

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

H

D

HOUSE DRH50941-MD-115A (5/15)

Short Title: Enhance Rape Victims Assistance Program.

(Public)

---

Sponsors: Representatives Bordsen, Love, Fisher, and Spear (Primary Sponsors).

---

Referred to:

---

A BILL TO BE ENTITLED

AN ACT TO ENSURE THAT RAPE AND SEXUAL ASSAULT VICTIMS DO NOT HAVE TO PAY FOR THE COST OF A FORENSIC MEDICAL EXAMINATION; AND TO OTHERWISE ENHANCE THE ASSISTANCE PROGRAM FOR VICTIMS OF RAPE AND SEX OFFENSES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143B-480.2 reads as rewritten:

**"§ 143B-480.2. Victim assistance.**

(a) Eligibility for Assistance. – Sexual assault victims or victims of attempted sexual assault are eligible for assistance under this Program if the sexual assault or the attempted sexual assault is reported to a law enforcement officer within ~~five days~~ 72 hours of the occurrence of the assault or the attempted sexual assault and if a forensic medical examination is performed within ~~five days~~ 72 hours of the sexual assault or the attempted sexual assault. The Secretary may waive either ~~five day~~ 72-hour requirement for good cause. The term "sexual assault" as used in this section refers to the following crimes: first-degree rape as defined in G.S. 14-27.2, second-degree rape as defined in G.S. 14-27.3, first-degree sexual offense as defined in G.S. 14-27.4, second-degree sexual offense as defined in G.S. 14-27.5, or statutory rape as defined in G.S. 14-27.7A.

(b) Eligible Expenses. – Assistance is limited to the following expenses incurred by the victim:

- (1) Immediate and short-term medical expenses.
- (2) Ambulance services from the place of the attack to a place where medical treatment is provided.
- (3) Mental health services provided by a professional licensed or certified by the State to provide such services.
- (4) A forensic medical examination. As used in this section, the term "forensic medical examination" means an examination provided to a

sexual assault victim eligible for assistance under subsection (a) of this section by medical-medical personnel who gather evidence of a sexual assault in a manner suitable for use in a court of law. The examination should include an examination of physical trauma, a patient interview, and a collection and evaluation of evidence.

(5) Counseling treatment following the attack.

(c) Amount of Assistance. – The Program shall pay for the full-out-of-pocket cost of the victim's forensic medical examination-examination up to eight hundred dollars (\$800.00). Specifically, the Program shall pay amounts for services in accordance with the following schedule:

<u>Service:</u>	<u>Maximum Amount Paid by Program:</u>
<u>Physician or SANE nurse</u>	<u>\$350.00</u>
<u>Hospital/Facility fee</u>	<u>\$250.00</u>
<u>Ambulance fee</u>	<u>\$200.00</u>
<b><u>Total:</u></b>	<b><u>\$800.00</u></b>

The Program shall pay for all other eligible expenses set out in subsection (b) of this section in an amount not to exceed the difference between the full-out-of-pocket-cost of the forensic medical examination and one thousand dollars (\$1,000). ~~If the full out-of-pocket cost for the forensic medical examination costs more than one thousand dollars (\$1,000), then the Program shall pay only for the full out-of-pocket cost of the forensic medical examination.~~ Assistance not to exceed fifty dollars (\$50.00) shall be provided to victims to replace clothing that was held for evidence tests.

(d) Payment Directly to Provider. – ~~With the exception of assistance authorized under subsection (f) of this section, assistance for expenses authorized under this section is to be paid directly to any hospital, ambulance service, attending physicians, or mental health professionals providing counseling, upon the filing of proper forms. Payment for the full out-of-pocket cost of the forensic medical examination shall be paid to the provider no later than 90 days after receiving the required written notification of the victim's expense. If the entity seeking payment for expenses authorized under this section is a hospital, ambulance service, or mental health professional providing counseling, the Program shall make payment directly to that entity upon the filing of proper forms. If the entity seeking payment for expenses authorized under this section is an attending physician or licensed registered nurse, the Program shall make payment to a hospital, which shall then pay the entity seeking payment. Attending physicians and licensed registered nurses shall not bill or otherwise seek payment directly from the Program but shall instead seek payment from the hospital that accepted payment on the entity's behalf. No payment for the cost of the forensic medical examination shall be made under this subsection unless the recipient agrees in writing that receipt of that payment shall constitute payment in full for the amount owed for the cost of the examination and expenses related to the examination.~~

1 (e) Judicial Review. – Upon an adverse determination by the Secretary on a  
2 claim for medical expenses, a victim is entitled to judicial review of that decision. The  
3 person seeking review shall file a petition in the Superior Court of Wake County.

4 (f) ~~Examinations by Licensed Registered Nurse. — If the forensic medical~~  
5 ~~examination is conducted by a licensed registered nurse who has successfully completed~~  
6 ~~a program approved under G.S. 90-171.38(b), payment for the full out of pocket cost of~~  
7 ~~the forensic medical examination may be made directly to the licensed registered nurse~~  
8 ~~in lieu of any payment which may otherwise have been made under subsection (d) of~~  
9 ~~this section. Payment for the full out of pocket costs of a forensic medical examination~~  
10 ~~under this subsection shall be paid no later than 90 days after receiving the required~~  
11 ~~written notification of the victim's expense. The Secretary shall adopt rules to facilitate~~  
12 ~~the payments authorized under this subsection and to encourage, whenever practical, the~~  
13 ~~use of licensed registered nurses trained under G.S. 90-171.38(b) to conduct medical~~  
14 ~~examinations and procedures."~~

15 **SECTION 2.** G.S. 143B-480.3 reads as rewritten:

16 "**§ 143B-480.3. Reduction of benefits; restitution; actions.**

17 (a) Assistance shall be reduced or denied to the extent the medical expenses are  
18 recouped through a public or private insurance plan or other victim benefit  
19 source. source, except that the Program shall pay any co-payment that the victim is  
20 required to pay in connection with the forensic medical exam up to the maximum  
21 amount that the Program will pay for a forensic medical exam under  
22 G.S. 143B-480.2(c).

23 (b) The Program shall be an eligible recipient for restitution or reparation under  
24 G.S. 15A-1021, 15A-1343, 148-33.1, 148-33.2, 148- 57.1, and any other applicable  
25 statutes.

26 (c) When any victim who:

- 27 (1) Has received assistance under this Part;  
28 (2) Brings an action for damages arising out of the rape, attempted rape,  
29 sexual offense, or attempted sexual offense for which she received that  
30 assistance; and  
31 (3) Recovers damages including the expenses for which she was awarded  
32 assistance,

33 the court shall make as part of its judgment an order for reimbursement to the Program  
34 of the amount of any assistance awarded less reasonable expenses allocated by the court  
35 to that recovery.

36 (d) Funds appropriated to the Department of Crime Control and Public Safety for  
37 this program may be used to purchase and distribute rape evidence collection kits  
38 approved by the State Bureau of Investigation."

39 **SECTION 3.** There is appropriated from the General Fund to the  
40 Department of Crime Control and Public Safety the sum of one million seventy-eight  
41 thousand seventy-eight dollars (\$1,078,078) in recurring funds for the 2008-2009 fiscal  
42 year to enhance the ability of the Assistance Program for Victims of Rape and Sex  
43 Offenses to provide assistance to victims of rape and sexual offenses.

44 **SECTION 4.** This act becomes effective July 1, 2008.