

Reporting Requirements Related to Rape of Competent Adult Victims



The National Center for Prosecution of Violence Against Women

Summary of Content

Laws requiring medical personnel to report that they have treated a competent, adult rape victim can be broken down into the following categories: (1) laws requiring medical professionals to report treatment of a rape victim to law enforcement; (2) laws that requiring medical professionals to report particular injuries to law enforcement; (3) laws relating to other crimes that impact rape and sexual assault victims; and (4) laws regarding sexual assault forensic examinations. This document provides the specific language of the statutes. HIPAA permits disclosures required by law, but mandates that the "disclosure complies with and is limited to the relevant requirements of such law." NDAA recommends consulting an attorney when interpreting the relevant statutes for systemic purposes.

Scope of Compilation

This compilation focuses on the reporting requirements associated with rape or sexual assault of competent adult victims, and it excludes reporting requirements associated with elderly victims, children, and vulnerable adult victims of crime. Please note the legal search was conducted with relevant search terms and may or may not have captured all related statutes. We also recommend checking both case law and current legislation for later modifications to the statutes listed below. **It was last updated June 2016.**

	Laws which Mandate Rape Reporting	Laws which Mandate the Reporting of Injuries/Crimes that may Include Rape	Laws Relating to other Crimes or Injuries which may Impact Rape Victims	Statutes Addressing Payment for Forensic Sexual Assault Examinations
AL				X
AK		X	X	X
AZ		X	X	X
AR			X	X
CA	X	X	X	X
CO		X	X	X
CT			X	X
DE			X	X
DC			X	X
FL		X	X	X
GA		X	X	X
HI		X	X	X
ID		X	X	X
IL		X	X	
IN			X	X
IA		X	X	X
KS			X	X
KY		X	X	X
LA			X	X
ME			X	X
MD			X	
MA	X		X	
MI		X	X	X
MN			X	X
MS			X	X
MO			X	X

	Laws which Specifically Mandate Reporting of Rape	Laws which Mandate the Reporting of Injuries/Crimes that may Include Rape	Laws Relating to other Crimes or Injuries which may Impact Rape Victims	Statutes Addressing Payment for Forensic Sexual Assault Examinations
MT			X	X
NE		X		X
NV			X	X
NH		X	X	X
NJ			X	X
NM				X
NY			X	X
NC		X	X	X
ND		X	X	X
OH		X	X	X
OK				X
OR			X	
PA		X	X	X
RI	X		X	X
SC			X	X
SD			X	X
TN		X	X	X
TX			X	X
UT		X	X	X
VT			X	X
VA			X	X
WA			X	X
WV		X	X	X
WI		X	X	X
WY				X

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ALABAMA

Summary: There is no mandatory reporting requirement. Payment for the forensic examination shall be made regardless of whether the victim pursues prosecution.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Ala. Admin. Code r. 262-X-11-.01. Sexual Assault Examination Payment Program

Program Description: This section provides for payment of the initial forensic examination which is performed on victims of sexual violence for the purpose of obtaining evidence to potentially pursue criminal charges against sexual assault offenders and for the prevention and treatment of venereal disease. Expenses incurred for processing sexual assault evidence collection kits are eligible. Child sexual assault examinations shall also be eligible for payment pursuant to this section.

(1) AUTHORITY

(a) Code of Ala. 1975, § 15-23-5 (24) (1995), which provides:

1. The commission shall have all the powers and privileges of a corporation and all of its business shall be transacted in the name of the commission. In addition to any other powers and duties specified elsewhere in this article, the commission shall have the power to: Provide for the cost of medical examinations for the purpose of gathering evidence and treatment for preventing venereal disease in sexual abuse crimes and offenses.

2) DEFINITIONS

(a) Sexual Assault Nurse Examiner: a registered nurse who has received specialized training or certification that qualifies him/her to conduct sexual assault examinations for adult and child victims of sexual assault for the purpose of gathering and preserving evidence for potential use in a criminal prosecution. A Sexual Assault Nurse Examiner may also administer prophylaxis against venereal disease.

(b) Sexual Assault Examination: a physical examination performed by a registered nurse or physician in a hospital or medical clinic or a Sexual Assault Nurse Examiner in a SANE facility on adult and child victims of sexual assault for the purpose of gathering and preserving evidence for potential use in a criminal prosecution and the treatment and prevention of venereal disease.

(c) Sexual Assault Nurse Examiner Fee: Fee paid for the professional services of a Sexual Assault Nurse Examiner.

(d) SANE Facility: A community or hospital based program that provides for the collection and preservation of evidence in cases of sexual violence, as well as the treatment and prevention of venereal disease in a compassionate, victim-sensitive setting.

(e) SANE Facility Fee: Fee paid for a SANE facility's cost of providing a sexual assault examination room which includes prorated (if the SANE facility is not the only program housed in the building) operating and overhead costs related to the SANE facility; administrative costs related to SANE facility; supplies for the sexual assault examination; equipment for the sexual assault examination; equipment maintenance; clothing for the victim; and any other expense directly related to providing a sexual assault examination and a sexual assault examination room. The SANE facility fee does not include any item contained in the *Sexual Assault Evidence Collection Kit* which is provided free of charge by the Alabama Department of Forensic Sciences.

(3) COLLATERAL SOURCE

(a) Any expense associated with a sexual assault examination covered or paid by a collateral source will not be reimbursed by the Commission.

(b) Code of Ala. 1975, § 15-23-3 (13) (1995) defines collateral source as follows:

1. COLLATERAL SOURCE. Source of income, financial or other benefits or advantages for economic loss other than the compensation paid by the compensation commission which the claimant has received or is entitled to receive or is readily available to the claimant, from any one or more of the following:

(i) The offender.

(ii) The government of the United States or any agency thereof, in the form of benefits, such as Social Security, Medicare and Medicaid, a state or any of its political subdivisions or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excessive or secondary to benefits under this article.

(iii) Any temporary nonoccupational disability insurance.

(iv) Workers' compensation.

(v) Wage continuation programs of any employer.

(vi) Proceeds of a contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct.

(vii) A contract providing prepaid hospital and other health care services or benefits for disability.

(c) Any collateral source available for the payment of a sexual assault examination must be utilized prior to submitting a sexual assault examination to the Commission's Sexual Assault Examination Payment Program.

1. A hospital, medical clinic, or SANE facility should not bill the victim of sexual violence for the sexual assault examination. Alabama Attorney General Troy King's Protocol for the Examination and Treatment of Victims of Sexual Assault states "victims should not be billed for sexual assault examinations." Alabama Attorney General Troy King's Protocol for the Examination and Treatment of Victims of Sexual Assault, page 20.

(4) ELIGIBILITY AND PAYMENT PROCEDURES

(a) Sexual assault examinations performed on or after July 27, 1995, may be considered for payment.

(b) Exams Performed in Hospitals and Medical Clinics

1. Sexual assault examinations performed by a registered nurse or physician in a hospital or medical clinic for the purpose of gathering evidence and treating and preventing venereal disease will be considered for payment.

(i) Hospitals and medical clinics must submit the current version of an UB form, itemized bill, and medical records.

2. Sexual assault examinations performed in a hospital or medical clinic will be reviewed to determine the reasonableness and eligibility of the charges.

3. If after the Commission's review of the charges, they are found to be charged at an excessive rate and/or not rendered for the purpose of gathering evidence and/or treating and preventing venereal disease, the charges will be denied for payment.

4. If after the Commission's review of the charges, it is determined that they do not comply with the Alabama Attorney General's *Protocol for*

the Examination and Treatment of Victims of Sexual Assault, the charges will be denied for payment.

5. If the charges are determined to be excessive, the hospital or medical clinic will be contacted to negotiate the submitted expenses.

6. A facility fee shall not be paid when a sexual assault examination is performed at a hospital, medical clinic or any facility other than a SANE facility.

(c). Exams Performed by a Sexual Assault Nurse Examiner (SANE).

1. Each itemized bill or statement for a sexual assault examination will be considered for payment in the order that it is received.

2. Each itemized bill or statement will be reviewed for accuracy and any unsupported or ineligible charges will not be reimbursed.

3. The Commission will provide reimbursement for "Jane Doe" sexual assault examinations performed on adult victims.

4. The Commission will not reimburse for "Jane Doe" sexual assault examinations for children.

5. Each itemized bill or statement must identify the International Classification of Diseases (ICD-9) code.

6. Each billed procedure, service or supply/medication must be itemized.

7. Each billed procedure, service or supply/medication must include the appropriate Physicians' Current Procedural Terminology (CPT) code.

8. The itemization for each billed procedure, service or supply/medication must include the charge for each line item.

9. The initial forensic examination will be considered for payment. Only services rendered and medications provided "for the purpose of gathering evidence and treatment for preventing venereal disease in sexual abuse crimes and offenses" will be considered pursuant to the Commission's Sexual Assault Examination Payment Policy.

10. Each itemized bill or statement must include a copy of the completed Sexual Assault Information Form (AL102) that is included in

the State of Alabama Collection Kit provided by the Alabama Department of Forensic Sciences or equivalent documentation. Alabama Department of Forensic Sciences provides collection kits free of charge and payment will not be provided for the kits.

11. Signed, written confirmation from an employee of the SANE facility that the sexual assault was reported to the Department of Human Resources (DHR) or law enforcement must be provided in cases in which the victim is a minor. If confirmation is not received, the sexual assault examination will not be considered for payment.

(d) Referrals from Hospitals and Medical Clinics

1. When a hospital or medical clinic refers a victim of sexual violence to a SANE facility, the SANE facility will be paid the *Sexual Assault Nurse Examiner Fee*.

2. When a hospital or medical clinic and a SANE facility perform a sexual assault examination for the same incident, the fee for any procedure that is performed at both facilities will be paid to the SANE facility. The fees for duplicate procedures performed by the hospital or medical clinic may be considered on an original compensation claim that must be filed by the claimant or victim.

3. The fees for any medications or procedures performed by the hospital or medical clinic and not duplicated by the SANE facility may be considered for payment through the Sexual Assault Examination Payment Program.

4. The Commission will not pay a hospital or medical clinic and a SANE facility a duplicate fee for the same incident through the Sexual Assault Examination Payment Program.

(5) COLLECTION OF EVIDENCE WITHIN 72 HOURS

(a) If it is determined that the sexual assault took place more than 72 hours prior to the sexual assault examination, the use of an evidence collection kit may not be necessary. *Alabama Attorney General' Alabama Protocol for the Examination and Treatment of Victims of Sexual Assault*.

1. The reasonableness of the charges for sexual assault examinations performed after 72 hours will be determined on a case-by-case basis.

(i) The age, mental capacity, and the victim's ability to seek a sexual assault examination within 72 hours of the assault will be considered when making a determination regarding the

reasonableness of a sexual assault exam performed more than 72 hours after the sexual assault.

(6) INELIGIBLE EXPENSES

(a) The following expenses are not eligible pursuant to the Commission's Sexual Assault Examination Payment Program:

1. treatment for injuries;
2. medication for any purpose other than the treatment and prevention of venereal disease;
3. hospital admissions.

(b) All sexual assault victims should be provided a crime victims' compensation application. Expenses that are ineligible pursuant to the Commission's Sexual Assault Examination Payment Program may be eligible for crime victims' compensation benefits.

(7) FALSE REPORTS

(a) The Commission will not compensate for a sexual assault examination if it is determined that a rape or sexual assault did not occur. Examples of false reports include, but are not limited to, consensual sexual contact and no sexual contact.

(8) SEXUAL ASSAULT EXAMINATIONS CONDUCTED ON ALLEGED PERPETRATORS/OFFENDERS

(a) The Commission does not provide for the cost of sexual assault examinations performed on alleged perpetrators/offenders.

(9) PAYMENT LIMITS FOR SEXUAL ASSAULT EXAMINATION PAYMENT PROGRAM

(a) Sexual Assault Nurse Examiner Fee: \$ 300

(b) SANE Facility Fee: \$ 150

(c) Medication Limitations

1. One gram azithromycin (Zithromax) or equivalent drug: \$ 39.50 each
2. 500 mg ciprofloxacin or equivalent drug: \$ 12 each

3. 100 mg doxycycline or equivalent drug: \$ 1 each
4. 500 mg metronidazole (Flagyl) or equivalent drug: \$ 5.50 each
5. Ofloxacin or equivalent drug: \$ 12 each
6. 250 mg Ceftriaxone or equivalent drug: \$ 90.36 each
7. Ceftriaxone drug administration fee: \$ 10
8. Ovril or equivalent drug: \$ 4.50 each
9. 12.5 mg promethazine (Phenergan) or equivalent drug: \$ 2.50 each
10. 10 meg Recombivax or equivalent drug: \$ 40 each
11. Zovia or equivalent drug: \$ 10 each

(d) Procedure Limitations

1. Suspected drug facilitated screening: \$ 95
2. Colposcope exam \$ 50
3. UV light screening \$ 20
4. Pregnancy test \$ 10
5. Venipuncture \$ 10
6. Microscopic sperm screening \$ 32
7. 14 Fr Foley hymenal exam \$ 20
8. Body forensic photography \$ 20

(e) Medications and procedures not listed in this section will be examined on a case-by-case basis for eligibility.

ALASKA

Summary: There is no rape reporting requirement. Victims of sexual assault may not be required to pay for examinations necessary for collecting evidence or determining

whether a sexual assault occurred. Gunshot wounds, stab wounds; certain burns and injuries likely to cause death must be reported.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE AND ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Alaska Stat. § 08.64.369. Health care professional to report certain injuries.

(a) A health care professional who initially treats or attends to a person with an injury described in (b) of this section shall make certain that an oral report of the injury is made promptly to the Department of Public Safety, a local law enforcement agency, or a village public safety officer. The health care professional shall make certain that a written report of an injury described in (b)(1) or (2) of this section is submitted to the Department of Public Safety within three working days after the person is treated. The report shall be on a form provided by the Department of Public Safety.

(b) The following injuries shall be reported under (a) of this section:

- (1) second or third degree burns to five percent or more of a patient's body;
- (2) a burn to a patient's upper respiratory tract or laryngeal edema due to the inhalation of super-heated air;
- (3) a bullet wound, powder burn, or other injury apparently caused by the discharge of a firearm;
- (4) an injury apparently caused by a knife, axe, or other sharp or pointed instrument, unless the injury was clearly accidental; and
- (5) an injury that is likely to cause the death of the patient, unless the injury was clearly accidental.

(c) A person who, in good faith, makes a report under this section, or who participates in judicial proceedings related to a report under this section, is immune from any civil or criminal liability that might otherwise be incurred as a result of making such a report or participating in the judicial proceedings.

(d) In this section, "health care professional" includes an emergency medical technician certified under AS 18.08, health aide, physician, nurse, mobile intensive care paramedic, and physician assistant, but does not include a practitioner of religious healing.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Alaska Stat. § 18.68.040. Sexual assault victim may not be required to pay for examination.

A law enforcement agency, health care facility, or other entity may not require a victim of sexual assault under AS 11.41.410 -- 11.41.425 who is 16 years of age or older to pay, directly or indirectly, through health insurance or any other means, for the costs of examination of the victim necessary for

- (1) collecting evidence using the sexual assault examination kit under AS 18.68.010 or otherwise; or
- (2) determining whether a sexual assault has occurred.

ARIZONA

Summary: There is no mandatory reporting requirement specific to sexual assault. However, there is a mandatory reporting requirement for material injuries resulting from various illegal or unlawful acts. The county where the offense occurred is required to pay any medical expenses arising out of the need to secure evidence that a person has been sexually assaulted.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE AND ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

A.R.S. § 13-3806. Duty of physician or attendant upon treating certain wounds; classification.

A. A physician, surgeon, nurse or hospital attendant called upon to treat any person for gunshot wounds, knife wounds or other material injury which may have resulted from a fight, brawl, robbery or other illegal or unlawful act, shall immediately notify the chief of police or the city marshal, if in an incorporated city or town, or the sheriff, or the nearest police officer, of the circumstances, together with the name and description of the patient, the character of the wound and other facts which may be of assistance to the police authorities in the event the condition of the patient may be due to any illegal transaction or circumstances.

B. Any violation of the provisions of this section by a physician, surgeon, nurse or hospital attendant, is a class 3 misdemeanor.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

A.R.S. § 13-1414. Expenses of investigation.

Any medical or forensic interview expenses arising out of the need to secure evidence that a person has been the victim of a dangerous crime against children as defined in section 13-705 or a sexual assault shall be paid by the county in which the offense occurred.

ARKANSAS

Summary: Adult victims may make the decision as to whether or not a sexual assault will be reported to law enforcement. Victims do not have to pay for a forensic examination if the rape is reported to law enforcement and the examination is done within 72 hours (but the time limit may be waived for good cause). No medical facility or health care provider may require a victim to report a sexual assault in order to receive medical treatment. Note that it is mandatory to report knife and gunshot wounds.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

A.C.A. § 12-12-602. Report of treatment required.

(a) All physicians, surgeons, hospitals, druggists, or other persons or entities that render first aid treatment to a person shall report as provided in subsection (b) of this section if they treat or receive in the hospital a case of a:

(1) Knife or gunshot wound when the knife or gunshot wound appears to have been intentionally inflicted; or

(2) Burn wound that could reasonably be connected to criminal activity that is:

(A) A second or third degree burn to five percent (5%) or more of a person's body; or

(B) A burn to a person's upper respiratory tract or laryngeal edema due to the inhalation of super-heated air.

(b) The reporting requirements of this subchapter are satisfied if:

(1) The report is made to the county sheriff;

(2) Within a city of the first class, the report is made to the municipal law enforcement agency; or

(3) The report is made under subdivision (a)(2) of this section to the local fire marshal, fire chief, assistant fire chief, or an officer of the fire department having jurisdiction.

(c) A physician, surgeon, hospital, druggist, or other person or entity required to report under this section that, in good faith, makes a report under this section has immunity from any civil or criminal liability that might otherwise be incurred or imposed with respect to the making of a report under this section.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

A.C.A. § 12-12-403. Examinations and treatment – Payment.

a) All licensed emergency departments shall provide prompt, appropriate emergency medical-legal examinations for sexual assault victims.

(b) (1) (A) All victims shall be exempted from the payment of expenses incurred as a result of receiving a medical-legal examination provided the victim must receive the medical-legal examination within seventy-two (72) hours of the attack.

(B) However, the seventy-two-hour time limitation may be waived if the victim is a minor or if the Crime Victims Reparations Board finds that good cause exists for the failure to provide the exam within the required time.

(2)

(A) This subsection does not require a victim of sexual assault to participate in the criminal justice system or to cooperate with law enforcement in order to be provided with a forensic medical exam or reimbursement for charges incurred on account of a forensic medical exam, or both.

(B) Subdivision (b)(2)(A) of this section does not preclude a report of suspected abuse or neglect as permitted or required by the Child Maltreatment Act, § 12-18-101 et seq.

(c)

(1) A medical facility or licensed health care provider that performs a medical-legal examination shall submit a sexual assault reimbursement form, an itemized statement that meets the requirements of 45 C.F.R. § 164.512(d), as it existed on January 2, 2001, directly to the board for payment.

(2) The medical facility or licensed health care provider shall not submit any remaining balance after reimbursement by the board to the victim.

(3) Acceptance of payment of the expenses of the medical-legal examination by the board shall be considered payment in full and bars any legal action for collection.

CALIFORNIA

Summary: The report of rape reporting is required. The local law enforcement agency who requests a forensic sexual assault examination must pay for it. No costs shall be billed to the victim when the examination is done for possible prosecution purposes. An exception exists for domestic violence victims. A claim cannot be denied solely because a domestic violence victim does not report the sexual assault.

LAWS MANDATING RAPE REPORTING

Cal Pen Code § 11160. Injuries required to be reported; Method of reporting; Team reports; Internal procedures.

(a) Any health practitioner employed in a health facility, clinic, physician's office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services for a physical condition to a patient whom he or she knows or reasonably suspects is a person described as follows, shall immediately make a report in accordance with subdivision (b):

(1) Any person suffering from any wound or other physical injury inflicted by his or her own act or inflicted by another where the injury is by means of a firearm.

(2) Any person suffering from any wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct.

(b) Any health practitioner employed in a health facility, clinic, physician's office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department shall make a report regarding persons described in subdivision (a) to a local law enforcement agency as follows:

(1) A report by telephone shall be made immediately or as soon as practically possible.

(2) A written report shall be prepared on the standard form developed in compliance with paragraph (4) of this subdivision, and Section 11160.2, and adopted by the Office of Emergency Services, or on a form developed and adopted by another state agency that otherwise fulfills the requirements of the standard form. The completed form shall be sent to a local law enforcement agency within two working days of receiving the information regarding the person.

(3) A local law enforcement agency shall be notified and a written report shall be prepared and sent pursuant to paragraphs (1) and (2) even if the person who suffered the wound, other injury, or assaultive or abusive conduct has expired, regardless of whether or not the wound, other injury, or assaultive or abusive conduct was a factor contributing to the death, and even if the evidence of the conduct of the perpetrator of

the wound, other injury, or assaultive or abusive conduct was discovered during an autopsy.

(4) The report shall include, but shall not be limited to, the following:

(A) The name of the injured person, if known.

(B) The injured person's whereabouts.

(C) The character and extent of the person's injuries.

(D) The identity of any person the injured person alleges inflicted the wound, other injury, or assaultive or abusive conduct upon the injured person.

(c) For the purposes of this section, "injury" shall not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.

(d) For the purposes of this section, "assaultive or abusive conduct" shall include any of the following offenses:

(1) Murder, in violation of Section 187.

(2) Manslaughter, in violation of Section 192 or 192.5.

(3) Mayhem, in violation of Section 203.

(4) Aggravated mayhem, in violation of Section 205.

(5) Torture, in violation of Section 206.

(6) Assault with intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220.

(7) Administering controlled substances or anesthetic to aid in commission of a felony, in violation of Section 222.

(8) Battery, in violation of Section 242.

(9) Sexual battery, in violation of Section 243.4.

(10) Incest, in violation of Section 285.

(11) Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure, in violation of Section 244.

- (12)** Assault with a stun gun or taser, in violation of Section 244.5.
- (13)** Assault with a deadly weapon, firearm, assault weapon, or machinegun, or by means likely to produce great bodily injury, in violation of Section 245.
- (14)** Rape, in violation of Section 261.
- (15)** Spousal rape, in violation of Section 262.
- (16)** Procuring any female to have sex with another man, in violation of Section 266, 266a, 266b, or 266c.
- (17)** Child abuse or endangerment, in violation of Section 273a or 273d.
- (18)** Abuse of spouse or cohabitant, in violation of Section 273.5.
- (19)** Sodomy, in violation of Section 286.
- (20)** Lewd and lascivious acts with a child, in violation of Section 288.
- (21)** Oral copulation, in violation of Section 288a.
- (22)** Sexual penetration, in violation of Section 289.
- (23)** Elder abuse, in violation of Section 368.
- (24)** An attempt to commit any crime specified in paragraphs (1) to (23), inclusive.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of violence that is required to be reported pursuant to this section, and when there is an agreement among these persons to report as a team, the team may select by mutual agreement a member of the team to make a report by telephone and a single written report, as required by subdivision (b). The written report shall be signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(f) The reporting duties under this section are individual, except as provided in subdivision (e).

(g) No supervisor or administrator shall impede or inhibit the reporting duties required under this section and no person making a report pursuant to this section shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, except that these procedures shall not be inconsistent with this article. The internal procedures shall not require any employee required to make a report under this article to disclose his or her identity to the employer.

(h) For the purposes of this section, it is the Legislature's intent to avoid duplication of information.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE AND ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Cal Pen Code § 11160

[See Above]

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Penal Code §13823.95

(a) The Office of Emergency Services with the assistance of the advisory committee established pursuant to Section 13836, shall 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. The protocol shall contain recommended methods for meeting the standards specified in Section 13823.11.

(b) In addition to the protocol, the Office of Emergency Services shall develop informational guidelines, containing general reference information on evidence collection and examination of victims of, and psychological and medical treatment for victims of, sexual assault and attempted sexual assault, including child molestation.

In developing the protocol and the informational guidelines, the Office of Emergency Services and the advisory committee shall seek the assistance and guidance of organizations assisting victims of sexual assault; qualified health care professionals, criminalists, and administrators who are familiar with emergency room procedures; victims of sexual assault; and law enforcement officials.

(c) The Office of Emergency Services, in cooperation with the State Department of Public Health and the Department of Justice, shall 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.

Each qualified health care professional who conducts an examination for evidence of a sexual assault or an attempted sexual assault, including child molestation, shall use the standard form or forms adopted pursuant to this section, and shall make those observations and perform those tests as may be required for recording of the data required by the form. The forms shall be subject to the same principles of confidentiality applicable to other medical records.

The Office of Emergency Services shall make copies of the standard form or forms available to every public or private general acute care hospital, as requested.

The standard form shall be used to satisfy the reporting requirements specified in 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.

(d) The Office of Emergency Services shall distribute copies of the protocol and the informational guidelines to every general acute care hospital, law enforcement agency, and prosecutor's office in the state.

(e) As used in this chapter, "qualified health care professional" means a physician and surgeon currently licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or 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.

Penal Code §13823.11. Minimum standards for examination and treatment of sexual assault victims; Collection and preservation of evidence.

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 therefrom include all of the following:

(a) Law enforcement authorities shall be notified.

(b) In conducting the physical examination, the outline indicated in the form adopted pursuant to subdivision (c) of Section 13823.5 shall be followed.

(c) Consent for a physical examination, treatment, and collection of evidence shall be obtained.

(1) Consent to an examination for evidence of sexual assault shall be obtained prior to the examination of a victim of sexual assault and shall include separate written documentation of consent to each of the following:

(A) Examination for the presence of injuries sustained as a result of the assault.

(B) Examination for evidence of sexual assault and collection of physical evidence.

(C) Photographs of injuries.

(2) Consent to treatment shall be obtained in accordance with usual hospital policy.

(3) A victim of sexual assault shall be informed that he or she 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.

(4) Pursuant to Chapter 3 (commencing with Section 6920) of Part 4 of Division 11 of the Family Code, a minor may consent to hospital, medical, and surgical care related to a sexual assault without the consent of a parent or guardian.

(5) In cases of known or suspected child abuse, the consent of the parents or legal guardian is not required. In the case of suspected child abuse and nonconsenting parents, the consent of the local agency providing child protective services or the local law enforcement agency shall be obtained. Local procedures regarding obtaining consent for the examination and treatment of, and the collection of evidence from, children from child protective authorities shall be followed.

(d) A history of sexual assault shall be taken.

The history obtained in conjunction with the examination for evidence of sexual assault shall follow the outline of the form established pursuant to subdivision (c) of Section 13823.5 and shall include all of the following:

(1) A history of the circumstances of the assault.

(2) For a child, any previous history of child sexual abuse and an explanation of injuries, if different from that given by parent or person accompanying the child.

(3) Physical injuries reported.

(4) Sexual acts reported, whether or not ejaculation is suspected, and whether or not a condom or lubricant was used.

(5) Record of relevant medical history.

(e)

(1) If indicated by the history of contact, a female victim of sexual assault shall be provided with the option of postcoital contraception by a physician or other health care provider.

(2) Postcoital contraception shall be dispensed by a physician or other health care provider upon the request of the victim.

(f) Each adult and minor victim of sexual assault who consents to a medical examination for collection of evidentiary material shall have a physical examination which includes, but is not limited to, all of the following:

- (1)** Inspection of the clothing, body, and external genitalia for injuries and foreign materials.
- (2)** Examination of the mouth, vagina, cervix, penis, anus, and rectum, as indicated.
- (3)** Documentation of injuries and evidence collected.

Prepubertal children shall not have internal vaginal or anal examinations unless absolutely necessary. This does not preclude careful collection of evidence using a swab.

(g) The collection of physical evidence shall conform to the following procedures:

(1) Each victim of sexual assault who consents to an examination for collection of evidence shall have the following items of evidence collected, except where he or she specifically objects:

(A) Clothing worn during the assault.

(B) Foreign materials revealed by an examination of the clothing, body, external genitalia, and pubic hair combings.

(C) Swabs and slides from the mouth, vagina, rectum, and penis, as indicated, to determine the presence or absence of sperm and sperm motility, and for genetic marker typing.

(D) If indicated by the history of contact, the victim's urine and blood sample, for toxicology purposes, to determine if drugs or alcohol were used in connection with the assault. Toxicology results obtained pursuant to this paragraph shall not be admissible in any criminal or civil action or proceeding against any victim who consents to the collection of physical evidence pursuant to this paragraph. Except for purposes of prosecuting or defending the crime or crimes necessitating the examination specified by this section, any toxicology results obtained pursuant to this paragraph shall be kept confidential, may not be further disclosed, and shall not be required to be disclosed by the victim for any purpose not specified in this paragraph. The victim shall specifically be informed of the immunity and confidentiality safeguards provided herein.

(2) Each victim of sexual assault who consents to an examination for the collection of evidence shall have reference specimens taken, except when he or she specifically objects thereto. A reference specimen is a standard from which to obtain baseline information (for example: pubic and head hair, blood, and saliva for genetic marker typing). These specimens shall be taken in accordance with the standards of the local criminalistics laboratory.

(3) A baseline gonorrhea culture, and syphilis serology, shall be taken, if indicated by the history of contact. Specimens for a pregnancy test shall be taken, if indicated by the history of contact.

(4)

(A) If indicated by the history of contact, a female victim of sexual assault shall be provided with the option of postcoital contraception by a physician or other health care provider.

(B) Postcoital contraception shall be dispensed by a physician or other health care provider upon the request of the victim.

(h) Preservation and disposition of physical evidence shall conform to the following procedures:

(1) All swabs and slides shall be air-dried prior to packaging.

(2) All items of evidence including laboratory specimens shall be clearly labeled as to the identity of the source and the identity of the person collecting them.

(3) The evidence shall have a form attached which documents its chain of custody and shall be properly sealed.

(4) The evidence shall be turned over to the proper law enforcement agency.

Govt. Code § 13956. Non-eligible persons; Eligibility of certain classes of victims; Eligibility of victims of certain crimes.

- Notwithstanding Section 13955, a person shall not be eligible for compensation under the following conditions:
- An application may be denied, in whole or in part, if the board finds that denial is appropriate because of the nature of the victim's or other applicant's involvement in the

events leading to the crime, or the involvement of the person whose injury or death gives rise to the application.

- Factors that may be considered in determining whether the victim or derivative victim was involved in the events leading to the qualifying crime include, but are not limited to:
 - The victim or derivative victim initiated the qualifying crime, or provoked or aggravated the suspect into initiating the qualifying crime.
 - The qualifying crime was a reasonably foreseeable consequence of the conduct of the victim or derivative victim.
 - The victim or derivative victim was committing a crime that could be charged as a felony and reasonably lead to him or her being victimized. However, committing a crime shall not be considered involvement if the victim's injury or death occurred as a direct result of a crime committed in violation of Section 261, 262, or 273.5 of, or for a crime of unlawful sexual intercourse with a minor in violation of subdivision (d) of Section 261.5 of the Penal Code.
- If the victim is determined to have been involved in the events leading to the qualifying crime, factors that may be considered to mitigate or overcome involvement include, but are not limited to:
 - The victim's injuries were significantly more serious than reasonably could have been expected based on the victim's level of involvement.
 - A third party interfered in a manner not reasonably foreseeable by the victim or derivative victim.
 - The board shall consider the victim's age, physical condition, and psychological state, as well as any compelling health and safety concerns, in determining whether the application should be denied pursuant to this section. The application of a derivative victim of domestic violence under 18 years of age or derivative victim of trafficking under 18 years of age shall not be denied on the basis of the denial of the victim's application under this subdivision.
- **(b)**
- An application shall be denied if the board finds that the victim or, if compensation is sought by, or on behalf of, a derivative victim, either the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime. In determining whether cooperation has been reasonable, the board shall consider the victim's or derivative victim's age, physical condition, and psychological state, cultural or linguistic barriers, any compelling health and safety concerns, including, but not limited to, a reasonable fear of retaliation or harm that would jeopardize the well-being of the victim or the victim's family or the derivative victim or the derivative victim's family, and giving due consideration to the degree of cooperation of which the victim or derivative victim is capable in light of the presence of any of these factors. A victim of domestic violence shall not be determined to have failed to cooperate based on his or her conduct with law enforcement at the scene of the crime. Lack of cooperation shall also not be found solely because a victim of sexual assault, domestic violence, or human trafficking delayed reporting the qualifying crime.

- An application for a claim based on domestic violence shall not be denied solely because a police report was not made by the victim. The board shall adopt guidelines that allow the board to consider and approve applications for assistance based on domestic violence relying upon evidence other than a police report to establish that a domestic violence crime has occurred. Factors evidencing that a domestic violence crime has occurred may include, but are not limited to, medical records documenting injuries consistent with allegations of domestic violence, mental health records, or that the victim has obtained a permanent restraining order.
- An application for a claim based on a sexual assault shall not be denied solely because a police report was not made by the victim. The board shall adopt guidelines that allow it to consider and approve applications for assistance based on a sexual assault relying upon evidence other than a police report to establish that a sexual assault crime has occurred. Factors evidencing that a sexual assault crime has occurred may include, but are not limited to, medical records documenting injuries consistent with allegations of sexual assault, mental health records, or that the victim received a sexual assault examination.
- An application for a claim based on human trafficking as defined in Section 236.1 of the Penal Code shall not be denied solely because no police report was made by the victim. The board shall adopt guidelines that allow the board to consider and approve applications for assistance based on human trafficking relying upon evidence other than a police report to establish that a human trafficking crime as defined in Section 236.1 of the Penal Code has occurred. That evidence may include any reliable corroborating information approved by the board, including, but not limited to, the following:
 - A Law Enforcement Agency Endorsement issued pursuant to Section 236.2 of the Penal Code.
 - A human trafficking caseworker, as identified in Section 1038.2 of the Evidence Code, has attested by affidavit that the individual was a victim of human trafficking.
 - (5)
- An application for a claim by a military personnel victim based on a sexual assault by another military personnel shall not be denied solely because it was not reported to a superior officer or law enforcement at the time of the crime.
- Factors that the board shall consider for purposes of determining if a claim qualifies for compensation include, but are not limited to, the evidence of the following:
 - Restricted or unrestricted reports to a military victim advocate, sexual assault response coordinator, chaplain, attorney, or other military personnel.
 - Medical or physical evidence consistent with sexual assault.
 - A written or oral report from military law enforcement or a civilian law enforcement agency concluding that a sexual assault crime was committed against the victim.
 - A letter or other written statement from a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, licensed therapist, or mental health counselor, stating that the victim is seeking services related to the allegation of sexual assault.
 - A credible witness to whom the victim disclosed the details that a sexual assault crime occurred.
 - A restraining order from a military or civilian court against the perpetrator of the sexual assault.
 - Other behavior by the victim consistent with sexual assault.

- For purposes of this subdivision, the sexual assault at issue shall have occurred during military service, including deployment.
- For purposes of this subdivision, the sexual assault may have been committed off base.
- For purposes of this subdivision, a "perpetrator" means an individual who is any of the following at the time of the sexual assault:
 - An active duty military personnel from the United States Army, Navy, Marine Corps, Air Force, or Coast Guard.
 - A civilian employee of any military branch specified in clause (i), military base, or military deployment.
 - A contractor or agent of a private military or private security company.
 - A member of the California National Guard.
- For purposes of this subdivision, "sexual assault" means an offense included in Section 261, 262, 264.1, 286, 288a, or 289 of the Penal Code, as of the date the act that added this paragraph was enacted.
 - (c)
 - Notwithstanding Section 13955, no person who is convicted of a violent felony listed in subdivision (c) of Section 667.5 of the Penal Code may be granted compensation until that person has been discharged from probation or has been released from a correctional institution and has been discharged from parole, or has been discharged from postrelease community supervision or mandatory supervision, if any, for that violent crime. In no case shall compensation be granted to an applicant pursuant to this chapter during any period of time the applicant is held in a correctional institution, or while an applicant is required to register as a sex offender pursuant to Section 290 of the Penal Code.
 - A person who has been convicted of a violent felony listed in subdivision (c) of Section 667.5 of the Penal Code may apply for compensation pursuant to this chapter at any time, but the award of that compensation may not be considered until the applicant meets the requirements for compensation set forth in paragraph (1).

COLORADO

Summary: Colorado has no mandatory reporting requirements specific to sexual assault, but every licensee has a duty to report "any other injury that the licensee has reason to believe involves a criminal act, including injuries resulting from domestic violence." Any direct cost associated with the collection of forensic evidence from the victim shall be paid by the referring or requesting law enforcement agency.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE AND ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

C.R.S. 12-36-135. Injuries to be reported – penalty for failure to report – immunity from liability.

(1) (a) (I) Every licensee who attends or treats any of the following injuries shall report the injury at once to the police of the city, town, or city and county or the sheriff of the county in which the licensee is located:

(A) A bullet wound, a gunshot wound, a powder burn, or any other injury arising from the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument that the licensee believes to have been intentionally inflicted upon a person;

(B) An injury arising from a dog bite that the licensee believes was inflicted upon a person by a dangerous dog, as defined in section 18-9-204.5 (2) (b), C.R.S.; or

(C) Any other injury that the licensee has reason to believe involves a criminal act, including injuries resulting from domestic violence.

(II) Any licensee who fails to make a report as required by this section commits a class 2 petty offense, as defined by section 18-1.3-503, C.R.S., and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

(b) (I) When a licensee or nurse performs a medical forensic examination that includes the collection of evidence at the request of a victim of sexual assault, the licensee's or nurse's employing medical facility shall, with the consent of the victim of the sexual assault, make one of the following reports to law enforcement:

(A) A law enforcement report if a victim wishes to obtain a medical forensic examination with evidence collection and at the time of the medical forensic examination chooses to participate in the criminal justice system;

(B) A medical report if a victim wishes to obtain a medical forensic examination with evidence collection but at the time of the medical forensic examination chooses not to participate in the criminal justice system. The licensee or nurse shall collect such evidence and victim identifying information, and the employing medical facility shall release the evidence and information to law enforcement for testing in accordance with section 24-33.5-113 (1) (b) (III), C.R.S., and storage in accordance with section 18-3-407.5 (3) (c), C.R.S.

(C) An anonymous report if a victim wishes to obtain a medical forensic examination with evidence collection but at the time of the medical forensic examination chooses not to have personal identifying information provided to law enforcement

or to participate in the criminal justice system. The licensee or nurse shall collect such evidence, and the employing medical facility shall release it to law enforcement for storage in accordance with section 18-3-407.5 (3) (c), C.R.S. Law enforcement shall receive no identifying information for the victim. Law enforcement shall assign a unique identifying number to the evidence, and the licensee or nurse shall record the identifying number in the medical record and notify the victim that the identifying number is recorded. Additionally, the licensee or nurse shall provide the identifying number to the victim.

(II) Nothing in this section:

(A) Prohibits a victim from anonymously speaking to law enforcement about the victim's rights or options prior to determining whether to consent to a report described in this paragraph (b); or

(B) Requires a licensee, nurse, or medical facility to make a report to law enforcement concerning an alleged sexual assault if medical forensic evidence is not collected.

(III) If the licensee's employing medical facility knows where the alleged sexual assault occurred, the facility shall make the report with the law enforcement agency in whose jurisdiction the crime occurred regarding preservation of the evidence. If the medical facility does not know where the alleged sexual assault occurred, the facility shall make the report with its local law enforcement agency regarding preservation of the evidence.

(IV) In addition to the report required by subparagraph (I) of this paragraph (b) to be filed by the employing medical facility, a licensee who attends or treats any of the injuries described in sub-subparagraph (A) of subparagraph (I) of paragraph (a) of this subsection (1) of a victim of a sexual assault shall also report the injury to the police or sheriff as required by paragraph (a) of this subsection (1).

(1.5) As used in subsection (1) of this section, unless the context otherwise requires:

(a) "Domestic violence" means an act of violence upon a person with whom the actor is or has been involved in an intimate relationship. Domestic violence also includes any other crime against a person or any municipal ordinance violation against a person when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

(b) "Intimate relationship" means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

(2) Any licensee who, in good faith, makes a report pursuant to subsection (1) of this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of such report, and shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(3) Any licensee who makes a report pursuant to subsection (1) of this section shall not be subject to the physician-patient relationship described in section 13-90-107 (1) (d), C.R.S., as to the medical examination and diagnosis. Such licensee may be examined as a witness, but not as to any statements made by the patient that are the subject matter of section 13-90-107 (1) (d), C.R.S.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

CRS § 18-3-407.5. Victim evidence – forensic evidence – electronic lie detector exam without victim’s consent prohibited.

(1) A law enforcement agency with jurisdiction over a sexual assault must pay for any direct cost associated with the collection of forensic evidence from a victim who reports the assault to the law enforcement agency.

(2) A law enforcement agency, prosecuting officer, or other government official may not ask or require a victim of a sexual offense to submit to a polygraph examination or any form of a mechanical or electrical lie detector examination as a condition for proceeding with any criminal investigation or prosecution of an offense. A law enforcement agency shall conduct the examination only with the victim's written informed consent. Consent shall not be considered informed unless the law enforcement agency informs the victim in writing of the victim's right to refuse to submit to the examination. In addition, the law enforcement agency shall orally provide to the victim information about the potential uses of the results of the examination.

(3) (a) A law enforcement agency, prosecuting officer, or other government official may not ask or require a victim of a sexual offense to participate in the criminal justice system process or cooperate with the law enforcement agency, prosecuting officer, or other government official as a condition of receiving a forensic medical examination that includes the collection of evidence.

(b) A victim of a sexual offense shall not bear the cost of a forensic medical examination that includes the collection of evidence that is used for the purpose of evidence collection even if the victim does not want to participate in the criminal justice system or otherwise cooperate with the law enforcement agency, prosecuting officer, or other government official. The division of criminal justice in the department of public safety shall pay the cost of the examination.

(c) When personnel at a medical facility perform a medical forensic examination that includes the collection of evidence based on the request of a victim of a sexual offense and the medical facility performing the examination knows where the crime occurred, the facility shall contact the law enforcement agency in whose jurisdiction the crime occurred regarding preservation of the evidence. If the medical facility does not know where the crime occurred, the facility shall contact its local law enforcement agency regarding preservation of the evidence. Notwithstanding any other statutory requirements regarding storage of biological evidence, the law enforcement agency contacted by the medical facility shall retrieve the evidence from the facility and store it for at least two years.

(d) A law enforcement agency shall not submit medical forensic evidence associated with an anonymous report submitted pursuant to section 12-36-135, C.R.S., to the Colorado bureau of investigation or any other laboratory for testing as described in section 24-33.5-113, C.R.S. Medical forensic evidence associated with a medical report submitted pursuant to section 12-36-135, C.R.S., when the victim has consented to evidence testing, shall be submitted to the Colorado bureau of investigation or another laboratory and tested, pursuant to section 24-33.5-113, C.R.S., regardless of whether the victim has chosen to participate in the criminal justice system.

CONNECTICUT

Summary: There is no mandatory reporting in Connecticut unless the rape victim suffered a wound from a firearm as well. No costs of a sexual assault forensic evidence collection examination shall be billed to a victim when the examination is for the purpose of gathering evidence as prescribed in the Connecticut Technical Guidelines for Health Care Response to Victims of Sexual Assault Protocol.

LAW RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Conn. Gen. Stat. § 19a-490f. Requirements for reports of treatment of wounds from firearms.

(a) Each hospital, outpatient surgical facility and outpatient clinic shall report or cause a report to be made to the local police department or the state police of each person treated for a bullet wound, a gunshot wound or any injury arising from the discharge of a firearm or a stab wound that is a serious physical injury likely caused by a knife or other sharp or pointed instrument. Such report shall be made as soon as practicable after the treatment is rendered and shall contain the name and address of the injured person, if known, the nature and extent of the injury and the circumstances under which the treatment was rendered.

(b) A report required under subsection (a) of this section shall include:

(1) The name, residence, sex and age of the patient;

(2) The type of wound the patient received; and

(3) The name of each health care provider treating the patient's wound.

(c) An employee of the hospital, outpatient surgical facility or outpatient clinic shall ensure that any bullet or other foreign object or clothing showing damage potentially related to the wound removed from any such patient shall be identified as coming from such patient and kept in a manner that preserves the integrity of the item, until an employee of such entity surrenders the item to the local police department or the state police or until the period for retention of such item expires pursuant to such entity's policy for retention of such item, whichever is earlier.

(d) Any hospital, outpatient surgical facility or outpatient clinic or employee of any such entity who in good faith, and without gross negligence or willful or wanton misconduct, makes a report pursuant to this section, cooperates during the course of an investigation or proceeding concerning the reported wound, or preserves an item or surrenders such item to the local police department or state police pursuant to subsection (c) of this section, shall be immune from civil or criminal liability or any action for suspension, revocation or surrender of any professional license, registration or certification held by such entity or employee, arising from or related to the report, cooperation with an investigation or proceeding or the preservation or surrender of any such item.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Conn. Gen. Stat. § 19a-112a. Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations. Protocol. Sexual assault evidence collection kit. Preservation of evidence. Costs. Training and sexual assault examiner programs.

(a) There is created a Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations composed of fourteen members as follows: The Chief State's Attorney or a designee; the executive director of the Commission on Women, Children and Seniors or a designee; the Commissioner of Children and Families or a designee; one member from the Division of State Police and one member from the Division of Scientific Services appointed by the Commissioner of Emergency Services and Public Protection; one member from Connecticut Sexual Assault Crisis Services, Inc. appointed by its board of directors; one member from the Connecticut Hospital Association appointed by the president of the association; one emergency physician appointed by the president of the Connecticut College of Emergency Physicians; one obstetrician-gynecologist and one pediatrician appointed by the president of the Connecticut State Medical Society; one nurse appointed by the president of the Connecticut Nurses' Association; one emergency nurse appointed by the president of the Emergency Nurses' Association of Connecticut; one police chief appointed by the president of the Connecticut Police Chiefs Association; and one member of the Office of Victim Services within the Judicial Department. The Chief State's Attorney or a designee shall be chairman of the commission. The commission shall be within the Division of Criminal Justice for administrative purposes only.

(b)

(1) For the purposes of this section, “protocol” means the state of Connecticut Technical Guidelines for Health Care Response to Victims of Sexual Assault, including the Interim Sexual Assault Toxicology Screen Protocol, as revised from time to time and as incorporated in regulations adopted in accordance with subdivision (2) of this subsection, pertaining to the collection of evidence in any sexual assault investigation.

(2) The commission shall recommend the protocol to the Chief State’s Attorney for adoption as regulations in accordance with the provisions of chapter 54. Such protocol shall include nonoccupational post-exposure prophylaxis for human immunodeficiency virus (nPEP), as recommended by the National Centers for Disease Control. The commission shall annually review the protocol and may annually recommend changes to the protocol for adoption as regulations.

(c) The commission shall design a sexual assault evidence collection kit and may annually recommend changes in the kit to the Chief State’s Attorney. Each kit shall include instructions on the proper use of the kit, standardized reporting forms, standardized tests which shall be performed if the victim so consents and standardized receptacles for the collection and preservation of evidence. The commission shall provide the kits to all health care facilities in the state at which evidence collection examinations are performed at no cost to such health care facilities.

(d) Each health care facility in the state which provides for the collection of sexual assault evidence shall follow the protocol as described in subsection (b) of this section and, with the consent of the victim, shall collect sexual assault evidence. After the collection of any evidence, the health care facility shall contact a police department to receive the evidence. Not later than ten days after the collection of the evidence, the police department shall transfer the evidence, in a manner that maintains the integrity of the evidence, to the Division of Scientific Services within the Department of Emergency Services and Public Protection or the Federal Bureau of Investigation laboratory. If the evidence is transferred to the division, the division shall analyze the evidence not later than sixty days after the collection of the evidence or, if the victim chose to remain anonymous and not report the sexual assault to the police department at the time of collection, shall hold the evidence for at least five years after the collection of the evidence. If a victim reports the sexual assault to the police department after the collection of the evidence, such police department shall notify the division that a report has been filed not later than five days after filing such report and the division shall analyze the evidence not later than sixty days after receiving such notification. The division shall hold any evidence received and analyzed pursuant to this subsection until the conclusion of any criminal proceedings. The failure of a police department to transfer the evidence not later than ten days after the collection of the evidence, or the division to analyze the evidence not later than sixty days after the collection of the evidence or after receiving a notification from a police department, shall not affect the admissibility of the evidence in any suit, action or proceeding if the evidence is otherwise admissible.

(e)

(1) No costs incurred by a health care facility for the examination of a victim of sexual assault, when such examination is performed for the purpose of gathering evidence as prescribed in the protocol, including the costs of testing for pregnancy and sexually transmitted diseases and the costs of prophylactic treatment as provided in the protocol, and no costs incurred for a medical forensic assessment interview conducted by a health care facility or provider or by an examiner working in conjunction with a multidisciplinary team established pursuant to section 17a-106a or with a child advocacy center, shall be charged directly or indirectly to such victim. Any such costs shall be charged to the Forensic Sex Evidence Exams account in the Judicial Department.

(2) No costs incurred by a health care facility for any toxicology screening of a victim of sexual assault, when such screening is performed as prescribed in the protocol, shall be charged directly or indirectly to such victim. Any such costs shall be charged to the Division of Scientific Services within the Department of Emergency Services and Public Protection.

(f) The commission shall advise the Chief State's Attorney on the establishment of a mandatory training program for health care facility staff regarding the implementation of the regulations, the use of the evidence collection kit and procedures for handling evidence.

(g) The commission shall advise the Chief State's Attorney not later than July 1, 1997, on the development of a sexual assault examiner program and annually thereafter on the implementation and effectiveness of such program.

DELAWARE

Summary: There is no mandatory reporting of sexual assault. The cost of a forensic medical examination done for the purpose of gathering evidence that can be used in the prosecution of a sexual offense may be paid from the Victim Compensation Fund. Hospitals and health care professionals may also seek reimbursement from the victim's medical insurance. It is mandatory to report knife and gunshot wounds.

LAW RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

24 Del. C. § 1762. Reports of treatment of certain wounds, injuries, poisoning, or other conditions; failure to report; penalty.

(a) Every person certified to practice medicine who attends to or treats a stab wound; poisoning by other than accidental means; or a bullet wound, gunshot wound, powder burn, or other injury or condition arising from or caused by the discharge of a gun, pistol, or other firearm, or when such injury or condition is treated in a hospital, sanitarium, or other institution, the person, manager, superintendent, or other individual in charge shall report the injury or condition as soon as possible to the appropriate police authority where the attending or treating person was located at the time of treatment or where the hospital, sanitarium, or institution is located. This section does not apply to wounds, burns, poisonings, or injuries or conditions

received by a member of the armed forces of the United States or the State while engaged in the actual performance of duty. A person who fails to make a report required by this section shall be fined not less than \$ 100 nor more than \$ 2,500.

(b) A person certified to practice medicine or other individual who makes a report pursuant to this section is immune from liability for the report, provided that the person or other individual acted in good faith and without gross or wanton negligence.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

11 Del. C. 9023 [formerly 9019]. Payment for forensic medical examination for victims of sexual offense.

(a) The cost of a forensic medical examination done for the purpose of gathering evidence that can be used in the prosecution of a sexual offense may be paid from the Victim Compensation Fund.

(b) "Forensic medical examination" shall be defined as medical diagnostic procedures examining for physical trauma, and determining penetration, force or lack of consent. The cost of the examination shall include collecting all evidence as called for in the sexual offense evidence collection kits and may include any of the following, if done as part of the forensic medical examination:

(1) Physician's fees for the collection of the patient history, physical, collection of specimens and treatment for the prevention of venereal disease, including 1 return follow-up visit;

(2) Emergency department expenses, including emergency room fees and cost of pelvic tray; and

(3) Laboratory expenses for wet mount for sperm, swabs for acid phosphates and ABH antigen; blood typing, serology for syphilis and Hepatitis B; cultures for gonorrhea, chlamydia, trichomonas and other sexually transmitted diseases; pregnancy testing; urinalysis; and any other laboratory test needed to collect evidence that could be used in the prosecution of the offense.

(c) Hospitals and health-care professions shall provide forensic medical examinations free of charge to the victims of sexual offenses. Any hospital or health care professional performing a forensic medical examination shall seek reimbursement for the examination from the patient's insurance carrier, including Medicaid and Medicare, if available. If insurance is unavailable, or does not cover the full costs of the forensic medical examination, the service provider may seek reimbursement from the Compensation Fund. The Agency shall authorize the repayment for reasonable expenses incurred during the forensic medical examination. Such reimbursement shall not exceed a maximum amount to be determined by the Agency. If the hospital or health-

care professional has recovered from insurance, the Agency shall only provide compensation sufficient to total the maximum amount provided for in the Agency's rules and regulations.

(d) The victim of the sexual offense shall not pay any out-of-pocket costs associated with the forensic medical examination and shall not be required to file an application with the Agency. Notwithstanding other language in this chapter, all forensic medical examinations of victims of a sexual offense not covered by insurance shall be paid for through the Victim Compensation Fund and such payment shall be considered full compensation to the hospital or health care professional providing such services.

(e) In addition to, and at the same time as, any other fine or penalty assessed on any criminal defendant, all defendants convicted of a sexual offense as defined in § 761 of this title shall be assessed an additional fine that shall be used to reimburse the Victim Compensation Fund for forensic medical examination payments. All defendants convicted of sexual offenses shall pay \$ 50 for each misdemeanor level count for which they are convicted and \$ 100 for each felony level count for which they are convicted. All fines paid in accordance with this section shall be deposited into the Victims' Compensation Fund.

(f) Nothing in this section shall preclude victims from applying to the Agency for other costs incurred.

DISTRICT OF COLUMBIA

Summary: Reporting is only mandatory when injuries are inflicted by a firearm or dangerous weapon. A victim of sexual assault is eligible to receive compensation when the victim seeks a sexual assault examination from a medical treatment facility.

LAW RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

D.C. Code § 7-2601. Reports by physicians and institutions required.

Any physician in the District of Columbia, including persons licensed under Chapter 12 of Title 3, having reasonable cause to believe that a person brought to him or coming before him for examination, care, or treatment has suffered injury caused by a firearm, whether self-inflicted, accidental, or occurring during the commission of a crime, or has suffered injury caused by any dangerous weapon in the commission of a crime, shall report or cause reports to be made in accordance with this chapter; provided, that when a physician in the performance of service as a member of the staff of a hospital or similar institution attends any person so injured, he shall notify the person in charge of the hospital or institution or his designated agent who shall report or cause reports to be made in accordance with this chapter.

D.C. Code § 7-2602. Nature and contents of reports.

An oral report shall be made immediately by telephone or otherwise, and followed as soon thereafter as possible by a report in writing, to the Metropolitan Police Department of the

District of Columbia. Such reports shall contain, if readily available, the name, address, and age of the injured person, and shall also contain the nature and extent of the person's injuries, and any other information which the physician or other person required to make the report believes might be helpful in establishing the cause of the injuries and the identity of the person who caused the injuries.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

D.C. Code § 4-506. Eligibility for compensation.

(a) A victim or secondary victim is eligible to receive compensation under this chapter if he or she:

- (1)** Suffered personal injury as a result of a crime;
- (2)** Filed a claim under this chapter within 1 year after the crime occurred or 1 year after learning of the Program with an adequate showing that the delay in learning of the Program was reasonable; and
- (3)** Reported the crime to a law enforcement office within 7 days of its occurrence. If the crime cannot be reasonably reported within that time period, the crime must be reported within 7 days from the time a report can reasonably be made.

(b) The offender shall not be unjustly enriched by an award of compensation to the claimant, except that this requirement may be waived in cases involving extraordinary circumstances where the interests of justice so require.

(c) Notwithstanding subsection (a)(3) of this section, a victim who has been sexually abused or subjected to unlawful sexual conduct, domestic violence, or cruelty to children and who does not report the crime to the local police department, may:

- (1)** In the case of domestic violence victims, satisfy the reporting requirement by seeking a civil protection order from the Corporation Counsel of the District of Columbia;
- (2)** In the case of sexual assault victims, satisfy the reporting requirement by seeking a sexual assault examination from a medical treatment facility; and
- (3)** In the case of a victim of cruelty to children, satisfy the reporting requirement by the filing of a neglect petition by the District of Columbia in the Superior Court.

(d) The time limit requirements of this section may be waived for good cause shown, including compelling health or safety concerns.

FLORIDA

Summary: There is not a mandatory rape reporting requirement. However, there is a requirement to report gunshot wounds and life-threatening injuries indicating an act of violence. The forensic sexual assault examination is paid for when the rape is reported to law enforcement.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE AND ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Fla. Stat. § 790.24. Report of medical treatment of certain wounds; penalty for failure to report.

Any physician, nurse, or employee thereof and any employee of a hospital, sanitarium, clinic, or nursing home knowingly treating any person suffering from a gunshot wound or life-threatening injury indicating an act of violence, or receiving a request for such treatment, shall report the same immediately to the sheriff's department of the county in which said treatment is administered or request therefor received. This section does not affect any requirement that a person has to report abuse pursuant to chapter 39 or chapter 415. Any such person willfully failing to report such treatment or request therefor is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

2A-3.002, F.A.C. Applicant and Payment Procedures.

- (1)** The Bureau of Victim Compensation pays for medical expenses connected with the initial forensic physical examination of a victim of sexual battery as defined by Section 794.011(h), F.S., or a lewd or lascivious battery or molestation as defined by Section 800.04(4) or (5), F.S.
- (2)** Payments are awarded regardless of whether the victim is covered by health or disability insurance. The victim must not be billed directly or indirectly for expenses associated with the examination.
- (3)** Payments are not contingent on the victim's participation in the criminal justice system or cooperation with law enforcement.
- (4)** The claim form and invoice must be filed and received by the department within 120 days of the forensic examination. Corrections or technical defects in claim form or invoice shall not result in a change to the original filing date for purposes of complying with the filing deadline.
- (5)** The claim form and invoice shall be mailed to the Office of the Attorney General, Bureau of Victim Compensation, PL-01, The Capitol, Tallahassee, FL 32399-1050; faxed to (850)414-6197 or (850)414-5779; or emailed to [VCIntake@ MyFloridaLegal.com](mailto:VCIntake@MyFloridaLegal.com), or submitted via the department's web portal. The form BVC100SB, Sexual Battery Forensic Examination Claim Form

revised 10/15, is adopted and incorporated by reference at the following address: <http://www.flrules.org/Gateway/reference.asp?No=Ref-06144>. A copy of said form can be obtained at www.myfloridalegal.com or by contacting the Office of the Attorney General, Bureau of Victim Compensation. Failure to submit a properly completed claim form and invoice will result in denial of benefits.

(6) For a faxed claim form and invoice to be timely received, the transmittal cover page must provide sufficient information to identify the claim for which payment is sought, and bear a faxed date stamp that is within 120 days immediately following the examination.

(7) Payment shall not exceed \$ 500 with respect to any violation. Separate invoices submitted for payment consideration of a single examination shall be divided in accordance with the direction and discretion of the department.

(8) The claim form shall include the following:

(a) The victim's name;

(b) Optional demographic data for statistical purposes, including date of birth, race/ethnicity, gender, and national origin;

(c) The date the sexual battery or lewd or lascivious battery or molestation as reported by the victim;

(d) Indication whether or not the victim has reported the incident to law enforcement, and if so, what law enforcement agency took the report, and the case/report number, if applicable;

(e) City, county, and state where the crime was committed according to the victim's statement;

(f) Whether or not the crime occurred while the victim was incarcerated or in custody;

(g) The date the examination was completed;

(h) Forensic facility information which includes the name of the facility where the examination was performed, the facility's federal tax identification number, mailing address, email address (if applicable), and telephone number including the area code;

(i) The name of another employee of the facility who was present at the time the examination was performed and shall henceforth be identified as the witness;

(j) The witness must attest to the fact that the examination was performed on the victim at the location identified;

- (k) The signature of the witness and date of signature;
- (l) Forensic examiner information which includes their name, title, and license number;
- (m) Certification by the forensic examiner to affirm that the initial forensic physical examination for which the claim is based was performed for the purpose of collecting forensic evidence from the victim on the date identified using practices consistent with the establish Adult and Child Sexual Assault Protocols; and,
- (n) The signature of the forensic examiner and date of signature.

(9) The itemized invoice shall be prepared using industry standard forms or on the provider's letterhead. It must include the following:

- (a) Facility name, address, and tax identification number;
- (b) Date of the examination;
- (c) Victim's name;
- (d) Examination diagnostic codes for observation following alleged rape or seduction (V71.5), encounter for examination and observation following alleged rape (Z044), encounter for examination and observation following alleged adult rape (Z0441), encounter for examination and observation following alleged child rape (Z0442); and,
- (e) One or more of the following procedures:
 1. Certified or board-eligible healthcare examiner's office or other outpatient services;
 2. Emergency department services;
 3. Use of medical facility for the collection of forensic physical evidence;
 4. Venipuncture for the collection of blood samples;
 5. Laboratory tests for baseline sexually transmitted disease and pregnancy; or
 6. Forensic evidence collection kit.

(10) Only medical expenses connected with the initial forensic physical examination shall be considered.

Fla. Stat. § 960.28

(1) A medical provider who performs an initial forensic physical examination may not bill a victim or the victim's parent or guardian if the victim is a minor directly or indirectly for that examination.

(2) The Crime Victims' Services Office of the department shall pay for medical expenses connected with an initial forensic physical examination of a victim of sexual battery as defined in chapter 794 or a lewd or lascivious offense as defined in chapter 800. Such payment shall be made regardless of whether the victim is covered by health or disability insurance and whether the victim participates in the criminal justice system or cooperates with law enforcement. The payment shall be made only out of moneys allocated to the Crime Victims' Services Office for the purposes of this section, and the payment may not exceed \$500 with respect to any violation. The department shall develop and maintain separate protocols for the initial forensic physical examination of adults and children. Payment under this section is limited to medical expenses connected with the initial forensic physical examination, and payment may be made to a medical provider using an examiner qualified under part I of chapter 464, excluding s. 464.003(16); chapter 458; or chapter 459. Payment made to the medical provider by the department shall be considered by the provider as payment in full for the initial forensic physical examination associated with the collection of evidence. The victim may not be required to pay, directly or indirectly, the cost of an initial forensic physical examination performed in accordance with this section.

(3) The department may allow, deny, controvert, or litigate claims made against it under this section.

(4) Information received or maintained by the department identifying an alleged victim who seeks payment of medical expenses under this section is confidential and exempt from the provisions of s. 119.07(1).

(5) A defendant or juvenile offender who pleads guilty or nolo contendere to, or is convicted of or adjudicated delinquent for, a violation of chapter 794 or chapter 800 shall be ordered by the court to make restitution to the Crimes Compensation Trust Fund in an amount equal to the compensation paid to the medical provider by the Crime Victims' Services Office for the cost of the initial forensic physical examination. The order may be enforced by the department in the same manner as a judgment in a civil action.

GEORGIA

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE

Summary: There is not a specific rape reporting requirement; however, hospital administrators are required to make a report of non-accidental injuries. It is mandatory to report burn wounds. When evidence relating to an allegation of rape is collected in the course of a medical examination of the person who is the victim of the alleged crime, the Georgia Crime Victims Emergency Fund shall be responsible for the cost of the

medical examination to the extent that expense is incurred for the limited purpose of collecting evidence.

O.C.G.A. § 31-7-9. Reports by physicians and other personnel of nonaccidental injuries to patients; immunity from liability.

(a) As used in this Code section, the term "medical facility" includes, without being limited to, an ambulatory surgical treatment center defined in subparagraph (C) of paragraph (4) of Code Section 31-7-1 and a freestanding imaging center defined in subparagraph (G) of paragraph (4) of Code Section 31-7-1.

(b) Any:

- (1) Physician, including any doctor of medicine licensed to practice under the laws of this state;
- (2) Licensed registered nurse employed by a medical facility;
- (3) Security personnel employed by a medical facility; or
- (4) Other personnel employed by a medical facility whose employment duties involve the care and treatment of patients therein

having cause to believe that a patient has had physical injury or injuries inflicted upon him other than by accidental means shall report or cause reports to be made in accordance with this Code section.

(c) An oral report shall be made immediately by telephone or otherwise and shall be followed by a report in writing, if requested, to the person in charge of the medical facility or his designated delegate. The person in charge of the medical facility or his designated delegate shall then notify the local law enforcement agency having primary jurisdiction in the area in which the medical facility is located of the contents of the report. The report shall contain the name and address of the patient, the nature and extent of the patient's injuries, and any other information that the reporting person believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator.

(d) Any person or persons participating in the making of a report or causing a report to be made to the appropriate police authority pursuant to this Code section or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil liability that might otherwise be incurred or imposed, providing such participation pursuant to this Code section shall be in good faith.

LAW RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

O.C.G.A. § 25-2-32.1. Reports to Safety Fire Division of serious burn injuries.

National District Attorney Association
National Center for Prosecution of Violence Against Women
DOJ Grant #2009-TA-AX-K012
www.ndaa.org

Every case of a burn injury or wound where the victim sustained second-degree or third-degree burns to 5 percent or more of the body or any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air, and every case of a burn injury or wound which is likely to or may result in death, shall be reported at once to the Safety Fire Division of the office of the Commissioner of Insurance. The Safety Fire Division shall accept the report and notify the proper investigatory agency as may be appropriate. A written report shall be provided to the Safety Fire Division within 72 hours. The report shall be made by the physician attending or treating the case or by the manager, superintendent, or other person in charge whenever such case is treated in a hospital sanitarium, institution, or other medical facility.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

O.C.G.A. § 16-6-1. Rape.

(a) A person commits the offense of rape when he has carnal knowledge of:

- (1) A female forcibly and against her will; or
- (2) A female who is less than ten years of age.

Carnal knowledge in rape occurs when there is any penetration of the female sex organ by the male sex organ. The fact that the person allegedly raped is the wife of the defendant shall not be a defense to a charge of rape.

(b) A person convicted of the offense of rape shall be punished by death, by imprisonment for life without parole, by imprisonment for life, or by a split sentence that is a term of imprisonment for not less than 25 years and not exceeding life imprisonment, followed by probation for life. Any person convicted under this Code section shall, in addition, be subject to the sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7.

(c) When evidence relating to an allegation of rape is collected in the course of a medical examination of the person who is the victim of the alleged crime, the Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of Title 17, shall be responsible for the cost of the medical examination to the extent that expense is incurred for the limited purpose of collecting evidence.

HAWAII

Summary: There is not a mandatory reporting requirement for sexual assault. Examinations shall be paid for from funds appropriated for the expenses of examination administration. It is mandatory to report stab wounds, gunshot wounds and any injury that would seriously maim, produce death, or has rendered the injured person unconscious, caused by the use of violence or sustained in a suspicious or unusual manner.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE OR ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

HRS § 453-14. Duty of physician, osteopathic physician, surgeon, hospital, clinic, etc., to report wounds.

(a) Every physician, osteopathic physician, physician assistant, and surgeon attending or treating a case of knife wound, bullet wound, gunshot wound, powder burn, or any injury that would seriously maim, produce death, or has rendered the injured person unconscious, caused by the use of violence or sustained in a suspicious or unusual manner or in motor vehicle collisions resulting in serious injury or death, or, whenever the case is treated in a hospital, clinic, or other institution, the manager, superintendent, or person in charge thereof, shall report the case or provide requested information to the chief of police of the county within which the person was attended or treated, giving the name of the injured person, description of the nature, type, and extent of the injury, together with other pertinent information that may be of use to the chief of police. As used herein, the term "chief of police" means the chief of police of each county and any of the chief's authorized subordinates.

(b) This section shall not apply to wounds, burns, or injuries received by a member of the armed forces of the United States or of the State while engaged in the actual performance of duty.

(c) Any person who fails to make the report called for herein within twenty-four hours after the attendance or treatment shall be fined not less than \$50 nor more than \$500.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

HRS 351-15. Medical examination.

The commission may appoint an impartial licensed physician or licensed psychologist to examine any person making application under this chapter, and the fees for the examination shall be paid from funds appropriated for expenses of administration.

IDAHO

Summary: There is no mandatory reporting requirement; however, it is mandatory to report injuries which indicate that a person may be the victim of a criminal offense. It is also mandatory to report gunshot wounds. When the victim of any crime is directed or authorized by a law enforcement agency to obtain a medical examination for the purpose of procuring evidence for use by a law enforcement agency in the investigation or prosecution of the crime, the expense incurred shall be paid for from the crime victims compensation account.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE OR ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Idaho Code § 39-1390. Reports to law enforcement agencies of certain types of injuries.

(1) As soon as treatment permits, any person operating a hospital or other medical treatment facility, or any physician, resident on a hospital staff, intern, physician assistant, nurse or emergency medical technician shall notify the local law enforcement agency of that jurisdiction upon the treatment of or request for treatment of a person when the reporting person has reason to believe that the person treated or requesting treatment has received:

(a) Any injury inflicted by means of a firearm; or

(b) Any injury indicating that the person may be a victim of a criminal offense.

(2) The report provided to the law enforcement agency pursuant to subsection (1) of this section shall include the name and address of the injured person, the character and extent of the person's injuries, and the medical basis for making the report.

(3) Any person operating a medical facility, or any physician, resident on a hospital staff, intern, physician assistant, nurse or emergency medical technician shall be held harmless from any civil liability for his reasonable compliance with the provisions of this section.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Idaho Code § 19-5303. Cost of medical exams to be paid by law enforcement.

When the victim of any crime is directed or authorized by a law enforcement agency to obtain a medical examination for the purpose of procuring evidence for use by a law enforcement agency in the investigation or prosecution of the crime, the expense incurred shall be paid by the law enforcement agency. Provided however, the cost of forensic and/or medical examinations of alleged victims of sexual assault shall be paid for from the crimes victims compensation account, as established by section 72-1009, Idaho Code. The provisions of this section shall not be construed to require a law enforcement agency to bear the expense of any medical treatment of the victim.

Idaho Code § 72-1019. Compensation benefits.

(1) A claimant is entitled to weekly compensation benefits when the claimant has a total actual loss of wages due to injury as a result of criminally injurious conduct. During the time the claimant seeks such weekly benefits, the claimant, as a result of such injury, must have no reasonable prospect of being regularly employed in the normal labor market. The weekly benefit

amount is sixty-six and two-thirds percent (66 2/3%) of the wages received at the time of the criminally injurious conduct, subject to a maximum of one hundred seventy-five dollars (\$ 175). Weekly compensation payments shall be made at the end of each two (2) week period. No weekly compensation payments may be paid for the first week after the criminally injurious conduct occurred, but if total actual loss of wages continues for one (1) week, weekly compensation payments shall be paid from the date the wage loss began. Weekly compensation payments shall continue until the claimant has a reasonable prospect of being regularly employed in the normal labor market.

(2) The commission may order payment of reasonable expenses actually incurred by the claimant for reasonable services by a physician or surgeon, reasonable hospital services and medicines, mental health counseling and care, and such other treatment as may be approved by the commission for the injuries suffered due to criminally injurious conduct. Payment for the costs of forensic and medical examinations of alleged victims of sexual assault performed for the purposes of gathering evidence for possible prosecution, after collections from any third party who has liability, shall be made by the commission. The commission shall establish a procedure for summary processing of such claims.

(3) (a) The dependents of a victim who is killed as a result of criminally injurious conduct are entitled to receive aggregate weekly benefits amounting to sixty-six and two-thirds percent (66 2/3%) of the wages received at the time of the criminally injurious conduct causing the death, subject to a maximum of one hundred seventy-five dollars (\$ 175) per week. Weekly compensation payments shall be made at the end of each two (2) week period.

(b) Benefits under subsection (3)(a) of this section shall be paid to the spouse for the benefit of the spouse and other dependents unless the commission determines that other payment arrangements should be made. If a spouse dies or remarries, benefits under subsection (3)(a) shall cease to be paid to the spouse but shall continue to be paid to the other dependents so long as their dependent status continues.

(4) Reasonable funeral and burial or cremation expenses of the victim, together with actual expenses of transportation of the victim's body, shall be paid in an amount not exceeding five thousand dollars (\$ 5,000) if all other collateral sources have properly paid such expenses but have not covered all such expenses.

(5) (a) Compensation payable to a victim and all of the victim's dependents in cases of the victim's death, because of injuries suffered due to an act or acts of criminally injurious conduct involving the same offender and occurring within a six (6) month period, may not exceed twenty-five thousand dollars (\$ 25,000) in the aggregate.

(b) The limitation of subsection (5)(a) of this section is subject to the further limitation that payments for mental health treatment received as a result of the victim's injury may not exceed two thousand five hundred dollars (\$ 2,500) unless the industrial commission finds extenuating circumstances. If the commission finds a victim to have extenuating circumstances as defined in section 72-1003, Idaho Code, the victim is eligible for payments up to the maximum benefit allowed under paragraph (a) of this

subsection (5). The commission shall reevaluate the victim's qualifications for extenuating circumstances not less often than annually.

(6) Compensation benefits are not payable for pain and suffering or property damage.

(7) (a) A person who has suffered injury as a result of criminally injurious conduct and as a result of such injury has no reasonable prospect of being regularly employed in the normal labor market, who was employable but was not employed at the time of such injury, may in the discretion of the commission be awarded weekly compensation benefits in an amount determined by the commission not to exceed one hundred fifty dollars (\$ 150) per week. Weekly compensation payments shall continue until the claimant has a reasonable prospect of being regularly employed in the normal labor market or for a shorter period as determined by the commission. The claimant shall be awarded benefits as provided in subsection (2) of this section.

(b) The dependents of a victim who is killed as a result of criminally injurious conduct and who was employable but not employed at the time of death, may, in the discretion of the commission, be awarded, in an aggregate amount payable to all dependents, a sum not to exceed one hundred fifty dollars (\$ 150) per week which shall be payable in the manner and for the period provided by subsection (3)(b) of this section or for such shorter period as determined by the commission. The claimant shall be awarded benefits as provided in subsection (4) of this section.

(c) Compensation payable to a victim or a victim's dependents under this subsection may not exceed twenty thousand dollars (\$ 20,000), and the limitations of subsection (6) of this section apply to compensation under this subsection (7).

(8) Amounts payable as weekly compensation may not be commuted to a lump sum and may not be paid less frequently than every two (2) weeks.

(9) (a) Subject to the limitations in subsections (9)(b) and (9)(c) of this section, the spouse, parent, grandparent, child, grandchild, brother or sister of a victim who is killed, kidnapped, sexually assaulted or subjected to domestic violence or child injury is entitled to reimbursement for mental health treatment received as a result of such criminally injurious conduct.

(b) Total payments made under subsection (9)(a) of this section, may not exceed five hundred dollars (\$ 500) for each person or one thousand five hundred dollars (\$ 1,500) for a family.

(c) With regard to claims filed pursuant to this section, in order for family members of victims of crime to be entitled to benefits, the victim of the crime must also have been awarded benefits for the crime itself.

(10) A claimant or a spouse, parent, child or sibling of a claimant or victim may be reimbursed for his or her expenses for necessary travel incurred in connection with obtaining benefits covered pursuant to this chapter and in accordance with rules of the commission.

ILLINOIS

Summary: There is no specific requirement to report a rape; however, there is a requirement to report injuries sustained as a victim as a result of the commission of a criminal offense.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE OR ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

20 ILCS 2630/3.2. Duty to report injuries resulting from discharge of firearm or sustained in commission of or as victim of criminal offense.

It is the duty of any person conducting or operating a medical facility, or any physician or nurse as soon as treatment permits to notify the local law enforcement agency of that jurisdiction upon the application for treatment of a person who is not accompanied by a law enforcement officer, when it reasonably appears that the person requesting treatment has received:

- (1) any injury resulting from the discharge of a firearm; or
- (2) any injury sustained in the commission of or as a victim of a criminal offense.

Any hospital, physician or nurse shall be forever held harmless from any civil liability for their reasonable compliance with the provisions of this Section.

INDIANA

Summary: There is no specific requirement to report rape; however, there is a duty to report injuries from guns, firearms, knives, ice picks, and other sharp pointed instruments, as well as certain burns and injuries caused by the manufacture or use of destructive devices. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing services related to forensic medical examinations.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Burns Ind. Code Ann. § 35-47-7-1. Report of injuries from gun, firearm, knife, ice pick or other sharp or pointed instrument.

Every case of a bullet wound, gunshot wound, powder burn, or any other injury arising from or caused by the discharge of a firearm, and every case of a wound which is likely to or may result in death and is actually or apparently inflicted by a knife, ice pick, or other sharp or pointed instrument, shall be reported at once to the law enforcement authorities of the county, city, or town in which the person reporting is located by either the physician attending or treating the case, or by the manager, superintendent, or other person in charge if the case is treated in a

hospital, clinic, sanitarium, or other facility or institution. A person who violates this section commits a Class A misdemeanor.

Burns Ind. Code Ann. § 35-47-7-3. Burn injury reports.

(a) As used in this section, “burn” includes chemical burns, flash burns, and thermal burns.

(b) If a person is treated for:

(1) A second or third degree burn to ten percent (10%) or more of the body;

(2) Any burn to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air; or

(3) A burn that results in serious bodily injury;

the physician treating the person, or the hospital administrator or the hospital administrator’s designee of the hospital or ambulatory outpatient surgical center (if the person is treated in a hospital or outpatient surgical center), shall report the case to the state fire marshal within seventy-two (72) hours. This report may be made orally or in writing and shall be considered confidential information.

(c) If a person is treated for a second or third degree burn to less than ten percent (10%) of the body, the attending physician may report the case to the state fire marshal under subsection (b).

(d) The state fire marshal shall ascertain the following when a report is made under this chapter:

(1) Victim’s name, address, and date of birth.

(2) Address where burn injury occurred.

(3) Date and time of injury.

(4) Degree of burns and percent of body burned.

(5) Area of body burned.

(6) Injury severity.

(7) Apparent cause of burn injury.

(8) Name and address of reporting facility.

(9) Attending physician.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Burns Ind. Code Ann. § 16-21-8-5

- (a) The division shall award compensation or reimbursement under this chapter for forensic medical exams.
- (b) The division is not required to award compensation or reimbursement under this chapter for additional forensic services unless the following conditions are met:
- (1) The victim is at least eighteen (18) years of age.
 - (2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer.
 - (3) The sex crime occurred in Indiana.

If the division finds a compelling reason for failure to comply with the requirements of this section, the division may suspend the requirements of this section.

- (c) A claim filed for services provided at a time before the provision of the forensic medical exams and additional forensic services for which an application for reimbursement is filed is not covered under this chapter.

Burns Ind. Code Ann. § 5-2-6.1-39

- (a) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital shall furnish the forensic medical exam described in IC 16-21-8-6 without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and shall adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter, despite delays in reimbursement from the victim services division of the Indiana criminal justice institute.
- (b) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital may also furnish additional forensic services to the alleged sex crime victim. However, the additional forensic services, if furnished, shall be furnished without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and may adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(c) Costs incurred by a hospital or other emergency medical facility for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3), if the examination is performed for the purposes of gathering evidence for possible prosecution, may not be charged to the victim of the crime.

(d) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide a forensic medical exam to an alleged victim of one (1) or more of the sex crimes listed in IC 16-21-8-1(b), the medical service provider shall furnish the exam without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing forensic medical exams. A medical service provider may not charge the victim for a forensic medical exam required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(e) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide additional forensic services to an alleged sex crime victim, the medical service provider shall furnish the services without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing the additional forensic services. A medical service provider may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(f) The victim services division of the Indiana criminal justice institute is not required to reimburse a medical service provider for costs in providing additional forensic services unless the following conditions are met:

(1) The victim is at least eighteen (18) years of age.

(2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer.

(3) The sex crime occurred in Indiana.

If the division finds a compelling reason for failure to comply with the requirements of this section, the division may suspend the requirements of this section.

(g) Costs incurred by a licensed medical service provider for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3) may not be charged to the victim of the crime if the examination is performed for the purposes of gathering evidence for possible prosecution.

IOWA

Summary: Iowa does not have a specific requirement that rape cases be reported to law enforcement. However, Iowa law requires medical providers treating gunshot, stab

wound or other “serious injuries” which appear to have been received in connection with the commission of a criminal offense to report the injuries to law enforcement. The cost of the medical examination done for the purpose of gathering evidence shall be paid from the fund in section 915.94.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE OR ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Iowa Code § 147.111. Report treatment of wounds and other injuries.

1. A person licensed under the provisions of this subtitle who administers any treatment to any person suffering a gunshot or stab wound or other serious injury, as defined in section 702.18, which appears to have been received in connection with the commission of a criminal offense, or a motor vehicle accident or crash, or to whom an application is made for treatment of any nature because of any such gunshot or stab wound or other serious injury, as defined in section 702.18, shall at once but not later than twelve hours thereafter, report that fact to the law enforcement agency within whose jurisdiction the treatment was administered or an application for treatment was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the gunshot or stab wound or other serious injury occurred, stating the name of such person, the person’s residence if ascertainable, and giving a brief description of the gunshot or stab wound or other serious injury.
2. A person certified under the provisions of chapter 147A who administers any treatment to any person suffering a gunshot or stab wound or other serious injury, as defined in section 702.18, which appears to have been received in connection with the commission of a criminal offense, or a motor vehicle accident or crash, or to whom an application is made for treatment of any nature because of any such gunshot or stab wound or other serious injury, may report that fact to the law enforcement agency within whose jurisdiction the treatment was administered or application for treatment was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the gunshot or stab wound or other serious injury occurred, stating the name of the person, the person’s residence if ascertainable, and giving a brief description of the gunshot or stab wound or other serious injury.
3. Any provision of law or rule of evidence relating to a confidential communication is suspended for communications under this section.

Iowa Code § 147.112. Investigation and report by law enforcement agency.

The law enforcement agency who has received any report required by this chapter and who has any reason to believe that the person injured was involved in the commission of any crime, either as perpetrator or victim, shall at once commence an investigation into the circumstances of the gunshot or stab wound or other serious injury and make a report of the investigation to the county attorney in whose jurisdiction the gunshot or stab wound or other serious injury occurred. Law enforcement personnel shall not divulge any information received under the

provisions of this section and section 147.111 to any person other than a law enforcing officer, and then only in connection with the investigation of the alleged commission of a crime.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Iowa Code § 915.41. Medical examination costs.

The cost of a medical examination of a victim for the purpose of gathering evidence and the cost of treatment of a victim for the purpose of preventing venereal disease shall be paid from the fund established in section 915.94.

61 IAC 9.80(915). Administration of sexual abuse examination payment.

The crime victim assistance program of the department of justice shall administer the sexual abused examination program as provided in Iowa Code section 915.41. That section states in part:

- "The cost of a medical examination for the purpose of gathering evidence and the cost of treatment for the purpose of preventing sexually transmitted disease shall be borne by the department of justice."

Requests for payment should be addressed to: Sexual Abuse Examination Payments, Crime Victim Assistance Division, Lucas State Office Building, Ground Floor, 321 East 12th Street, Des Moines, Iowa 50319; telephone (515)281-5044 or 1-800-373-5044.

61 IAC 9.82(915). Application for sexual abuse examination payment.

9.82(1) Consideration for payment. The department will consider payment upon receipt of a claim for reimbursement from a medical provider indicating that the claim is for the collection of evidence by sexual abuse examination. In the case that a victim, guardian of a victim, person responsible for the victim, or dependent of a victim who died of injuries sustained in a sexual assault has paid part or all of the charges incurred, a copy of the provider bill and documentation of personal payment of the bill must be submitted for reimbursement. An application for sexual abuse examination payment must include the federal identification number or social security number of the claimant.

9.82(1) Application filing. To apply for payment under the sexual abuse examination program, the form or bill submitted must identify the sexual assault victim by name, birth date, and patient number, indicate that the claim is for a sexual abuse examination, and itemize all services rendered and the fee for each service.

61 IAC 9.83(915). Computation of sexual abuse examination payments.

National District Attorney Association
National Center for Prosecution of Violence Against Women
DOJ Grant #2009-TA-AX-K012
www.ndaa.org

9.83(1) Payment for examination. The department shall make payment for sexual abuse examinations, as appropriate, for services including, but not limited to:

a. Examiner's fee for collection of:

- (1) Patient's medical history;
- (2) Physical examination;
- (3) Collection of laboratory specimens;
- (4) Return visits to test for sexually transmitted disease;
- (5) Treatment for the prevention of sexually transmitted disease.

b. Examination facility.

- (1) Emergency room, clinic room or office room fee;
- (2) Pelvic tray and medically required supplies.

c. Laboratory collection and processing of specimens for; criminal evidence; sexually transmitted disease; and pregnancy testing.

9.83(2) Provider payment. The department will pay up to \$ 300 for the examination facility and \$ 200 for examiner fees. Any charges in excess of these amounts will require additional documentation from the provider. The crime victim assistance program will pay only those charges determined by the department to be reasonable and fair.

The Iowa department of public safety division of criminal investigation makes sexual abuse examination kits available to health care providers at no cost.

61 IAC 9.84(915). Victim responsibility for payment.

A victim of sexual abuse is not responsible for the payment of the costs of a sexual abuse examination determined to be eligible for payment by the department. A medical provider shall not submit any remaining balance after sexual abuse examination program payment to the sexual abuse victim.

61 IAC 9.85(915). Sexual abuse examination – right to restitution.

In all criminal cases under Iowa Code chapter 709 and sections 726.2 and 710.2 in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, restitution may be ordered from the offender to the crime victim assistance program

for the cost paid by the department for a sexual abuse examination rendered to the victim of that crime pursuant to Iowa Code section 910.2.

KANSAS

Summary: There is no mandatory reporting requirement for sexual assault. It is mandatory to report gunshot and stab wounds. Forensic sexual assault examination is paid for when done at the request of the victim or a law enforcement officer.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

K.S.A. § 21-6319. [Previously K.S.A. §21-4213] Unlawful failure to report a wound.

(a) Unlawful failure to report a wound is, with no requirement of a culpable mental state, the failure by an attending physician or other person to report such person's treatment of any of the following wounds, to the office of the chief of police of the city or the office of the sheriff of the county in which such treatment took place:

(1) Any bullet wound, gunshot wound, powder burn or other injury arising from or caused by the discharge of a firearm; or

(2) any wound which is likely to or may result in death and is apparently inflicted by a knife, ice pick or other sharp or pointed instrument.

(b) Unlawful failure to report a wound is a class C misdemeanor.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

K.S.A. § 65-448. Qualified persons at medical care facilities to examine victims of sexual offenses, when; remedy for refusal; costs.

(a) Upon the request of any law enforcement officer and with the written consent of the reported victim, or upon the request of the victim, any physician, a licensed physician assistant, who has been specially trained in performing sexual assault evidence collection, or a registered professional nurse, who has been specially trained in performing sexual assault evidence collection, on call or on duty at a medical care facility of this state, as defined by subsection (h) of K.S.A. 65-425, and amendments thereto, shall examine persons who may be victims of sexual offenses cognizable as violations of K.S.A. 2013 Supp. 21-5503, 21-5504, 21-5506 or 21-5604, and amendments thereto, using Kansas bureau of investigation sexual assault evidence collection kits or similar kits approved by the Kansas bureau of investigation, for the purposes of gathering evidence of any such crime. If an examination has taken place solely upon the request of the victim, the medical care facility shall not notify any law enforcement agency without the written consent of the victim, unless otherwise required by law. If the physician, licensed physician assistant or registered professional nurse refuses to perform such physical

examination the prosecuting attorney is hereby empowered to seek a mandatory injunction against such physician, licensed physician assistant or registered professional nurse to enforce the provisions of this act. Any refusal by a physician, licensed physician assistant or registered professional nurse to perform an examination which has been requested pursuant to this section shall be reported by the county or district attorney to the state board of healing arts or the board of nursing, whichever is applicable, for appropriate disciplinary action. The department of health and environment, in cooperation with the Kansas bureau of investigation, shall establish procedures for gathering evidence pursuant to this section. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The hospital or medical facility shall give written notice to the parent or guardian of a minor that such an examination has taken place.

(b) All sexual assault kits collected that are not released to law enforcement shall be sealed by either the sexual assault nurse examiner program or the facility that provided the examination and kept for five years in the evidence storage facilities of the Kansas bureau of investigation. After five years, such kits shall be destroyed by the Kansas bureau of investigation.

(c) The fee chargeable for conducting an examination of a victim as herein provided shall be established by the department of health and environment. Such fee, including the cost of the sexual assault evidence collection kit shall be charged to and paid by the county where the alleged offense was committed, and refusal of the victim to report the alleged offense to law enforcement shall not excuse or exempt the county from paying such fee. The fee for conducting an examination of a victim as herein provided shall not be charged or billed to the victim or to the victim's insurance carrier. Such county shall be reimbursed such fee upon the costs being paid by the defendant as court costs assessed pursuant to K.S.A. 28-172a, and amendments thereto.

(d) No medical care facility shall incur any civil, administrative or criminal liability as a result of notifying or failing to notify any law enforcement agency if an examination has taken place solely upon the request of the victim and such notification is not otherwise required by law.

(e) The Kansas bureau of investigation may adopt rules and regulations as deemed necessary to implement the provisions of this section.

KENTUCKY

Summary: Kentucky does not have mandatory reporting in rape, sodomy or other sex offense cases where the victim is an adult unless the perpetrator is the victim's spouse. It is mandatory to report incidents of domestic violence to the Kentucky Cabinet for Family and Children. The statute which requires hospitals providing emergency services to have staff available to provide forensic/medical exams without charge to the victim/patient is conditioned upon the victim reporting to the police. If the test is done to collect evidence,

then it can be reimbursed by the Crime Victims' Compensation Board. It is mandatory to report gunshot wounds.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE

KRS § 209.030. Administrative regulations – Reports of adult abuse, neglect, or exploitation – Cabinet actions – Status and disposition reports.

- (1)** The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A to effect the purposes of this chapter. While the cabinet shall continue to have primary responsibility for investigation and the provision of protective services under this chapter, nothing in this chapter shall restrict the powers of another authorized agency to act under its statutory authority.
- (2)** Any person, including but not limited to physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.
- (3)** An oral or written report shall be made immediately to the cabinet upon knowledge of suspected abuse, neglect, or exploitation of an adult.
- (4)** Any person making such a report shall provide the following information, if known:
 - (a)** The name and address of the adult, or of any other person responsible for his care;
 - (b)** The age of the adult;
 - (c)** The nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation;
 - (d)** The identity of the perpetrator, if known;
 - (e)** The identity of the complainant, if possible; and
 - (f)** Any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.
- (5)** Upon receipt of the report, the cabinet shall conduct an initial assessment and take the following action:
 - (a)** Notify within twenty-four (24) hours of the receipt of the report the appropriate law enforcement agency. If information is gained through assessment or investigation

relating to emergency circumstances or a potential crime, the cabinet shall immediately notify and document notification to the appropriate law enforcement agency;

(b) Notify each appropriate authorized agency. The cabinet shall develop standardized procedures for notifying each appropriate authorized agency when an investigation begins and when conditions justify notification during the pendency of an investigation;

(c) Initiate an investigation of the complaint; and

(d) Make a written report of the initial findings together with a recommendation for further action, if indicated.

(6)

(a) The cabinet shall, to the extent practicable, coordinate its investigation with the appropriate law enforcement agency and, if indicated, any appropriate authorized agency or agencies.

(b) The cabinet shall, to the extent practicable, support specialized multidisciplinary teams to investigate reports made under this chapter. This team may include law enforcement officers, social workers, Commonwealth's attorneys and county attorneys, representatives from other authorized agencies, medical professionals, and other related professionals with investigative responsibilities, as necessary.

(7) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter. Any representative of the cabinet actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to financial records and the mental and physical health records of the adult which are in the possession of any hospital, firm, financial institution, corporation, or other facility if necessary to complete the investigation mandated by this chapter. These records shall not be disclosed for any purpose other than the purpose for which they have been obtained.

(8) Any representative of the cabinet may with consent of the adult or caretaker enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the adult or caretaker does not consent to the investigation, a search warrant may be issued upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the cabinet to proceed with the investigation.

(9) If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.

(10) In the event the adult elects to accept the protective services to be provided by the cabinet, the caretaker shall not interfere with the cabinet when rendering such services.

(11) The cabinet shall consult with local agencies and advocacy groups, including but not limited to long-term care ombudsmen, law enforcement agencies, bankers, attorneys, providers of nonemergency transportation services, and charitable and faith-based organizations, to encourage the sharing of information, provision of training, and promotion of awareness of adult abuse, neglect, and exploitation, crimes against the elderly, and adult protective services.

(12)

(a) By November 1 of each year and in accordance with state and federal confidentiality and open records laws, each authorized agency that receives a report of adult abuse, neglect, or exploitation shall submit a written report to the cabinet that provides the current status or disposition of each case referred to that agency by the cabinet under this chapter during the preceding year. The Elder Abuse Committee established in KRS 209.005 may recommend practices and procedures in its model protocol for reporting to the cabinet under this section.

(b) By December 30 of each year, the cabinet shall provide a written report to the Governor and the Legislative Research Commission that summarizes the status of and actions taken on all reports received from authorized agencies and specific departments within the cabinet under this subsection. The cabinet shall identify any report required under paragraph (a) of this subsection that is not received by the cabinet. Identifying information about individuals who are the subject of a report of suspected adult abuse, neglect, or exploitation shall not be included in the report under this paragraph. The report shall also include recommendations, as appropriate, to improve the coordination of investigations and the provision of protective services. The cabinet shall make the report available to community human services organizations and others upon request.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

2007 Bill Text KY S.B. 40. An Act relating to the required reporting of wounds.

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

[A> (1) A PHYSICIAN OR OTHER PERSON IN CHARGE OF CARE PROVIDED AT A HOSPITAL, CLINIC, EMERGENCY CARE CENTER, OR OTHER HEALTH FACILITY LICENSED UNDER KRS CHAPTER 216B SHALL REPORT AT ONCE TO THE LAW ENFORCEMENT AUTHORITIES EVERY CASE INVOLVING THE TREATMENT OF: <A]

[A> (A) A BULLET WOUND, GUNSHOT WOUND, POWDER BURN, OR ANY OTHER INJURY ARISING FROM OR CAUSED BY THE DISCHARGE OF A FIREARM; OR <A]

[A> (B) A WOUND WHICH IS LIKELY TO OR MAY RESULT IN DEATH AND IS ACTUALLY OR APPARENTLY INFLICTED BY A KNIFE, ICE PICK, OR OTHER SHARP OR POINTED INSTRUMENT. <A]

[A> (2) ANY PERSON ACTING UPON REASONABLE CAUSE IN THE MAKING OF A REPORT OR ACTING UNDER THIS SECTION IN GOOD FAITH SHALL HAVE IMMUNITY FROM ANY

LIABILITY, CIVIL OR CRIMINAL, THAT MIGHT OTHERWISE BE INCURRED OR IMPOSED. ANY PERSON MAKING A REPORT UNDER THIS SECTION SHALL HAVE IMMUNITY WITH RESPECT TO PARTICIPATION IN ANY JUDICIAL PROCEEDING RESULTING FROM THE REPORT OR ACTION. <A]

[A> (3) THIS SECTION SHALL NOT BE CONSTRUED TO SUPERSEDE ANY OTHER REPORTING REQUIREMENT UNDER LAW FOR THE REPORTING OF CRIMINAL ACTIVITY. <A]

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

KRS § 216B.400. Emergency care – Examination services for victims of sexual offenses – Examination expenses paid by Crime Victims’ Compensation Board – Reporting to law enforcement – Examination samples as evidence.

(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 or her 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, 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, or another qualified medical professional, as defined by administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707, is available on call twenty-four (24) hours each day for the examinations of persons seeking treatment as victims of sexual offenses as defined by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130, 510.140, 530.020, 530.064(1)(a), 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, sexual assault nurse examiner, or other qualified medical professional, acting under a statewide medical forensic protocol which shall be developed by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707, and promulgated by the secretary of justice and public safety pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the victim, or upon the request of the victim, examine such person for the purposes of providing basic medical care relating to the incident and gathering samples that may be used as physical evidence. This examination shall include but not be limited to:

- (a) Basic treatment and sample gathering services; and
- (b) Laboratory tests, as appropriate.

(5) Each victim shall be informed of available services for treatment of sexually transmitted infections, pregnancy, and other medical and psychiatric problems. Pregnancy counseling shall not include abortion counseling or referral information.

(6) Each 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 at a rate to be determined by the 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 claim form supplied by the board and an itemized billing for a forensic sexual assault examination or related services that are within the scope of practice of the respective provider and were performed no more than twelve (12) months prior to submission of the form, the board shall reimburse the hospital or sexual assault examination facility, pharmacist, health department, physician, sexual assault nurse examiner, or other qualified medical professional as provided in administrative regulations promulgated by the board pursuant to KRS Chapter 13A. 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 pharmacist, the health department, the sexual assault nurse examiner, other qualified medical professional, the victim's insurance carrier, or the Commonwealth.

(10)

(a) Each victim shall have the right to determine whether a report or other notification shall be made to law enforcement, except where reporting of abuse and neglect of a child, spouse, and other vulnerable adult is required, as set forth in KRS 209.030, 209A.030, and 620.030. No victim shall be denied an examination because the victim

chooses not to file a police report, cooperate with law enforcement, or otherwise participate in the criminal justice system.

(b) If the victim chooses to report to law enforcement, the hospital shall notify law enforcement within twenty-four (24) hours.

(c)

1. All samples collected during an exam where the victim has chosen not to immediately report to law enforcement shall be stored, released, and destroyed, if appropriate, in accordance with an administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.

2. Facilities collecting samples pursuant to this section may provide the required secure storage, sample destruction, and related activities, or may enter into agreements with other agencies qualified to do so, pursuant to administrative regulation.

3. All samples collected pursuant to this section shall be stored for at least one (1) year from the date of collection in accordance with the administrative regulation promulgated pursuant to this subsection.

4. Notwithstanding KRS 524.140, samples collected during exams where the victim chose not to report immediately or file a report within one (1) year after collection may be destroyed as set forth in accordance with the administrative regulation promulgated pursuant to this subsection. The victim shall be informed of this process at the time of the examination. No hospital, sexual assault examination facility, or designated storage facility shall be liable for destruction of samples after the required storage period has expired.

107 KAR 2:010. Payment schedule for sexual assault examinations.

Section 1. Definitions.

(1) "Examination facility" means a sexual assault examination facility as defined in KRS 216B.015(26).

(2) "HIV" means human immunodeficiency virus.

(3) "Qualified medical professional" means any physician's assistant or advanced practice registered nurse whose training and scope of practice include performance of speculum examinations.

(4) "Sexual assault examination" means the forensic-medical examination and related services established by KRS 216B.400 and 502 KAR 12:010.

Section 2. Reimbursement for performing a sexual assault examination shall be the actual amount billed and shall not exceed the following limits:

- (1)** A physician, sexual assault nurse examiner, or another qualified medical professional performing the examination - \$ 200;
- (2)** An examination facility for use of an emergency or examination room - \$ 250;
- (3)** An examination facility or laboratory to perform diagnostic laboratory testing - \$ 100; and
- (4)** An examination facility for administered medications and pharmaceuticals prescribed as a result of the examination and as part of basic treatment - \$ 100.

Section 3. Reimbursement for additional services related to a sexual assault examination requiring HIV postexposure prophylaxis shall be the actual amount billed and shall not exceed the following limits:

- (1)** Three (3) follow-up examinations - \$ 150, not to exceed a total of fifty (50) dollars per examination;
- (2)** Laboratory testing:
 - (a)** Initial testing conducted during the sexual assault examination in the examination facility - \$ 150; and
 - (b)** Follow-up testing conducted during the three (3) follow-up examinations - \$ 215, not to exceed:
 - 1.** Fifty (50) dollars for testing conducted during day five (5) to day seven (7) of prophylactic treatment;
 - 2.** Ninety (90) dollars for testing conducted after day twelve (12) of prophylactic treatment; and
 - 3.** Seventy five (75) dollars for testing conducted near or at the end of prophylactic treatment; and
- (3)** Medications:
 - (a)** Twenty-eight (28) day supply of HIV prophylaxis medication - \$ 800, not to exceed:

1. \$ 200 for the first seven (7) day supply; and

2. \$ 600 for the remaining twenty-one (21) day supply; and

(b) Twenty-eight (28) day supply of anti-nausea medication - not to exceed thirty (30) dollars.

This is to certify that the Sexual Assault Response Team Advisory Committee has consulted with the Crime Victims' Compensation Board on this administrative regulation prior to its adoption, as required by KRS 216B.400(8)(a).

LOUISIANA

Summary: There is no mandatory reporting requirement specific to sexual assault; however, it is mandatory to report gunshot wounds and certain burns. No victim shall be billed for a forensic examination. With the consent of the victim, the victim's health insurance company will be billed. In all other cases, or in the case of an uninsured patient, the Crime Victims Reparations Fund will pay for the examination.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

La. R.S. § 14:403.5. Gunshot wounds; mandatory reporting.

A. The purpose of this Section is to aid law enforcement in combating violent crime through the rapid identification and reporting of all gunshot wounds or injuries treated by any medical professionals, practitioners, or associated personnel.

B. In every case of a gunshot wound or injury presented for treatment to a medical professional, practitioner, or associated person, that professional, practitioner, or associated person shall make an oral notification to either the sheriff of the parish in which the wounded person was presented for treatment, or the chief or superintendent of police in the municipality in which the wounded person was presented for treatment immediately after complying with all applicable state and federal laws, rules, and regulations related to the treatment of emergencies and before the wounded person is released from the hospital. A written notation of this action shall be made on the emergency record.

C. The provisions of this Section shall not apply to any wounds or injuries received from the firing of an air gun.

D. Any report of a gunshot wound or injury required to be reported by this Section which does not result in criminal prosecution shall not become public record and shall be destroyed by the law enforcement agency receiving the information.

E. Any person who fails to file a report under this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both. Any person who knowingly files a false report under this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

La. R.S. § 14:403.4. Burn injuries and wounds; reports; registry; immunity; penalties.

A. The purpose of this Section is to combat arson through the rapid identification and apprehension of suspected arsonists who may suffer burn injuries during the commission of their crimes. It is the further intent of this Section to provide for a central registry for burn injuries and wounds data from which effective fire and arson prevention and fire safety education programs may be developed.

B. Every case of a burn injury or wound in which the victim sustains second or third degree burns to five percent or more of the body or any burns to the upper respiratory tract or laryngeal edema due to the inhalation of super- heated air, and every case of a burn injury or wound that is likely to or may result in death shall be reported to the office of state fire marshal, code enforcement and building safety, hereinafter sometimes referred to as the “office”. The office may notify the appropriate local or state investigatory agency or law enforcement agency of the receipt of such report and its contents.

C.

(1) A report shall be made within two hours of the initial examination or treatment of the victim. The report shall be made by the physician attending or treating the case, or by the manager, superintendent, director, or other person in charge whenever such case is treated in a hospital, burn center, sanitarium, or other medical facility. The report may be recorded electronically or in any other suitable manner, by the office of state fire marshal.

(2) The oral report shall contain the following information if known:

- (a)** Victim’s name, address, and date of birth.
- (b)** Address where the burn injury occurred.
- (c)** Date and time of the burn injury.
- (d)** Degree of burns and percent of body burned.
- (e)** Area of body injured.
- (f)** Injury severity.
- (g)** Apparent cause of burn injury.

(h) Name and address of reporting facility.

(i) Name of the attending physician.

D.

(1) The office shall maintain a central registry of all reported cases of the treatment or examination of persons with burn injuries or wounds. The registry may be used to provide information to those agencies whose duties include the investigation into possible arson activities.

(2) The office of state fire marshal may adopt rules and regulations as may be necessary in carrying out the provisions of this Section. Specifically such rules shall provide for cooperation with local investigatory and law enforcement agencies and may also authorize law enforcement personnel and the state fire marshal to review those medical records of reported victims that relate to the burn without the consent of the victim.

E. No cause of action shall exist against any person who in good faith makes a report pursuant to this Section, cooperates in an investigation by any agency, or participates in any judicial proceeding resulting from such report.

F. Any person who knowingly files a false report shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

La. R.S. § 40:1300.41. Procedures for victims of a sexually-oriented criminal offense; immunity; regional plans; maximum allowable costs; definitions.

A. All licensed hospitals and healthcare providers in Louisiana shall adhere to the following procedures in the event that a person, male or female, presents himself or herself or is presented for treatment as a victim of a sexually-oriented criminal offense:

(1) The victim shall make the decision of whether or not the incident will be reported to law enforcement officials. No hospital or healthcare provider shall require the person to report the incident in order to receive medical attention.

(2)

(a) If the victim does not wish to report the incident to law enforcement officials, the victim shall be examined and treated as any other patient. Any injuries requiring medical attention shall be treated in the standard manner. Tests and treatments exclusive to a victim of a sexually-oriented criminal offense shall be explained and offered to the patient. The patient shall decide whether or not such tests shall be conducted.

(b) Any examination and treatment shall include the preservation, in strict confidentiality, for a period of at least one year from the time the victim is presented for treatment, of tests or procedures, or both, and samples that may serve as potential evidence. The patient shall be informed of the length of time for which the specimens will be preserved. If the victim does not wish to report the incident to law enforcement authorities, the responsibilities of the hospital or healthcare provider, beyond medical treatment, shall be limited to the collection of tests, procedures, or samples that may serve as potential evidence.

(c) Any evidence collected shall be assigned a code number and the hospital or healthcare provider shall maintain code records for a period of at least one year from the date the victim is presented for treatment. The hospital or healthcare provider shall assign the code number by affixing to the evidence container a code to be used in lieu of the victim's identifying information to maintain confidentiality. The code number is to be used for identification should the victim later choose to report the incident.

(d) For unreported cases, once a code number has been assigned, custody of the evidence shall be transferred to an appropriate criminal justice agency or the local law enforcement agency having jurisdiction in the parish in which the crime occurred or to the appropriate criminal justice agency or local law enforcement agency having jurisdiction in the parish in which the hospital or healthcare provider is located, if the jurisdiction of the crime is unknown, and responsibility for the custody of the evidence shall belong to that criminal justice agency or local law enforcement agency. The law enforcement agency shall retrieve from the hospital or healthcare provider the evidence no later than seven days after receiving notification that a code number has been assigned to the evidence. The hospital or healthcare provider shall coordinate the transfer of the evidence with the criminal justice agency or law enforcement agency in a manner designed to protect its evidentiary integrity. Evidence which is transferred to the custody of the appropriate criminal justice agency or local law enforcement agency shall bear only the code number assigned by the hospital or healthcare provider.

(3) If the victim wishes to report the incident to law enforcement officials, the hospital staff or healthcare provider shall contact the appropriate law enforcement agency. After the incident has been reported, the victim shall be examined and treated as any other patient, any injuries requiring medical attention shall be treated in the standard manner, and specimens shall be kept for evidence. The evidence shall be turned over to the law enforcement officers when they arrive to assume responsibility for investigation of the incident and in no event shall the evidence remain at the hospital more than seven days after the law enforcement agency receives the notification from the hospital.

(4)

(a) Notwithstanding any other provisions of this Section, if any person sixteen years old or younger presents himself or herself or is presented for treatment as a victim of a sexually-oriented criminal offense, the hospital or healthcare provider shall immediately notify the appropriate law enforcement official. The appropriate law enforcement official shall have seven days from the receipt of the notification to retrieve any evidence collected by the hospital pursuant to this Subparagraph.

(b) The coroner of the parish, the district attorney, appropriate law enforcement officials, hospital personnel, and healthcare providers may develop procedures pursuant to R.S. 15:440.1 through 440.6 to make a videotape of the person provided for in Subparagraph (a) of this Paragraph when a person fourteen years old or younger has been the victim of physical or sexual abuse. The costs of such videotaping may be allocated among the agencies and facilities involved.

(5) Notwithstanding any other provisions of this Section, if the victim is physically or mentally incapable of making the decision to report, the hospital or healthcare provider shall immediately notify the appropriate law enforcement officials.

(6) No hospital or healthcare provider shall directly bill a victim of a sexually-oriented criminal offense for any healthcare services rendered in conducting a forensic medical examination as provided for in R.S. 15:622. The expenses shall include the following:

(a) Forensic examiner and hospital or healthcare facility services directly related to the exam, including integral forensic supplies.

(b) Scope procedures directly related to the forensic exam including but not limited to anoscopy and colposcopy.

(c) Laboratory testing directly related to the forensic examination, including drug screening, urinalysis, pregnancy screening, syphilis screening, chlamydia culture, gonorrhea coverage culture, blood test for HIV screening, hepatitis B and C, herpes culture, and any other sexually transmitted disease testing directly related to the forensic examination.

(d) Any medication provided during the forensic medical examination.

(7) A healthcare provider may submit a claim for payment of healthcare services rendered in conducting a forensic medical exam for a victim of a sexually-oriented offense to any of the following:

(a) With the consent of the victim, to the victim's health insurance issuer. Notwithstanding any provision to the contrary, a health insurance issuer receiving a claim for covered healthcare services rendered in conducting a forensic medical exam shall waive any applicable deductible, co-insurance, and

co-pay and the healthcare provider shall submit a claim to the Crime Victims Reparations Fund for satisfaction of any non-covered services, not to exceed one thousand dollars. In addition, the health insurance issuer shall allow the victim to designate any address to be used for purposes of transmitting an explanation of benefits or allow the victim to designate that no explanation of benefits be generated or transmitted.

(b) The Louisiana Medicaid, Medicare, or Tricare programs, if the victim is enrolled as beneficiary of any of these programs.

(c) If the victim does not consent to the healthcare provider submitting a claim to his or her health insurance issuer or the victim is not otherwise insured, the Crime Victims Reparations Board. The Crime Victims Reparations Board shall reimburse at the rate as promulgated by the board for healthcare services rendered but in no case shall reimburse in any amount greater than one thousand dollars.

(8) Except for those services specifically set forth in the provision of this Section, no other services shall be subject to the reimbursement or billing provisions of this Section and shall continue to be reimbursable under the ordinary billing procedures of the hospital or healthcare provider. In addition, a victim of a sexually-oriented offense may seek reimbursement for these services through the Crime Victims Reparations Board.

(9) The department shall make available to every hospital and healthcare provider licensed under the laws of this state a pamphlet containing an explanation of the billing process for services rendered pursuant to this Section. Every hospital and healthcare provider shall provide a copy of the pamphlet to any person presented for treatment as a victim of a sexually-oriented criminal offense.

B.

(1) These procedures shall constitute minimum standards for the operation and maintenance of hospitals under the provisions of this Part and failure to comply with the standards shall constitute grounds for denial, suspension, or revocation of license under provisions of this Part.

(2) Failure to comply with the provisions of this Section may constitute grounds for denial, suspension, or revocation of the healthcare provider's license by the appropriate licensing board or commission.

C. When a licensed hospital or healthcare provider fails to examine and treat a person, male or female, who has presented himself or herself or who has been presented as a victim of a sexually-oriented criminal offense, the coroner of the parish or his designee shall examine the alleged victim and, if necessary, make arrangements for the treatment of the victim. The coroner may select the hospital or healthcare provider named as the lead entity for sexual assault examinations in the regional plan required by this Section as his designee to perform the

forensic medical examination. No coroner shall refuse to examine and assist an alleged victim on the grounds the alleged offense occurred outside of or the victim is not a resident of the jurisdiction. Nothing in this Subsection shall relieve a licensed hospital or healthcare provider of its obligations under Subsections A and B of this Section.

D.

(1) Any member of the hospital staff or a healthcare provider who in good faith notifies the appropriate law enforcement official pursuant to Paragraphs (A)(4) and (A)(5) of this Section shall have immunity from any civil liability that otherwise might be incurred or imposed because of the notification. The immunity shall extend to participation in any judicial proceeding resulting from the report.

(2) The hospital or healthcare provider staff member who notifies the appropriate law enforcement official shall document the date, time, and method of notification and the name of the official who received the notification.

(3) On or before January first of each year, each law enforcement agency shall provide each hospital located in its respective jurisdiction with the name of the responsible contact person along with the responsible person's contact information in order to comply with the provisions of this Section.

E.

(1) The Department of Health and Hospitals, through the medical directors of each of its nine regional health service districts, shall coordinate an annual sexual assault response plan for each district. Each district shall submit a proposed plan for review by the secretary no later than November first of each year. An approved plan shall become effective February first of the following year.

(2) When developing the annual response plan, each district shall incorporate a sexual assault response team protocol to the extent possible; however, at a minimum, each district shall develop the annual plan to do all of the following:

(a) Provide an inventory of all available resources and existing infrastructure in the region and clearly outline how the resources and infrastructure will be incorporated in the most effective manner.

(b) Clearly outline the entity responsible for the purchase of sexual assault collection kits and the standards and procedures for the storage of the kits prior to use in a forensic medical examination.

(c) Clearly outline the standards and procedures for a victim to receive a forensic medical examination, as defined in R.S. 15:622, to ensure access to such an examination in every parish. The plan shall designate a hospital or healthcare provider to be the lead entity for sexual assault examinations for

adult victims and a hospital or healthcare provider to be the lead entity for sexual assault examinations for pediatric victims. The plan shall also include specific details directing first responders in the transport of victims of a sexually-oriented crime, the appropriate party to perform the forensic medical examination, and any required training for a person performing a forensic medical examination.

(d) Clearly outline the standards and procedures for the handling and payment of medical bills related to the forensic medical examination to clarify and ensure that those standards and procedures are in compliance with this Section and any other applicable section of law.

(e) Clearly outline the standards and procedures for the transfer of sexual assault collection kits for both reported and unreported crimes to an appropriate criminal justice agency or the local law enforcement agency having jurisdiction in the parish in which the crime was committed, if known, or if unknown, to an appropriate criminal justice agency or the local law enforcement agency having jurisdiction in the parish in which the hospital or healthcare provider is located. The plan shall include a maximum time period for the transfer to occur not to exceed seven days after the criminal justice agency or local law enforcement agency receives a request for the transfer from the hospital or healthcare provider.

(3) When developing the annual response plan, the department shall solicit the input of interested stakeholders in the region including but not limited to all of the following:

(a) The sheriff for each parish within the region.

(b) The chief of police for any political subdivision located within the region.

(c) All hospitals located within the region.

(d) The coroner for each parish within the region.

(e) First responder organizations located within the region.

(f) Higher education institutions located within the region.

(g) The school board for each parish located within the region.

(h) Sexual assault advocacy organizations and children's advocacy centers providing services within the region.

(i) The district attorney for each parish within the region or his designee.

(j) Each crime lab located within the region.

(4) The annual response plan shall be approved by the stakeholders as provided for in Paragraph (3) of this Subsection.

F. All sexual assault collection kits used in a forensic medical examination shall meet the standards developed by the Department of Health and Hospitals and the Department of Public Safety and Corrections.

G. For purposes of this Section the following definitions apply:

(1) "Forensic medical examination" has the same meaning as defined in R.S. 15:622.

(2) "Healthcare provider" means either of the following:

(a) A physician or other healthcare practitioner licensed, certified, registered, or otherwise authorized to perform specified healthcare services consistent with state law.

(b) A facility or institution providing healthcare services, including but not limited to a hospital or other licensed inpatient center, ambulatory surgical or treatment center, skilled nursing facility, inpatient hospice facility, residential treatment center, diagnostic, laboratory, or imaging center, or rehabilitation or other therapeutic health setting.

(3) "Healthcare services" means services, items, supplies, or drugs for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease ancillary to a sexually-oriented criminal offense.

(4) "Sexually-oriented criminal offense" has the same meaning as defined in R.S. 15:622.

MAINE

Summary: It is not mandatory in Maine to report sexual assault. It is mandatory to report gunshot wounds. Victims' compensation fund will pay for sexual assault forensic examinations. The hospital may not identify victims when seeking reimbursement.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

17-A.M.R.S § 512. Failure to report treatment of a gunshot wound.

1. A person is guilty of failure to report treatment of a gunshot wound if, being a health care practitioner or emergency medical services person, that person treats a human being for a

wound apparently caused by the discharge of a firearm and knowingly fails to report the same to a law enforcement agency immediately by the quickest means of communication.

2. Failure to report treatment of a gunshot wound is a Class E crime.

3. As used in this section, “health care practitioner” has the same meaning as in Title 24, section 2502, subsection 1-A, and “emergency medical services person” has the same meaning as in Title 32, section 83, subsection 12.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

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

1. Payment. The board shall pay the costs of forensic examiner training as well as the costs of forensic examinations for alleged victims of gross sexual assault from the Victims’ Compensation Fund. The board shall track expenditures for forensic examinations separately from all other expenditures. Forensic examination payments are not subject to any other provision of this chapter.

2. Forensic examination; forensic examiner training and education. 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 \$750.

The cost of sexual assault forensic examiner training and education provided by the sexual assault forensic examiner program must be paid from the Victims’ Compensation Fund in an amount that may not exceed \$50,000 per year.

3. Process for payment. A licensed hospital or licensed health care practitioner that performs forensic examinations for alleged victims of gross sexual assault shall submit a bill to the Victims’ Compensation Board directly for payment of the forensic examinations. The hospital or health care practitioner that performs a forensic examination shall take steps necessary to ensure the confidentiality of the alleged victim’s identity. The bill submitted by the hospital or health care practitioner may not identify the alleged victim by name but must be assigned a tracking number that corresponds to the forensic examination kit. The tracking number may not be the alleged victim’s social security number. The hospital or health care practitioner that performs the examination may not bill the alleged victim or the alleged victim’s insurer, nonprofit hospital or medical service organization or health maintenance organization for payment of the examination. The alleged 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 separately through the Victims' Compensation Fund 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 provisions of this chapter.

5. Rules. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

24 M.R.S. § 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. Victims' Compensation Board billing. All licensed hospitals and licensed health care practitioners that perform forensic examinations for alleged victims of gross sexual assault shall submit a bill to the Victims' Compensation Board directly for payment of the 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 that performs a forensic examination shall take steps necessary to ensure the confidentiality of the alleged victim's identity. The bill submitted by the hospital or health care practitioner may not identify the alleged victim by name but must be assigned a tracking number that corresponds to the forensic examination kit. The tracking number may not be the alleged victim's social security number. The Victims' Compensation Board shall pay the actual cost of the forensic examination up to a maximum of \$750. Licensed hospitals and licensed health care practitioners that perform forensic examinations for alleged victims of gross sexual assault may not bill the alleged victim or the alleged victim's insurer, nonprofit hospital or medical service organization or health maintenance organization for payment for the examination.

3. Completed kit. If the alleged 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 completed forensic examination kit for at least 90 days. The completed kit may be identified only by the tracking number. If during that 90-day period an alleged victim decides to report the alleged offense to a law enforcement agency, the alleged victim may contact the hospital or health care practitioner to determine the tracking number. The hospital or health care practitioner shall provide the alleged victim with the tracking number on the forensic examination kit and shall inform the alleged victim which law enforcement agency is storing the kit.

If the alleged victim reports the alleged offense to a law enforcement agency by the time the examination is complete, the investigating agency shall retain custody of the forensic examination kit.

If an examination is performed under subsection 5 and the alleged victim does not, within 60 days, regain a state of consciousness adequate to decide whether or not to report the alleged offense, the State may file a motion in the District Court relating to storing or processing the forensic examination kit. Upon finding good cause and after considering factors, including, but not limited to, the possible benefits to public safety in processing the kit and the likelihood of the alleged victim's regaining a state of consciousness adequate to decide whether or not to report the alleged offense in a reasonable time, the District Court may order either that the kit be stored for additional time or that the kit be transported to the Maine State Police Crime Laboratory for processing, or such other disposition that the court determines just. In the interests of justice or upon motion by the State, the District Court may conduct hearings required under this paragraph confidentially and in camera and may impound pleadings and other records related to them.

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

5. Implied consent. If an alleged victim of gross sexual assault is unconscious and a reasonable person would conclude that exigent circumstances justify conducting a forensic examination, a licensed hospital or licensed health care practitioner may perform an examination in accordance with the provisions of this section.

A forensic examination kit completed in accordance with this subsection must be treated in accordance with Title 25, section 3821 and must preserve the alleged victim's anonymity. In addition, the law enforcement agency shall immediately report to the district attorney for the district in which the hospital or health care practitioner is located that such a forensic examination has been performed and a forensic examination kit has been completed under this subsection.

6. Liability. A licensed hospital or licensed health care practitioner in the exercise of due care is not liable for an act done or omitted in performing a sexual assault forensic examination under this section.

5 M.R.S. § 3360-M. Payment for forensic examinations for alleged victims of gross assault.

1. Payment. The board shall pay the costs of forensic examiner training as well as the costs of forensic examinations for alleged victims of gross sexual assault from the Victims' Compensation Fund. The board shall track expenditures for forensic examinations separately from all other

expenditures. Forensic examination payments are not subject to any other provision of this chapter.

2. Forensic examination; forensic examiner training and education. 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 \$750.

The cost of sexual assault forensic examiner training and education provided by the sexual assault forensic examiner program must be paid from the Victims' Compensation Fund in an amount that may not exceed \$50,000 per year.

3. Process for payment. A licensed hospital or licensed health care practitioner that performs forensic examinations for alleged victims of gross sexual assault shall submit a bill to the Victims' Compensation Board directly for payment of the forensic examinations. The hospital or health care practitioner that performs a forensic examination shall take steps necessary to ensure the confidentiality of the alleged victim's identity. The bill submitted by the hospital or health care practitioner may not identify the alleged victim by name but must be assigned a tracking number that corresponds to the forensic examination kit. The tracking number may not be the alleged victim's social security number. The hospital or health care practitioner that performs the examination may not bill the alleged victim or the alleged victim's insurer, nonprofit hospital or medical service organization or health maintenance organization for payment of the examination. The alleged 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 separately through the Victims' Compensation Fund 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 provisions of this chapter.

5. Rules. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

MARYLAND

Summary: It is not mandatory in Maryland to report sexual assault. It is mandatory to report gunshot wounds.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Md. HEALTH-GENERAL Code Ann. § 20-703. Gunshot.

(a) Required. -- A physician, pharmacist, dentist, or nurse who treats an individual for an injury that was caused or shows evidence of having been caused by a gunshot of any type, or the individual in charge of a hospital that treats the injured individual, shall notify the county sheriff, the county police, or the Department of State Police of the injury as soon as practicable.

(b) Contents. -- A report of injury shall include:

- (1) The injured individual's name and address, if known;
- (2) A description of the injury; and
- (3) Any other facts concerning the matter that might assist in detecting crime.

(c) Penalty. -- A person who fails to make a report required by this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 25.

MASSACHUSETTS

Summary: Massachusetts has mandatory rape reporting; however, the report may not include the victim's name, address or any other identifying information. Massachusetts also has a mandatory reporting requirement for gunshot wounds.

LAWS MANDATING RAPE REPORTING

ALM GL ch. 112, § 12A ½. Reporting of Rape or Sexual Assault Crimes; Confidentiality of Victim's Identity; Penalty.

Every physician attending, treating, or examining a victim of rape or sexual assault, or, whenever any such case is treated in a hospital, sanatorium or other institution, the manager, superintendent or other person in charge thereof, shall report such case at once to the department of criminal justice information services and to the police of the town where the rape or sexual assault occurred but shall not include the victim's name, address, or any other identifying information. The report shall describe the general area where the attack occurred.

Whoever violates any provision of this section shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

ALM GL ch. 112, § 12A. Reports of Treatment of Certain Wounds; Exceptions; Penalty.

Every physician attending or treating a case of bullet wound, gunshot wound, powder burn or any other injury arising from or caused by the discharge of a gun, pistol, BB gun, or other air rifle or firearm, or examining or treating a person with a burn injury affecting five per cent or more of

the surface area of his body, or, whenever any such case is treated in a hospital, sanatorium or other institution, the manager, superintendent or other person in charge thereof, shall report such case at once to the colonel of the state police and to the police of the town where such physician, hospital, sanatorium or institution is located or, in the case of burn injuries, notification shall be made at once to the state fire marshal and to the police of the town where the burn injury occurred. This section shall not apply to such wounds, burns or injuries received by any member of the armed forces of the United States or of the commonwealth while engaged in the actual performance of duty. Every physician attending or treating a case of wound or injury caused by a knife or sharp or pointed instrument shall, if in his opinion a criminal act was involved, report such case forthwith to the police authorities of the town in which he attended or treated such wound or injury. Whoever violates any provision of this section shall be punished by a fine of not less than fifty nor more than one hundred dollars. The colonel of state police shall make available to the commissioner of public health all reports regarding: (i) bullet wounds, gunshot wounds, powder burns or any other injury arising from or caused by the discharge of a rifle, shotgun, firearm or air rifle; (ii) burn injuries affecting 5 per cent or more of the surface area of the human body; and (iii) wounds or injuries caused by a knife or other sharp or pointed instrument; provided, however, that personal information identifying the victim or the perpetrator may be redacted if the release of such information may compromise an investigation.

In cases of examination or treatment of a person with injuries resulting from opiate, illegal or illicit drug overdose, a hospital, community health center or clinic shall report information related to the incident to the commissioner of public health in a manner determined by the commissioner that complies with 42 U. S. C. section 290dd-2, 42 C. F. R. Part 2 and 45 C. F. R. section 164.512. The department of public health may promulgate regulations to enforce this section and to ensure that serious adverse drug events are reported to the Food and Drug Administration's MedWatch Program.

MICHIGAN

Summary: Mandatory reporting required is not specifically required for rape; however, it is required where persons are suffering from a wound or other injury inflicted by means of a knife, gun, pistol or other deadly weapon or other means of violence. No victim shall pay for the cost of a forensic examination.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE

MCLS § 750.411. Hospitals, pharmacies, physicians; duty to report injuries; violation as misdemeanor; immunity; limitations

(1) A person, firm, or corporation conducting a hospital or pharmacy in this state, the person managing or in charge of a hospital or pharmacy, or the person in charge of a ward or part of a hospital to which 1 or more persons come or are brought suffering from a wound or other injury inflicted by means of a knife, gun, pistol, or other deadly weapon, or by other means of violence, has a duty to report that fact immediately, both by telephone and in writing, to the chief of

police or other head of the police force of the village or city in which the hospital or pharmacy is located, or to the county sheriff if the hospital or pharmacy is located outside the incorporated limits of a village or city. The report shall state the name and residence of the person, if known, his or her whereabouts, and the cause, character, and extent of the injuries and may state the identification of the perpetrator, if known.

(2) A physician or surgeon who has under his or her charge or care a person suffering from a wound or injury inflicted in the manner described in subsection (1) has a duty to report that fact in the same manner and to the same officer as required by subsection (1).

(3) A person, firm, or corporation that violates this section is guilty of a misdemeanor.

(4) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, a person who makes a report in good faith under subsection (1) or (2) or who cooperates in good faith in an investigation, civil proceeding, or criminal proceeding conducted as a result of such a report is immune from civil or criminal liability that would otherwise be incurred by making the report or cooperating in the investigation or civil or criminal proceeding. A person who makes a report under subsection (1) or (2) or who cooperates in an investigation, civil proceeding, or criminal proceeding conducted as a result of such a report is presumed to have acted in good faith. The presumption created by this subsection may be rebutted only by clear and convincing evidence.

(5) The immunity from civil and criminal liability granted under subsection (4) extends only to the actions described in subsection (4) and does not extend to another act or omission that is negligent or that amounts to professional malpractice, or both, and that causes personal injury or death.

(6) The physician-patient privilege created under section 2157 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2157, a health professional-patient privilege created under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, and any other health professional-patient privilege created or recognized by law do not apply to a report made under subsection (1) or (2), are not valid reasons for a failure to comply with subsection (1) or (2), and are not a defense to a misdemeanor charge filed under this section.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

MCLS § 750.411

[See Above]

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

MCLS § 18.355a. Sexual assault medical forensic examination; payment to health care provider; conditions; definitions.

(1) A health care provider is eligible to be paid for a sexual assault medical forensic examination under this section only if that examination includes all of the following:

(a) The collection of a medical history.

(b) A general medical examination, including, but not limited to, the use of laboratory services and the dispensing of prescribed pharmaceutical items.

(c) One or more of the following:

(i) A detailed oral examination.

(ii) A detailed anal examination.

(iii) A detailed genital examination.

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

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

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

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

(b) If the victim gives his or her consent as provided under subdivision (a), submit a claim for the cost of a sexual assault medical forensic examination to the victim's insurance carrier, including, but not limited to, medicaid and medicare.

(4) A health care provider may seek payment from 1 or both of the following if reimbursement cannot be obtained from the victim's insurance or insurance is unavailable:

(a) The commission under this section.

(b) From another entity other than the victim.

(5) A health care provider that is reimbursed for a sexual assault medical forensic examination by a victim's insurance carrier shall not submit to the commission any portion of the claim reimbursable by the insurance carrier.

(6) A health care provider that is reimbursed for a sexual assault medical forensic examination by another entity shall not submit to the commission any portion of the claim reimbursable by the other entity.

(7) The commission shall pay a health care provider not more than \$600.00 for the cost of performing a sexual assault medical forensic examination, including, but not limited to, the cost of 1 or more of the following:

(a) Not more than \$400.00 for the use of an emergency room, clinic, or examination room, and the sexual assault medical forensic examination and related procedures other than services and items described in subdivisions (b) and (c).

(b) Not more than \$125.00 for laboratory services.

(c) Not more than \$75.00 for dispensing pharmaceutical items related to the sexual assault.

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

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

(10) A victim of sexual assault shall not be required to participate in the criminal justice system or cooperate with law enforcement as a condition of being administered a sexual assault medical forensic examination. For payments authorized under this section, the victim's request for a sexual assault medical forensic examination satisfies the requirements for prompt law enforcement reporting and victim cooperation under sections 6 and 10.

(11) As used in this section:

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

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

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

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

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

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

MINNESOTA

Summary: Minnesota does not have a mandatory reporting requirement for sexual assaults against adults. Costs of a sexual assault forensic examination shall be paid by the county when the purpose is to gather evidence. Health care providers are required to report gunshot wounds, burns, and other injuries the medical provider has reasonable cause to believe have been inflicted by a perpetrator of a crime by a dangerous weapon other than a firearm.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Minn. Stat. § 626.52. Reporting Suspicious Wounds by Health Professionals.

Subdivision 1. Definition. — As used in this section, "health professional" means a physician, surgeon, person authorized to engage in the practice of healing, superintendent or manager of a hospital, nurse, or pharmacist.

Subd. 2. Health professionals required to report. — A health professional shall immediately report, as provided under section 626.53, to the local police department or county sheriff all bullet wounds, gunshot wounds, powder burns, or any other injury arising from, or caused by the discharge of any gun, pistol, or any other firearm, which wound the health professional is called upon to treat, dress, or bandage.

A health professional shall report to the proper police authorities any wound that the reporter has reasonable cause to believe has been inflicted on a perpetrator of a crime by a dangerous weapon other than a firearm as defined under section 609.02, subdivision 6.

Subd. 3. Reporting burns. — A health professional shall file a written report with the state fire marshal within 72 hours after being notified of a burn injury or wound that the professional is called upon to treat, dress, or bandage, if the victim has sustained second- or third-degree burns to five percent or more of the body, the victim has sustained burns to the upper respiratory tract

or sustained laryngeal edema from inhaling superheated air, or the victim has sustained a burn injury or wound that may result in the victim's death. The state fire marshal shall provide the form for the report.

Subd. 4. Immunity from liability. — Any person reporting in good faith and exercising due care shall have immunity from any liability, civil or criminal, that otherwise might result by reason of the person's actions pursuant to this section or section 626.53. No cause of action may be brought against any person for not making a report pursuant to this section or section 626.53.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Minn. Stat. § 609.35. Costs of Medical Examination.

(a) Costs incurred by a county, city, or private hospital or other emergency medical facility or by a private physician for the examination of a victim of criminal sexual conduct when the examination is performed for the purpose of gathering evidence shall be paid by the county in which the criminal sexual conduct occurred. These costs include, but are not limited to, full cost of the rape kit examination, associated tests relating to the complainant's sexually transmitted disease status, and pregnancy status.

(b) Nothing in this section shall be construed to limit the duties, responsibilities, or liabilities of any insurer, whether public or private. However, a county may seek insurance reimbursement from the victim's insurer only if authorized by the victim. This authorization may only be sought after the examination is performed. When seeking this authorization, the county shall inform the victim that if the victim does not authorize this, the county is required by law to pay for the examination and that the victim is in no way liable for these costs or obligated to authorize the reimbursement.

(c) The applicability of this section does not depend upon whether the victim reports the offense to law enforcement or the existence or status of any investigation or prosecution.

MISSISSIPPI

Summary: There is no mandatory reporting requirement for sexual assault. There is a mandatory reporting requirement for gunshot and stab wounds. Sexual assault forensic examinations are only paid for by the Division of Victim Compensation when the victim cooperates with law enforcement.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Miss. Code Ann. § 45-9-31. Medical personnel required to report injuries from gunshots, knifings, and hunting or boating accidents.

Any physician, surgeon, dentist, veterinarian, paramedical employee, or nurse, or any employee of a hospital, clinic, or any other medical institution or office where patients regularly receive care, who treats, at any location, any human being suffering from a wound or injury and who has reason to believe or ought to know that the wound or injury was caused by gunshot or knifing, or receiving a request for such treatment, shall report the same immediately to the municipal police department or sheriff's office of the municipality or county in which such treatment is administered or request for such treatment is received. If the wound or injury is the result of a hunting or boating accident, the injury shall be reported immediately to the Mississippi Department of Wildlife, Fisheries and Parks.

Any person making a report or the reports required by this section shall be immune from civil liability for the making of the said reports.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Miss. Code Ann. § 99-37-25. Payment by Division of Victim Compensation of costs associated with medical forensic examination and sexual assault evidence collection kit; defendant to make restitution to Division of Victim Compensation.

(1) (a) When a person is brought into a doctor's office, a hospital or a medical clinic by a law enforcement agency as the victim of an alleged rape or sexual assault having occurred in this state, or comes into a doctor's office, a hospital or a medical clinic alleging rape or sexual assault having occurred in this state, the bill for the medical forensic examination and the preparation of the sexual assault evidence collection kit will be sent to the Division of Victim Compensation, Office of the Attorney General. The Division of Victim Compensation shall pay for the medical examination conducted for the procurement of evidence to aid in the investigation and prosecution of the alleged offense. Such payment shall be limited to the customary and usual hospital and physician charges for such services in the area. Such payment shall be made by the Division of Victim Compensation directly to the health care provider. No bill for the examination will be submitted to the victim, nor shall the medical facility hold the victim responsible for payment. The victim may be billed for any further medical services not required for the investigation and prosecution of the alleged offense. In cases where the damage caused by the alleged sexual assault requires medical treatment or diagnosis in addition to the examination, the patient will be given information about the availability of victim compensation and the procedure for applying for such compensation.

(b) Upon application submitted by the district attorney, provided the proper warrant or court order has been issued, the county in which an offense of sexual assault or of felonious abuse or battery of a child as described in Section 97-5-39, touching or handling a child for lustful purposes as described in Section 97-5-23, exploitation of children as described in Section 97-5-33 or sexual battery as described in Section 97-3-95, or statutory rape as defined in Section 97-3-65, or an attempt to commit such offense has occurred shall pay for a medical forensic examination of the person arrested, charged or convicted of such offense to determine if the person so arrested, charged or convicted has any sexually transmitted disease and for the collection of evidence. Such payment shall be made by the county directly to the health care provider

or other service performing the collection of evidence and tests. At the victim's request, a test for human immunodeficiency virus (HIV) shall be administered to the defendant/accused not later than forty-eight (48) hours after the date on which the information or indictment is presented, and the defendant/accused shall be subjected to follow-up testing for HIV upon a determination that such follow-up testing is medically necessary and reasonable. The results of any such test shall be confidential but shall be made available to the victim or, if the victim is a child, to the guardian of the victim. After an indictment, if the case is dismissed, the defendant is found not guilty or the case is not prosecuted within three (3) years of the indictment, all records of tests shall be returned to the accused or destroyed. Upon a showing of good cause, the court may retain such records and allow a case to remain open after the expiration of the three-year limitation provided herein.

(2) Any defendant who is convicted of, or pleads guilty or nolo contendere to, any offense or an attempt to commit any such offense specified in subsection (1)(b) shall be ordered by the court to make restitution to the Division of Victim Compensation in an amount equal to the compensation paid by the Division of Victim Compensation to the victim or medical provider for the medical forensic examination and to the county for tests for sexually transmitted diseases. Such restitution shall be in addition to any restitution which the court orders the defendant to pay the victim under the provisions of Chapter 37 of Title 99, (Sections 99-37-1 through 99-37-21), Mississippi Code of 1972.

(3) The Division of Victim Compensation is hereby authorized, in its discretion, to make application for and comply with such requirements as may be necessary to qualify for any federal funds as may be available as a result of services rendered to crime victims under the provisions of this section.

MISSOURI

Summary: Missouri does not have a statute that requires rape reporting. Gunshot wounds are required to be reported. The department of public safety shall pay for the forensic examination if a report of the examination is made on a form approved by the attorney general.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

§ 578.350 R.S.Mo. Physicians, nurses, therapists, duty to report, content – violation, penalty [Effective until Jan. 1, 2017]

1. Any person licensed under chapter 334 or 335 who treats a person for a wound inflicted by gunshot shall immediately report to a local law enforcement official the name and address of the person, if known, and if unknown, a description of the person, together with an explanation of the nature of the wound and the circumstances under which the treatment was rendered.

2. Any person licensed under chapter 334 or 335 who knowingly fails to report the injuries described in this section is guilty of the offense of medical deception.

3. Medical deception is an infraction.

§ 578.350 R.S.Mo. Medical deception – penalty – immunity, when [Effective Jan. 1, 2017]

1. A person licensed under chapter 334 or 335 who treats a person for a wound inflicted by gunshot commits the infraction of medical deception if he or she knowingly fails to immediately report to a local law enforcement official the name and address of the person, if known, and if unknown, a description of the person, together with an explanation of the nature of the wound and the circumstances under which the treatment was rendered.

2. A person licensed under chapter 334 or 335 who, in good faith, makes a report under this section shall have immunity from civil liability that otherwise might result from such report and shall have the same immunity with respect to any good faith participation in any judicial proceeding in which the reported gunshot wound is an issue. Notwithstanding the provisions of subdivision (5) of section 491.060, the existence of a physician-patient relationship shall not prevent a physician from submitting the report required in this section, or testifying regarding information acquired from a patient treated for a gunshot wound if such testimony is otherwise admissible.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

§ 595.220 R.S.Mo. Forensic examinations, department of public safety to pay medical providers, when – minor may consent to examination, when – attorney general to develop forms – collection kits – definitions – rulemaking authority.

1. The department of public safety shall make payments to appropriate medical providers, out of appropriations made for that purpose, to cover the reasonable charges of the forensic examination of persons who may be a victim of a sexual offense if:

(1) The victim or the victim’s guardian consents in writing to the examination; and

(2) The report of the examination is made on a form approved by the attorney general with the advice of the department of public safety. The department shall establish maximum reimbursement rates for charges submitted under this section, which shall reflect the reasonable cost of providing the forensic exam.

2. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The appropriate medical provider making the examination shall

give written notice to the parent or guardian of a minor that such an examination has taken place.

3. The attorney general, with the advice of the department of public safety, shall develop the forms and procedures for gathering evidence during the forensic examination under the provisions of this section. The department of health and senior services shall develop a checklist, protocols, and procedures for appropriate medical providers to refer to while providing medical treatment to victims of a sexual offense, including those specific to victims who are minors.

4. Evidentiary collection kits shall be developed and made available, subject to appropriation, to appropriate medical providers by the highway patrol or its designees and eligible crime laboratories. Such kits shall be distributed with the forms and procedures for gathering evidence during forensic examinations of victims of a sexual offense to appropriate medical providers upon request of the provider, in the amount requested, and at no charge to the medical provider. All appropriate medical providers shall, with the written consent of the victim, perform a forensic examination using the evidentiary collection kit, or other collection procedures developed for victims who are minors, and forms and procedures for gathering evidence following the checklist for any person presenting as a victim of a sexual offense.

5. In reviewing claims submitted under this section, the department shall first determine if the claim was submitted within ninety days of the examination. If the claim is submitted within ninety days, the department shall, at a minimum, use the following criteria in reviewing the claim: examination charges submitted shall be itemized and fall within the definition of forensic examination as defined in subdivision (3) of subsection 8 of this section.

6. All appropriate medical provider charges for eligible forensic examinations shall be billed to and paid by the department of public safety. No appropriate medical provider conducting forensic examinations and providing medical treatment to victims of sexual offenses shall charge the victim for the forensic examination. For appropriate medical provider charges related to the medical treatment of victims of sexual offenses, if the victim is an eligible claimant under the crime victims' compensation fund, the victim shall seek compensation under sections 595.010 to 595.075.

7. The department of public safety shall establish rules regarding the reimbursement of the costs of forensic examinations for children under fourteen years of age, including establishing conditions and definitions for emergency and nonemergency forensic examinations and may by rule establish additional qualifications for appropriate medical providers performing nonemergency forensic examinations for children under fourteen years of age. The department shall provide reimbursement regardless of whether or not the findings indicate that the child was abused.

8. For purposes of this section, the following terms mean:

(1) "Appropriate medical provider":

(a) Any licensed nurse, physician, or physician assistant, and any institution employing licensed nurses, physicians, or physician assistants, provided that such licensed professionals are the only persons at such institution to perform tasks under the provisions of this section; or

(b) For the purposes of any nonemergency forensic examination of a child under fourteen years of age, the department of public safety may establish additional qualifications for any provider listed in paragraph (a) of this subdivision under rules authorized under subsection 7 of this section;

(2) "Emergency forensic examination", an examination of a person under fourteen years of age that occurs within five days of the alleged sexual offense. The department of public safety may further define the term emergency forensic examination by rule;

(3) "Evidentiary collection kit", a kit used during a forensic examination that includes materials necessary for appropriate medical providers to gather evidence in accordance with the forms and procedures developed by the attorney general for forensic examinations;

(4) "Forensic examination", an examination performed by an appropriate medical provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection kit or using other collection procedures developed for victims who are minors;

(5) "Medical treatment", the treatment of all injuries and health concerns resulting directly from a patient's sexual assault or victimization;

(6) "Nonemergency forensic examination", an examination of a person under fourteen years of age that occurs more than five days after the alleged sexual offense. The department of public safety may further define the term nonemergency forensic examination by rule.

9. The department shall have authority to promulgate rules and regulations necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

MONTANA

Summary: Montana does not have a duty to report sexual assault. It does have a duty to report that a victim has been stabbed or shot. Law enforcement shall pay for a forensic

examination when it is directed by the agency or when the evidence obtained is used for the investigation, prosecution or resolution of an offense. The office of justice shall pay for the medical examination if the cost is not the responsibility of local law enforcement.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

37-2-302, MCA. Gunshot or stab wounds to be reported.

The physician, nurse, or other person licensed to practice a health care profession treating the victim of a gunshot wound or stabbing shall make a report to a law enforcement officer by the fastest possible means. Within 24 hours after initial treatment or first observation of the wound, a written report shall be submitted, including the name and address of the victim, if known, and shall be sent by regular mail.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

46-15-411, MCA. Payment for medical evidence – alleged sexual offenses.

(1) The local law enforcement agency within whose jurisdiction an alleged incident of sexual intercourse without consent, sexual assault, or incest occurs shall pay for the medical examination of a victim of the alleged offense when the examination is directed by the agency or when evidence obtained by the examination is used for the investigation, prosecution, or resolution of an offense.

(2)

(a) The department of justice shall, as long as funds are available from an appropriation made for this purpose, pay for the medical examination of a victim of an alleged incident of sexual intercourse without consent, sexual assault, or incest if the cost is not the responsibility of a local law enforcement agency under subsection (1).

(b) In administering the provisions of subsection (2)(a), the department shall:

(i) identify priorities for funding services, activities, and criteria for the receipt of program funds;

(ii) monitor the expenditure of funds by organizations receiving funds under this section;

(iii) evaluate the effectiveness of services and activities under this section; and

(iv) adopt rules necessary to implement this subsection (2).

(3) This section does not require a law enforcement agency or the state to pay any costs of treatment for injuries resulting from the alleged offense.

NEBRASKA

Summary: Nebraska does not have a specific requirement that rape be reported; however, it has a requirement that wounds or injuries of violence which appear to have been received in connection with the commission of a criminal offense be reported. A forensic examination shall be paid for by the Sexual Assault Payment Program Cash Fund.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE

R.R.S. Neb. § 28-902. Failure to report injury of violence; physician or surgeon; emergency room or first-aid station attendant; penalty.

(1) Every person engaged in the practice of medicine and surgery, or who is in charge of any emergency room or first-aid station in this state, shall report every case, in which he is consulted for treatment or treats a wound or injury of violence which appears to have been received in connection with the commission of a criminal offense, immediately to the chief of police of the municipality or to the sheriff of the county wherein the consultation or treatment occurs. Such report shall include the name of such person, the residence, if ascertainable, and a brief description of the injury. Any provision of law or rule of evidence relative to confidential communications is suspended insofar as the provisions of this section are concerned.

(2) Any person who fails to make the report required by subsection (1) of this section commits a Class III misdemeanor.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

R.R.S. Neb. § 81-2010.03. Sexual assaults; forensic medical examination; payment; forensic DNA testing; requirements. [Effective July 21, 2016; Operative July 1, 2017].

The full out-of-pocket cost or expense that may be charged to a sexual assault victim in connection with a forensic medical examination shall be paid from the Sexual Assault Payment Program Cash Fund. A report of a forensic medical examination shall not be remitted to the patient or his or her insurance for payment.

Except as provided under [section 81-2010](#), all forensic DNA tests shall be performed by a laboratory which is accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board or by any other national accrediting body or public agency which has requirements that are substantially equivalent to or more comprehensive than those of the society.

The full out-of-pocket cost or expense to be paid from the Sexual Assault Payment Program Cash Fund for a forensic medical examination described in subsection (1) of this section shall include:

An examiner's fee for:

Examination of physical trauma;

- (ii) Determination of penetration or force;
- (iii) Patient interview; and
- (iv) Collection and evaluation of evidence;

An examination facility fee for the:

Emergency room, clinic room, office room, or child advocacy center; and

- (ii) Pelvic tray and other medically required supplies; and

The laboratory fees for collection and processing of specimens for criminal evidence, the determination of the presence of any sexually transmitted disease, and pregnancy testing.

There is established within the Department of Justice, under the direction of the Attorney General, the position of administrator for the Sexual Assault Payment Program. The purpose of the program and the responsibilities of the administrator shall be to coordinate the distribution of forensic medical examination kits to health care providers at no cost to the providers, oversee forensic medical examination training throughout the state, and coordinate payments from the Sexual Assault Payment Program Cash Fund.

The Sexual Assault Payment Program Cash Fund is created. The fund shall be administered by the commission. The fund shall consist of any money appropriated to it by the Legislature and any money received by the commission for the program, including federal and other public and private funds. The fund shall be used for the payment of the full out-of-pocket costs or expenses for forensic medical examinations pursuant to subsection (3) of this section, for the purpose set forth in subsection (4) of this section, and for the purchase of forensic medical examination kits. The fund shall be used to pay only those charges determined by the commission to be reasonable and fair. The fund shall be used to pay up to two hundred dollars for the examiner's fee and up to three hundred dollars for the examination facility fee. The examiner and facility shall provide additional documentation as determined by the commission for payment of charges in excess of such amounts. The fund may also be used to facilitate programs that reduce or prevent the crimes of domestic violence, dating violence, sexual assault, stalking, child abuse, child sexual assault, human trafficking, labor trafficking, or sex trafficking or that enhance the safety of victims of such crimes. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

NEVADA

Summary: It is not mandatory to report sexual assault. It is mandatory to report knife and gunshot wounds as well as certain burns. The filing of a report with law enforcement is a prerequisite to receiving medical treatment at county expense for sexual assault.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Nev. Rev. Stat. Ann. § 629.041. Provider of health care to report persons having certain injuries.

Every provider of health care to whom any person comes or is brought for treatment of an injury which appears to have been inflicted by means of a firearm or knife, not under accidental circumstances, shall promptly report the person's name, if known, his or her location and the character and extent of the injury to an appropriate law enforcement agency.

Nev. Rev. Stat. Ann. § 629.045. Provider of health care to report persons having certain burns.

1. Every provider of health care to whom any person comes or is brought for the treatment of:

- (a) Second or third degree burns to 5 percent or more of the body;
- (b) Burns to the upper respiratory tract or laryngeal edema resulting from the inhalation of heated air; or
- (c) Burns which may result in death,

shall promptly report that information to the appropriate local fire department.

2. The report required by subsection 1 must include:

- (a) The name and address of the person treated, if known;
- (b) The location of the person treated; and
- (c) The character and extent of the injuries.

3. A person required to make a report pursuant to subsection 1 shall, within 3 working days after treating the person, submit a written report to:

- (a) The appropriate local fire department in counties whose population is 45,000 or more; or

- (b) The State Fire Marshal in counties whose population is less than 45,000.

The report must be on a form provided by the State Fire Marshal.

- 4. A provider of health care and his or her agents and employees are immune from any civil action for any disclosures made in good faith in accordance with the provisions of this section or any consequential damages.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Nev. Rev. Stat. Ann. § 217.310. Application for medical and psychological treatment of victim and spouse; companionship during counseling; prerequisite to approval; certain costs of treatment for victim of sexual assault or other eligible person to be charged to county.

- 1. If any victim of sexual assault requires medical treatment for physical injuries as a result of the sexual assault, in addition to any initial emergency medical care provided, or if any victim or spouse of such a victim suffers emotional trauma as a result of the sexual assault, the victim or spouse may, upon submitting an affidavit as required by subsection 2, apply to the board of county commissioners in the county where the sexual assault occurred for treatment at county expense.
- 2. The board shall approve an application for treatment upon receiving an affidavit from the applicant declaring that:
 - (a) The applicant is a victim of sexual assault or spouse of such a victim;
 - (b) The sexual assault occurred in the county; and
 - (c) The victim requires medical treatment for physical injuries, or the victim or spouse has suffered emotional trauma, as a result of the sexual assault.
- 3. A victim who has suffered emotional trauma may select a relative or close friend to receive counseling with the victim if the counselor agrees that such companionship will be helpful to the victim. If the victim's application for treatment is approved, counseling for the relative or friend must also be approved.
- 4. A victim must file a report with the appropriate law enforcement agency or submit to a forensic medical examination pursuant to NRS 217.300 as a prerequisite for the victim or any other person eligible to qualify for treatment under the provisions of this section.
- 5. Whenever costs are incurred by a hospital for treatment which has been approved by the board of county commissioners pursuant to this section for the victim of a sexual assault and any other person eligible for treatment, the costs of the treatment, not to exceed \$1,000, must be

charged to the county which authorized the treatment. Any remainder must be handled the same as other hospital costs.

Nev. Rev. Stat. Ann. § 449.244. Payment of cost of initial medical care of victim; payment of costs incurred by hospital for forensic medical examination of victim.

1. The county in whose jurisdiction a sexual assault is committed shall:
 - (a) Pay any costs incurred for medical care for any physical injuries resulting from the sexual assault which is provided to the victim not later than 72 hours after the victim first arrives for treatment.
 - (b) Pay any costs incurred by a hospital for the forensic medical examination of the victim.
2. Any costs incurred pursuant to subsection 1:
 - (a) Must not be charged directly to the victim of sexual assault.
 - (b) Must be charged to the county in whose jurisdiction the offense was committed.
3. The filing of a report with the appropriate law enforcement agency must not be a prerequisite to qualify for a forensic medical examination pursuant to this section.
4. The costs associated with a forensic medical examination must not be included in the costs for medical treatment pursuant to NRS 217.310.
5. As used in this section, "forensic medical examination" means an examination by a health care provider to obtain evidence from a victim of sexual assault.

NEW HAMPSHIRE

Summary: Mandatory reporting is not required. There is a requirement that gunshot wounds and other injuries caused by criminal acts be reported; however, there is an exception for sexual assault victims 18 years and older not also suffering from a gunshot wound or other serious bodily injury. The Department of Justice pays for the medical services as long as the responsibility is not up to a third party or under a health insurance policy and the examination is done to gather evidence of the crime.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE

RSA § 631:6. Failure to Report Injuries.

I. Except as provided in paragraph II, a person is guilty of a misdemeanor if, having knowingly treated or assisted another for a gunshot wound or for any other injury he believes to have been caused by a criminal act, he fails immediately to notify a law enforcement official of all the information he possesses concerning the injury.

II. A person who has rendered treatment or assistance is excepted from the reporting provisions of paragraph I if the person seeking or receiving treatment or other assistance: (a) is 18 years of age or older, (b) has been a victim of a sexual assault offense or abuse as defined in RSA 173-B:1, and (c) objects to the release of any information to law enforcement officials. This exception shall not apply if the sexual assault or abuse victim is also being treated for a gunshot wound or other serious bodily injury.

III. [Repealed.]

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

RSA § 631:6. Failure to report Injuries.

[See Above]

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

RSA § 21-M:8-c. Victim of Alleged Sexual Offense.

If a physician or a hospital provides any physical examination of a victim of an alleged sexual offense to gather information and evidence of the alleged crime, these services shall be provided without charge to the individual. Upon submission of appropriate documentation, the physician or hospital shall be reimbursed for the cost of such examination by the department of justice to the extent such costs are not the responsibility of a third party under a health insurance policy or similar third party obligation. The bill for the medical examination of a sexual assault victim shall not be sent or given to the victim or the family of the victim. The privacy of the victim shall be maintained to the extent possible during third party billings. Billing forms shall be subject to the same principles of confidentiality applicable to any other medical record under RSA 151:13. Where such forms are released for statistical or accounting services, all personal identifying information shall be deleted from the forms prior to release.

NEW JERSEY

Summary: There is no requirement to report sexual assault. It is mandatory to report gunshot wounds, stab wounds, wounds caused by weapons and certain burns. There is a Statewide Sexual Assault Nurse Examiner Program Fund.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

N.J. Stat. § 2C:58-8. Certain wounds and injuries to be reported.

National District Attorney Association
National Center for Prosecution of Violence Against Women
DOJ Grant #2009-TA-AX-K012
www.ndaa.org

a. Every case of a wound, burn or any other injury arising from or caused by a firearm, destructive device, explosive or weapon shall be reported at once to the law enforcement agency of the municipality where the person reporting is located and to the Division of State Police by the physician consulted, attending or treating the case or the administrator or administrator's designee, whenever such case is presented for treatment or treated in a general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

This subsection shall not, however, apply to wounds, burns or injuries received by a member of the armed forces of the United States or the State of New Jersey while engaged in the actual performance of duty.

b. Every case which contains the criteria defined in this subsection shall be reported at once to the law enforcement agency of the municipality where the person reporting is located, or to the Division of State Police, by the physician consulted, attending, or treating the injury, or by the administrator or administrator's designee, whenever such case is presented for treatment or treated in a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), or an office where medical care is provided. This subsection shall not apply to injuries received by a member of the armed forces of the United States or the State of New Jersey while engaged in the actual performance of duty.

The defined criteria shall consist of a flame burn injury accompanied by one or more of the following factors:

- (1)** A fire accelerant was used in the incident causing the injury and the presence of an accelerant creates a reasonable suspicion that the patient committed arson in violation of N.J.S.2C:17-1.
- (2)** Treatment for the injury was sought after an unreasonable delay of time.
- (3)** Changes or discrepancies in the account of the patient or accompanying person concerning the cause of the injury which creates a reasonable suspicion that the patient committed arson in violation of N.J.S.2C:17-1.
- (4)** Voluntary statement by the patient or accompanying person that the patient was injured during the commission of arson in violation of N.J.S.2C:17-1.
- (5)** Voluntary statement by the patient or accompanying person that the patient was injured during a suicide attempt or the commission of criminal homicide in violation of N.J.S.2C:11-1.
- (6)** Voluntary statement by the patient or accompanying person that the patient has exhibited fire setting behavior prior to the injury or has received counseling for such behavior.
- (7)** Any other factor determined by the bureau of fire safety in the Department of Community Affairs from information in the burn patient arson registry established

under section 4 of P.L.1991, c.433 (C.52:27D-25d3) to typify a patient whose injuries were caused during the commission of arson in violation of N.J.S.2C:17-1.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

N.J. Stat. § 52:4B-59. “Statewide Sexual Assault Nurse Examiner Program Fund.”

There is hereby established the “Statewide Sexual Assault Nurse Examiner Program Fund” as a nonlapsing, revolving fund. This fund shall be administered by the Attorney General, and all moneys deposited therein pursuant to section 11 of P.L. 2001, c. 81 (C. 2C:43-3.6) shall be used in accordance with guidelines established by the Attorney General for the operational expenses of the sexual assault nurse examiner program in each county. This fund shall be used in coordination with and in supplementation of any available federal funding under the “Victims of Crime Act of 1984,” 42 U.S.C. § 10601 et seq., or any other grant funding for this purpose.

N.J. Stat. § 26:2H-12.6c. Provision of emergency care to sexual assault victim.

An emergency health care facility shall provide emergency care to a sexual assault victim. It shall be the standard of care for an emergency health care facility to:

- a. provide each sexual assault victim with medically and factually accurate and objective oral and written information about emergency contraception and sexually transmitted diseases, as provided for in section 4 of this act;
- b. orally inform each sexual assault victim of her option to be provided emergency contraception at the health care facility; and
- c. provide emergency contraception to the sexual assault victim, upon her request, unless contraindicated. If the emergency contraceptive is in the form of pills, the provision of the emergency contraception shall include the initial dose that the victim may take at the emergency health care facility, as well as the follow-up dose that the victim can self-administer later.

An emergency health care facility shall not be required to provide emergency contraception to a sexual assault victim who is pregnant.

NEW MEXICO

Summary: There is no requirement to report a sexual assault. Victims are entitled to free forensic examinations.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

N.M. Stat. Ann. § 29-11-7. Free forensic medical exams for victims of sexual crimes.

National District Attorney Association
National Center for Prosecution of Violence Against Women
DOJ Grant #2009-TA-AX-K012
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The administrator shall:

- A. provide free forensic medical exams to victims of sexual crimes;
- B. arrange for victims of sexual crimes to obtain free forensic medical exams; or
- C. reimburse victims of sexual crimes for the cost of forensic medical exams, provided that:
 - (1) the reimbursement covers the full cost of the forensic medical exam, without any deductible requirement or limit on the amount of the reimbursement;
 - (2) the victim of a sexual crime is entitled to apply for reimbursement for a period of one year from the date of the forensic medical exam;
 - (3) reimbursement is provided not later than ninety days after the administrator receives written notification of the expense incurred by the victim for the forensic medical exam; and
 - (4) all victims of sexual crimes, including victims with limited or no English proficiency, are provided with information at the time of the forensic medical exam regarding how to obtain reimbursement for the cost of the exam.

NEW YORK

Summary: There is no requirement to report rape in New York. There is a requirement to report wounds caused by a gun, knife, ice pick or other sharp instrument as well as certain burn injuries. Sexual assault forensic examinations will be paid for when the crime is reported within a reasonable time.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

NY CLS Penal § 265.25. Certain wounds to be reported.

Every case of a bullet wound, gunshot wound, powder burn or any other injury arising from or caused by the discharge of a gun or firearm, and every case of a wound which is likely to or may result in death and is actually or apparently inflicted by a knife, icepick or other sharp or pointed instrument, shall be reported at once to the police authorities of the city, town or village where the person reporting is located by: (a) the physician attending or treating the case; or (b) the manager, superintendent or other person in charge, whenever such case is treated in a hospital, sanitarium or other institution. Failure to make such report is a class A misdemeanor. This subdivision shall not apply to such wounds, burns or injuries received by a member of the armed forces of the United States or the state of New York while engaged in the actual performance of duty.

NY CLS Penal § 265.26. Burn injury and wounds to be reported.

Every case of a burn injury or wound, where the victim sustained second or third degree burns to five percent or more of the body and/or any burns to the upper respiratory tract or laryngeal edema due to the inhalation of super-heated air, and every case of a burn injury or wound which is likely to or may result in death, shall be reported at once to the office of fire prevention and control. The state fire administrator shall accept the report and notify the proper investigatory agency. A written report shall also be provided to the office of fire prevention and control within seventy-two hours. The report shall be made by (a) the physician attending or treating the case; or (b) the manager, superintendent or other person in charge, whenever such case is treated in a hospital, sanitarium, institution or other medical facility.

The intentional failure to make such report is a class A misdemeanor.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

NY CLS Pub Health § 2805-i. Treatment of sexual offense victims and maintenance of evidence in a sexual offense.

1. Every hospital providing treatment to alleged victims of a sexual offense shall be responsible for:

(a) maintaining sexual offense evidence and the chain of custody as provided in subdivision two of this section.

(b) contacting a rape crisis or victim assistance organization, if any, providing victim assistance to the geographic area served by that hospital to establish the coordination of non-medical services to sexual offense victims who request such coordination and services.

(c) offering and making available appropriate HIV post-exposure treatment therapies; *including a seven day starter pack of HIV post-exposure prophylaxis*, in cases where it has been determined, in accordance with guidelines issued by the commissioner, that a significant exposure to HIV has occurred, and informing the victim that payment assistance for such therapies may be available from the office of victim services pursuant to the provisions of article twenty-two of the executive law. *With the consent of the victim of a sexual assault, the hospital emergency room department shall provide or arrange for an appointment for medical follow-up related to HIV post-exposure prophylaxis and other care as appropriate.*

2. The sexual offense evidence shall be collected and kept in a locked separate and secure area for not less than thirty days unless: (a) such evidence is not privileged and the police request its surrender before that time, which request shall be complied with; or (b) such evidence is privileged and (i) the alleged sexual offense victim nevertheless gives permission to turn such privileged evidence over to the police before that time, or (ii) the alleged sexual offense victim

signs a statement directing the hospital to not collect and keep such privileged evidence, which direction shall be complied with. The sexual offense evidence shall include, but not be limited to, slides, cotton swabs, clothing and other items. Where appropriate such items must be refrigerated and the clothes and swabs must be dried, stored in paper bags and labeled. Each item of evidence shall be marked and logged with a code number corresponding to the patient's medical record. The alleged sexual offense victim shall be notified that after thirty days, the refrigerated evidence will be discarded in compliance with state and local health codes and the alleged sexual offense victim's clothes will be returned to the alleged sexual offense victim upon request.

3. Upon admittance or commencement of treatment of the alleged sexual offense victim, the hospital shall advise the victim of the availability of the services of a local rape crisis or victim assistance organization, if any, to accompany the victim through the sexual offense examination. If after receiving such advice the sexual offense victim wishes the presence of a rape crisis or victim assistance advocate, the hospital shall contact the appropriate organization and request that one be provided, provided, however, that if in the professional judgment of the treating practitioner a delay in treatment is detrimental to the provision of medical treatment, then examination or treatment need not be delayed pending the arrival of such advocate and further provided that the presence or continued presence of such advocate does not interfere with the provision of necessary medical care to the victim.

4. No hospital or treating practitioner shall be liable in civil damages for failing to comply with the requirements of subdivision one, two or three of this section or acting in good faith to provide treatment as provided in subdivision three of this section.

4-a. On and after April first, two thousand one, a hospital providing treatment to alleged victims of sexual offenses shall be eligible to receive from the division of criminal justice services, at no cost, sexual offense evidence collection kits.

4-b.

(a) The commissioner shall, with the consent of the directors of interested hospitals in the state and in consultation with the commissioner of the division of criminal justice services, designate hospitals in the state as the sites of a twenty-four hour sexual assault forensic examiner program. The hospital sites shall be designated in urban, suburban and rural areas to give as many state residents as possible ready access to the sexual assault forensic examiner program. The commissioner, in consultation with the commissioner of the division of criminal justice services, shall consider the following criteria when designating these sexual assault forensic examiner program sites:

(1) the location of the hospital;

(2) the hospital's capacity to provide on-site comprehensive medical services to victims of sexual offenses;

(3) the capacity of the hospital site to coordinate services for victims of sexual offenses including medical treatment, rape crisis counseling, psychological support, law enforcement assistance and forensic evidence collection;

(4) the hospital's capacity to provide access to the sexual assault forensic examiner site for disabled victims;

(5) the hospital's existing services for victims of sexual offenses;

(6) the capacity of the hospital site to collect uniform data and insure confidentiality of such data; and

(7) the hospital's compliance with state and federally mandated standards of medical care.

(b) Each sexual assault forensic examiner program site designated pursuant to this subdivision shall comply with the requirements of subdivisions one, two and three of this section, and shall also provide treatment to the victim as follows:

(1) The victim shall, absent exigent circumstances, be met by a sexual assault forensic examiner within sixty minutes of arriving at the hospital, who shall be a nurse practitioner, *physician assistant*, registered nurse or physician specially trained in forensic examination of sexual offense victims and the preservation of forensic evidence in such cases and certified as qualified to provide such services pursuant to regulations promulgated by the commissioner. Such program shall assure that such a specially-trained forensic examiner is on-call and available on a twenty-four hour a day basis every day of the year.

(2) An examination of the victim shall be performed promptly by such forensic examiner in a private room designated for such examinations. An obstetrician/gynecologist or other appropriate medical doctor shall be readily available to the forensic examiner if there is a need for more specialized medical evaluation or treatment.

(3) Promptly after the examination is completed, the victim shall be permitted to shower, be provided with a change of clothing, and receive follow-up information, counseling, medical treatment and referrals for same.

(c) Nothing in this subdivision shall affect the existence or continued existence of any program in this state through which a trained nurse practitioner, *physician assistant*, registered nurse or physician is providing appropriate forensic examinations and related services to survivors of sexual assault.

5. The commissioner shall promulgate such rules and regulations as may be necessary and proper to carry out effectively the provisions of this section. Prior to promulgating such rules and regulations, the commissioner shall consult with relevant police agencies, forensic laboratories,

rape crisis centers, *hospitals*, and other such persons as the commissioner deems necessary. Such rules and regulations shall identify the offenses subject to the provisions of this section, provide a specific definition of sexual offense evidence and require each hospital to contact its local police agency and forensic laboratory to determine their specific needs or requirements.

6. On or before November thirtieth, two thousand two, the commissioner shall make a report to the governor, the temporary president of the senate and the speaker of the assembly concerning the sexual assault forensic examiner program established under subdivision four-b of this section. Such report shall include an evaluation of the efficacy of such program in obtaining useful forensic evidence in sexual offense cases and assuring quality treatment to sex offense victims. Such report shall also recommend whether this program should be expanded and shall estimate the financial cost, if any, of such expansion.

NY CLS Exec § 631. Awards.

1. No award shall be made unless the office finds that (a) a crime was committed, (b) such crime directly resulted in personal physical injury to or the exacerbation of a preexisting disability, or condition, or death of, the victim, and (c) criminal justice agency records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the criminal justice agency records show that such report was made more than one week after the occurrence of such crime unless the office, for good cause shown, finds the delay to have been justified; provided, however, in cases involving an alleged sex offense as contained in article one hundred thirty of the penal law or incest as defined in section 255.25, 255.26 or 255.27 of the penal law or labor trafficking as defined in section 135.35 of the penal law or sex trafficking as defined in section 230.34 of the penal law or an offense chargeable as a family offense as described in section eight hundred twelve of the family court act or section 530.11 of the criminal procedure law, the criminal justice agency report need only be made within a reasonable time considering all the circumstances, including the victim's physical, emotional and mental condition and family situation. For the purposes of this subdivision, "criminal justice agency" shall include, but not be limited to, a police department, a district attorney's office, and any other governmental agency having responsibility for the enforcement of the criminal laws of the state provided, however, that in cases involving such sex offense a criminal justice agency shall also mean a family court, a governmental agency responsible for child and/or adult protective services pursuant to title six of article six of the social services law and/or title one of article nine-B of the social services law, and any medical facility established under the laws of the state that provides a forensic physical examination for victims of rape and sexual assault.

1-a. No award shall be made for a frivolous lawsuit unless the office finds that the victim has been awarded costs pursuant to section eighty-three hundred three-a of the civil practice law and rules and the individual responsible for the payment of costs is unable to pay such costs provided, however, that in no event shall the amount of such costs exceed two thousand five hundred dollars.

2. Any award made pursuant to this article shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based; loss of earnings or support resulting from such injury not to exceed thirty thousand dollars; burial expenses not exceeding six thousand dollars of a victim who died as a direct result of a crime; the costs of crime scene cleanup and securing of a crime scene not exceeding twenty-five hundred dollars; reasonable relocation expenses not exceeding twenty-five hundred dollars; and the unreimbursed cost of repair or replacement of articles of essential personal property lost, damaged or destroyed as a direct result of the crime. An award for loss of earnings shall include earnings lost by a parent or guardian as a result of the hospitalization of a child victim under age eighteen for injuries sustained as a direct result of a crime. In addition to the medical or other services necessary as a result of the injury upon which the claim is based, an award may be made for rehabilitative occupational training for the purpose of job retraining or similar employment-oriented rehabilitative services based upon the claimant's medical and employment history. For the purpose of this subdivision, rehabilitative occupational training shall include but not be limited to educational training and expenses. An award for rehabilitative occupational training may be made to a victim, or to a family member of a victim where necessary as a direct result of a crime.

3. Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this article, be in an amount equal to the actual loss sustained, provided, however, that no such award shall exceed six hundred dollars for each week of lost earnings or support. Awards with respect to livery operator victims pursuant to paragraphs (f) and (g) of subdivision one of section six hundred twenty-seven of this article shall be granted in the amount and in the manner provided therein. The aggregate award for all such losses pursuant to this subdivision, including any awards made pursuant to paragraphs (f) and (g) of subdivision one of section six hundred twenty-seven of this article, shall not exceed thirty thousand dollars. If there are two or more persons entitled to an award as a result of the death of a person which is the direct result of a crime, the award shall be apportioned by the office among the claimants.

4. Any award made pursuant to this article shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury (a) from or on behalf of the person who committed the crime, (b) under insurance programs mandated by law, (c) from public funds, (d) under any contract of insurance wherein the claimant is the insured or beneficiary, (e) as an emergency award pursuant to section six hundred thirty of this article. Notwithstanding the foregoing, where the person injured is a livery operator victim, because undue hardship may result to the claimant if immediate payment is not made, any award pursuant to paragraphs (f) and (g) of subdivision one of section six hundred twenty-seven of this article shall be granted without reduction for workers' compensation benefits to be received, if any.

5.

(a) In determining the amount of an award, the office shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the office shall reduce the amount of the award or reject the claim altogether, in accordance with such determination.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the office shall disregard for this purpose the responsibility of the victim for his own injury where the record shows that the person injured was acting as a good samaritan, as defined in this article.

(c) Notwithstanding any inconsistent provision of this article, where the person injured acted as a good samaritan, the office may, without regard to the financial difficulty of the claimant, make an award for out-of-pocket losses. Such award may also include compensation for any loss of property up to five thousand dollars suffered by the victim during the course of his actions as a good samaritan.

(d) Notwithstanding any inconsistent provision of this article, where a person acted as a good samaritan, and was killed as a direct result of the crime, the office may, without regard to the financial difficulty of the claimant, make a lump sum award to such claimant for actual loss of support not to exceed thirty thousand dollars.

(e) Notwithstanding any inconsistent provision of this article, where a police officer or firefighter, both paid and volunteer, dies from injuries received in the line of duty as a direct result of a crime, the office may, without regard to the financial difficulty of the claimant, make an award for the unreimbursed counseling expenses of the eligible spouse, parents, brothers, sisters or children of such victim, and/or the reasonable burial expenses incurred by the claimant.

6.

(a) Claims may be approved only if the office finds that unless the claimant's award is approved he *or she* will suffer financial difficulty. However, no finding of financial difficulty is required for a claim for an emergency award or an award less than ¹ ten thousand dollars. In determining financial difficulty, the office shall consider all relevant factors, including but not limited to:

- (1)** the number of claimant's dependents;
- (2)** reasonable living expenses of the claimant and his family;
- (3)** any special health, rehabilitative or educational needs of the claimant and his dependents;
- (4)** the claimant's employment situation including income and potential earning capacity;
- (5)** the claimant's net financial resources after authorized deduction as provided in paragraphs (b) and (c) of this subdivision;
- (6)** whether claimant's financial resources will become exhausted during his lifetime; and

(7) the nature and the amount of claimant's total debt and liabilities, including the amount of debt incurred or to be incurred to pay for losses and expenses of the crime, and the extent to which claimant's essential assets will have to be liquidated.

(b) Claimant's net financial resources do not include the present value of future earnings, and shall be determined by the office by deducting from his total financial resources the value, within reasonable limits, of the following items:

(1) a homestead, not exceeding five hundred thousand dollars, or a total of ten years' rent for a renter;

(2) personal property consisting of clothing and strictly personal effects;

(3) household furniture, appliances and equipment;

(4) tools and equipment necessary for the claimant's trade, occupation or business;

(5) a family automobile;

(6) life insurance, except in death claims; and

(7) retirement, education and health plans or contributions to a retirement or pension program including but not limited to contributions to: (i) employee profit sharing plans, (ii) employee money purchase plans, (iii) 401 (k) plans, (iv) simplified employee pensions (SEP), (v) individual retirement accounts (IRA), (vi) 403 (b) plans, (vii) 457 plans, (viii) Keogh plans, (self employed), and (ix) any other plan or account for which contributions are made primarily for retirement purposes.

(c) The office, after taking into consideration the claimant's financial resources, may exempt that portion of the victim's or claimant's annual income required to meet reasonable living expenses and the value of inventory or other property necessary for the claimant's business or occupation or the production of income required to meet reasonable living expenses. In no event shall the aggregate value of exemptions under this paragraph exceed one hundred thousand dollars.

(d) Nothing contained in this subdivision shall be construed to mean that the office must maintain the same standard of living enjoyed by the claimant prior to the death or injury.

(e) The director shall promulgate such rules and regulations as are necessary for the implementation of this section.

7. Notwithstanding the provisions of subdivision six of this section, an award shall include out-of-pocket expenses, including indebtedness reasonably incurred by the victim of a sex offense or the person responsible for the victim of such sex offense, as such sex offense is defined in article one hundred thirty of the penal law, for a hospital or medical examination in connection with the investigation or prosecution of any such offense.

8. Notwithstanding the provisions of subdivisions one, two and three of this section, an elderly or disabled victim who has not been physically injured as a direct result of a crime, shall only be eligible for an award that includes the unreimbursed cost of repair or replacement of essential personal property that has been lost, damaged or destroyed as a direct result of a crime, transportation expenses incurred for necessary court appearances in connection with the prosecution of such crimes and the unreimbursed cost of counselling provided to the elderly or disabled victim on account of mental or emotional stress or financial counselling provided to the elderly or disabled victim on account of financial difficulty resulting from the incident in which the crime occurred if such counselling or financial counselling is commenced within one year from the date of the incident.

9. Any award made for the cost of repair or replacement of essential personal property, including cash losses of essential personal property, shall be limited to an amount of five hundred dollars, except that all cash losses of essential personal property shall be limited to the amount of one hundred dollars. *In the case of medically necessary life-sustaining equipment which was lost or damaged as the direct result of a crime, the award shall be limited to the amount of ten thousand dollars.*

10. Notwithstanding any contrary provision of law, an award shall include reasonable transportation expenses incurred for necessary court appearances in connection with the prosecution of such crimes upon which the claim is based.

11. Notwithstanding the provisions of subdivisions one, two and three of this section, an individual who was a victim of either the crime of unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, kidnapping in the second degree as defined in section 135.20 of the penal law or kidnapping in the first degree as defined in section 135.25 of the penal law who has not been physically injured as a direct result of such crime shall only be eligible for an award that includes loss of earnings or support and the unreimbursed costs of counseling provided to such victim on account of mental or emotional stress resulting from the incident in which the crime occurred.

12. Notwithstanding the provisions of subdivisions one, two and three of this section, an individual who was a victim of either the crime of menacing in the second degree as defined in subdivision two or three of section 120.14 of the penal law, menacing in the first degree as defined in section 120.13 of the penal law, criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, harassment in the second degree as defined in subdivision two or three of section 240.26 of the penal law, harassment in the first degree as defined in section 240.25 of the penal law, aggravated harassment in the second degree as defined in subdivision five of section 240.30 of the penal law, aggravated harassment in the first degree as defined in subdivision two of section 240.31 of the penal law, criminal contempt in the

first degree as defined in paragraph (ii) or (iv) of subdivision (b) or subdivision (c) of section 215.51 of the penal law, or stalking in the fourth, third, second or first degree as defined in sections 120.45, 120.50, 120.55 and 120.60 of the penal law, respectively, who has not been physically injured as a direct result of such crime shall only be eligible for an award that includes loss of earning or support, the unreimbursed cost of repair or replacement of essential personal property that has been lost, damaged or destroyed as a direct result of such crime, the unreimbursed cost for security devices to enhance the personal protection of such victim, transportation expenses incurred for necessary court expenses in connection with the prosecution of such crime, the unreimbursed costs of counseling provided to such victim on account of mental or emotional stress resulting from the incident in which the crime occurred, reasonable relocation expenses, and for occupational or job training.

13. Notwithstanding any other provision of law, rule, or regulation to the contrary, when any New York state accredited hospital, accredited sexual assault examiner program, or licensed health care provider furnishes services to any sexual assault survivor, including but not limited to a health care forensic examination in accordance with the sex offense evidence collection protocol and standards established by the department of health, such hospital, sexual assault examiner program, or licensed healthcare provider shall provide such services to the person without charge and shall bill the office directly. The office, in consultation with the department of health, shall define the specific services to be covered by the sexual assault forensic exam reimbursement fee, which must include at a minimum forensic examiner services, hospital or healthcare facility services related to the exam, and related laboratory tests and necessary pharmaceuticals; including but not limited to HIV post-exposure prophylaxis provided by a hospital emergency room at the time of the forensic rape examination pursuant to paragraph (c) of subdivision one of section twenty-eight hundred five-i of the public health law. Follow-up HIV post-exposure prophylaxis costs shall continue to be reimbursed according to established office procedure. The office, in consultation with the department of health, shall also generate the necessary regulations and forms for the direct reimbursement procedure. The rate for reimbursement shall be the amount of itemized charges not exceeding eight hundred dollars, to be reviewed and adjusted annually by the office in consultation with the department of health. The hospital, sexual assault examiner program, or licensed health care provider must accept this fee as payment in full for these specified services. No additional billing of the survivor for said services is permissible. A sexual assault survivor may voluntarily assign any private insurance benefits to which she or he is entitled for the healthcare forensic examination, in which case the hospital or healthcare provider may not charge the office. A hospital, sexual assault examiner program or licensed health care provider shall, at the time of the initial visit, request assignment of any private health insurance benefits to which the sexual assault survivor is entitled on a form prescribed by the office; provided, however, such sexual assault survivor shall be advised orally and in writing that he or she may decline to provide such information regarding private health insurance benefits if he or she believes that the provision of such information would substantially interfere with his or her personal privacy or safety and in such event, the sexual assault forensic exam fee shall be paid by the office. Such sexual assault survivor shall also be advised that providing such information may provide additional resources to pay for services to other sexual assault victims. If he or she declines to provide such health insurance information, he or she shall indicate such decision on the form provided by the hospital, sexual assault examiner program or licensed health care provider, which form shall be prescribed by the office.

14. Notwithstanding any inconsistent provision of this article, where a victim dies from injuries received as a direct result of the World Trade Center terrorist attacks on September eleventh, two thousand one, the office may make an award for the unreimbursed and unreimbursable expense or indebtedness reasonably incurred for the cost of counseling for the eligible spouse, grandparents, parents, stepparents, guardians, brothers, sisters, stepbrothers, stepsisters, children, or stepchildren of such victim. Any award for such expense incurred on or before December thirty-first, two thousand seven, shall be made without regard to the financial difficulty of the claimant.

15. Notwithstanding any inconsistent provision of this article, where a victim is injured as a direct result of the World Trade Center terrorist attacks on September eleventh, two thousand one, the office may make an award for the unreimbursed and unreimbursable expense or indebtedness reasonably incurred by the claimant for medical care or counseling services necessary as a result of such injury. Any award for such expense or indebtedness incurred on or before December thirty-first, two thousand seven, shall be made without regard to the financial difficulty of the claimant.

16. Notwithstanding any inconsistent provision of this article, and without regard to the financial difficulty of the claimant, where a victim dies from injuries received as a direct result of the World Trade Center terrorist attacks on September eleventh, two thousand one, the office may make an award of reasonable burial expenses for such victim.

17. Notwithstanding the provisions of subdivision one of this section, where a child victim has not been physically injured as a direct result of a crime, or has witnessed a crime in which no physical injury occurred, the claimant shall only be eligible for an award that includes the unreimbursed cost of repair or replacement of essential personal property of the child victim that has been lost, damaged or destroyed as a direct result of a crime, transportation expenses incurred by the claimant for necessary court appearances of the child victim in connection with the prosecution of such crimes, and, if counseling is commenced within one year from the date of the incident or its discovery, (1) the unreimbursed cost of counseling provided to the child victim on account of mental or emotional stress resulting from the incident in which the crime occurred, and/or (2) the unreimbursed cost of counseling provided to the claimant eligible under paragraph (h) of subdivision one of section six hundred twenty-four of this article and resulting from the incident in which the crime occurred.

18. Notwithstanding any inconsistent provision of this article and subject to any applicable maximum award limitations contained in this section, where a victim has died as a direct result of the crime upon which the claim is based and the crime occurred in the residence of a person eligible pursuant to paragraph (k) of subdivision one of section six hundred twenty-four of this article, the office may make no more than one award for crime scene clean-up related to such residence.

NORTH CAROLINA

Summary: North Carolina does not have mandatory rape reporting. Forensic medical examinations are paid for by the Assistance Program for Victims of Rape and Sex Offenses. It is mandatory to report gunshot and stab wounds.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE OR ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

N.C. Gen. Stat. § 90-21.20. Reporting by physicians and hospitals of wounds, injuries and illnesses.

(a) Such cases of wounds, injuries or illnesses as are enumerated in subsection (b) shall be reported as soon as it becomes practicable before, during or after completion of treatment of a person suffering such wounds, injuries, or illnesses. If such case is treated in a hospital, sanitarium or other medical institution or facility, such report shall be made by the Director, Administrator, or other person designated by the Director or Administrator, or if such case is treated elsewhere, such report shall be made by the physician or surgeon treating the case, to the chief of police or the police authorities of the city or town of this State in which the hospital or other institution, or place of treatment is located. If such hospital or other institution or place of treatment is located outside the corporate limits of a city or town, then the report shall be made by the proper person in the manner set forth above to the sheriff of the respective county or to one of his deputies.

(b) Cases of wounds, injuries or illnesses which shall be reported by physicians, and hospitals include every case of a bullet wound, gunshot wound, powder burn or any other injury arising from or caused by, or appearing to arise from or be caused by, the discharge of a gun or firearm, every case of illness apparently caused by poisoning, every case of a wound or injury caused, or apparently caused, by a knife or sharp or pointed instrument if it appears to the physician or surgeon treating the case that a criminal act was involved, and every case of a wound, injury or illness in which there is grave bodily harm or grave illness if it appears to the physician or surgeon treating the case that the wound, injury or illness resulted from a criminal act of violence.

(c) Each report made pursuant to subsections (a) and (b) above shall state the name of the wounded, ill or injured person, if known, and the age, sex, race, residence or present location, if known, and the character and extent of his injuries.

(c1) In addition to the reporting requirements of subsection (b) of this section, cases involving recurrent illness or serious physical injury to any child under the age of 18 years where the illness or injury appears, in the physician's professional judgment, to be the result of non-accidental trauma shall be reported by the physician as soon as it becomes practicable before, during, or after completion of treatment. If the case is treated in a hospital, sanitarium, or other medical institution or facility, the report shall be made by the Director, Administrator, or other person designated by the Director or Administrator of the medical institution or facility, or if the case is treated elsewhere, the report shall be made by the physician or surgeon treating the case to the chief of police or the police authorities of the city or town in this State in which the

hospital or other institution or place of treatment is located. If the hospital or other institution or place of treatment is located outside the corporate limits of a city or town, then the report shall be made by the proper person in the manner set forth above to the sheriff of the respective county or to one of the sheriff's deputies. This reporting requirement is in addition to the duty set forth in G.S. 7B-301 to report child abuse, neglect, dependence, or the death of any juvenile as the result of maltreatment to the director of the department of social services in the county where the juvenile resides or is found.

(d) Any hospital, sanitarium, or other like institution or Director, Administrator, or other designated person, or physician or surgeon participating in good faith in the making of a report pursuant to this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as the result of the making of such report.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

N.C. Gen. Stat. § 143B-1200

(a) Establishment of Program. -- There is established an Assistance Program for Victims of Rape and Sex Offenses, hereinafter referred to as the "Program." The Secretary shall administer and implement the Program and shall have authority over all assistance awarded through the Program. The Secretary shall promulgate rules and guidelines for the Program.

(b) Victims to Be Provided Free Forensic Medical Examinations. -- It is the policy of this State to arrange for victims to obtain forensic medical examinations free of charge. Whenever a forensic medical examination is conducted as a result of a sexual assault or an attempted sexual assault that occurred in this State, the Program shall pay for the cost of the examination. A medical facility or medical professional that performs a forensic medical examination on the victim of a sexual assault or attempted sexual assault shall not seek payment for the examination except from the Program.

(c) No Billing of Victim. -- A medical facility or medical professional that performs a forensic medical examination shall accept payment made under this section as payment in full of the amount owed for the cost of the examination and other eligible expenses and shall not bill victims, their personal insurance, Medicaid, Medicare, or any other collateral source for the examination. Furthermore, a medical facility or medical professional shall not seek reimbursement from the Program after one year from the date of the examination.

(d) Eligible Expenses. -- Medical facilities and medical professionals who perform forensic medical examinations shall do so using a Sexual Assault Evidence Collection Kit. Payments by the Program for the forensic medical examination shall be limited to the following:

*Service
Maximum Amount*

Paid by Program

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Physician or SANE Nurse
\$ 350.00

Hospital/Facility Fee
\$ 250.00

Other Expenses Deemed Eligible

by the Program
\$ 200.00

Total:
\$ 800.00

(e) Payment Directly to Provider. -- The Program shall make payment directly to the medical facility or medical professional. Bills submitted to the Program for payment shall specify under which categories of expense set forth in subsection (d) of this section the billed services fall.

(f) Additional Victim Notification Requirements. -- A medical facility or medical professional who performs a forensic medical examination shall encourage victims to submit an application for reimbursement of medical expenses beyond the forensic examination to the Crime Victims Compensation Commission for consideration of those expenses. Medical facilities and medical professionals shall not seek reimbursement from the Program after one year from the date of the exam.

(g) Judicial Review. -- Upon an adverse determination by the Secretary on a claim for assistance under this Part, a victim is entitled to judicial review of that decision. The person seeking review shall file a petition in the Superior Court of Wake County.

(h) The Secretary shall adopt rules to encourage, whenever practical, the use of licensed registered nurses trained under G.S. 90-171.38(b) to conduct medical examinations and procedures.

(i) Definitions. -- The following definitions apply in this section:

(1) Forensic medical examination. -- An examination provided to a sexual assault victim by medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law. The examination should include at a minimum an examination of physical trauma, a patient interview, a determination of penetration or force, and a collection and evaluation of evidence. This definition shall be interpreted consistently with 28 C.F.R. § 90.2(b) and other relevant federal law.

(2) SANE nurse. -- A Sexual Assault Nurse Examiner that is a licensed registered nurse trained pursuant to G.S. 90-171.38(b) who obtains preliminary histories, conducts in-depth interviews, and conducts medical examinations of rape victims or victims of related sexual offenses.

(3) Sexual assault. -- Any of the following crimes:

- a. First-degree forcible rape as defined in G.S. 14-27.21.
- b. Second-degree forcible rape as defined in G.S. 14-27.22.
- c. First-degree statutory rape as defined in G.S. 14-27.24.
- d. Statutory rape of a person who is 15 years of age or younger as defined in G.S. 14-27.25.
- e. First-degree forcible sexual offense as defined in G.S. 14-27.26.
- f. Second-degree forcible sexual offense as defined in G.S. 14-27.27.
- g. First-degree statutory sexual offense as defined in G.S. 14-27.29.
- h. Statutory sexual offense with a person who is 15 years of age or younger as defined in G.S. 14-27.30.

(4) Sexual Assault Evidence Collection Kit. -- The kit assembled and paid for by the Program and used to conduct forensic medical examinations in this State.

NORTH DAKOTA

Summary: Mandatory reporting is not specifically required in North Dakota; however, wounds, injury or physical trauma caused in violation of any criminal law are required to be reported. Victims may only receive crime victims' compensation if they report the sexual assault to the police within 72 hours, unless there is good cause shown for the delayed report.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE OR ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

N.D. Cent. Code, § 43-17-41. Duty of physicians and others to report injury – Penalty.

1. Any physician, physician assistant, naturopath licensed under chapter 43-58, acupuncturist licensed under chapter 43-61, or any individual licensed under chapter 43-12.1 who performs any diagnosis or treatment for any individual suffering from any wound, injury, or other physical trauma:

- a. Inflicted by the individual's own act or by the act of another by means of a knife, gun, or pistol shall as soon as practicable report the wound, injury, or trauma to a law enforcement agency in the county in which the care was rendered; or

it determines that the interests of justice so require. There is no appeal from a decision of the division not to extend the filing time, not to reopen, or not to reinvestigate a claim.

3. Compensation may not be awarded to a claimant who is the offender or an accomplice of the offender, nor to any claimant if the award would unjustly benefit the offender or an accomplice.

4. Compensation may not be awarded unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within ninety-six hours after its occurrence or the division finds there was good cause for the failure to report within that time. In the case of child abuse or sexual molestation of a child, the criminally injurious conduct must be reported to a law enforcement officer within three years after the child reaches the age of majority.

5. The division, upon finding that the claimant has not fully cooperated with appropriate law enforcement agencies, may deny, reconsider, or reduce an award of compensation.

6. Compensation otherwise payable to a claimant must be reduced or denied:

a. To the extent the economic loss upon which the claim is based is recouped from other persons, including collateral sources;

b. To the extent the division deems reasonable because of the contributory misconduct of the claimant or of a victim on whose behalf compensation is claimed; and

c. To the extent the division deems reasonable when it is determined that a victim was under the influence of an alcoholic beverage or a controlled substance at the time the criminally injurious conduct occurred and the victim's intoxication was a factor causing the criminally injurious conduct.

7. Compensation for work loss, replacement services loss, dependent's economic loss, and dependent's replacement services loss may not exceed three hundred dollars per week.

8. Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed twenty-five thousand dollars in the aggregate. If a resident of this state is the victim of criminally injurious conduct outside the geographical boundaries of this state and the total amount of crime victims compensation benefits payable where the criminally injurious conduct occurred is less than twenty-five thousand dollars, the division may pay additional compensation to the victim. The maximum additional compensation the division may pay is the difference between twenty-five thousand dollars and the total amount of crime victims compensation benefits payable where the criminally injurious conduct occurred.

OHIO

Summary: Mandatory reporting of rape by medical personnel is not specifically required; however, gunshot wounds, stab wounds, serious physical harm that there is reason to

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believe resulted from an offense of violence and second degree burns or higher must be reported. Note that it is a misdemeanor for any person having knowledge that a felony has been committed to knowingly fail to report it. Hospitals and medical facilities can be reimbursed for doing forensic examinations when they are done for the purpose of gathering physical evidence for a possible prosecution.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE OR ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

ORC Ann. 2921.22. Failure to report a crime or knowledge of a death or burn injury.

(A)

(1) Except as provided in division (A)(2) of this section, no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.

(2) No person, knowing that a violation of division (B) of section 2913.04 of the Revised Code has been, or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.

(B) Except for conditions that are within the scope of division (E) of this section, no physician, limited practitioner, nurse, or other person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by the physician, limited practitioner, nurse, or person, or any serious physical harm to persons that the physician, limited practitioner, nurse, or person knows or has reasonable cause to believe resulted from an offense of violence.

(C) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained.

(D) No person shall fail to provide upon request of the person to whom a report required by division (C) of this section was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.

(E)

(1) As used in this division, "burn injury" means any of the following:

- (a) Second or third degree burns;
- (b) Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air;
- (c) Any burn injury or wound that may result in death;
- (d) Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by section 3743.01 of the Revised Code.

(2) No physician, nurse, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury that is inflicted by an explosion or other incendiary device or that shows evidence of having been inflicted in a violent, malicious, or criminal manner shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(3) No manager, superintendent, or other person in charge of a hospital, sanitarium, or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device or that shows evidence of having been inflicted in a violent, malicious, or criminal manner shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(4) No person who is required to report any burn injury under division (E)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the state fire marshal. The report shall comply with the uniform standard developed by the state fire marshal pursuant to division (A)(15) of section 3737.22 of the Revised Code.

(5) Anyone participating in the making of reports under division (E) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding section 4731.22 of the Revised Code, the physician-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted under division (E) of this section.

(F)

(1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, registered or licensed practical nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed

professional counselor, independent marriage and family therapist, or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in section 3113.31 of the Revised Code, shall note that knowledge or belief and the basis for it in the patient's or client's records.

(2) Notwithstanding section 4731.22 of the Revised Code, the doctor-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under division (F)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.

(G) Divisions (A) and (D) of this section do not require disclosure of information, when any of the following applies:

(1) The information is privileged by reason of the relationship between attorney and client; doctor and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.

(2) The information would tend to incriminate a member of the actor's immediate family.

(3) Disclosure of the information would amount to revealing a news source, privileged under section 2739.04 or 2739.12 of the Revised Code.

(4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.

(5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or services provider certified pursuant to section 5119.36 of the Revised Code.

(6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of section 2907.02 or 2907.05 of the Revised Code or to victims of felonious sexual penetration in violation of former section 2907.12 of the Revised Code. As used in this division, "counseling services"

include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.

(H) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

(I) Whoever violates division (A) or (B) of this section is guilty of failure to report a crime. Violation of division (A)(1) of this section is a misdemeanor of the fourth degree. Violation of division (A)(2) or (B) of this section is a misdemeanor of the second degree.

(J) Whoever violates division (C) or (D) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.

(K)

(1) Whoever negligently violates division (E) of this section is guilty of a minor misdemeanor.

(2) Whoever knowingly violates division (E) of this section is guilty of a misdemeanor of the second degree.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

ORC Ann. § 2907.28. Payment of cost of medical examination and test of victim or accused.

(A) Any cost incurred by a hospital or emergency medical facility in conducting a medical examination of a victim of an offense under any provision of sections 2907.02 to 2907.06 of the Revised Code for the purpose of gathering physical evidence for a possible prosecution, including the cost of any antibiotics administered as part of the examination and the cost of HIV post-exposure prophylaxis provided as part of the examination, shall be paid out of the reparations fund established pursuant to section 2743.191 of the Revised Code, subject to the following conditions:

(1) The hospital or emergency facility shall follow a protocol for conducting such medical examinations that is identified by the attorney general in rule adopted in accordance with Chapter 119. of the Revised Code.

(2) The hospital or emergency facility shall submit requests for payment to the attorney general on a monthly basis, through a procedure determined by the attorney general and on forms approved by the attorney general. The requests shall identify the number of sexual assault examinations performed and the number of sexual assault examinations in which HIV post-exposure prophylaxis was provided and shall verify that all required protocols were met for each examination form submitted for payment in the request.

(3) The attorney general shall review all requests for payment that are submitted under division (A)(2) of this section and shall submit for payment as described in division (A)(5) of this section all requests that meet the requirements of this section.

(4)

(a) The hospital or emergency facility shall accept a flat fee payment for conducting each examination in the amount determined by the attorney general pursuant to Chapter 119. of the Revised Code as payment in full for any cost incurred in conducting a medical examination and test of a victim of an offense under any provision of sections 2907.02 to 2907.06 of the Revised Code for the purpose of gathering physical evidence for a possible prosecution of a person, other than the cost of providing HIV post-exposure prophylaxis. The attorney general shall determine a flat fee payment amount to be paid under this division that is reasonable.

(b) The hospital or emergency facility shall accept a flat fee payment for providing HIV post-exposure prophylaxis in the amount determined by the attorney general pursuant to Chapter 119. of the Revised Code as payment in full for any cost incurred in providing HIV post-exposure prophylaxis while conducting a medical examination and test of a victim of an offense under any provision of sections 2907.02 to 2907.06 of the Revised Code for the purpose of gathering physical evidence for a possible prosecution of a person. The attorney general shall determine a reasonable flat fee payment amount to be paid under this division.

(5) In approving a payment under this section, the attorney general shall order the payment against the state. The payment shall be accomplished only through the following procedure, and the procedure may be enforced through a mandamus action and a writ of mandamus directed to the appropriate official:

(a) The attorney general shall provide for payment in the amount set forth in the order.

(b) The expense of the payment of the amount described in this section shall be charged against all available unencumbered moneys in the reparations fund.

(B) No costs incurred by a hospital or emergency facility in conducting a medical examination and test of any victim of an offense under any provision of sections 2907.02 to 2907.06 of the Revised Code for the purpose of gathering physical evidence for a possible prosecution of a person shall be billed or charged directly or indirectly to the victim or the victim's insurer.

(C) Any cost incurred by a hospital or emergency medical facility in conducting a medical examination and test of any person who is charged with a violation of division (B) of section 2903.11 or of section 2907.02, 2907.03, 2907.04, 2907.05, 2907.12, 2907.24, 2907.241, or 2907.25 of the Revised Code, with a violation of a municipal ordinance that is substantially

equivalent to that division or any of those sections, or with a violation of a statute or municipal ordinance under which by force or threat of force the accused compelled the victim to engage in sexual activity, pursuant to division (B) of section 2907.27 of the Revised Code, shall be charged to and paid by the accused who undergoes the examination and test, unless the court determines that the accused is unable to pay, in which case the cost shall be charged to and paid by the municipal corporation in which the offense allegedly was committed, or charged to and paid by the county if the offense allegedly was committed within an unincorporated area. If separate counts of an alleged offense or alleged separate offenses under division (B) of section 2903.11 or section 2907.02, 2907.03, 2907.04, 2907.05, 2907.12, 2907.24, 2907.241, or 2907.25 of the Revised Code, under a municipal ordinance that is substantially equivalent to that division or any of those sections, or under a statute or municipal ordinance in violation of which by force or threat of force the accused compelled the victim to engage in sexual activity took place in more than one municipal corporation or more than one unincorporated area, or both, the local governments shall share the cost of the examination and test. If a hospital or other emergency medical facility has submitted charges for the cost of a medical examination and test to an accused and has been unable to collect payment for the charges after making good faith attempts to collect for a period of six months or more, the cost shall be charged to and paid by the appropriate municipal corporation or county as specified in division (C) of this section.

(D) As used in this section:

(1) “AIDS” and “HIV” have the same meanings as in section 3701.24 of the Revised Code.

(2) “HIV post-exposure prophylaxis” means the administration of medicines to prevent AIDS or HIV infection following exposure to HIV.

Ohio Admin. Code § 109:7-1-01. Sexual assault examination protocol.

When conducting a medical examination of a victim of an offense under any provision of sections 2907.02 to 2907.06 of the Revised Code for the purpose of gathering physical evidence for a possible prosecution, a hospital, children's advocacy center, or other emergency medical facility shall follow the protocol designated in this rule and shall only use a sexual assault evidence collection kit that meets that protocol in order to qualify for payment from the reparations fund established pursuant to section 2743.191 of the Revised Code. The protocol shall be as follows:

(A) For victims other than children, the hospital or other emergency medical facility shall follow the protocol adopted by the Ohio department of health.

(B) For victims who are children, the hospital, children's advocacy center, or other emergency medical facility shall follow the protocol adopted by the committee on child abuse and neglect of the Ohio chapter of the American academy of pediatrics.

Ohio Admin. Code § 109:7-1-02. Sexual assault examination payment amount.

A hospital, children’s advocacy center, or other emergency medical facility shall accept a flat fee payment of six hundred thirty-two dollars as payment in full for any cost incurred in conducting a medical examination and test of a victim of an offense under any provision of sections 2907.02 to 2907.06 of the Revised Code for the purpose of gathering physical evidence for a possible prosecution of a person, including the cost of any antibiotics administered as part of the examination. The attorney general may increase the payment amount for inflation by a reasonable percentage according to the consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor.

The attorney general may increase the payment amount for inflation by a reasonable percentage according to the consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor.

OKLAHOMA

Summary: There is no requirement for reporting sexual assault. Sexual assault examinations are paid for by the Crime Victims Compensation Board through the Sexual Assault Examination Fund.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

21 OK St. § 142.20. Sexual Assault Examination Fund – Establishment.

A. A Sexual Assault Examination Fund shall be established for the purpose of providing to a victim of a sexual assault a forensic medical examination by a qualified licensed health care professional and to provide to the victim medications as directed by said health care professional.

B. As used in this section:

1. “Sexual assault” means:

a. rape, or rape by instrumentation, as defined in Sections 1111, 1111.1 and 1114 of this title, or

b. forcible sodomy, as defined in Section 888 of this title; and

2. “Qualified licensed health care professional” means a physician, registered nurse, or other licensed health care professional qualified by training and experience to perform sexual assault examinations.

C. The Crime Victims Compensation Board is authorized to pay for this examination and the medications directed by the qualified licensed health care professional upon application submitted by the victim of a sexual assault.

D. The Crime Victims Compensation Board shall establish the procedures for disbursement of the Sexual Assault Examination Fund, but in no event shall the Crime Victims Compensation Board pay an amount to exceed:

1. Four Hundred Fifty Dollars (\$450.00) for a sexual assault examination; and
2. Fifty Dollars (\$50.00) for medications which are related to the sexual assault and directed and deemed necessary by said health care professional.

Such payments shall not exceed the amounts specified by this subsection regardless of the amount of any individual bills comprising the claim. Payments shall be made only upon claims signed by the victim or guardian and health care professional.

E. The District Attorneys Council is hereby authorized to transfer funds, as specified in the appropriations bill annually, from the Crime Victims Compensation Fund to the Sexual Assault Examination Fund for the payment of sexual assault forensic examinations and medications, pursuant to this section.

OAC 185:15-1-1. Purpose.

The purpose of the Sexual Assault Examination Fund is to provide the victim of sexual assault with a forensic medical examination for the procurement of evidence to aid in the investigation and prosecution of a sexual assault offense and to provide to the victim medications as directed by the medical authority conducting the examination. Medications provided to the victim by the medical authority conducting the examination may only be provided to said victim on a one-time initial basis for the immediate trauma and medical examination of said victim.

OAC 185:15-1-3. Application by victim.

(a) In order to be eligible for payment by the fund for expenses of a sexual assault forensic examination, the victim of the crime must sign, prior to the examination, the portion of the Official Sexual Assault Examination Application provided by the Oklahoma Crime Victims Compensation Board. If the victim is under the age of 18, or under the supervision of a legal guardian, the parent or guardian of the victim must sign the application form.

(b) The victim's application must be accompanied by a copy of an itemized statement from the medical facility where the examination was conducted and/or from the Physician or Qualified Registered Nurse, if applicable.

(c) Should medications be prescribed by the medical authority conducting the sexual assault examination, a receipt will be required prior to reimbursement of said medication. Medication fees may be included in the hospital bill, providing the medication was dispensed at the hospital.

OAC 185:15-1-4. Duties of the physician or qualified registered nurse.

(a) The physician or qualified registered nurse who conducts the forensic examination of the victim must complete and sign the portion of the Official Application for Sexual Assault Examination Payment designated ". Examining Physician or Qualified Registered Nurse."

(b) The physician or qualified registered nurse is responsible for collecting the evidence in a professional manner and preserving the evidence for shipment to a law enforcement forensic laboratory in the manner designated by the law enforcement officer in charge of investigating the sexual assault of the victim.

OAC 185:15-1-6. Insurance.

(a) The payment of a sexual assault examination will be made, regardless of whether the victim is medically insured.

(b) In order to provide anonymity to the sexual assault victim and maintain confidentiality, any victim who has obtained a forensic sexual assault examination, will not be required to provide information to the Board relative to employment or insurance; and, shall not be required to file a claim with any private insurance company for the payment of a forensic sexual assault examination.

(c) If the victim or claimant chooses to file an insurance claim for the sexual assault examination, reimbursement should be made to the Sexual Assault Examination Fund upon payment from the insurance company.

(d) For sexual assault exams performed on adults and children, Medicaid or any other federally funded program is considered a collateral source and payment will not be made unless the denial of benefits is provided.

O.A.C. § 185:15-1-7. Limitation of payment by the fund.

(a) In all cases, the maximum payment by the fund for any one forensic sexual assault examination shall not exceed the statutory maximum.

(b) Payments from the Fund shall be made directly to the medical facility where the examination was performed.

(c) Under no circumstances shall the Fund make any payment for the expenses of medical treatment of the victim, or for any other expense other than the expense of the forensic sexual assault examination, unless authorized by statute.

(d) In the event there is a fee from the physician or a qualified registered nurse, as well as a bill from the hospital, the statutory maximum shall be prorated between both service providers if both bills are submitted at the same time.

OREGON

Summary: There is no mandatory reporting requirement in Oregon. Examination must be completed within 168 hours and use of the Oregon State Police SAFE kit must have been authorized by law enforcement. Injuries caused by a knife, gun, pistol or other deadly weapon must be reported.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

ORS § 146.730. Investigation.

A medical examiner or district attorney may investigate an injury whenever the injury occurred under suspicious or unknown circumstances. All authority granted to the medical examiner or district attorney by ORS 146.003 to 146.189 and 146.710 to 146.992 may be exercised in making such investigation.

ORS § 146.740

Whenever the medical examiner concludes that a crime may have been committed by any person in causing the injury, the medical examiner shall report the conclusion to the district attorney.

ORS § 146.750. Injuries to be reported to law enforcement agency.

(1) Except as required in subsection (3) of this section, a physician, including an intern and resident, a physician assistant licensed under ORS 677.505 to 677.525 or a registered nurse licensed under ORS chapter 678, who has reasonable cause to suspect that a person brought to the physician, physician assistant or registered nurse or coming before the physician, physician assistant or registered nurse for examination, care or treatment has had injury, as defined in ORS 146.710, inflicted upon the person other than by accidental means, shall report or cause reports to be made in accordance with the provisions of subsection (2) of this section.

(2) An oral report must be made immediately by telephone or otherwise, and followed as soon thereafter as possible by a report in writing, to an appropriate law enforcement agency.

(3) When an injury as defined in ORS 146.710 or abuse as defined in ORS 419B.005 occurs to an unmarried person who is under 18 years of age, the provisions of ORS 419B.005 to 419B.050 apply.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

OAR 137-084-0010. Claims Processing.

- (1) A victim of a sexual assault who wants the Fund to pay for a medical examination, collection of forensic evidence using the Oregon State Police SAFE Kit, emergency contraception, or sexually transmitted disease prophylaxis must indicate to the medical service provider that they wish for the provider to submit a completed Application Form to the Department.
- (2) To obtain payment from the Fund, an eligible medical services provider must submit the Application Form to the Department within one year of the date the medical services are provided. At the Department's discretion, the Department may choose to pay claims that are received after one year of the date the medical services are provided.
- (3) All medical services invoices must be submitted by the eligible medical services provider with the Application Form. Invoices submitted separately will not be paid.
- (4) To be paid for by the Fund, a complete medical assessment using the Oregon State Police SAFE Kit must be completed within 84 hours (three and one-half days) of the sexual assault. The Kit must have been released to appropriate law enforcement personnel in a timely manner after its use for collection of information.
- (5) To be paid for by the Fund, a partial medical assessment must be completed within 168 hours (seven days) of the sexual assault of the victim.
- (6) Completed Application Forms submitted with medical services invoices will be processed for payment by the Fund within 60 days of submission.

ED. NOTE: Forms referenced are available from the agency.

OAR 137-084-0020. Maximum Amounts Paid for Medical Services.

- (1) The Fund will pay eligible medical services providers the actual costs incurred for providing medical services to sexual assault victims up to the following maximum amounts:
 - (a) \$ 380 for a medical examination plus collection of forensic evidence using the Oregon State Police SAFE Kit;
 - (b) \$ 175 for a medical examination without collection of forensic evidence using the Oregon State Police SAFE Kit;
 - (c) \$ 55 for emergency contraception (including pregnancy test);
 - (d) \$ 100 for sexually transmitted disease prophylaxis;
 - (e) For dates of service April 1, 2016 or later, \$ 75 for services provided by a Doctor of Medicine or a Doctor of Osteopathy;

(f) For dates of services January 1, 2015 or later, five (5) counseling sessions, not to exceed \$ 700.00:

(i) \$ 140.00 per hour for a Doctor of Medicine;

(ii) \$ 110.00 per hour for a PhD or PsyD;

(iii) \$ 85.00 per hour for an LCSW, LCP, or LMFT;

(iv) \$ 55.00 per hour for a QMHP.

(2) An additional payment of \$ 75 will be made to eligible medical services providers who document that the medical examination, as part of either a partial or complete medical assessment, was conducted by a SANE/SAE certified nurse.

(3) The payment amounts set out in this rule will be reviewed at least every two years by the Attorney General or the Attorney General's designee to determine whether they should be adjusted to meet current circumstances.

(4) An eligible medical services provider (including subcontractor or other designee) who submits a bill to the Fund under these rules may not bill the victim or the victim's insurance carrier for a medical examination, collection of forensic evidence using the Oregon State Police SAFE Kit, emergency contraception, or sexually transmitted disease prophylaxis, except to the extent the Department is unable to pay the bill due to lack of funds or declines to pay the bill for reasons other than untimely or incomplete submission of the bill to the Fund under OAR 137-084-0030(2)(e).

OAR 137-084-0030. Payment Restrictions and Disqualifications.

(1) The Fund will not pay for any service not specifically described in ORS 147.397 or OAR 137-084-0001 through 137-084-0030. Examples of services not covered by the Fund include, but are not limited to: treatment of injuries; DNA testing; HIV testing; laboratory testing of blood for any purpose, other than pregnancy; and prescriptions filled off-site of the location of a medical examination. Nothing in this rule is intended to preclude an eligible medical services provider from submitting a claim against the victim, the victim's insurance carrier or any other source for payment for services not specifically described in ORS 147.395 through 147.397 or OAR 137-084-0001 through 137-084-0030.

(2) The Fund reserves the right not to pay for medical services described in ORS 147.395 through 147.397 or OAR 137-084-0001 through 137-084-0030 for any one of the following reasons:

(a) Services were not provided by an eligible medical services provider.

(b) Services were provided to someone other than an eligible victim.

(c) Services were not provided in accordance with the requirements in ORS 147.395 through 147.397 or OAR 137-084-0001 through 137-084-0030, including the timeliness requirements for complete medical assessments (within 84 hours (three and one-half days) of the sexual assault) and partial medical assessments (within 168 hours (seven days) of the sexual assault).

(d) Services provided were duplicate services for the same incident.

(e) Failure of the eligible medical services provider to submit a completed Application Form, submission of incomplete invoice(s) for medical services or submission of the Application Form or invoice(s) for medical services more than one year after date services provided. At the Departments discretion, the Department may choose to pay claims that are received after one year of the date the medical services are provided.

(f) Insufficient funds in the Fund to cover the services provided. The Fund will pay in full for services provided and billed to the Fund until the money in the Fund is exhausted.

(3) If the Attorney General or the Attorney General's designee determines that the Fund will not pay for one or more of the services described in ORS 147.395 through 147.397 or OAR 137-084-0020(1) and (2) for reasons other than those set out in 137-084-0030(2)(e) above, the Attorney General or the Attorney General's designee will provide notice to the medical services provider(s) affected. After receiving such notice, a medical services provider may bill the victim, the victim's insurance carrier or any other source for those medical services provided but not paid for by the Fund.

ED. NOTE: Forms referenced are available from the agency.

PENNSYLVANIA

Summary: Pennsylvania does not have a specific requirement that rape be reported; however, it requires that injuries caused by firearms or criminal acts be reported. An exception exists for injuries caused by domestic violence. A hospital or other licensed health care provider may submit a claim for reimbursement to the Office of Victims' Services for the cost of a forensic rape examination if the cost is not covered by insurance or if the victim requests that the insurance carrier not be billed. The crime must be reported within 72 hours for the examination to be covered, unless the Office of Victims' Services finds the delay justified. Upon filing of a claim, the Office of Victims' Services shall promptly notify the prosecutor of the county where the crime is alleged to have occurred.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE AND ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

18 Pa.C.S. § 5106. Failure to report injuries by firearm or criminal act.

(a) Offense defined. — Except as set forth in subsection (a.1), a physician, intern or resident, or any person conducting, managing or in charge of any hospital or pharmacy, or in charge of any ward or part of a hospital, to whom shall come or be brought any person:

(1) suffering from any wound or other injury inflicted by his own act or by the act of another which caused death or serious bodily injury, or inflicted by means of a deadly weapon as defined in section 2301 (relating to definitions); or

(2) upon whom injuries have been inflicted in violation of any penal law of this Commonwealth;

commits a summary offense if the reporting party fails to report such injuries immediately, both by telephone and in writing, to the chief of police or other head of the police department of the local government, or to the Pennsylvania State Police. The report shall state the name of the injured person, if known, the injured person's whereabouts and the character and extent of the person's injuries.

(a.1) Exception. — In cases of bodily injury as defined in section 2301 (relating to definitions), failure to report under subsection (a)(2) does not constitute an offense if all of the following apply:

(1) The victim is an adult and has suffered bodily injury.

(2) The injury was inflicted by an individual who:

(i) is the current or former spouse of the victim;

(ii) is a current or former sexual or intimate partner of the victim;

(iii) shares biological parenthood with the victim; or

(iv) is or has been living as a spouse of the victim.

(3) The victim has been informed:

(i) of the duty to report under subsection (a)(2); and

(ii) that the report under subsection (a)(2) cannot be made without the victim's consent.

(4) The victim does not consent to the report under subsection (a)(2).

(5) The victim has been provided with a referral to the appropriate victim service agency such as a domestic violence or sexual assault program.

(b) Immunity granted. — No physician or other person shall be subject to civil or criminal liability by reason of complying with this section.

(c) Physician-patient privilege unavailable. — In any judicial proceeding resulting from a report pursuant to this section, the physician-patient privilege shall not apply in respect to evidence regarding such injuries or the cause thereof. This subsection shall not apply where a report is not made pursuant to subsection (a.1).

(d) Reporting of crime encouraged. — Nothing in this chapter precludes a victim from reporting the crime that resulted in injury.

(e) Availability of information. — A physician or other individual may make available information concerning domestic violence or sexual assault to any individual subject to the provisions of this chapter.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

18 P.S. § 11.707. Awards.

(a) REQUIREMENTS.— No award shall be made unless it is determined by a preponderance of the evidence that:

(1) A crime was committed.

(2) The person injured or killed was a direct victim or intervenor.

(3) The crime was promptly reported to the proper authorities. In no case may an award be made if the record shows that the report was made more than 72 hours after the occurrence of the crime unless:

(i) the victim is under 18 years of age at the time of the occurrence of the crime and the alleged offender is the victim's parent or a person responsible for the victim's welfare, an individual residing in the same home as the victim or a paramour of the victim's parent; or

(ii) the Office of Victims' Services finds the delay to have been justified, consistent with bureau regulations.

(4) The direct victim, intervenor or claimant has fully cooperated with all law enforcement agencies and the Office of Victims' Services unless the Office of Victims' Services finds the noncompliance to have been justified consistent with Office of Victims' Services regulations.

(A.1) PROTECTION FROM ABUSE.— A claimant who satisfies the eligibility requirements of subsection (a)(1), (2) and (4) may satisfy the eligibility

requirement under subsection (a)(3) for reporting a crime to the proper authorities by commencing an action brought in accordance with 23 Pa.C.S. Ch. 61 (relating to protection from abuse) and as provided for in the Pennsylvania Rules of Civil Procedure. In no case may an award be made if the record shows that the petition was:

(1) Withdrawn, unless the Office of Victim Services finds the withdrawal to have been justified, consistent with regulations of the Office of Victim Services.

(2) Filed more than 72 hours after the occurrence of the criminal conduct leading to the commencement of the action, unless:

(i) the victim is under 18 years of age at the time of the occurrence of the criminal conduct and the alleged offender is the victim's parent or a person responsible for the victim's welfare, an individual residing in the same home as the victim or a paramour of the victim's parent; or

(ii) the Office of Victim Services finds the delay to have been justified, consistent with regulations of the Office of Victim Services.

(b) AMOUNT.—

(1) Any award made under this chapter shall be in an amount not exceeding out-of-pocket loss, together with loss of past, present or future earnings or support resulting from such injury. In no case shall the total amount of an award exceed \$ 35,000 except for payment of the following:

(i) counseling, the maximum amount of which shall be in accordance with paragraph (4.1);

(ii) forensic rape examination and medications directly related to the sexual assault or rape, the amount of which shall not exceed \$ 1,000; or

(iii) reasonable and necessary costs of cleaning the crime scene of a private residence, the amount of which shall not exceed \$ 500.

(2) An award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter, be in an amount equal to the actual loss sustained. The following shall apply:

(i) No such award shall exceed the average weekly wage for all persons covered by the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L. 2897, No. 1), known as the Unemployment Compensation Law, in this Commonwealth as determined

annually by the Department of Labor and Industry for each week of lost earnings or support.

(ii) Except as set forth in subparagraph (iii), the aggregate award for the loss shall not exceed \$ 15,000.

(iii) In the case of death of a direct victim or intervenor, the aggregate award shall not exceed \$ 20,000.

(3) If an order of restitution has been entered on behalf of the direct victim, those amounts actually collected shall be applied first to property losses incident to the crime and secondly to personal injury losses as set forth in subsection (f).

(4) An award for counseling performed by or under the supervision of a psychiatrist, psychologist, licensed professional counselor or licensed social worker and subject to the provisions of paragraph (4.1) may be made to:

(i) a direct victim;

(ii) an individual responsible for the direct victim's welfare;

(iii) an individual who is physically present at the crime scene and witnesses a violent crime;

(iv) in the case of a homicide, an individual who discovers the body;

(v) anyone related to the direct victim within the second degree of consanguinity or affinity;

(vi) anyone maintaining a common-law relationship with the direct victim;

(vii) anyone residing in the same household with the direct victim; or

(viii) anyone engaged to be married to the direct victim.

(4.1) In the case of an award made pursuant to paragraph (4), the following shall apply:

(i) The amount of an award under paragraph (4)(i) shall not exceed \$ 5,000 where the direct victim is an adult and shall not exceed \$ 10,000 where the direct victim is a minor.

(ii) The amount of an award under paragraph (4)(ii), (v), (vi), (vii) or (viii) shall not exceed \$ 2,500 except in the case of a homicide whereby the amount of this award shall not exceed \$ 5,000.

(iii) The amount of an award under paragraph (4)(iii) or

(iv) shall not exceed \$ 1,500.

(5) An award for the reasonable and necessary costs for the replacement of prosthetic devices, wheelchairs, canes, walkers, hearing aids, eyeglasses or other corrective lenses, dental devices or prescription medications damaged or stolen as a result of the crime shall be at a rate set by the Office of Victims' Services. Expenses for prosthetic devices, wheelchairs, canes, walkers, hearing aids, eyeglasses or other corrective lenses, dental devices or prescription medications needed as a result of the crime shall be counted against the \$ 35,000 award limitation.

(c) PUBLIC ASSISTANCE.— PROVISIONS OF AWARDS MADE PURSUANT TO A STATUTE COMPENSATING OR BENEFITING A DIRECT VICTIM OR CLAIMANT SHALL IN NO WAY AFFECT THE CLAIMANT'S OR DIRECT VICTIM'S ELIGIBILITY UNDER PUBLIC ASSISTANCE OR ANY OTHER FEDERAL OR COMMONWEALTH SOCIAL BENEFIT OR ASSISTANCE PROGRAM.

(d) APPORTIONMENT.— IF THERE ARE TWO OR MORE INDIVIDUALS ENTITLED TO AN AWARD AS A RESULT OF THE DEATH OF A DIRECT VICTIM OR INTERVENOR, THE AWARD SHALL BE APPORTIONED AMONG THE CLAIMANTS.

(e) REDUCTION.— EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, AN AWARD MADE UNDER THIS CHAPTER SHALL BE REDUCED BY THE AMOUNT OF ANY PAYMENTS RECEIVED OR TO BE RECEIVED BY THE CLAIMANT AS A RESULT OF THE INJURY:

(1) from or on behalf of the individual who committed the crime;

(2) under any insurance or health and welfare programs, including those mandated by law;

(3) under any contract of insurance wherein the claimant is the beneficiary;

(4) from public funds;

(5) as an emergency award under section 706;

(6) under any pension program, including those providing for disability or survivor's benefits; or

(7) under a settlement or award made by or on behalf of a party alleged to be responsible in whole or in part for the injury, without regard to the party's criminal culpability.

(f) DIRECT VICTIM RESPONSIBILITY.—

(1) Except as set forth in paragraphs (2) and (3), in determining the amount of an award, the Office of Victims' Services shall determine whether the direct victim or intervenor, because of conduct, contributed to the infliction of the injury. The Office of Victims' Services shall reduce the amount or deny the claim altogether in accordance with the determination.

(2) If the crime involved is rape or sexual assault, the conduct of the direct victim shall not be considered. If the crime involved is related to domestic violence, the conduct of the direct victim shall not be considered unless the direct victim was the primary aggressor.

(3) If the crime involved is a homicide, the conduct of the direct victim shall not be considered for claims by eligible claimants for counseling.

(g) INTERVENOR RESPONSIBILITY.— IN DETERMINING THE AMOUNT OF AN AWARD TO AN INTERVENOR, THE OFFICE OF VICTIMS' SERVICES MAY CONSIDER WHETHER THE INTERVENOR, BECAUSE OF CONDUCT, CONTRIBUTED TO THE INFLICTION OF THE INJURY. THE OFFICE OF VICTIMS' SERVICES SHALL REDUCE THE AMOUNT OR DENY THE CLAIM ALTOGETHER IN ACCORDANCE WITH THE DETERMINATION.

(h) FORENSIC RAPE INVESTIGATION.—

(1) A hospital or other licensed health care provider may submit a claim for reimbursement for the cost of a forensic rape examination if the cost is not covered by insurance or if the victim requests that the insurance carrier not be billed. Upon filing of a claim, the Office of Victims' Services shall promptly notify the prosecutor of the county where the crime is alleged to have occurred. The reimbursement, where applicable, shall be at a rate set by the Office of Victims' Services.

(2) The cost of a forensic rape examination and the cost of medications prescribed to the direct victim shall not be charged to the victim.

(3) A sexual assault or rape victim need not be an applicant for any other compensation under this chapter.

RHODE ISLAND

Summary: Rhode Island requires reports for sexual assault. Medical providers must provide sexual assault examinations without discrimination on account of source of payment. There is a requirement that gunshot wounds be reported.

LAWS MANDATING RAPE REPORTING

R.I. Gen. Laws § 11-37-13.3. Sexual assault reports.

- **(a)** A law enforcement officer who responds to or investigates a sexual assault or child molestation sexual assault incident, shall, upon determination of probable cause for arrest or referral to the attorney general's office, complete a sexual assault report (DV/SA-1).
- **(b)** For the purpose of establishing data on the extent and severity of arrests for sexual assault and child molestation sexual assault in the state and on the degree of compliance with the requirements of this section the domestic violence training and monitoring unit of the court system shall prescribe a form for making sexual assault reports. The form shall include, but is not limited to, the following information:
 - **(1)** Name of the parties;
 - **(2)** Relationship of the parties;
 - **(3)** Sex of the parties;
 - **(4)** Date of birth of the parties;
 - **(5)** Time and date of the alleged incident;
 - **(6)** Whether children were allegedly involved or whether the alleged act of sexual assault or child molestation sexual assault was committed in the presence of children;
 - **(7)** Type and extent of the alleged abuse;
 - **(8)** Number and types of alleged weapons involved;
 - **(9)** Existence of any prior court order; and
 - **(10)** Any other data that may be necessary for a complete analysis of all circumstances leading to the arrest.
- **(c)** Each police department shall forward copies of the reports to the unit at the end of each month.
- **(d)** Upon adjudication of acquittal, dismissal or other exoneration the sexual assault report form will be expunged by the domestic violence training and monitoring unit.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

R.I. Gen. Laws § 11-47-48. Report of gunshot wounds.

Every physician attending or treating a case of bullet wound, gunshot wound, powder burn, or any other injuring arising from or caused by the discharge of a gun, pistol, or other firearm, or whenever any case is treated in a hospital, sanitarium, dispensary, or other institution the person is in charge of it, shall report the case at once to the police authorities of the town or city where the physician, hospital, sanitarium, dispensary or institution is located. This section shall not apply to wounds, burns, or injuries received by any member of the armed forces of the United States or of this state while engaged in the actual performance of duty. Whoever violates any provision of this section shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100).

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

R.I. Gen. Laws § 23-17-26. Emergency health care.

National District Attorney Association
 National Center for Prosecution of Violence Against Women
 DOJ Grant #2009-TA-AX-K012
www.ndaa.org

(a) Every health care facility that has an emergency medical care unit shall provide to every person prompt life saving medical care treatment in an emergency, and a sexual assault examination for victims of sexual assault without discrimination on account of economic status or source of payment, and without delaying treatment for the purpose of a prior discussion of the source of payment unless the delay can be imposed without material risk to the health of the person.

(b) Violations of this section shall be reported to the director of the state department of health who shall investigate the violations as the director deems appropriate.

SOUTH CAROLINA

Summary: There is no requirement that rape be reported; however, there is a requirement that gunshot wounds be reported. The victim cannot be required to pay for a medicolegal examination and the examination is covered by the Crime Victims' Compensation Fund.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

S.C. Code Ann. § 16-3-1072. Reporting medical treatment for gunshot wound; immunity; physician-patient privilege abrogated; penalties.

(A) Any physician, nurse, or any other medical or emergency medical services personnel of a hospital, clinic, or other health care facility or provider who knowingly treats any person suffering from a gunshot wound or who receives a request for such treatment shall report within a reasonable time the existence of the gunshot wound to the sheriff's department of the county in which the treatment is administered or a request is received. However, no report is necessary if a law enforcement officer is present with the victim while treatment is being administered.

(B) The reports provided for in subsection (A) may be made orally, or otherwise. A hospital, clinic, or other health care facility or provider may designate an individual to make the reports provided for in this section. However, a report must be made as soon as possible, but no later than the time of the victim's release from that facility.

(C) A person required to make a report pursuant to this section or who participates in judicial proceedings resulting from the report, acting in good faith, is immune from civil and criminal liability which might otherwise result by reason of these actions. In all such civil and criminal proceedings, good faith is rebuttably presumed.

(D) For purposes of this section, the confidential or privileged nature of communication between physician and patient and any other professional person and his patient or client is abrogated and does not constitute grounds for failure to report or the exclusion of evidence resulting from a report made pursuant to this section.

(E) A person required to report the existence of a gunshot wound who knowingly fails to do so is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

S.C. Code Ann. § 16-3-1350. Medicolegal examinations for victims of criminal sexual conduct or sexual abuse.

(A) The State must ensure that a victim of criminal sexual conduct in any degree, criminal sexual conduct with a minor in any degree, or child sexual abuse must not bear the cost of his or her routine medicolegal exam following the assault.

(B) These exams must be standardized relevant to medical treatment and to gathering evidence from the body of the victim and must be based on and meet minimum standards for rape exam protocol as developed by the South Carolina Law Enforcement Division, the South Carolina Hospital Association, and the Governor's Office Division of Victim Assistance with production costs to be paid from funds appropriated for the Victim's Compensation Fund. These exams must include treatment for sexually transmitted diseases, and must include medication for pregnancy prevention if indicated and if desired. The South Carolina Law Enforcement Division must distribute these exam kits to any licensed health care facility providing sexual assault exams. When dealing with a victim of criminal sexual assault, the law enforcement agency immediately must transport the victim to the nearest licensed health care facility which performs sexual assault exams. A health care facility providing sexual assault exams must use the standardized protocol described in this subsection.

(C) A licensed health care facility, upon completion of a routine sexual assault exam as described in subsection (B) performed on a victim of criminal sexual conduct in any degree, criminal sexual conduct with a minor in any degree, or child sexual abuse, may file a claim for reimbursement directly to the South Carolina Crime Victim's Compensation Fund if the offense occurred in South Carolina. The South Carolina Crime Victim's Compensation Fund must develop procedures for health care facilities to follow when filing a claim with respect to the privacy of the victim. Health care facility personnel must obtain information necessary for the claim at the time of the exam, if possible. The South Carolina Crime Victim's Compensation Fund must reimburse eligible health care facilities directly.

(D) The Governor's Office Division of Victim Assistance must utilize existing funds appropriated from the general fund for the purpose of compensating licensed health care facilities for the cost of routine medical exams for sexual assault victims as described above. When the director determines that projected reimbursements in a fiscal year provided in this section exceed funds appropriated for payment of these reimbursements, he must direct the payment of the additional services from the Victim's Compensation Fund. For the purpose of this particular exam, the one hundred dollar deductible is waived for award eligibility under the fund. The South Carolina Victim's Compensation Fund must develop appropriate guidelines and procedures and distribute them to law enforcement agencies and appropriate health care facilities.

SOUTH DAKOTA

Summary: There is no mandatory reporting requirement specific to sexual assault; however, it is mandatory to report bullet wounds, gunshot wounds and injuries arising from the discharge of a firearm. A forensic sexual assault examination shall be provided without cost if the sexual assault is reported to the state.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

S.D. Codified Law § 23-13-10. Persons treating firearm injury – Reporting requirement.

Any person treating any bullet wound, gunshot wound, powder burn, or any other injury arising from or caused by the discharge of any firearm, shall report such treatment to the sheriff of the county in which the wound is treated.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

S.D. Codified Laws § 22-22-26. Examination of victim to gather evidence – Responsibility for cost.

If a physician, hospital, or clinic examines the victim of an alleged rape or sexual offense the examination shall be provided without cost to the victim. The physician, hospital, or clinic shall be paid for the cost of the examination by the county where the alleged rape or sexual offense occurred, which shall be reimbursed by any defendant if convicted.

TENNESSEE

Summary: There is no mandatory reporting requirement; however, there is a requirement to report injuries caused by a knife, pistol, gun, deadly weapon or by other means of violence. Forensic medical examinations are paid for by the criminal injuries compensation fund.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE OR ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Tenn. Code Ann. § 38-1-101. Reports to law enforcement officials of certain types of injuries – Immunity for reporting – Exception.

(a) All hospitals, clinics, sanitariums, doctors, physicians, surgeons, nurses, pharmacists, undertakers, embalmers, or other persons called upon to tender aid to persons suffering from any wound or other injury inflicted by means of a knife, pistol, gun, or other deadly weapon, or by other means of violence, or suffering from the effects of poison, or suffocation, or where a wound or injury is reasonably believed to have resulted from exposure to a methamphetamine

laboratory or a methamphetamine related fire, explosion, or chemical release, or appears to be suffering from or to have been the victim of female genital mutilation in violation of § 39-13-110, shall report the same immediately to the chief of police, if the injured person is in or brought into or the injury occurred in an incorporated town or city, or to the sheriff if the injured person is in or brought into or the injury occurred in the county outside the corporate limits of any incorporated town or city, and shall also, in either event, report the same immediately to the district attorney general or a member of the district attorney general's staff of the judicial district in which the injured person is, or has been brought into, or the injury occurred. Such report shall state the name, residence, and employer of such person, if known, such person's whereabouts at the time the report is made, the place the injury occurred, and the character and extent of such injuries.

(b) Injuries to minors that are required to be reported by § 37-1-403 are not required to be reported under this section.

(c)

(1) Where a person acts in good faith in making a report under subsection (a), that person shall be immune from any civil liability and shall have an affirmative defense to any criminal liability arising from that protected activity.

(2) There exists a rebuttable presumption that a person making a report under subsection (a) is doing so in good faith.

(d) For purposes of this part, "person" means any individual, firm, partnership, co-partnership, association, corporation, governmental subdivision or agency, or other organization or other legal entity, or any agent, servant, or combination of persons thereof.

(e) (1) The reporting provisions in subsection (a) do not apply if the person seeking or receiving treatment:

(A) Is 18 years of age or older;

(B) Objects to the release of any identifying information to law enforcement officials; and

(C) Is a victim of a sexual assault offense or domestic abuse as defined in § 36-3-601.

(2) This exception shall not apply and the injuries shall be reported as provided in subsection (a) if the injuries incurred by the sexual assault or domestic abuse victim are considered by the treating healthcare professional to be life threatening, or the victim is being treated for injuries inflicted by strangulation, a knife, pistol, gun, or other deadly weapon.

(3) A hospital, healthcare provider or other person who is required to report under subsection (a) shall be immune from civil liability for not reporting if in

good faith the hospital, healthcare provider or other person does not report the injury in order to comply with this subsection (e).

(4) If a person injured as provided in subsection (a) is first treated by an EMT, EMT-P, emergency medical or rescue worker, firefighter or other first responder, it shall not be the duty of the first responder to determine if the patient comes within the provisions of subdivision (e)(1). If the first responder transports the patient to a healthcare facility, the first responder's duty is to notify the treating physician or emergency room staff at the facility of the suspected cause of the patient's injury. If the patient is not transported to a healthcare facility, the first responder shall report the result of the call to the 911 center.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Tenn. Code Ann. § 29-13-118. Forensic medical examinations in sexual assault cases.

- **(a)** For purposes of this section, unless the context otherwise requires, "forensic medical examination" means an examination provided to a victim of a sexually-oriented crime by any health care provider who gathers evidence of a sexual assault in a manner suitable for use in a court of law.
- **(b)**
 - **(1)** A victim of a sexually-oriented crime, defined as a violation of §§ 39-13-502 - 39-13-506, 39-13-522, 39-13-527, 39-13-531, and 39-13-532, shall be entitled to forensic medical examinations without charge to the victim. No bill for the examination shall be submitted to the victim, nor shall the medical facility hold the victim responsible for payment. All claims for forensic medical examinations are eligible for payment from the criminal injuries compensation fund, created under § 40-24-107.
 - **(2)** Notwithstanding any provision of this part to the contrary, the victims shall not be required to report the incident to law enforcement officers or to cooperate in the prosecution of the crime in order to be eligible for payment of forensic medical examinations.
- **(c)** A claim for compensation under this section shall be filed no later than one (1) year after the date of the examination by the health care provider that performed the examination, including a hospital, physician, SANE program, Child Advocacy Center, or other medical facility. The claim shall be filed with the division, in person or by mail. The division is authorized to prescribe and distribute forms for the filing of claims for compensation. The claim shall set forth the name and address of the victim, and any other information required by the division in order to satisfy federal regulations issued under the Victims of Crime Act of 1984, compiled generally in 42 U.S.C. § 10601 et seq. The claim shall be accompanied by an itemized copy of the bill from the health care provider that conducted the examination. The bill shall, at a minimum, set forth the name of the victim, the date the examination was

performed, the amount of the bill, the amount of any payments made on the bill, and the name and address of the health care provider that performed the examination.

- **(d)** The amount of compensation that may be awarded under this section shall not exceed one thousand dollars (\$1,000), and shall constitute full compensation to the health care provider that provided the service. No provider receiving compensation pursuant to this section shall bill the victim for any additional cost related to the forensic medical examination. The compensation shall be made pursuant to this subsection (d) no later than ninety (90) days after receiving the documentation required under subsection (c).
- **(e)** Payment to a health care provider under this section does not prohibit the victim from receiving other payments for which the victim may be eligible under this part or any other law.

TEXAS

Summary: There is no requirement that rape be reported. A law enforcement agency that requests a medical examination of a victim of a sexual assault for use in the investigation or prosecution of the offense shall pay all costs of the forensic examination. The sexual assault must be reported within 96 hours. It is mandatory to report gunshot wounds.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Tex. Health & Safety Code § 161.041. Mandatory Reporting of Gunshot Wounds.

A physician who attends or treats, or who is requested to attend or treat, a bullet or gunshot wound, or the administrator, superintendent, or other person in charge of a hospital, sanatorium, or other institution in which a bullet or gunshot wound is attended or treated or in which the attention or treatment is requested, shall report the case at once to the law enforcement authority of the municipality or county in which the physician practices or in which the institution is located.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Tex. Code Crim. Proc. art. 56.06. Forensic Medical Examination for Sexual Assault Victim Who Has Reported Assault; Costs.

(a) If a sexual assault is reported to a law enforcement agency within 96 hours of the assault, the law enforcement agency, with the consent of the victim, a person authorized to act on behalf of the victim, or an employee of the Department of Family and Protective Services, shall request a forensic medical examination of the victim of the alleged assault for use in the investigation or prosecution of the offense. A law enforcement agency may decline to request a forensic medical examination under this subsection only if the person reporting the sexual

assault has made one or more false reports of sexual assault to any law enforcement agency and if there is no other evidence to corroborate the current allegations of sexual assault.

(b) If a sexual assault is not reported within the period described by Subsection (a), on receiving the consent described by that subsection the law enforcement agency may request a forensic medical examination of a victim of an alleged sexual assault as considered appropriate by the agency.

(c) A law enforcement agency that requests a forensic medical examination of a victim of an alleged sexual assault for use in the investigation or prosecution of the offense shall pay all costs of the examination. On application to the attorney general, the law enforcement agency is entitled to be reimbursed for the reasonable costs of that examination if the examination was performed by a physician or by a sexual assault examiner or sexual assault nurse examiner, as defined by Section 420.003, Government Code.

(d) A law enforcement agency or prosecuting attorney's office may pay all costs related to the testimony of a licensed health care professional in a criminal proceeding regarding the results of the forensic medical examination or manner in which it was performed.

(e) This article does not require a law enforcement agency to pay any costs of treatment for injuries.

(f) The attorney general may make a payment to or on behalf of an individual for the reasonable costs incurred for medical care provided in accordance with Section 323.004, Health and Safety Code.

Tex. Code Crim. Proc. art. 56.065. Medical Examination for Sexual Assault Victim Who Has Not Reported Assault; Costs.

(a) In this article:

(1) "Crime laboratory" has the meaning assigned by Article 38.35.

(2) "Department" means the Department of Public Safety.

(3) "Sexual assault examiner" and "sexual assault nurse examiner" have the meanings assigned by Section 420.003, Government Code.

(b) This article applies to the following health care facilities that provide diagnosis or treatment services to victims of sexual assault:

(1) a general or special hospital licensed under Chapter 241, Health and Safety Code;

(2) a general or special hospital owned by this state;

(3) an outpatient clinic; and

(4) a private physician's office.

(c) In accordance with Subchapter B, Chapter 420, Government Code, and except as provided by Subsection (e), a health care facility shall conduct a forensic medical examination of the victim of an alleged sexual assault if:

(1) the victim arrives at the facility within 96 hours after the assault occurred;

(2) the victim consents to the examination; and

(3) at the time of the examination the victim has not reported the assault to a law enforcement agency.

(d) The department shall pay the appropriate fees, as set by attorney general rule, for the forensic portion of the medical examination and for the evidence collection kit if a physician, sexual assault examiner, or sexual assault nurse examiner conducts the forensic portion of the examination within 96 hours after the alleged sexual assault occurred. The attorney general shall reimburse the department for fees paid under this subsection.

(e) If a health care facility does not provide diagnosis or treatment services to victims of sexual assault, the facility shall refer a victim seeking a forensic medical examination under Subsection (c) to a health care facility that provides services to those victims.

(f) The department, consistent with Chapter 420, Government Code, may develop procedures regarding the submission or collection of additional evidence of the alleged sexual assault other than through an examination as described by this article.

(g) The department, consistent with Chapter 420, Government Code, shall develop procedures for the transfer and preservation of evidence collected under this article to a crime laboratory or other suitable location designated by the public safety director of the department. The receiving entity shall preserve the evidence until the earlier of:

(1) the second anniversary of the date the evidence was collected; or

(2) the date on which written consent to release the evidence is obtained as provided by Section 420.0735, Government Code.

(h) The victim may not be required to:

(1) participate in the investigation or prosecution of an offense as a condition of receiving a forensic medical examination under this article; or

(2) pay for the forensic portion of the medical examination or for the evidence collection kit.

(i) The attorney general and the department each shall adopt rules as necessary to implement this article.

(j) A communication or record that contains identifying information regarding a person who receives a forensic medical examination under this article and that is created by, provided to, or in the control or possession of the department is confidential for purposes of Section 552.101, Government Code. In this subsection, “identifying information” includes:

(1) information revealing the identity, personal history, or background of the person; or

(2) information concerning the victimization of the person.

(k) The attorney general may make a payment to or on behalf of an individual for the reasonable costs incurred for medical care provided in accordance with Section 323.004, Health and Safety Code.

UTAH

Summary: There is no specific requirement that rape be reported in Utah; however, there is a requirement that injuries caused a knife, gun, pistol, explosive, infernal device, or deadly weapon, or by violation of any criminal statute be reported. The Crime Victims' Reparation Fund will pay for examinations necessary to document criminally injurious conduct.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Utah Code Ann. § 26-23a-2. Injury reporting requirements by health care provider – Contents of report.

(1)

(a) Any health care provider who treats or cares for any person who suffers from any wound or other injury inflicted by the person's own act or by the act of another by means of a knife, gun, pistol, explosive, infernal device, or deadly weapon, or by violation of any criminal statute of this state, shall immediately report to a law enforcement agency the facts regarding the injury.

(b) The report shall state the name and address of the injured person, if known, the person's whereabouts, the character and extent of the person's injuries, and the name, address, and telephone number of the person making the report.

(2) A health care provider may not be discharged, suspended, disciplined, or harassed for making a report pursuant to this section.

(3) A person may not incur any civil or criminal liability as a result of making any report required by this section.

(4) A health care provider who has personal knowledge that the report of a wound or injury has been made in compliance with this section is under no further obligation to make a report regarding that wound or injury under this section.

Utah Code Ann. 26-23a-3. Penalties.

Any health care provider who intentionally or knowingly violates any provision of Section 26-23a-2 is guilty of a class B misdemeanor.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Utah Code Ann. § 63M-7-511. Compensable losses and amounts.

A reparations award under this chapter may be made if:

(1) the reparations officer finds the claim satisfies the requirements for the award under the provisions of this chapter and the rules of the board;

(2) money is available in the fund;

(3) the person for whom the award of reparations is to be paid is otherwise eligible under this part; and

(4) the claim is for an allowable expense incurred by the victim, as follows:

(a) reasonable and necessary charges incurred for products, services, and accommodations;

(b) inpatient and outpatient medical treatment and physical therapy, subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) mental health counseling which:

(i) is set forth in a mental health treatment plan which has been approved prior to any payment by a reparations officer; and

(ii) qualifies within any further rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

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(d) actual loss of past earnings and anticipated loss of future earnings because of a death or disability resulting from the personal injury at a rate not to exceed 66-2/3% of the person's weekly gross salary or wages or the maximum amount allowed under the state workers' compensation statute;

(e) care of minor children enabling a victim or spouse of a victim, but not both of them, to continue gainful employment at a rate per child per week as determined under rules established by the board;

(f) funeral and burial expenses for death caused by the criminally injurious conduct, subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(g) loss of support to the dependent or dependents not otherwise compensated for a pecuniary loss for personal injury, for as long as the dependence would have existed had the victim survived, at a rate not to exceed 66-2/3% of the person's weekly salary or wages or the maximum amount allowed under the state workers' compensation statute, whichever is less;

(h) personal property necessary and essential to the health or safety of the victim as defined by rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(i) medical examinations as defined in Section 63M-7-502, subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may allow for exemptions from Sections 63M-7-509, 63M-7-512, and 63M-7-513.

VERMONT

Summary: There is no specific requirement that rape be reported. It is mandatory to report gunshot wounds. The state shall pay for sexual assault forensic examinations.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

13 V.S.A. § 4012. Reporting treatment of firearm wounds.

(a) Every physician attending or treating a case of bullet wound, gunshot wound, powder burn, or any other injury arising from or caused by the discharge of a gun, pistol, or other firearm, or whenever such case is treated in a hospital, sanitarium or other institution, the manager, superintendent or other person in charge shall report such case at once to local law enforcement officials or the state police. The provisions of this section shall not apply to such wounds, burns or injuries received by a member of the armed forces of the United States or state of Vermont while engaged in the actual performance of duty.

(b) A person violating the provisions of this section shall be fined not more than \$ 100.00.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

32 V.S.A. § 1407. Costs to be borne by the State.

(a) As described in this section, the State shall cover the costs of certain medical care for victims of crime committed in this State without health insurance or whose health insurance does not pay for all of the care provided.

(b) The State shall bear the costs of forensic medical and psychological examinations administered to victims of crime committed in this State, in instances where that examination is requested by a law enforcement officer or a prosecuting authority of the State or any of its subdivisions and the victim does not have health coverage or the victim's health coverage does not cover the entire cost of the examination. The State shall also bear the costs of sexual assault examinations, as defined in 8 V.S.A. § 4089, administered to victims in cases of alleged sexual assault where the victim obtains such an examination prior to receiving such a request if the victim does not have health coverage or the victim's health coverage does not cover the entire cost of the examination. If, as a result of a sexual assault examination, the alleged victim has been referred for mental health counseling, the State shall bear any costs of such examination not covered by the victim's health coverage. These costs may be paid from the Victims' Compensation Fund from funds appropriated for that purpose.

(c)

(1) Health care facilities and health care providers shall bill the victim's health insurance plan, Medicaid, Medicare, or another health benefit plan, as applicable, for the services described in subsection (b) of this section. If the victim does not have health coverage or if the victim's health benefit plan denies the claim, the Fund shall reimburse health care facilities and health care providers located in Vermont as defined in 18 V.S.A. § 9402 at 60 percent of the billed charges for these claims, and the health care provider or facility shall not bill any balance to the crime victim.

(2) If the victim's health coverage does not cover all of the medical care provided pursuant to this section and the victim would otherwise be responsible for any co-payment, coinsurance, deductible, or other cost-sharing, the Fund shall pay the victim's share directly to the health care facility or provider.

(d) A victim, at his or her own expense, may obtain copies of the results of an examination under this section.

VIRGINIA

Summary: There is no mandatory reporting requirement. It is mandatory to report injuries caused by guns, knives and similar weapons. All medical fees involved in the

gathering of evidence where medical evidence is necessary to establish a crime has occurred shall be paid by the Commonwealth.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Va. Code Ann. § 54.1-2967. Physicians and others rendering medical aid to report certain wounds.

Any physician or other person who renders any medical aid or treatment to any person for any wound which such physician or other person knows or has reason to believe is a wound inflicted by a weapon specified in § 18.2-308 and which wound such physician or other person believes or has reason to believe was not self-inflicted shall as soon as practicable report such fact, including the wounded person's name and address, if known, to the sheriff or chief of police of the county or city in which treatment is rendered. If such medical aid or treatment is rendered in a hospital or similar institution, such physician or other person rendering such medical aid or treatment shall immediately notify the person in charge of such hospital or similar institution, who shall make such report forthwith.

Any physician or other person failing to comply with this section shall be guilty of a Class 3 misdemeanor. Any person participating in the making of a report pursuant to this section or participating in a judicial proceeding resulting therefrom shall be immune from any civil liability in connection therewith, unless it is proved that such person acted in bad faith or with malicious intent.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Va. Code Ann. § 19.2-165.1. Payment of medical fees in certain criminal cases; reimbursement.

A. Except as provided in subsection B, all medical fees expended in the gathering of evidence for all criminal cases where medical evidence is necessary to establish a crime has occurred and for cases involving abuse of children under the age of 18 shall be paid by the Commonwealth out of the appropriation for criminal charges, provided that any medical evaluation, examination, or service rendered be performed by a physician or facility specifically designated by the attorney for the Commonwealth in the city or county having jurisdiction of such case for such a purpose. If no such physician or facility is reasonably available in such city or county, then the attorney for the Commonwealth may designate a physician or facility located outside and adjacent to such city or county.

Where there has been no prior designation of such a physician or facility, such medical fees shall be paid out of the appropriation for criminal charges upon authorization by the attorney for the Commonwealth of the city or county having jurisdiction over the case. Such authorization may be granted prior to or within 48 hours after the medical evaluation, examination, or service rendered.

B. All medical fees expended in the gathering of evidence through physical evidence recovery kit examinations conducted on victims complaining of sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 shall be paid by the Commonwealth pursuant to subsection F of § 19.2-368.11:1. Victims complaining of sexual assault shall not be required to participate in the criminal justice system or cooperate with law-enforcement authorities in order to be provided with such forensic medical exams.

C. Upon conviction of the defendant in any case requiring the payment of medical fees authorized by this section, the court shall order that the defendant reimburse the Commonwealth for payment of such fees.

WASHINGTON

Summary: There is no specific requirement that rape be reported. Bullet wounds, gunshot wounds, or stab wounds must be reported to a local law enforcement authority. The victims compensation program pays for a sexual assault examination when it is done for the purpose of gathering evidence for a possible prosecution.

LAWS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Rev. Code Wash. (ARCW) § 70.41.440. Duty to report violent injuries – Preservation of evidence – Immunity – Privilege.

- **(1)** A hospital shall report to a local law enforcement authority as soon as reasonably possible, taking into consideration a patient’s emergency care needs, when the hospital provides treatment for a bullet wound, gunshot wound, or stab wound to a patient. A hospital shall establish a written policy to identify the person or persons responsible for making the report.
- **(2)** The report required under subsection (1) of this section must include the following information, if known:
 - **(a)** The name, residence, sex, and age of the patient;
 - **(b)** Whether the patient has received a bullet wound, gunshot wound, or stab wound; and
 - **(c)** The name of the health care provider providing treatment for the bullet wound, gunshot wound, or stab wound.
- **(3)** Nothing in this section shall limit a person’s duty to report under RCW 26.44.030 or 74.34.035.
- **(4)** Any bullets, clothing, or other foreign objects that are removed from a patient for whom a hospital is required to make a report pursuant to subsection (1) of this section shall be preserved and kept in custody in such a way that the identity and integrity thereof are reasonably maintained until the bullets, clothing, or other foreign objects are taken into

possession by a law enforcement authority or the hospital's normal period for retention of such items expires, whichever occurs first.

- **(5)** Any hospital or person who in good faith, and without gross negligence or willful or wanton misconduct, makes a report required by this section, cooperates in an investigation or criminal or judicial proceeding related to such report, or maintains bullets, clothing, or other foreign objects, or provides such items to a law enforcement authority as described in subsection (4) of this section, is immune from civil or criminal liability or professional licensure action arising out of or related to the report and its contents or the absence of information in the report, cooperation in an investigation or criminal or judicial proceeding, and the maintenance or provision to a law enforcement authority of bullets, clothing, or other foreign objects under subsection (4) of this section.
- **(6)** The physician-patient privilege described in RCW 5.60.060(4), the registered nurse-patient privilege described in RCW 5.62.020, and any other health care provider-patient privilege created or recognized by law are not a basis for excluding as evidence in any criminal proceeding any report, or information contained in a report made under this section.
- **(7)** All reporting, preservation, or other requirements of this section are secondary to patient care needs and may be delayed or compromised without penalty to the hospital or person required to fulfill the requirements of this section.
- **(8)** If the patient states his or her injury is the result of domestic violence, the hospital shall follow its established processes to inform the patient of resources to assure the safety of the patient and his or her family.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

WAC § 296-30-170. Who is required to pay for sexual assault examinations?

When a sexual assault examination is performed for the purpose of gather evidence for possible prosecution, the costs of the examination must be billed to the crime victims compensation program. We are the primary payer of this benefit. The client is not required to file an application with us to receive this benefit and may not be billed for these costs. If the examination includes treatment costs or the client will require follow-up treatment, an application for benefits must be filed with us for these services to be considered for payment.

WEST VIRGINIA

Summary: There is no mandatory reporting requirement. Investigating officer and prosecuting attorney must approve a sexual assault examination, which must be conducted within a reasonable time period. The examination is paid for by the Forensic Medical Examination Fund. It is mandatory to report gunshot and stab wounds.

LAWS WHICH MADATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE OR ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

W. Va. Code § 61-2-27. Required reporting of gunshot and other wounds.

(a) Any medical provider who provides medical treatment to a person suffering from a wound caused by a gunshot or a knife or other sharp or pointed instrument, under circumstances which would lead a reasonable person to believe resulted from a violation of the criminal laws of this state, shall report the same to a law-enforcement agency located within the county within which such wound is treated. The report shall be made initially by telephone and shall be followed by a written report delivered to such agency within forty-eight hours following the initial report: Provided, that where two or more persons participate in the medical treatment of such wound, the obligation to report imposed by this section shall apply only to the attending physician or, if none, to the person primarily responsible for providing the medical treatment.

(b) Any medical provider person who in good faith reports a wound described in subsection (a) of this section shall be immune from any civil liability which may otherwise result solely from reporting the same.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

W. Va. C.S.R. § 168-1-1. General.

1.1. Scope. -- This rule outlines procedures for paying the costs of forensic medical examinations for victims of sexual offenses from the forensic medical examination fund administered by the West Virginia Prosecuting Attorneys Institute. This rule is not intended to set standards for the conduct of a criminal investigation or to affect in any manner the admissibility of evidence.

1.2. Authority. -- W. Va. Code §61-8b-18.

1.3. Filing Date. -- September 23, 2009.

1.4. Effective Date. -- November 1, 2009.

W. Va. C.S.R. § 168-1-3. Responsibilities of the Licensed Medical Facility.

3.1. In order to be eligible for and to receive reimbursement for conducting forensic medical examinations, a licensed medical facility must comply with the following procedures:

3.1.1. Each hospital performing medical examinations must use either the WV State Police Sexual Assault Kit or kits containing, at a minimum, the items contained in the WV State Police Sexual Assault Kit. Each hospital may order sexual assault kits free of charge from the WV State Police.

3.1.2. Where an alleged victim of an alleged violation of W. Va. Code §61-8b ET SEQ. chooses to participate in an investigation of said alleged violation and if an investigating officer is not present at the time the alleged victim arrives at the hospital, a law enforcement officer should be contacted immediately through appropriate emergency channels.

3.1.3. Prior to conducting a forensic medical examination, the examining physician or SANE will explain to the alleged victim what a sexual assault examination involves and determine whether the victim wishes to participate in an investigation regarding the alleged sex crimes violation and document said decision in writing. The obtaining of additional consents included in the sexual assault kit and any additional consents which may be required by law is the responsibility of the hospital.

3.1.4. If possible, the forensic medical examination should be conducted by a physician, a sexual assault nurse examiner (SANE), a physician assistant working under the direct supervision of a physician, or an advanced practice nurse. Recognizing, however, that sensitivity to the needs of a victim of sexual assault may preclude delays in conducting the examination, payment will not be refused based on qualifications of the medical personnel performing the examination when the forensic medical examination is conducted by a licensed health care professional acting within the scope of practice at a licensed medical facility.

3.1.5. Hospital personnel should take note of any physical evidence, such as statements made by the alleged victim, as well as articles of clothing, etc. It is strongly recommended that the hospital preserve documents concerning this evidence and record the methods of collection.

3.1.6. Where an alleged victim of an alleged violation of W. Va. Code §61-8b ET SEQ. chooses to participate in an investigation of said alleged violation, after gathering the forensic evidence, the sexual assault kit shall be sealed and turned over to the investigating officer or police agency. Any and all other evidence collected by hospital staff shall also be turned over to the investigating officer or police agency. Where an alleged victim of an alleged violation of W. Va. Code §61-8b ET SEQ. chooses not to participate in an investigation of said alleged violation hospital personnel will be responsible for preparing the forensic evidence to be transported in such a manner and to such a location as is designated in the instructions accompanying the WV State Police Sexual Assault Kits.

3.1.7. Following the completion of a forensic medical examination, the hospital shall submit a certification that such an examination was performed and may submit, within a reasonable time of the date of examination, an original invoice for the forensic medical examination to the West Virginia Prosecuting Attorneys Institute at its regular business address, Attention: Forensic Medical Examination Fund. The invoice shall contain the name of the alleged victim and the date of the alleged offense.

3.1.8. Reimbursement from the Fund is limited to \$350.00 for the cost of a forensic medical examination or, when that sum appears to be less than all reasonable, customary and usual costs of the forensic medical examination, a greater sum determined by resolution of the Executive Counsel of the West Virginia Prosecuting Attorneys Institute after consultation with providers and consideration of the limits of available funding. A licensed medical facility may not bill the alleged victim, or the alleged victim's insurance company, of an alleged violation for costs of a forensic medical examination.

W. Va. C.S.R. § 168-1-4. Responsibilities of Law Enforcement Agencies.

4.1. When contacted an investigating officer or law enforcement agency is responsible for the following duties:

4.1.1. The investigating officer should inform the victim upon arrival at the hospital that the Forensic Medical Examination Fund will pay for the cost of the forensic medical examination. The investigating officer may not require an alleged victim's agreement to pursue prosecution of the case as a condition precedent to obtaining the examination. Payment from the fund may not be refused for the reason that the victim later fails or refuses to cooperate in a criminal prosecution.

4.1.2. The investigating officer is responsible for contacting the prosecuting attorney or assistant prosecuting attorney in the county where the alleged offense occurred to alert said prosecuting attorney or assistant prosecuting attorney of the investigation.

4.1.3. Upon completion of the forensic medical exam, the investigating officer is responsible for promptly transferring all evidence to the WV State Police Crime Laboratory in South Charleston, West Virginia for evaluation.

W. Va. Code § 61-8B-15. Forensic Medical Examination Fund; Training of sexual assault nurse examiners.

There is continued the "Forensic Medical Examination Fund", created as a special fund in the State Treasury, into which shall be deposited legislative appropriations to the fund. The West Virginia Prosecuting Attorneys Institute, created by the provisions of section six [§ 7-4-6], article four, chapter seven of this code, shall make expenditures from the fund, where it is determined to be practical by the executive council and the executive director to pay the costs of forensic medical examinations as defined in section sixteen [§ 61-8B-16] of this article, to train nurses to examine sexual assault victims and to reimburse the institute for its expenses in administering payments from the fund.

W. Va. Code § 61-8B-16. Payment for costs of forensic medical examination.

(a) When any person alleges that he or she has been the victim of an offense proscribed by this article, the West Virginia Prosecuting Attorneys Institute shall pay to a licensed medical facility

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from the forensic medical examination fund the cost of the forensic medical examination for the alleged victim on the following conditions and in the following manner:

- (1) The payment shall cover all reasonable, customary and usual costs of the forensic medical examination;
- (2) The costs of additional nonforensic procedures performed by the licensed medical facility, including, but not limited to, prophylactic treatment, treatment of injuries, testing for pregnancy and testing for sexually transmitted diseases, may not be paid from the fund: Provided, That nothing in this section shall be construed to prohibit a licensed medical facility from seeking payment for services referred to in this subdivision from the alleged victim or his or her insurer, if any;
- (3) The forensic medical examination must have been conducted within a reasonable time of the alleged violation;
- (4) The licensed medical facility must apply for payment of the costs of a forensic medical examination from the fund within a reasonable time of the examination;
- (5) The licensed medical facility shall certify that the forensic medical examination was performed and may submit a statement of charges to the West Virginia Prosecuting Attorneys Institute for payment from the fund.

(b) No licensed medical facility may collect the costs of a forensic medical examination from the alleged victim of a violation of this article or from the alleged victim's insurance coverage, if any.

(c) Nothing in this section shall be construed to require an alleged victim of sexual assault to participate in the criminal justice system or to cooperate with law enforcement in order to be provided a forensic medical examination pursuant to the provisions of this section.

WISCONSIN

Summary: There is no requirement that rape be reported. It is mandatory to report gunshot wounds and burns. In order to receive crime victim's compensation, victim must report within five days and cooperate with law enforcement.

LAWS WHICH MANDATE THE REPORTING OF INJURIES THAT MAY INCLUDE RAPE OR ARE RELATED TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT RAPE VICTIMS

Wis. Stat. § 255.40. Reporting of wounds and burn injuries.

(1) In this section:

- (a) "Crime" has the meaning specified in s. 949.01 (1).

(b) “Inpatient health care facility” has the meaning specified in s. 50.135 (1).

(2)

(a) Any person licensed, certified or registered by the state under ch. 441, 448 or 455 who treats a patient suffering from any of the following shall report in accordance with par. (b):

1. A gunshot wound.

2. Any wound other than a gunshot wound if the person has reasonable cause to believe that the wound occurred as a result of a crime.

3. Second-degree or 3rd-degree burns to at least 5% of the patients’ body or, due to the inhalation of superheated air, swelling of the patients larynx or a burn to the patients upper respiratory tract, if the person has reasonable cause to believe that the burn occurred as a result of a crime.

(b) For any mandatory report under par. (a), the person shall report the patients name and the type of wound or burn injury involved as soon as reasonably possible to the local police department or county sheriffs office for the area where the treatment is rendered.

(c) Any such person who intentionally fails to report as required under this subsection may be required to forfeit not more than 500.

(3) Any person reporting in good faith under sub. (2), and any inpatient health care facility that employs the person who reports, are immune from all civil and criminal liability that may result because of the report. In any proceeding, the good faith of any person reporting under this section shall be presumed.

(4) The reporting requirement under sub. (2) does not apply under any of the following circumstances:

(a) The patient is accompanied by a law enforcement officer at the time treatment is rendered.

(b) The patients name and type of wound or burn injury have been previously reported under sub. (2).

(c) The wound is a gunshot wound and appears to have occurred at least 30 days prior to the time of treatment.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Wis. Stat. § 949.08. Limitations on awards.

(1) No order for the payment of an award may be made unless the application was made within 1 year after the date of the personal injury or death, and the personal injury or death was the result of an incident or offense which had been reported to the police within 5 days of its occurrence or, if the incident or offense could not reasonably have been reported within such period, within 5 days of the time when a report could reasonably have been made. The department may waive the requirements under this subsection in the interest of justice.

(1m)

(a) Except as provided in par. (b), the department may not make an award of more than \$40,000 for any one injury or death and the department may not make any award for expenses incurred after 4 years from the date of the injury or death.

(b) If an applicant was a child at the time of the injury, the department may consider for payment eligible expenses that the applicant incurred not more than 1 year before he or she submitted an application for an award under this subchapter. The department may not make any award after 4 years have passed since the date the person made the application or after 4 years have passed since the date on which the person incurred the expense prior to submitting the application, whichever occurs first.

(2) No award may be ordered if the victim:

(a) Engaged in conduct which substantially contributed to the infliction of the victims injury or death or in which the victim could have reasonably foreseen could lead to the injury or death. This does not apply to awards to victims under s. 949.03 (1) (a).

(b) Committed a crime which caused or contributed to the victims injury or death.

(d) Has not cooperated with appropriate law enforcement agencies.

(e) Is an adult passenger in the offender's vehicle, the crime involved is specified in s. 346.63 (2) or 940.25, and the passenger knew the offender was under the influence of an intoxicant, a controlled substance, or another drug to a degree that renders him or her incapable of safely driving. This paragraph does not apply if the victim is also a victim of a crime specified in s. 940.30, 940.305, 940.31 or 948.30.

(em) Is an adult passenger in the offender's commercial motor vehicle, the crime involved is specified in s. 346.63 (6) or 940.25, and the passenger knew the offender was under the influence of an intoxicant, a controlled substance, or another drug to a degree that renders him or her incapable of safely driving. This paragraph does not apply if the victim is also a victim of a crime specified in s. 940.30, 940.305, 940.31, or 948.30.

(f) Has not cooperated with the department in the administration of the program.

(g) Is included on the statewide support lien docket under s. 49.854 (2) (b), unless the victim provides to the department a payment agreement that has been approved by the county child support agency under s. 59.53 (5) and that is consistent with rules promulgated under s. 49.858 (2) (a).

(2m) If a claimant other than a victim has not cooperated with the department in the administration of the program, no award may be ordered for the claimant.

(3) No award may be made to any claimant if the award would unjustly benefit the offender or accomplice.

WYOMING

Summary: There is no specific requirement that rape be reported; however, law enforcement is only obligated to pay for a forensic examination if the victim reports the rape to law enforcement.

LAWS ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

Wyo. Stat. § 6-2-309. Medical examination of victim; costs; use of report; minors; rights of victims; reimbursement.

(a) A law enforcement agency receiving a report of a sexual assault may, with the victim's consent, arrange for an examination of the victim by a licensed health care provider acting within the scope of the provider's practice. The examination may include a medical examination and treatment, evidence collection and evaluation, and appropriate referrals for follow-up treatment and services. Upon consent of the victim to release of the results of the examination, the evidence, record and reports shall be delivered to the law enforcement agency.

(b) Repealed by Laws 2006, ch. 77, § 2.

(c) Repealed by Laws 1991, ch. 130, § 2.

(d) Repealed by Laws 2006, ch. 77, § 2.

(e) If a report of a sexual assault is received from a minor victim, and the parents or guardian of the minor cannot be located promptly with diligent effort, the examination provided for by subsection (a) of this section may be conducted with the minor's consent. If a report of a sexual assault is received alleging a minor as the victim and a parent or guardian is the suspected perpetrator, the parent or guardian who is the suspected perpetrator shall not be notified pursuant to this section.

(f) Repealed by Laws 2006, ch. 77, § 2.

(g) Except as provided by subsection (j) of this section, the costs of any examination relating to the investigation or prosecution of a sexual assault shall be billed to and paid by the investigating law enforcement agency. These examination costs shall include the following:

(i) The cost of gathering evidence; and

(ii) Any other examinations authorized by law enforcement to aid in the investigation and prosecution of the sexual assault.

(h) Except as provided by subsection (j) of this section, any examination costs directly incurred by a sexual assault victim that are not covered by subsection (g) of this section, or other collateral source, shall be submitted to the victim services division within the office of the attorney general for determination of eligibility for payment from the crime victims compensation account established by W.S. 1-40-114. All requests for compensation from the account shall be subject to the eligibility guidelines set forth in the Crime Victims Compensation Act, W.S. 1-40-101 through 1-40-119.

(j) A convicted offender of a sexual assault shall be ordered to reimburse any costs incurred under subsections (g) and (h) of this section and any other costs incurred as a direct result of the sexual assault.

(k) Each victim reporting a sexual assault shall be informed of the rights enumerated in this section, the victim's rights to informed consent and the victim's rights as a victim of crime. The victim shall also be informed of available medical, legal and advocacy services.

(m) The examinations authorized by this section shall remain confidential healthcare information unless the victim or the victim's parent or legal guardian executes a release of medical information for the purpose of prosecution to the county attorney, the state of Wyoming or any relevant court. However, if the report of sexual assault described in subsection (a) of this section results in the filing against any person of a criminal charge, or the filing of a petition alleging a delinquent act which would be a felony if committed by an adult, the written report disclosing the results of an examination made pursuant to this section shall be made available to the person charged or his counsel upon demand.