
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: AB 925 **Hearing Date:** June 29, 2021
Author: Megan Dahle
Version: April 19, 2021
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Sexual assault forensic examinations: reimbursement*

HISTORY

Source: California Commission on the Status of Women and Girls

Prior Legislation: AB 538 (Berman) Chapter 714, Stats. 2019
AB 334 (Cooper) Not heard Senate Public Safety 2017
AB 107 (Corbett) Chapter 148, Stats. 2013

Support: California Association for Nurse Practitioners; California Legislative Women's Caucus; Leda Health; Peace Officers Research Association of California (PORAC); Rural County Representatives of California

Opposition: None known

Assembly Floor Vote: 77 - 0

PURPOSE

The purpose of this bill is to authorize a law enforcement agency to seek reimbursement from the Office of Emergency Services (OES), to offset the costs of a medical evidentiary exam of a sexual assault victim who at the time of the examination has decided not to report to law enforcement, and reimburses the law enforcement agency at the same established rate for victims who have decided to report an assault at the time of the examination.

Existing law provides that the cost of a medical evidentiary examination performed by a qualified health care professional, hospital, or other emergency medical facility for a victim of a sexual assault shall be treated as a local cost and charged to and reimbursed within 60 days by the local law enforcement agency in whose jurisdiction the alleged offense was committed. (Penal Code § 13823.95 (c).)

Existing law states the local law enforcement agency may seek reimbursement from the OES to offset the cost of conducting the medical evidentiary examination of a sexual assault victim who is undecided at the time of an examination whether to report to law enforcement. (Penal Code § 13823.95 (c)(2).)

Existing law provides that the OES shall use the discretionary funds from federal grants awarded to the agency pursuant to the federal Violence Against Women and Department of Justice Reauthorization Act of 2005 and the federal Violence Against Women Reauthorization Act of

2013 through the federal Office of Violence Against Women, specifically, the STOP (Services, Training, Officers, and Prosecutors) Violence Against Women Formula Grant Program, to offset the cost of the medical evidentiary examination. (Penal Code § 13823.95 (d)(1).)

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Existing law requires the OES to establish a protocol for the examination and treatment of victims of sexual assault and attempted sexual assault, including child molestation, and the collection and preservation of evidence therefrom, which includes recommended methods for meeting the standards specified in Penal Code, § 13823.11. (Penal Code § 13823.5(a).)

Existing law requires the OES to adopt a standard and a complete form or forms for the recording of medical and physical evidence data disclosed by a victim of sexual assault or attempted sexual assault, including child molestation. (Penal Code § 13823.5(c).)

Existing law requires a “qualified health care professional,” as specified, who conducts an examination for evidence of a sexual assault or an attempted sexual assault, including child molestation, use the standard form or forms adopted as specified. (Penal Code § 13823.5(c).)

Existing law defines a “qualified health care professional” to include:

- a) a physician and surgeon currently licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code; and,
- b) a nurse currently licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code and working in consultation with a physician and surgeon who conducts examinations or provides treatment as described in Section 13823.9 in a general acute care hospital or in a physician and surgeon’s office. (Pen. Code, § 13823.5(e).)

Existing law provides that the standard form established to report sexual assault shall be used to satisfy the reporting requirements specified in Penal Code Sections 11160 and 11161 in cases of sexual assault, and may be used in lieu of the form specified in Section 11168 for reports of child abuse.

Existing law sets forth the minimum standards for the examination and treatment of victims of sexual assault or attempted sexual assault, including child molestation and the collection and preservation of evidence. (Penal Code § 13823.11.)

Existing law provides that in conducting the physical examination, the specified procedures shall be followed, and includes obtaining consent for a physical examination, treatment, and collection of evidence shall be obtained as specified, and provides that a victim of sexual assault shall be informed that they may refuse to consent to an examination for evidence of sexual assault, including the collection of physical evidence, but that a refusal is not a ground for denial of treatment of injuries and for possible pregnancy and sexually transmitted diseases, if the person wishes to obtain treatment and consents thereto. (Penal Code § 13823.11 (b) and (c).)

Existing law provides that each adult and minor victim of sexual assault who consents to a medical examination for collection of evidentiary material shall have a physical examination, as specified. (Pen. Code § 13823.11 (f).)

Existing law requires the collection of physical evidence to conform to the specified procedures, as specified. (Penal Code § 13823.11 (g).)

Existing law requires the evidence be turned over to the proper law enforcement agency. (Penal Code, § 13823.11 (h)(4).)

This bill clarifies that law enforcement can seek reimburse to offset costs when a person is undecided about whether or not to report the assault to law enforcement.

This bill provides that the local law enforcement agency may seek reimbursement, as provided in subdivision (e), to offset the cost of conducting the medical evidentiary examination of a sexual assault victim who has determined, at the time of the examination, to report the assault to law enforcement. This subparagraph does not permit a law enforcement agency to reduce the existing locally negotiated rate or rates for medical evidentiary examinations.

This bill provides that the Office of Emergency Services shall determine the amount that shall be reimbursed to offset the cost of medical evidentiary examinations pursuant to subparagraph (B) of paragraph (2) of subdivision (c). The reimbursement amount may be reassessed every five years. Any increase to the reimbursement amount shall not exceed 50 percent of the reimbursement amount most recently set.

COMMENTS

1. Need for This Bill

According to the author:

There are two avenues for partial reimbursement available to qualified healthcare professionals that provide Sexual Assault Medical Forensic/Evidentiary Examinations. For victims that at the onset of the examination do not wish to participate in the criminal justice system, the provider of the exam may seek partial reimbursement not to exceed \$300, through Cal OES. Reimbursement is paid out of federal funding received pursuant to the Violence Against Women Act. For victims who cooperate with law enforcement at the onset of the exam, the cost incurred by the provider of the exam is treated as a local cost and charged to and reimbursed within 60 days by the local law enforcement agency in whose jurisdiction the alleged offense was committed. All medical evidentiary examinations are reimbursed at the locally negotiated rate, which varies by county.

Though these two avenues for partial reimbursement exist, they only cover a fraction of the cost incurred by the providers of these critical exams. This makes it difficult for clinics and providers to offer this service, especially in rural districts where access is scarce. For example, there is one primary provider of these exams located in Shasta County who covers the territory of seven large counties in the First Assembly District. Victims seeking these exams are forced to travel up to three hours in some cases wearing the same clothing in which they were assaulted for multiple days as they await availability for an exam.

Given the increasing demand for these exams as sexual violence is on the rise, it is imperative that the state provide committed funding to fully reimburse qualified healthcare professionals for providing these exams. This will help clinics that provide this service to pencil out the cost of providing the exams, and incentivize more clinics and providers to offer this important service.

2. Cost of sexual assault evidence kits

Under existing law the victim shall not be charged for an examination after a sexual assault. 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 Office of Emergency Services (OES) uses discretionary funds from various federal grants to reimburse the costs of the examination, and makes a determination as to the amount of reimbursement.

This bill would allow law enforcement to also to seek reimbursement to offset the costs of conducting an examination when the victim has decided to report the assault to law enforcement. OES shall make a determination on how much the reimbursement shall be under these circumstances and can reassess the reimbursement every 5 years.

3. Argument in Support

The Peace Officers Research Association supports this bill stating:

This bill would authorize the appropriate local law enforcement agency to seek reimbursement from the Office of Emergency Services, using the specified federal funds, for the cost of conducting the medical evidentiary examination of a sexual assault victim who has decided not to report the assault to law enforcement at the time of the examination. The bill would also authorize local law enforcement to seek, and would require OES to pay at an established rate, reimbursement for the cost of conducting the medical evidentiary examination of a sexual assault victim who has determined, at the time of the examination, to report the assault to law enforcement.

Because of the serious hits to local government budgets, due to COVID's impact on the economy, any federal or state revenues will help defray potential lay-offs or government closures.