemized hospital bills, which makes the task of determining what portion of the hospital bill is forensic in nature (the portion for which counties are responsible) and what portion is treatment oriented very difficult.

Regardless of the payment process, the increase in evidence collection technology, particularly in the area of DNA testing, creates a heightened need for district attorneys to receive the information obtained by forensic examinations.

## **B. Victims' Compensation Program**

Victims suffering from a personal injury, including psychological injury as a result of the threat of bodily injury, may apply to the Victims' Compensation Board for losses not first paid by insurers or hospital charity. Under the statute, the board's awards are limited to those expenses related to personal injuries, which do not include forensic examinations for purposes of evidence collection. The board takes the position that district attorneys should pay for forensic examinations, pursuant to 30-A M.R.S.A. §287; however, when that does not occur, and insurance and hospital charity do not pay, the board has made awards to victims to cover examination costs. As of October 1, 1999, sexual assault victims had filed 119 victims' compensation applications and of those, 49 applications were filed for medical costs. Other applications were filed for victim counseling, family counseling and lost wages. Of the 119 total applications filed, the board denied 13 of them. Eight were denied on the basis of there being no compensable crime, 2 because the victim failed to cooperate, 2 because the cases predated the distribution of victims' compensation awards (prior to 1993), and one because the victim's expenses were ineligible under the Victims' Compensation Act. (See **Appendix G** for Memorandum from Deborah Shaw Rice, Director, Victims' Compensation Program.)

Under the current policies, a victim must both cooperate with law enforcement and file a report with a law enforcement agency before the board may compensate a victim. The cooperation element may be deemed to be satisfied in some cases if the board determines that it would be too detrimental to the victim to require the victim to actively participate further in the prosecutorial process.

Victims may file a report with law enforcement after they have applied to the board; the time allowed for filing a report may be waived, but the actual reporting requirement may not. This reporting requirement applies to all victims, including those of sexual assault.

The commission explored the option of using the Victims' Compensation Fund as the payment source for forensic examinations. A potential problem raised by the Director of the Program was that by using the fund to pay for forensic examinations, less money would be available to pay for medical treatment. Currently, the maximum amount each victim may receive from the fund is \$7,500, which often pays for counseling for the victim and the victim's family members. Frequently, other states' victims' compensation programs have an account separate from the compensation fund that is used only for payment of forensic examinations. Such an approach allows victims to apply to the Victims' Compensation Program later for reimbursement of other treatment without having already utilized funds that may be deducted from the capped award. (See more on other states' victims' compensation programs, payment sources, and reimbursement approaches in **Appendix H**.) States that include reimbursement for forensic examinations as part of their compensation programs' certified pay out are eligible to receive a 40 percent reimbursement through the Victims of Crime Act (VOCA). (See **Appendix I** for further discussion of VOCA.)

Members of the commission noted that the victims compensation process appears logical but expressed concern that the Victims' Compensation Program is a payor of last resort and creates access obstacles for victims (See V. Findings and Recommendations for the commission's proposed methods to address these concerns.)

#### **IV. OTHER STATES' PROCESSES AND METHODS**

Commission staff reviewed sexual assault forensic examination payment policies, reporting requirements, reimbursement limits, treatment and quality of care for sexual assault victims in 40 states. While policies and procedures vary widely, many states are making concerted efforts toward improving their standard of services to victims of sexual assault.

##### **A. States' Payment Sources for Sexual Assault Forensic Examinations**

As shown in Chart 1, most states pay for sexual assault forensic examinations in one of 7 ways. States may require the service provider to bill:

- (1) The county in which the crime occurred;
- (2) The law enforcement agency requesting the examination;
- (3) The State Division of Criminal Justice;
- (4) The State Department of Public Health;
- (5) The District Attorney's Office;

- (6) The Attorney General's Office; or
- (7) The Crime Victims' Compensation Fund.

Some states have created a separate fund under their Crime Victims Compensation Program or have designated an agency that exclusively addresses the needs of sexual assault victims in their state. (See Table 1.)

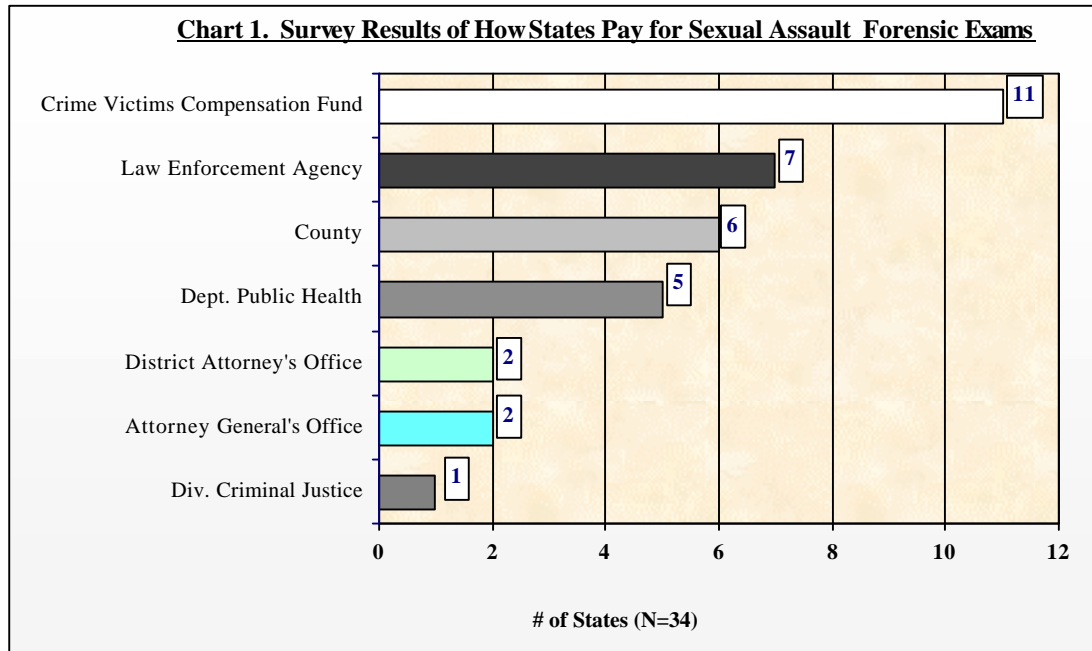


Table 1. States with Funds or Programs Designated for Sexual Assault	
Agency/Department	Name of Fund/Program
❖ West Virginia Prosecuting Attorney's Institute	❖ Forensic Medical Exam Fund
❖ Arkansas Crime Victims Reparation Board	❖ Sexual Assault Reimbursement Program
❖ Florida Department of Legal Affairs	❖ Crime Victims Services
❖ Iowa Crime Victim Assistance, Department of Justice	❖ Sexual Abuse Examination Program
❖ North Carolina Division of Victim and Justice Services	❖ Rape Victim Assistance Program

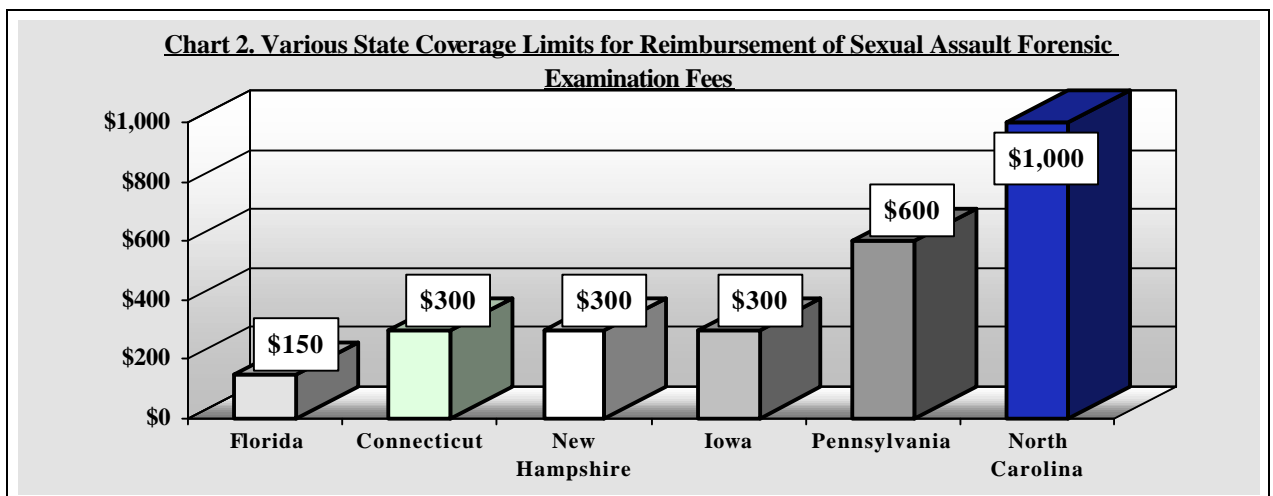
## B. States' Billing Processes for Sexual Assault Forensic Examinations

State statutes often include provisions that prohibit billing victims of sexual assault for forensic examination costs. States differ on whether the victim's health care insurer is billed for the sexual assault forensic examination costs prior to billing the designated agency or program. States that prohibit billing victims of sexual assault, either directly or indirectly (through their insurance carrier), for costs associated with the gathering of forensic evidence include: Arkansas, California, Connecticut, Florida, Indiana, Iowa, New Jersey, North Carolina,

Texas and Washington. States that require insurance companies to be billed prior to reimbursing costs related to the gathering of forensic evidence are: Delaware, Illinois, Maine, Mississippi, Missouri, New Hampshire and Pennsylvania.

### C. Reimbursement Limits

States vary in how they distinguish between purely forensic emergency room charges and charges that include treatment for injuries and diseases that a victim may contract due to the sexual assault. While some states provide a flat fee for reimbursing hospitals only for forensic examinations or for a combination of the forensic examination and related medical treatment, other states have chosen to itemize the charges that are reimbursed. As shown in Chart 2, reimbursement limits set by states vary from \$150 to \$1,000.

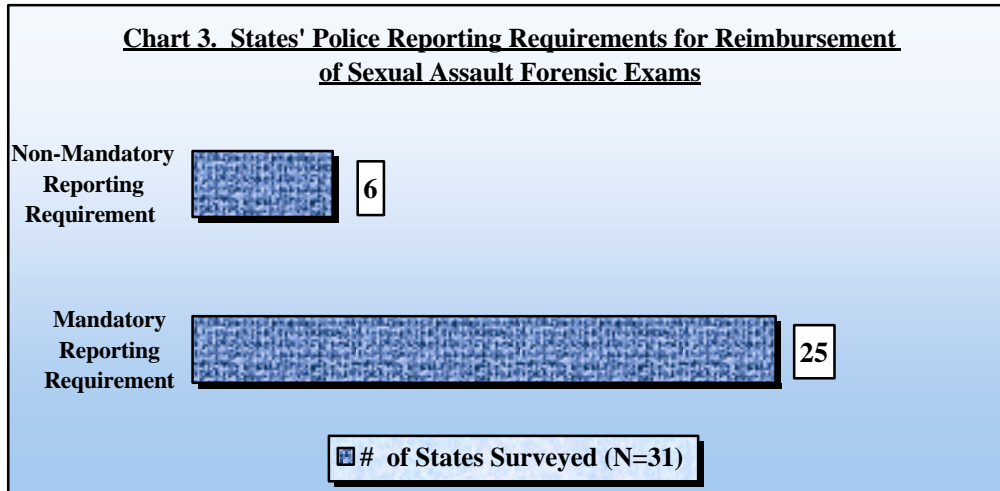


### D. States' Policies on Reporting Sexual Assaults to Law Enforcement for Reimbursement of Forensic Examinations

Traditionally, sexual assault forensic examinations have been performed at the request of law enforcement in coordination with a criminal investigation. Many states have changed their policies to allow payment of forensic examinations for victims who want to have the evidence collected, but are not prepared to report the crime to police. (See Chart 3.) States that provide victims with a window of time to report the crime also tend to have measures in place to preserve the integrity of the evidence collected in specific facilities (i.e., state forensic labs or police departments) for a designated time. In most cases, the forensic examination kits are given a tracking number that provides the victim with anonymity unless the victim decides to report the crime. At that time, the victim notifies the hospital that performed the examination of the victim's decision and the hospital provides the victim with the forensic examination kit tracking number. The length of time that a facility keeps a forensic examination kit in storage varies from 30 days to 2 years, depending on the storage capacity of the facility. States that pay for the forensic examination without requiring that a police report be filed include: Connecticut, Delaware, Indiana, Iowa, Washington and Massachusetts.



Massachusetts does have a mandatory anonymous reporting procedure that is utilized only for statistical purposes and does not carry any victim identifiers.



#### **E. Statewide Uniform Forensic Examination Kits**

The need for standardization in the process of sexual assault forensic evidence collection is being discussed increasingly among states nationwide. Several states have implemented uniform forensic evidence collection kits that are designed to ensure that all service providers utilize the same kits and that the kits have uniform instructions and components. Creating statewide uniform forensic kits represents states' efforts to maintain, to the best of the service providers' ability, the integrity of the evidence collected in the most efficient manner. States that have implemented the use of statewide uniform forensic examination kits include: Alabama, Connecticut, Delaware, Iowa, Massachusetts, New Hampshire and New Jersey.

#### **F. Federal Funding Available for State Projects Addressing Violence Against Women**

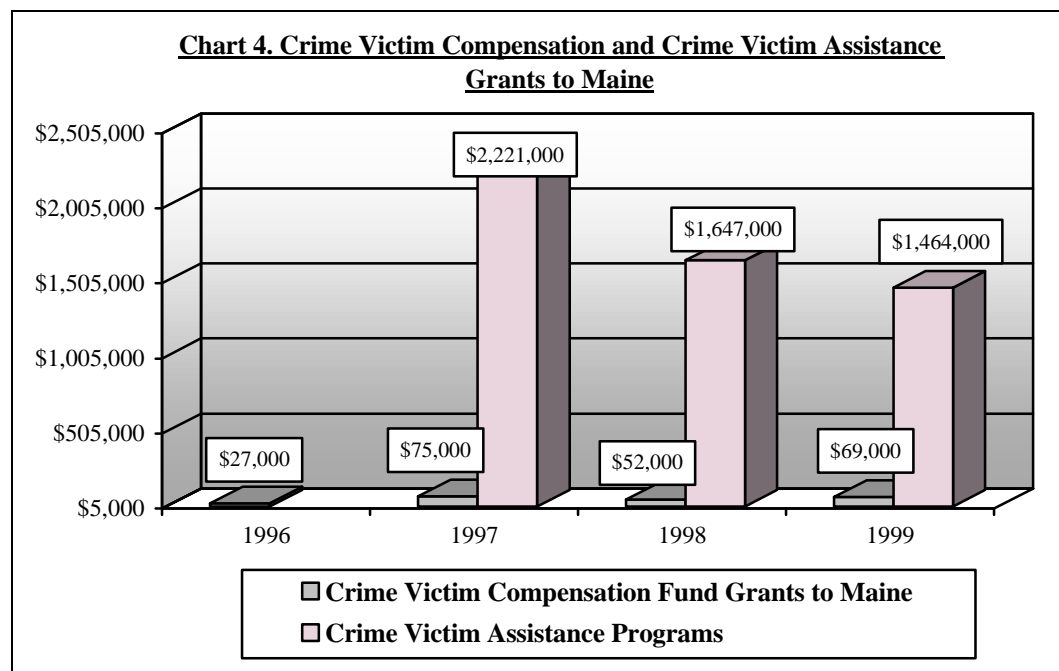
In 1984, the Victims of Crime Act (VOCA) established the Crime Victims Fund in the U.S. Treasury and authorized the fund to receive deposits from fines and penalties levied on criminals convicted of federal crimes. The fund, administered by the Office for Victims of Crime (OVC), provides the source of funding for carrying out all of the activities mandated by VOCA. These grants are designed to supplement state efforts to provide financial assistance and reimbursement to crime victims throughout the nation for costs associated with being a victim of a crime and to encourage victim cooperation and participation in the criminal justice system.

One of the federal grant programs administered by OVC is the Crime Victim Compensation Formula Grant Program. Maine's Crime Victims' Compensation Fund receives a portion of its funding from grants provided by this

program. The OVC makes an annual grant to state compensation programs equal to 40 percent of the amounts awarded by the state program to victims of crime.

The Maine Crime Victims' Compensation Fund was established in 1994 and awarded its first VOCA funding grant in 1996 in the amount of \$27,000. In Fiscal Year 1997, the fund received VOCA funding in the amount of \$75,000, and in Fiscal Year 1998 the fund received \$52,000. For Fiscal Year 1999, the Fund received VOCA funding totaling \$69,000. (See Chart 4.)

The OVC also administers funding to the Crime Victim Assistance Formula Grant Program. Funds under this program are administered to states for use in the following areas: crisis intervention, hospital accompaniment, hotline counseling, domestic violence shelter services, advocacy services, notification to victims of trial dates and forensic examinations for sexual assault victims. Crime Victims Assistance Grants have been awarded to Maine in the following amounts: \$2,221,000 in 1997; \$1,647,000 in 1998; and \$1,464,000 in 1999.



## V. FINDINGS AND RECOMMENDATIONS

The commission makes the following findings and policy and legislative recommendations.

### A. Uniform Forensic Examination Kits

The commission finds that requiring the use of uniform kits statewide is essential to helping ensure proper forensic evidence collection by examiners, comprehensive care to victims, increased chances for successful prosecutions and

efficient processing by the State Crime Lab. Maine's current system allows for varying kits and instructions.

The commission recommends that all hospitals and health care practitioners in the State use a uniform forensic examination kit to perform forensic examinations for sexual assault victims. The commission recommends that the Department of Public Safety define by rule the kit contents and instructions, which should include a checklist for examiners to follow. The Department of Public Safety should follow the State's contract process and put kit production out to bid and should contract with a vendor to make the uniform standard kit. The Department of Public Safety should be responsible for furnishing the uniform kits by coordinating with the Division of Purchases Central Warehouse for the storage and distribution of sexual assault forensic examination kits to all hospitals and health care practitioners who perform these examinations.

## **B. Payment for Forensic Examinations Through the Victims' Compensation Fund**

The commission finds that the current payment process for sexual assault examinations is unstructured and varies greatly from county to county. This lack of definition and consistency puts a direct or indirect burden on the victim, regardless of whether the victim, the victim's insurer, hospital charity, a district attorney or the Victims' Compensation Fund pays for the examination. The commission determines that this process is difficult for payors and creates unnecessary hurdles and worries for victims. The commission recommends that a standard payment process for all forensic examinations be implemented to remove the responsibility from the victim.

Specifically, the commission recommends that the Victims' Compensation Board create the Forensic Examination Payment Account, a separate account of the Victims' Compensation Fund, to pay for forensic examinations for sexual assault victims. Hospitals and health care practitioners should bill the board directly for payment of the examination fee, and the board should pay hospitals and health care practitioners for the actual costs of the examinations up to a maximum of \$500 per examination. The Victims' Compensation Board should determine by rule what a forensic examination includes for purposes of payment. At a minimum, an examination for purposes of reimbursement should include: all services directly related to the sexual assault forensic examination for evidence gathering purposes and related testing and treatment for pregnancy and sexually transmitted diseases. Victims are not required to make a report to law enforcement in order for the board to pay for the examinations, and victims should not be billed for the forensic examination. This process is not intended to preclude application to other payors, such as insurers or the Victims' Compensation Fund, for payment of medical treatment provided to the sexual assault victim in addition to the forensic examination.

### **C. Reporting to Law Enforcement by Victims Not Required**

Currently, in order for the Victims' Compensation Board to compensate a victim, the victim must file a report about the crime with law enforcement. The commission determines that immediate mandatory reporting by victims is not necessary and actually may discourage sexual assault victims from seeking medical treatment. Although medical personnel and victims' advocates should educate victims and encourage victims to report, performing a forensic examination and providing medical treatment should be the first priority.

Because of this belief, and in light of the commission's recommendation regarding payment of forensic examinations (see B. Payment for Forensic Examinations Through the Victims' Compensation Fund), the commission recommends that victims of sexual assault not be required to report the assault to law enforcement in order for the Victims' Compensation Board to pay for a forensic examination.

### **D. Confidentiality**

The commission determines that protecting the identity of the victim and maintaining the confidentiality of the forensic examination kit are priorities as well. Because the commission recommends that there be no reporting requirement for payment of forensic examinations, and that the Victims' Compensation Board be billed directly, kits should be identified without using the victims' names or personal identifying characteristics.

The commission recommends that hospitals and health care practitioners bill the Victims' Compensation Board directly, using only a tracking number to identify a kit. This tracking number should not be the victim's Social Security number.

### **E. Storage of Forensic Examination Kits**

Considering hospitals' limited storage capabilities, and recognizing the concern for maintaining the chain of custody for sexual assault forensic examination kits, the commission determines that local law enforcement agencies are the best place to store completed kits.

The commission recommends that, if the victim does not report the crime at the time of the examination, the law enforcement agency nearest to the hospital where a sexual assault forensic examination is performed should receive, transport and store the completed forensic examination kit for at least 90 days. If a victim who initially did not file a report with law enforcement subsequently decides to do so within the 90-day period, the victim should notify the hospital where the examination was performed to determine the tracking number on the kit, and to determine what agency is storing the kit.

## **F. Oversight of SANE and Implementation of SANE/SAFE Treatment and Care**

The commission discussed SANEs and the care that SANEs provide to victims of sexual assault. The IAFN has adopted SANE Standards of Practice, which states use as the model for SANE qualifications and standards. The OVC has published the SANE Development and Operation Guide, which states also are encouraged to use while developing and implementing SANE programs. The commission encourages the continued training of SANEs, continued work on state protocols, outreach by the SANE Advisory Board, and growth of the Maine SANE program. With several hospitals having comprehensive SANE care models and protocols to follow, in addition to community efforts like Project Midcoast Response, there is a base on which other hospitals, as well as victims' advocates, law enforcement officers and prosecutors, may build in ensuring competent and comprehensive care for sexual assault victims.

The commission recommends that Maine adopt SANE practice and certification standards that meet the requirements of the IAFN. The commission also recommends that eventual oversight of Maine's SANE program be provided by a state agency. The commission recommends that the Maine Coalition Against Sexual Assault, through the SANE Advisory Board:

- 1) Recommend which state agency SANE would best be governed by;
- 2) Develop statewide SANE protocols; and
- 3) Report its findings to the Joint Standing Committee on Criminal Justice by January 31, 2001.

Finally, the commission recommends that hospitals begin to work toward using SANEs or Sexual Assault Forensic Examiners (SAFEs), who may be nurses, doctors or other medical professionals trained in forensic examination procedures, to perform all forensic examinations.

## **CHAPTER 84**

**H.P. 1414 - L.D. 2021**

### **Resolve, to Establish the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims**

**Emergency preamble.** Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** this resolve establishes the Commission to Propose an Alternative Process for Forensic Examinations of Sexual Assault Victims; and

**Whereas,** this resolve is necessary to conduct an immediate review of the current forensic examination process and to identify methods to better support victims who have already suffered from the crimes committed against them; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

**Sec. 1. Commission established. Resolved:** That the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims, referred to in this resolve as the "commission," is established; and be it further

**Sec. 2. Commission membership. Resolved:** That the commission consists of 14 members appointed as follows:

1. One member of the Senate who sits on the Joint Standing Committee on Criminal Justice, appointed by the President of the Senate;

2. One member of the House of Representatives who sits on the Joint Standing Committee on Criminal Justice, appointed by the Speaker of the House;

3. One member of the House of Representatives who sits on the Joint Standing Committee on Judiciary, appointed by the Speaker of the House;

4. The Commissioner of Public Safety or the commissioner's designee;

5. The President of the Maine Prosecutors Association or the president's designee;

6. The Victims Services Coordinator for the Department of Corrections;

7. The Director of the Victims' Compensation Program;

8. The legislative chair for the Maine Coalition Against Sexual Assault or the chair's designee;

9. The President of the Maine Chiefs of Police Association or the president's designee;

10. The Director of the Bureau of Children and Family Services, Department of Human Services or the director's designee;

11. The Executive Director of the Maine Hospital Association or the executive director's designee;

12. A Sexual Assault Nurse Examiner, appointed by the President of the Senate;

13. A member of the Maine Emergency Physicians Association, appointed by the Speaker of the House; and

14. A survivor of sexual assault, appointed by the Speaker of the House; and be it further

**Sec. 3. Chairs. Resolved:** That the Senate member named is the Senate chair and the first House member named is the House chair; and be it further

**Sec. 4. Appointments. Resolved:** That appointments of members to the commission must be made no later than 30 days



after the effective date of this resolve. The Executive Director of the Legislative Council must be notified by all appointing authorities once the selections have been made. The chairs of the commission shall call and convene the first meeting of the commission no later than July 1, 1999; and be it further

**Sec. 5. Duties. Resolved:** That the commission shall hold public meetings, invite the participation of experts and interested parties, gather information and request necessary data from public and private entities in order to:

1. Review the current process for providing forensic examinations, medical treatment and reimbursement for these services to sexual assault victims;

2. Identify the forensic examination, medical treatment and reimbursement needs of sexual assault victims;

3. Review other states' processes for providing forensic examinations, medical treatment and reimbursement for these services to sexual assault victims. This review must focus on how and by whom examinations are provided, whether reporting is required and what source of funding pays for the examinations and necessary medical treatment; and

4. If appropriate, make necessary recommendations to propose changes to the State's current process for providing forensic examinations, medical treatment and reimbursement for these services to sexual assault victims; and be it further

**Sec. 6. Staff assistance. Resolved:** That upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the commission; and be it further

**Sec. 7. Expenses. Resolved:** That the legislative members of the commission are entitled to receive the legislative per diem and reimbursement of necessary expenses for their attendance at authorized meetings of the commission. Other members of the commission who are not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings of the commission; and be it further

**Sec. 8. Report. Resolved:** That, by December 15, 1999, the commission shall submit a report of its findings, together with any recommendations for legislation, to the Joint Standing Committee on Criminal Justice. The Joint Standing Committee on Criminal Justice may report out a bill during the Second Regular

Session of the 119th Legislature concerning the findings and recommendations of the commission. If the commission requires a limited extension of time to conclude its study and make its report, it may apply to the Legislative Council, which may grant the extension; and be it further

**Sec. 9. Commission budget. Resolved:** That the chairs of the commission, with assistance from the commission staff, shall administer the commission's budget. Within 10 days after its first meeting, the commission shall present a work plan and proposed budget to the Legislative Council for approval. The commission may not incur expenses that would result in the commission exceeding its approved budget. Upon request from the commission, the Executive Director of the Legislative Council shall promptly provide the commission chairs and staff with a status report on the commission's budget, expenditures incurred and paid and available funds; and be it further

**Sec. 10. Appropriation. Resolved:** That the following funds are appropriated from the General Fund to carry out the purposes of this resolve.

**1999-00**

## **LEGISLATURE**

### **Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims**

Personal Services	\$825
All Other	2,250

Provides funds for the per diem and expenses of legislative members and expenses for other eligible members of the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims and to print the required report.

## **LEGISLATURE TOTAL**

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**\$3,075**

**Emergency clause.** In view of the emergency cited in the preamble, this resolve takes effect when approved.

**COMMISSION TO PROPOSE AN ALTERNATIVE PROCESS FOR  
FORENSIC EXAMINATIONS FOR SEXUAL ASSAULT VICTIMS  
RESOLVE 1999, CHAPTER 84**

**Membership**

**Appointments by the President**

- Senator Robert E. Murray, Jr., **Chair**  
Senate District 9 (Penobscot County)  
Senate Member, Criminal Justice Committee
- Bethanie Mercier  
Sexual Assault Nurse Examiner

**Appointments by the Speaker**

- Representative William S. Norbert, **Chair**  
House District 34 (Portland)  
House Member, Judiciary Committee
- Representative Roger L. Sherman  
House District 142 (Hodgdon, Houlton & Cary Plantation)  
House Member, Criminal Justice Committee
- Dr. Spence Bisbing, D.O.  
Member, Maine Emergency Physicians Association
- Jennifer Enoch  
82 High Street #15  
Survivor of Sexual Assault

**Other Appointments**

- Denise Giles  
Victim Services Coordinator,  
Department of Corrections
- Gretchen Hicks  
Maine State Police Crime Lab  
Commissioner's Designee, Dept. of Public Safety
- Sandi Hodge  
Bureau of Children and Family Services  
Department of Human Services

- Miriam Leonard  
Associate Vice President for Operations, Maine Medical Center  
Maine Hospital Association's Designee
- Deborah Shaw Rice  
Director, Victims' Compensation Program  
Department of the Attorney General
- Chief Charles Shaw  
Monmouth Police Department  
Maine Chiefs of Police Association's Designee
- Donna Strickler  
Maine Coalition Against Sexual Assault

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287-1670

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AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE COMMISSION TO  
PROPOSE AN ALTERNATIVE PROCESS FOR FORENSIC EXAMINATIONS  
FOR SEXUAL ASSAULT VICTIMS

119th MAINE LEGISLATURE  
JANUARY 2000

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §3360-M is enacted to read:

**§3360-M. Payment for forensic examinations for alleged victims of gross sexual assault**

**1. Forensic Examination Payment Account.** The board shall create the Forensic Examination Payment Account, an account separate from the Victims' Compensation Fund, to be used only for the payment of forensic examinations for alleged victims of gross sexual assault. The board shall transfer from the Victims' Compensation Fund into the Forensic Examination Payment Account money sufficient to cover the costs of forensic examinations for alleged victims of gross sexual assault. The Forensic Examination Payment Account is not subject to any other provisions of this chapter nor may it be used for compensation under any other provision of this chapter.

**2. Forensic examination.** The board shall determine by rule what a forensic examination may include for purposes of payment. An examination must include at least all services directly related to the gathering of forensic evidence and related testing and treatment for pregnancy and sexually transmitted diseases. The board shall pay a licensed hospital or licensed health care practitioner the actual cost of the forensic examination up to a maximum of \$500. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II-A.

**3. Process for payment.** Licensed hospitals or licensed health care practitioners who perform forensic examinations must forward the bill for a forensic examination directly to the board. The hospital or health care practitioner who performs a forensic examination shall take steps necessary to ensure the confidentiality of the victim's identity. The bill may not identify the victim by name but must be assigned a tracking number that corresponds to the forensic examination kit. The tracking number may not be the victim's social security number. The hospital or health care practitioner who performs the examination may not bill the victim, the victim's insurer, non-profit hospital or medical service organization or health maintenance organization for payment of the examination. The victim is not required to report the alleged offense to a law enforcement agency.

**4. Other reimbursement.** The fact that forensic examinations are paid for by the Forensic Examination Payment Account does not preclude alleged victims of gross

sexual assault from seeking reimbursement for expenses other than those for the forensic examination. A victim seeking reimbursement from the Victims' Compensation Fund for expenses other than the forensic examination is subject to all other conditions of this chapter.

**Sec. 2. 24 MRSA §2986** is enacted to read:

**§2986. Performing forensic examinations for alleged victims of gross sexual assault**

**1. Standard forensic examination kit.** All licensed hospitals and licensed health care practitioners shall use a standard forensic examination kit developed and furnished by the Department of Public Safety pursuant to Title 25, section 2915, to perform forensic examinations for alleged victims of gross sexual assault.

**2. Billing.** All licensed hospitals and licensed health care practitioners shall bill the Victims' Compensation Board directly for payment of forensic examinations. The Victims' Compensation Board shall determine what a forensic examination includes pursuant to Title 5, section 3360-M. The hospital or health care practitioner who performs a forensic examination shall take steps necessary to ensure the confidentiality of the victim's identity. The bill may not identify the victim by name but must be assigned a tracking number that corresponds to the forensic examination kit. The tracking number may not be the victim's social security number. The Victims' Compensation Board shall pay the actual cost of the forensic examination up to a maximum of \$500. Licensed hospitals and licensed health care practitioners who perform forensic examinations for alleged victims of gross sexual assault may not bill the victim or the victim's insurer, non-profit hospital or medical service organization or health maintenance organization for payment for the examination.

**3. Completed kit.** If the victim has not reported the alleged offense to a law enforcement agency when the examination is complete, the hospital or health care practitioner shall then notify the nearest law enforcement agency, which shall transport and store the kit for at least 90 days. The completed kit may be identified only by the tracking number. If during that 90 days a victim decides to report the alleged offense to a law enforcement agency, the victim may notify the hospital or health care practitioner to determine the tracking number. The hospital or health care practitioner shall provide the victim with the tracking number on the forensic examination kit and shall inform the victim which law enforcement agency is storing the kit. If the victim reports the alleged offense to a law enforcement agency by the completion of the examination, the hospital or health care practitioner shall forward the kit directly to the State Crime Lab.

**4. Other payment.** A licensed hospital or licensed health care practitioner is not precluded from seeking other payment for treatment or services provided to a victim that are outside the scope of the forensic examination.

Sec. 3. 25 MRSA §2915 is enacted to read:

**§2915. Uniform forensic examination kit for evidence collection in alleged cases of gross sexual assault**

**1. Development of uniform forensic examination kit.** The department shall determine by rule what constitutes a uniform standardized forensic examination kit for evidence collection in alleged cases of gross sexual assault. The rules must define the contents of the kit, instructions for administering the kit and a checklist that examiners must follow and enclose in the completed kit. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II-A.

**2. Use of uniform forensic examination kit.** All licensed hospitals and licensed health care practitioners who conduct physical examinations of alleged victims of gross sexual assault shall use the uniform standardized forensic examination kit developed by the department pursuant to subsection 1. All health care practitioners who conduct physical examinations of alleged victims of gross sexual assault must be trained in the proper evidence collection procedures for conducting a forensic examination.

Evidence collection results may not be excluded as evidence in any proceeding before any court of this State as a result of the examiner's failure to use the standardized evidence collection kit or as a result of the examiner's failure to be trained in the proper procedures for the collection of evidence required by this subsection.

**3. Furnishing of uniform forensic examination kit.** The department shall furnish the uniform forensic examination kits to licensed hospitals and licensed health care practitioners who perform forensic examinations of alleged victims of gross sexual assault.

Sec. 4. 25 MRSA, chapter 407 is enacted to read

**CHAPTER 407**

**TRANSPORTATION AND STORAGE OF  
FORENSIC EXAMINATION KITS FOR ALLEGED VICTIMS OF GROSS  
SEXUAL ASSAULT**

**§3821. Transportation and storage of forensic examination kits**

If an alleged victim of gross sexual assault has a forensic examination and has not reported the alleged offense to a law enforcement agency when the examination is complete, the licensed hospital or licensed health care practitioner who completed the forensic examination shall notify the nearest law enforcement agency. That law enforcement agency shall transport the completed kit, identified only by a tracking

number assigned by the hospital or health care practitioner, to its evidence storage facility. The law enforcement agency shall store the kit for at least 90 days from the time of receipt. If during those 90 days the victim reports the offense to a law enforcement agency, the agency storing the kit shall forward the kit to the State Crime Lab.

**Sec. 5. 30-A MRSA §287** is amended to read:

**§287. Physical examination of crime victims**

**1. Payment of expenses by district attorney.** Except as provided in subsection 2, in all cases reported to a law enforcement officer of sexual abuse of minors; and assault when serious bodily injury has been inflicted ~~and gross sexual assault~~, the office of the district attorney of the county in which the alleged crime occurred shall pay the expenses of a physical examination of the victim conducted for the purpose of obtaining evidence for the prosecution.

**2. Limitation.** The district attorney is required to pay the expenses for the physical examination of a victim in accordance with subsection 1 only in the absence of medical insurance or other 3rd-party coverage of the expenses of examination and only from a fund or account appropriated for that purpose. The office of the district attorney is not liable for the payment of any charges, costs or fees for an examination under subsection 1 until the district attorney has received copies of all reports and records pertaining to the examination, if the copies have been requested.

**3. Medical personnel not liable for furnishing reports, records or testimony.** ~~No~~ A physician, nurse, hospital, clinic or any other person, firm or corporation attending a victim under subsection 1 ~~may be~~ is not liable in damages or otherwise for providing reports or records, copies of reports or records or for their testimony relating to any examination performed under this section when those reports, records or testimony are provided to a district attorney, a law enforcement officer or a court for the purpose of prosecuting the alleged crime, whether or not the reports, records or testimony are provided with the written authorization of the victim examined under this section.

**~~4. Standardized kit for evidence collection in cases of gross sexual assault.~~** ~~The Department of Public Safety shall determine by rule what constitutes a standardized kit for evidence collection in cases of gross sexual assault. A physician or other health care professional who conducts a physical examination of an alleged victim of gross sexual assault shall use a standardized evidence collection kit that meets the requirements established by rule of the Department of Public Safety.~~

~~A health care professional, other than a physician, who conducts a physical examination of an alleged victim of gross sexual assault must be trained in the proper evidence collection procedures for conducting such an examination.~~

~~Evidence collection results may not be excluded as evidence in any proceeding before any court of this State as a result of the failure to use the standardized evidence collection~~



~~kit or as a result of the failure to be trained in the proper procedures for the collection of evidence required by this subsection.~~

## **SUMMARY**

This bill implements the recommendations of the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims. The bill outlines the responsibilities of the Victims' Compensation Board, hospitals and health care practitioners, and law enforcement agencies.

The bill directs the Victims' Compensation Board to transfer money from the Victims' Compensation Fund to create the Forensic Examination Payment Account. The Forensic Examination Payment Account is a separate account that may be used only for the payment of forensic examinations for alleged victims of gross sexual assault. A hospital or health care practitioner who completes a forensic examination must bill the Victims' Compensation Board directly for payment. The board shall pay the hospital or health care practitioner the actual costs of the examination up to a maximum of \$500. Hospitals and health care practitioners performing forensic examinations shall use uniform kits developed and furnished by the Department of Public Safety. A victim is not required to report the alleged offense to law enforcement for the board to pay for the examination. If a victim of an alleged gross sexual assault has a forensic examination but has not reported the alleged offense to a law enforcement agency when the examination is complete, the hospital or health care practitioner who completed the forensic examination shall notify the nearest law enforcement agency. That law enforcement agency shall transport the completed kit, identified only by a tracking number assigned by the hospital or health care practitioner, to its evidence storage and shall store the kit for at least 90 days from the time of receipt. If the victim reports the offense during the 90 days, the victim may notify the hospital or health care practitioner to determine the tracking number and which law enforcement agency is storing the kit. The kit is then forwarded to the State Crime Lab. If the victim reports the alleged offense by the time the examination is complete, the hospital or health care practitioner shall forward the kit directly to the State Crime.

# The Violence Against Women Act (VAWA)

- ◆ **The Violence Against Women Act (VAWA), signed into law by President Clinton in 1994, has resulted in legislation that combines tough penalties for offenders and assistance to women who have been victims of violent crime.** The primary funding source under VAWA is the S.T.O.P Violence Against Women formula grant program administered by the Violence Against Women Grants Office (VAWGO), Office of Justice Programs, U.S. Department of Justice.
- ◆ **S.T.O.P. stands for Services, Training, Officers, and Prosecutors.** The goal of the STOP program is to encourage states to develop a partnership between the courts, victim advocates, service providers, prosecution and law enforcement to reduce violent crimes against women and to enhance victim services. Each state and territory must allocate 25 percent of the grant funds to law enforcement, 25 percent to prosecution, and 25 percent to victim services. The remaining 25 percent can be allocated at each grantee's discretion within the broad parameters established by VAWA.
- ◆ **As a condition to receiving grants, states must certify that they will incur full out-of-pocket costs of forensic medical examinations for victims of sexual assault.** VAWA grants are not intended to be used for the payment of forensic exams. They must certify that within two years victims of sexual assault will bear no costs associated with the filing of criminal charges or protection orders. Because of the condition for receiving grants, several states have passed laws or changed their administrative procedures to fund all forensic medical examinations for victims of sexual assault, thereby ensuring that criminal investigations in sexual assault cases are funded like all other criminal investigations -- by the state and not by the victim.
- ➔ **Under Sec. 2005 of the VAWA, a state or unit of local government may not be entitled to funds unless the entity incurs the full out-of-pocket cost of forensic medical exams described in subsection (b) for victims of sexual assault.**
- ➔ **Subsection (b) reads:** A state, Indian tribal government, or unit of local government is deemed to incur the full out-of-pocket cost of forensic medical exams for victims of sexual assault if any government entity: (1) provides such exams to victims free of charge to the victims; (2) arranges for victims to obtain such exams free of charge to the victims; or (3) reimburses victims for the cost of such exams if:
  - ✓ (A) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement; (B) the reimbursing governmental entity permits a victim to apply for reimbursement for not less than one year from the date of the exam; (C) the reimbursing governmental entity provides reimbursement not later than 90 days after written notification of the victim's expense; and (D) reimbursing governmental entity provides information at the time of the exam to all victims, including victims with limited or no English proficiency regarding how to

## **§287. Physical examination of crime victims**

**1. Payment of expenses by district attorney.** Except as provided in subsection 2, in all cases reported to a law enforcement officer of sexual abuse of minors, assault when serious bodily injury has been inflicted and gross sexual assault, the office of the district attorney of the county in which the alleged crime occurred shall pay the expenses of a physical examination of the victim conducted for the purpose of obtaining evidence for the prosecution.

**2. Limitation.** The district attorney is required to pay the expenses for the physical examination of a victim in accordance with subsection 1 only in the absence of medical insurance or other 3rd-party coverage of the expenses of examination and only from a fund or account appropriated for that purpose. The office of the district attorney is not liable for the payment of any charges, costs or fees for an examination under subsection 1 until the district attorney has received copies of all reports and records pertaining to the examination, if the copies have been requested.

**3. Medical personnel not liable for furnishing reports, records or testimony.** No physician, nurse, hospital, clinic or any other person, firm or corporation attending a victim under subsection 1 may be liable in damages or otherwise for providing reports or records, copies of reports or records or for their testimony relating to any examination performed under this section when those reports, records or testimony are provided to a district attorney, a law enforcement officer or a court for the purpose of prosecuting the alleged crime, whether or not the reports, records or testimony are provided with the written authorization of the victim examined under this section.

**4. Standardized kit for evidence collection in cases of gross sexual assault.** The Department of Public Safety shall determine by rule what constitutes a standardized kit for evidence collection in cases of gross sexual assault. A physician or other health care professional who conducts a physical examination of an alleged victim of gross sexual assault shall use a standardized evidence collection kit that meets the requirements established by rule of the Department of Public Safety.

A health care professional, other than a physician, who conducts a physical examination of an alleged victim of gross sexual assault must be trained in the proper evidence collection procedures for conducting such an examination.

Evidence collection results may not be excluded as evidence in any proceeding before any court of this State as a result of the failure to use the standardized evidence collection kit or as a result of the failure to be trained in the proper procedures for the collection of evidence required by this subsection.

**APPENDIX F**  
**Proposed State of Maine Sex Crimes Kit Inventory and Evidence**  
**Collection Instructions**

**(See printed report)**

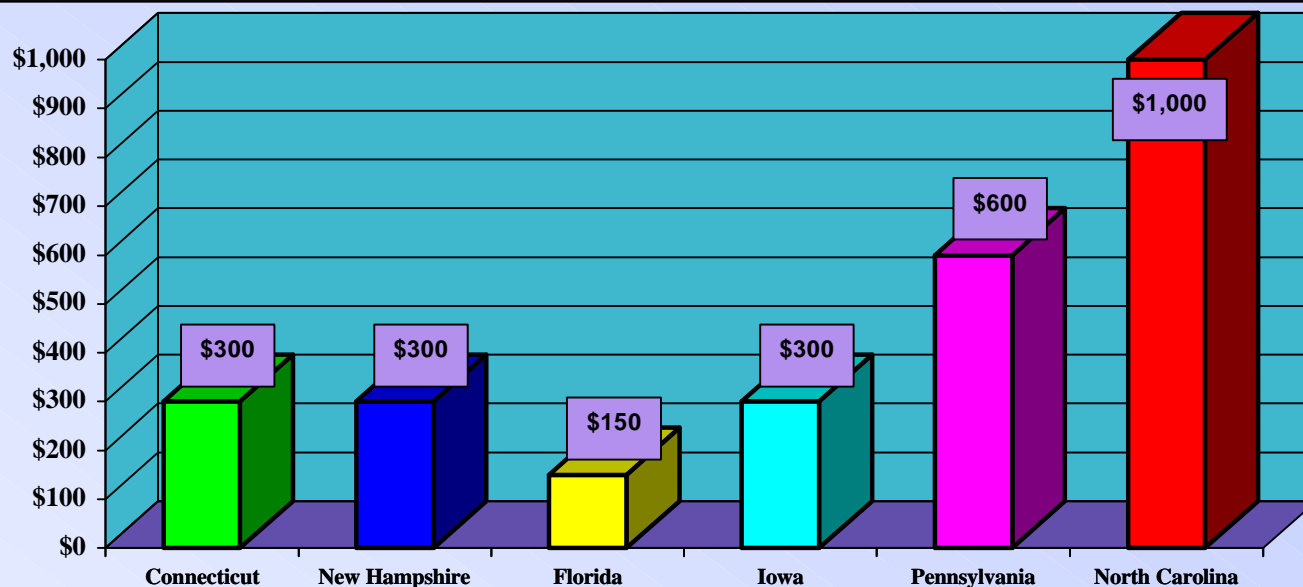
**APPENDIX G**  
**Memorandum from the Director of the**  
**Victim's Compensation Program**

**(See printed report)**

## Sexual Assault Forensic Exam Payment Sources from Selected States

<b>State</b>	<b>Dept. of Public Health</b>	<b>Attorney General's Office (Sexual Abuse Program/ Office of Victim and Witness Assistance)</b>	<b>Victims Compensation Fund</b>	<b>Division of Criminal Justice</b>	<b>Law Enforcement Agency Requesting Exam</b>
<b>Alabama</b>			<b>X</b>		
<b>Colorado</b>					<b>X</b>
<b>Connecticut</b>				<b>X</b>	
<b>Delaware</b>			<b>X</b>		
<b>Idaho</b>					<b>X</b>
<b>Illinois</b>	<b>X</b>				
<b>Indiana</b>			<b>X</b>		
<b>Iowa</b>		<b>X</b>			
<b>Massachussetts</b>	<b>X</b>				
<b>New Hampshire</b>		<b>X</b>			
<b>Oklahoma</b>			<b>X</b>		
<b>Oregon</b>					<b>X</b>
<b>Texas</b>					<b>X</b>
<b>Vermont</b>			<b>X</b>		
<b>Washington</b>			<b>X</b>		

## Various State Coverage Limits for Reimbursement of Sexual Assault Forensic Examination Fees



➡ **Connecticut's Division of Criminal Justice** (1) Division pays a flat rate of \$300 to cover the hospital bill. (2) If a balance remains, the hospital bills the victim's insurance carrier, or (3) the Victim Compensation Program if the victim has no insurance.

➡ **New Hampshire's Office of Victim/Witness Assistance (under the Attorney General's Office)** (1) Hospital bills victim's insurance carrier. (2) If victim has no insurance, hospital can bill the Attorney General's Office, which pays a negotiated flat fee of \$300 to the hospital for exam fees.

➡ **Iowa's Sexual Abuse Examination Program (under the Crime Victim Assistance Program of the Department of Justice)** (1) Victim may approve or decline any use of insurance benefits. (2) If insurance is not billed, Program pays for up to \$100 in physician fees (SANE or physician), up to \$200 for facility fees, all laboratory fees and any medication fees (protection against venereal disease, pregnancy). Costs average \$310. Program will pay for two return medical visits for the testing/treatment of venereal disease.

➡ **Pennsylvania's Crime Victims Compensation Board** (1) Hospital bills insurance carrier first. (2) If victim has no insurance, then Compensation Board will pay up to \$500 for the exam and \$100 for medications directly related to the crime

➡ **Florida's Crime Victims Services (in the Department of Legal Affairs)** (1) Victims Services will pay, whether or not the victim has insurance, up to \$150 to the hospital and that is considered payment in full.

➡ **North Carolina Rape Victims Assistance Program** (1) Hospital submits rape claim to the Program, and not to victims insurance. Program is authorized to cover up to \$1,000 in treatment costs for up to 90 days after assault.

**Table 1:**  
**Sexual Assault Forensic Exams Paid for by Victim Compensation**  
**Programs: A Nationwide Comparison of State Policies**

<b>Alabama</b>
<ul style="list-style-type: none"> <li>• <b>Party Responsible for Payment:</b> Crime Victims Compensation Commission</li> <li>• <b>Billing of Victim:</b> No</li> <li>• <b>Reimbursement by Offender:</b></li> <li>• <b>Special Restrictions and Provisions:</b> Hospitals submit a bill for services with a copy of the SAE kit form to Commission who is responsible for the bill. Law enforcement must be notified, but the victim is not required to prosecute. No limit on charges resulting from gathering of evidence( includes pregnancy prevention, treatment of STD's). No payment for medicine, x-rays, or ambulance. Victim can apply for further financial help from Crime Victims Compensation Commission.</li> </ul>
<b>Alaska</b>
<ul style="list-style-type: none"> <li>• <b>Party Responsible for Payment:</b> Violent Crime Compensation Board</li> <li>• <b>Billing of Victim:</b> Victim is responsible for sending claim to the Compensation Board. Hospitals usually will wait for claim approval from the Victim Compensation Board prior to sending the victim a bill.</li> <li>• <b>Special Restrictions and Provisions:</b> Crime must be reported within five days of the assault, and police must be notified. In some areas (Anchorage) the police department has a contract with the hospital to pay for the forensic exam.</li> </ul>
<b>Arkansas §§ 12-12-401--405; § 20-9-303</b>
<ul style="list-style-type: none"> <li>• <b>Party Responsible for Payment:</b> Arkansas Crime Victims Reparations Board (under Act 396 of 1991), under Sexual Assault Victim Reimbursement Program</li> <li>• <b>Billing of Victim:</b> No</li> <li>• <b>Reimbursement by Offender:</b> Portions of the fines and assessments of persons convicted of misdemeanors and felonies are allotted to the Crime Victims Revolving Fund</li> <li>• <b>Special Restrictions and Provisions:</b> Victim is eligible if treatment is sought and rendered within 48 hours (minors excluded); a report is made to law enforcement prior to or during examination; treatment is not made for a pre-existing injury, physical injury or any other condition; and victim is not covered by a federally financed benefits program, such as Medicaid, Medicare, Champus or VA. Treatment of emotional trauma, ambulance services, counseling, and follow-up visits not covered</li> <li>• <b>Reparations Board may develop standards, including determination of reasonable costs and cost ceiling for each claim</b></li> </ul>
<b>Delaware Title 11 § 9019</b>
<ul style="list-style-type: none"> <li>• <b>Party Responsible for Payment:</b> Victim Compensation Fund</li> <li>• <b>Billing of Victim:</b> No</li> </ul>



- **Reimbursement by Offender:** Each offender convicted of sexual offense shall pay additional fine of \$50 for each misdemeanor offense and \$100 for each felony to be used to reimburse Compensation Fund for forensic medical exam payments
- **Special Restrictions and Provisions:** Hospitals automatically call and report assault to police, however it is up to the victim whether or not he/she wishes to cooperate with the police, and payment of SAE is not dependent upon cooperation with the police. Hospitals and health care professionals must first seek reimbursement from victim's insurance carrier. If no insurance is available or if full costs are not covered, then there is reimbursement from the Compensation Fund. Victim shall not be required to file an application with the Compensation Board. Payments cover the cost of physician's fees (including treatment for prevention of venereal disease which may involve one follow-up visit, emergency department expenses, and laboratory expenses).

#### **Florida § 960.28**

- **Party Responsible for Payment:** Crime Victims Services, Office of the Department of Legal Affairs
- **Billing of Victim:** No
- **Reimbursement by Offender:** Mandatory court ordered restitution to Crime Compensation Trust Fund for initial exam costs by each offender, including juveniles. Order enforceable as civil judgment
- **Special Restrictions and Provisions:** Victims Services Office shall pay medical expenses for victim who reports crime to law enforcement whether or not victim has health or disability insurance. Payment is not to be made for initial exam unless law enforcement certifies in writing that the exam is needed for investigation of the offense and claimant is the alleged victim. Reimbursement amount not to exceed \$150 and shall be considered as payment in full

#### **Indiana § 16-21-8-1--6**

- **Party Responsible for Payment:** Violent Crime Victim Compensation Fund
- **Billing of Victim:** No
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Payment covers sexual assault forensic exam only, yet victim may qualify for further compensation under the Victim Compensation Fund. Victim is not required to report the crime to police. Collection and storage of evidence is handled by the Centers of Hope in conjunction with the State Prosecutor's Office.

#### **Iowa § 709.11; § 912.14**

- **Party Responsible for Payment:** Sexual Abuse Examination Program, Crime Victim Assistance Program of the Department of Justice
- **Billing of Victim:** No
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** No police report required for payment of SAE. Sexual Abuse Examination Program pays for up to \$100 in physician fees, up to \$125 for clinic or office room fees, and up to \$200 for emergency room fees. The full cost of relevant lab tests and prescriptions are paid. Should the victim receive medical care that is not part of the evidentiary exam such as counseling,

radiology, or surgical procedures, the victim may be eligible for reimbursement from the Crime Victims Compensation Fund.

**New York EL § 631**

- **Party Responsible for Payment:** Compensation Board
- **Billing of Victim:** Yes
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Payment is subject to compliance with general eligibility requirements for receiving compensation awards.

**North Carolina §§ 143B-480.1--480.3**

- **Party Responsible for Payment:** Rape Victims Assistance Program
- **Billing of Victim:** Not specified, but stated that hospital staff will submit rape claim to Program. Appears to be potential for billing of victim since judicial review is available to victim whose claim for medical expenses is denied.
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Maximum assistance amount is \$500 and includes immediate, short-term medical expenses, ambulance services, and mental health services as well as forensic exams. No payment unless offense reported to law enforcement within 72 hours, unless good cause for failure to report is established.

**Oklahoma tit. 21 § 142.20**

- **Party Responsible for Payment:** Crime Victims Compensation Board, using the Sexual Assault Examination Fund
- **Billing of Victim:** Payments shall be made only upon claims submitted by the victim and approved by the District Attorney
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Victim Compensation Board shall not pay for sexual assault examinations exceeding \$150 or \$25 for medications related to the sexual assault.

**Pennsylvania 71 P.S. § 180-7, § 180-7.9**

- **Party Responsible for Payment:** Crime Victims Compensation Board
- **Billing of Victim:** Yes
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Expenses for physical exam and materials used to obtain evidence considered out-of-pocket loss under compensation provisions. Hospital or health care provider may submit claim for cost of exam, if cost not covered by insurance, upon approval of district attorney with jurisdiction over investigation or prosecution of the crime. Payment may not exceed \$500 for exam and \$100 for medications directly related to crime.
- **Victim need not be an applicant for any other compensation.**

**South Carolina § 16-3-1560**

- **Party Responsible for Payment:** South Carolina Crime Victims Compensation Fund
- **Billing of Victim:** Not cost to victim as long as report of crime filed with law enforcement
- **Special Restrictions and Provisions:** Payment for routine medical-legal exam,

treatment for venereal disease, and medication for pregnancy prevention if indicated and desired. Health care provider may file claim for reimbursement directly with compensation fund. \$100 deductible waived for award eligibility. Procedures for facilities to follow to insure privacy of victim to be utilized and all information needed to submit claim to be obtained at time of exam, if possible. If projected reimbursement exceed funds appropriated for this purpose, reimbursement amounts will be reduced in a ration of available funds to total projected claims. Compensation Fund must reimburse eligible health care facilities directly.

**Utah § 66-63-2; § 63-63-14**

- **Party Responsible for Payment:** Crime Victims Reparation Board
- **Billing of Victim:** Yes
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Payment contingent upon meeting general eligibility requirements for receipt of compensation award

**Vermont tit. 32 § 1407**

- **Party Responsible for Payment:** Victims Compensation Fund
- **Billing of Victim:** Not Specified
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Payment made when exam requested by law enforcement or prosecutor, and when victim obtains exam prior to receiving such a request. Victim may obtain copies of results of the exam at his or her own expense.

**Washington § 7.68.170**

- **Party Responsible for Payment:** The State Crime Victim Compensation Fund
- **Billing of Victim:** No
- **Reimbursement by Offender:** If the offender is caught they pay a fine which goes into the Restitution Fund
- **Special Restrictions and Provisions:** No requirement to report assault to police, and forensic exam results are kept on file should the victim wish to prosecute at a later date. Health care provider sends bill to Crime Victim Compensation Fund, and the fund pays for fees for gathering evidence, as well as x-rays, mental health counseling if child under 18, all laboratory costs, sedative medications, tests for baselines, and a maximum of 3 mental health consultations for victims under 18.

\* This chart provides an update to the Victims Rights Sourcebook Table 7-A, previously published in 1996 by the National Victim Center

Prepared by Office of Policy and Legal Analysis (8/27/99)

Table 2:  
Sexual Assault Forensic Exams Paid for by the  
State Through Various Agencies

<b>Arizona § 13-1414</b>
<ul style="list-style-type: none"> <li>• <b>Party Responsible for Payment:</b> County in which crime occurred.</li> <li>• <b>Billing of Victim:</b> Not Specified</li> <li>• <b>Reimbursement by Offender:</b> N/A</li> <li>• <b>Special Restrictions and Provisions:</b> Payment for any medical expenses arising out of the need to secure evidence.</li> </ul>
<b>California PC § 13823.95</b>
<ul style="list-style-type: none"> <li>• <b>Party Responsible for Payment:</b> Local governmental agency within whose jurisdiction crime committed.</li> <li>• <b>Billing of Victim:</b> No</li> <li>• <b>Reimbursement by Offender:</b> N/A</li> <li>• <b>Special Restrictions and Provisions:</b> Bills for exam costs to be submitted to law enforcement agency requesting the exam</li> </ul>
<b>Colorado § 18-3-407.5</b>
<ul style="list-style-type: none"> <li>• <b>Party Responsible for Payment:</b> Referring or requesting law enforcement agency</li> <li>• <b>Billing of Victim:</b> Not Specified</li> <li>• <b>Reimbursement by Offender:</b> N/A</li> <li>• <b>Special Restrictions and Provisions:</b> Applicable to any direct cost associated with the collection of forensic evidence</li> </ul>
<b>Connecticut § 19a-112a</b>
<ul style="list-style-type: none"> <li>• <b>Party Responsible for Payment:</b> Division of Criminal Justice</li> <li>• <b>Billing of Victim:</b> No</li> <li>• <b>Reimbursement by Offender:</b> N/A</li> <li>• <b>Special Restrictions and Provisions:</b> Budget covers total costs of SAE kits for hospitals as well as a flat rate of \$300 to cover hospital bill. If the bill is higher than that, hospitals can try to have the balance paid for by insurance or if the victim has no insurance they can apply to victims compensation. Victim is not required to report assault. If no report at the time, hospital assigns SAE kit with a control number. Hospital facility contacts police to transfer SAE kit to State Police forensic lab. Lab holds evidence for 60-90 days. All kits are stored at this central lab.</li> </ul>
<b>Idaho § 19-5303</b>
<ul style="list-style-type: none"> <li>• <b>Party Responsible for Payment:</b> Law Enforcement Agency directing victim to obtain exam</li> <li>• <b>Billing of Victim:</b> Not Specified</li> <li>• <b>Reimbursement by Offender:</b> N/A</li> <li>• <b>Special Restriction and Provisions:</b> Payment limited to cost of exam not including medical treatment of victim.</li> </ul>
<b>Illinois Ch. 305 § 5/5-5, Ch 410 §§ 70/5--7</b>
<ul style="list-style-type: none"> <li>• <b>Party Responsible for Payment:</b> N/A</li> <li>• <b>Billing of Victim:</b> N/A</li> <li>• <b>Reimbursement by Offender:</b> N/A</li> </ul>

- **Special Restrictions and Provisions:** Illinois Department of Health to determine the rate of reimbursement for medical treatment of sexual assault victims, including exams and laboratory tests to discover evidence
- **Party Responsible for Payment:** Department of Public Health
- **Billing of Victim:** No charge to victim who is ineligible for services under Illinois Public Aid Code and who has no insurance
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Payment to cover emergency services as ordered by the attending physician and consented to by the victim, including medical exam and laboratory tests ensuring health of victim or for use as evidence; provision of information and testing concerning pregnancy, disease resulting from the offense, and treatment; medication deemed appropriate; and appropriate counseling.

#### **Kentucky § 216B.400**

- **Party Responsible for Payment:** Office of the Attorney General
- **Billing of Victim:** No
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Payment for basic emergency room treatment and evidence gathering services, and tests for venereal disease. Exam to be performed upon request of law enforcement or prosecutor with the consent of the victim. Reimbursement shall be at the state's reasonable, usual and customary charges according to approved schedule

#### **Maine RSA 30-A § 287**

- **Party Responsible for Payment:** Office of the District Attorney of county in which crime occurred.
- **Billing of Victim:** Not Specified.
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Payment only if no insurance or other third part coverage, and upon receipt of all reports and records pertaining to the exam by the office, if such documents have been requested.

#### **Maryland HG § 15-127**

- **Party Responsible for Payment:** The Department of Health and Mental Hygiene
- **Billing of Victim:** No
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Payment for physical exam to gather evidence, treatment and follow-up testing for up to 90 days from initial exam, and up to 5 hours of professional time for assessment of victim of child sexual abuse.

#### **Massachusetts**

- **Party Responsible for Payment:** The Department of Public Health
- **Billing of Victim:** No
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** DPH, receiving VAWA and State funding, provides rape kits free to hospitals and the Department of Public Safety asks hospitals to perform SAE for free. Kits are distributed based upon the percentage of exams performed by each hospital. Mandatory reporting is required but completely anonymous. SAE form includes date, time, relationship

to offender, and description of offender. Used only for tracking purposes with no identifiers. SAE must be performed within 5 days of assault, and evidence kit is stored for up to 6 months. If victim wishes to prosecute, police will be notified and a police report will be filed at that time.

**Minnesota § 609.35**

- **Party Responsible for Payment:** County in which offense committed
- **Billing of Victim:** No
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Payment of "reasonable costs" of the exam. Duty of insurance carrier to pay is not limited under this section

**Mississippi § 99-37-25**

- **Party Responsible for Payment:** County in which offense occurred
- **Billing of Victim:** Yes
- **Reimbursement by Offender:** Mandatory court ordered restitution by offender to reimburse county for payments made to victim or medical provider for exam
- **Special Restrictions and Provisions:** Victim must submit application approved by district attorney with jurisdiction over the prosecution to obtain payment. Payment limited to customary and usual charges for such services in the area.
- **Reduction of payment to victim for insurance or other reimbursement received.** If victim has not already paid, reimbursement to be made directly to medical provider

**Missouri § 191.225**

- **Party Responsible for Payment:** Department of Health
- **Billing of Victim:** Not specified, but see special restrictions for victim responsibilities in obtaining payment.
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Payment for costs not covered by insurance if victim or victims guardian gives written consent for the exam, and exam report is filed by the victim with the prosecuting attorney of county in which crime occurred. Payment is limited to "reasonable" charges which are billed to the department.

**Montana § 46-15-411**

- **Party Responsible for Payment:** Local law enforcement agency within whose jurisdiction the offense occurred.
- **Billing of Victim:** Not specified
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Payment is made when the exam is directed by the law enforcement agency and evidence obtained is used in an investigation or prosecution of a case. Payment does not cover treatment for injuries.

**New Hampshire RSA 21-M:8-c,d**

- **Party Responsible for Payment:** Attorney General's Office, Office of Victim/Witness Assistance
- **Billing of the Victim:** No
- **Reimbursement by Offender:** No
- **Special Restrictions and Provisions:** State only pays for SAE if victim has no insurance, and if the crime is reported to police. The state pays a negotiated flat rate for hospital reimbursement of \$300. Mandatory reporting has been

eliminated for victims paying for their own exam. In this case, the hospital turns over the SAE kit with an anonymous number to the state forensic lab for a maximum of 3 months. Should the victim decide to prosecute, the victim contacts the hospital to obtain the SAE kit number and the authorities are notified.

**Nevada § 449.244**

- **Party Responsible for Payment:** County in which the offense was committed or county authorizing treatment.
- **Billing of Victim:** No
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Payment for forensic exam and initial emergency care of victim to be charged to county where offense committed. Costs for treatment not to exceed \$1,000, which has been approved by a board of county Commissioner, to be charged to the county authorizing such treatment

**New Mexico § 29-11-7**

- **Party Responsible for Payment:** Administrator of the Mental Health Division of the Department of Health
- **Billing of Victim:** Yes; Three options for providing of exams (See special restrictions)
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Administrator may provide free exams, arrange for victims to obtain free exams, or reimburse victims for cost of exam. Reimbursement to victim must cover full cost of exam with no deductible or limit on amount, be made within 90 days of receipt by administration of written notice that expenses have been incurred, and all victims are provided information at time exam on how to obtain reimbursement. Specifically tracks Violence Against Women Act Provisions.]

**Ohio §§ 290**

- **Party Responsible for Payment:** Appropriate local government. County, if cost incurred by county facility; municipal corporation, if cost incurred by municipal facility; municipal corporation in which crime occurred, if cost incurred by private facility, unless area incorporated then payment by county. If crime committed in more than one place, costs to be shared.
- **Billing of Victim:** Not specified, but costs of exam to be "charged to" appropriate local government.
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** N/A

**Oregon § 147.375**

- **Party Responsible for Payment:** Law enforcement agency investigating offense
- **Billing of Victim:** No
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Agency must request victims participation in exam. Payment not to include costs of treatment or injuries

**Rhode Island § 23-17-26**

- **Party Responsible for Payment:** Not Specified.
- **Billing of Victim:** Not Specified.
- **Reimbursement by Offender:** N/A

- **Special Restrictions and Provisions:** Performance of exam may not be delayed for purpose of prior discussion of source of payment for exam unless delay will not impose material risk to victims health

#### **South Dakota § 22-22-26**

- **Party Responsible for Payment:** County where offense occurred
- **Billing of Victim:** No cost to victim as long as offense reported to the state.
- **Reimbursement by Offender:** Offender to reimburse county if covered.
- **Special Restrictions and Provisions:** N/A

#### **Texas CCP Articles 46.06, 46.07**

- **Party Responsible for Payment:** Law enforcement agency requesting exam of victim for use in investigation or prosecution.
- **Billing of Victim:** Not specified
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Payment may include costs related to testimony of health care professional regarding results of exam but not costs of treatment for injuries. Victim to be provided written notice of payment for exams at time of initial contact with investigating law enforcement agency, or as soon as possible thereafter.

#### **Virginia § 19.2-165.1**

- **Party Responsible for Payment:** Commonwealth
- **Billing of Victim:** Not specified
- **Reimbursement by Offender:** N/A
- **Special Restrictions and Provisions:** Payment as long as exam performed by physician or facility specifically designated by Commonwealth attorney. If no prior designation, payment may be made upon authorization of Commonwealth attorney within 48 hours of exam.

#### **West Virginia §§ 61-8B-15--18**

- **Party Responsible for Payment:** Forensic Medical Examination Fund with payments administered by the West Virginia prosecuting attorneys institute
- **Billing of Victim:** No collection from victim if costs qualify for payment from forensic medical examination fund.
- **Reimbursement by Offender:** If convicted, the offender may be ordered to pay all or any portion of the cost of medical, psychological or psychiatric treatment of the victim
- **Special Restrictions and Provision:** Payment to licensed medical facility for reasonable, customary and usual costs of exam if exam conducted within 72 hours of offense. No payment for specified nonforensic procedures such as treatment of injuries, pregnancy testing, and testing for sexually transmitted diseases. Facility must apply for payment within 90 days of the exam by submitting statement of charges to prosecutor for certification that exam conducted as part of the investigation. Within 60 days of receipt, prosecutor to forward statement of charges and certification to institute for payment.

#### **Wyoming § 6-2-309**

- **Party Responsible for Payment:** Investigating law enforcement agency. Wyoming crime victims compensation commission shall pay any costs not covered by law enforcement agency
- **Billing of Victim:** Yes



- **Reimbursement by Offender:** Convicted offender to be ordered to reimburse costs to law enforcement agency or compensation program
- **Special Restrictions and Provisions:** Payment of investigation costs, including cost of gathering evidence pursuant to seal assault evidence kit and any other exam authorized in the investigation or prosecution of the crime. Payment from compensation commission subject to general eligibility requirements. Victim to be informed of rights under this section.

\* This chart provides an update to the Victims Rights Sourcebook Table 7-A, previously published in 1996 by the National Victim Center.

Prepared by Office of Policy and Legal Analysis (8/27/99)

## Victims of Crime Act (VOCA)

⇒ VAWA does not require that compensation programs be the designated payment source, although there may be some financial benefits to states under the Victims of Crime Act of 1984 ("VOCA"). VOCA provisions may encourage states to choose such programs as their primary source of payment for exams.

⇒ "[S]tates can benefit by including rape exam costs in a compensation program's certified state payout, thereby receiving a 40% reimbursement through VOCA. If the state pays for the exams from an entity other than the compensation program, the 40% VOCA payback is not available."

⇒ While the 90 day turnaround time for reimbursement to a victim may be a consideration for a state in determining the most appropriate entity to handle repayment, the provisions of VAWA do not require a state to sacrifice eligibility criteria such as report filing, and cooperation in the investigation and prosecution by the victim.