
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 1402 **Hearing Date:** June 27, 2023
Author: Megan Dahle
Version: March 30, 2023
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Medical evidentiary examinations: reimbursement*

HISTORY

Source: Dr. Sean Dugan, Shasta Health

Prior Legislation: AB 2185 (Weber), Chapter 557, Statutes of 2022
AB 145 (Committee on Budget), Chapter 80, Statutes of 2021
AB 925 (Dahle) was not set Sen Appropriations 2021
SB 580 (Figueroa), Chapter 249, Statutes of 2003

Support: Unknown

Opposition: None known

Assembly Floor Vote: 77 - 0

PURPOSE

The purpose of this bill is to prohibit costs for the medical evidentiary portion of a child abuse or neglect examination from being charged directly or indirectly to the victim

Existing law requires OES to, in cooperation with the State Department of Social Services, the Department of Justice, the California Association of Crime Lab Directors, the California District Attorneys Association, the California State Sheriffs' Association, the California Peace Officers Association, the California Medical Association, the California Police Chiefs' Association, child advocates, the California Medical Training Center, child protective services, and other appropriate experts, to establish medical forensic forms, instructions, and examination protocols for victims of child physical abuse or neglect using as a model the form and guidelines developed for sexual assault medical evidentiary examinations. (Penal Code § 11171 (b).)

Existing law specifies that the forms shall include, but not be limited to, a place for notation concerning each of the following:

- a) Any notification of injuries or any report of suspected child physical abuse or neglect to law enforcement authorities or children's protective services, in accordance with existing reporting procedures;
- b) Addressing relevant consent issues, if indicated;
- c) The taking of a patient history of child physical abuse or neglect that includes other relevant medical history;

- d) The performance of a physical examination for evidence of child physical abuse or neglect;
- e) The collection or documentation of any physical evidence of child physical abuse or neglect, including any recommended photographic procedures;
- f) The collection of other medical or forensic specimens, including drug ingestion or toxication, as indicated;
- g) Procedures for the preservation and disposition of evidence;
- h) Complete documentation of medical forensic exam findings with recommendations for diagnostic studies, including blood tests and X-rays; and,
- i) An assessment as to whether there are findings that indicate physical abuse or neglect. (Penal Code § 11171 (c).)

Existing law provides that the forms shall become part of the patient's medical record pursuant to guidelines established by the advisory committee of OES and subject to the confidentiality laws pertaining to the release of medical forensic examination records. (Penal Code § 11171 (d).)

Existing law requires that the forms be made accessible for use on the Internet. (Penal Code, § 11171 (e).)

Existing law makes sexual assault forensic medical examinations reimbursable. (Penal Code § 13823.95.)

Existing law makes domestic violence forensic medical examinations reimbursable. (Penal Code § 11161.2.)

This bill requires the costs associated with the medical evidentiary examination of a victim of child physical abuse or neglect to be separate from diagnostic treatment and procedure costs associated with medical treatment.

This bill prohibits costs for the medical evidentiary portion of the examination from being charged directly or indirectly to the victim of child physical abuse or neglect.

This bill provides that each county's board of supervisors shall authorize a designee to approve the Sexual Assault Response Team (SART), Sexual Assault Forensic Exam (SAFE) teams, or other qualified medical evidentiary examiners to receive reimbursement through the Office of Emergency Services (OES) for the performance of medical evidentiary examinations for victims of child physical abuse or neglect and shall notify OES of this designation.

This bill states that the costs associated with these medical evidentiary exams shall be funded by the state, subject to appropriation by the Legislature.

This bill requires each county's designated SART, SAFE, or other qualified medical evidentiary examiners to submit invoices to OES, who shall administer the program. A flat reimbursement rate shall be established.

This bill specifies that within one year upon initial appropriation, OES shall establish a 60-day reimbursement process. OES shall assess and determine a fair and reasonable reimbursement rate to be reviewed every five years.

This bill prohibits reduced reimbursement rates based on patient history or other reasons.

This bill allows victims of child physical abuse or neglect to receive a medical evidentiary exam outside of the jurisdiction where the crime occurred and requires that county's approved SART, SAFE teams, or qualified medical evidentiary examiners to be reimbursed for the performance of these exams.

COMMENTS

1. Need for This Bill

According to the author:

AB 1402 continues the important work accomplished in AB 925 (M. Dahle) which authorized the appropriate local law enforcement agency to seek reimbursement from the Office of Emergency Services (OES), using the specified federal funds for the cost of conducting the medical evidentiary examination of a sexual assault victim. AB 1402 would simply allow child abuse exams to also be eligible for reimbursement.

2. Reimbursement for the Cost of Sexual Assault and Domestic Violence Medical Evidentiary Exams

The Violence against Women Act (VAWA) gives sexual assault victims the right to obtain a medical evidentiary examination after a sexual assault. The victim may not be charged for the exam. The costs are charged to the local law enforcement agency. Law enforcement can seek reimbursement for cases where the victim is undecided whether to report to the assault to law enforcement. The OES uses discretionary funds from various federal grants to offset the costs of the examination. OES makes a determination on how much the reimbursement shall be under these circumstances and can reassess the reimbursement every 5 years. Law enforcement can also seek reimbursement to offset the costs of conducting an examination when the victim has decided to report the assault to law enforcement. OES makes a determination on how much the reimbursement shall be under these circumstances. OES is to provide reimbursement from funds to be made available upon appropriation for this purpose. (Pen. Code, § 13823.95).

In AB 2185 (Weber), Chapter 557, Statutes of 2022, the Legislature provided domestic violence victims access to medical evidentiary exams, free of charge, by SART, SAFE teams, or other qualified medical evidentiary examiners. Each county's board of supervisors is required to authorize a designee to approve the SART, SAFE teams, or other qualified medical evidentiary examiners to receive reimbursement through OES for the performance of medical evidentiary examinations for victims of domestic violence. Costs incurred for the medical evidentiary portion of the examination cannot be charged directly or indirectly to the victim. The costs associated with these medical evidentiary exams are to be funded by the state, subject to appropriation by the Legislature, and require the OES to establish a 60-day reimbursement process within one year upon initial appropriation. (Pen. Code, § 11161.2.)

This bill mirrors the process set forth by AB 2185, to provide free medical evidentiary examinations for a victim of child physical abuse or neglect.

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