

CHAPTER 73

(SB 138)

AN ACT relating to payments for sexual assault examinations, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

- (1) *There is established in the State Treasury the sexual assault victim assistance fund to be administered by the Crime Victims' Compensation Board for the purpose of funding medical examinations for victims of sexual assault as provided in subsection (4) of this section and in Section 2 of this Act. All moneys deposited or paid into the sexual assault victim assistance fund are appropriated and shall be available to the Crime Victims' Compensation Board. Funds shall be disbursed by the State Treasurer upon the warrant of the Crime Victims' Compensation Board.*
- (2) *The sexual assault victim assistance fund may receive state general fund appropriations, gifts, grants, federal funds, or other public or private funds or donations. Any federal matching funds received by the board or the crime victims' compensation fund for sexual assault victim assistance payments shall be deposited into the sexual assault victim assistance fund.*
- (3) *Any unencumbered or unallocated balances in the sexual assault victim assistance fund shall be invested as provided in KRS 42.500(9). Any income earned from investment, along with the unallocated or unencumbered balances in the fund, shall not lapse and shall be deemed a trust and agency account available solely for the purposes specified in subsection (1) of this section.*
- (4)
 - (a) *For the purposes of this section, a children's advocacy center is a center as defined in KRS 620.020 that operates consistent with administrative regulations promulgated by the Cabinet for Families and Children and the Cabinet for Health Services.*
 - (b) *Upon receipt of a completed original claim form supplied by the board and itemized bill for a child sexual abuse medical examination performed at a children's advocacy center, the board shall reimburse the children's advocacy center for actual costs up to but not exceeding the amount of reimbursement established through administrative regulation promulgated by the Department for Medicaid Services.*
 - (c) *Independent investigation by the Crime Victims' Compensation Board shall not be required for payment of claims under this section; however, the board may require additional documentation as proof that the medical examination was performed.*
- (5) *If sexual assault victim assistance funds are insufficient to pay claims under subsection (4) of this section or Section 2 of this Act, payment shall be made from the Crime Victims' Compensation Fund.*

Section 2. KRS 216B.400 is amended to read as follows:

- (1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his inability to pay for services to be rendered by the hospital.

- (2) Every hospital of this state which offers emergency services shall provide that a physician or a sexual assault nurse examiner, who shall be a registered nurse licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing as provided under KRS 314.142, is available on call twenty-four (24) hours each day for the examinations of persons reported to any law enforcement agency to be victims of sexual offenses as defined by KRS 510.010 to 510.140, 530.020, 530.064, and 531.310.
- (3) An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility as defined in KRS 216B.015. An examination under this section shall apply only to an examination of a victim.
- (4) The physician or sexual assault nurse examiner, acting under a statewide medical protocol which shall be developed by the chief medical examiner, and promulgated by the secretary of justice pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the reported victim, or upon the request of the reported victim, examine such person for the purpose of gathering physical evidence. This examination shall include but not be limited to:
 - (a) Basic treatment and evidence gathering services; and
 - (b) Laboratory~~[cultures and]~~ tests, as appropriate.
- (5) Each reported victim shall be informed of available services for treatment of venereal disease, pregnancy, and other medical and psychiatric problems. Pregnancy counseling ~~shall~~~~[will]~~ not include abortion counseling or referral information.
- (6) Each reported victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.
- (7) Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.
- (8)
 - (a) The examinations provided in accordance with this section shall be paid for by the ***Crime Victims' Compensation Board***~~[Office of the Attorney General]~~ at a rate to be determined by the~~[Attorney General]~~ by administrative regulation ***promulgated by the board after consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.***
 - (b) ***Upon receipt of a completed original claim form supplied by the board and itemized billing for a forensic sexual assault examination, the board***~~[The state]~~ shall reimburse the hospital or sexual assault examination facility, and the physician or sexual assault nurse examiner as provided in administrative regulations promulgated by the ***board***~~[Office of the Attorney General]~~ pursuant to KRS Chapter 13A.~~[No charge shall be made to the victim for these examinations, either by the hospital, the sexual assault examination facility, the physician, the sexual assault nurse examiner, the victim's insurance carrier, or the Commonwealth.]~~ Reimbursement shall be made to an out-of-state nurse who is credentialed in the other state to provide sexual assault examinations, an out-of-state hospital, or an out-of-state physician if the sexual assault occurred in Kentucky.
 - (c) ***Independent investigation by the Crime Victims' Compensation Board shall not be required for payment of claims under this section, however the board may require***

additional documentation or proof that the forensic medical examination was performed.

- (9) *No charge shall be made to the victim for sexual assault examinations by the hospital, the sexual assault examination facility, the physician, the sexual assault nurse examiner, the victim's insurance carrier, or the Commonwealth.*

Section 3. Whereas it is imperative that the provisions of this Act become effective immediately to continue sexual assault examination services, an emergency is declared to exist and this Act takes effect upon its passage and signature of the Governor or upon its otherwise becoming a law.

Approved April 7, 2004