

SUMMARY OF LAWS & GUIDELINES

Payment of Sexual Assault Medical Forensic Examinations

CURRENT AS OF FEBRUARY 2012



AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN
1100 H STREET NW, SUITE 310 | WASHINGTON, DC 20005
P: (202) 558-0040 | F: (202) 393-1918
WWW.AEQUITASRESOURCE.ORG

Resource created by Charlene Whitman, Attorney Advisor at AEquitas: the Prosecutors' Resource on Violence Against Women and Jessica Katz, Esq..

Research initiated by Dr. Lisa Newmark and students at George Mason University and Darakshan Raja at Urban Institute.

Contributions also made by Kim Lonsway, Research Director and Joanne Archambault, Executive Director at End Violence Against Women International.

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INTRODUCTION

Victims of sexual assault will often undergo sexual assault medical forensic examinations (SAMFEs) following an assault and may also receive other medical treatment for physical and emotional injuries suffered. The majority of jurisdictions provide for partial or complete payment of a victim's health care costs in such cases. A survey was conducted to look at the laws in all 50 states, the District of Columbia, and the United States territories regarding state guidelines on payment for SAMFEs.¹ This document is primarily a summary of the laws with additional resources available, including a statutory compilation of the relevant statutes as well as a more complete series of charts addressing the categories analyzed below with statutory references.²

Statutes, regulations, and guidelines were collected on various elements related to payment for the forensic examination, including: which agency pays, the specific criteria for payment, what services are included and not included in payment schemes, other authorization or eligibility requirements, disqualifying factors, payment methods, whether the states require restitution from a guilty defendant, and finally any evidence retention laws related to SAMFEs. Additionally, this document and attached charts and compilation were sent out, in draft form, to all jurisdictions represented for review. We received a 100 percent response from all jurisdictions and made appropriate edits. This process revealed that practices vary greatly not only from jurisdiction to jurisdiction but also internally.

The federal Violence Against Women Act (VAWA)³ and the regulations promulgated thereunder impose compliance requirements upon states that receive VAWA funding. This document does not address compliance with federal statutes and regulations and only presents the laws as they are written in each jurisdiction. It is worth noting that some jurisdictions have sought to close the gap between their legislation and federal compliance requirements by creating or amending technical guidelines or state protocols for SAMFEs or by drafting Attorney General opinions as guidance. Policy makers who draft or amend legislation to maintain or achieve compliance with federal law should make it clear to practitioners what sources of information and guidance are merely advisory and which authorities must be followed.

PAYMENT AGENCY

Most states provide payment for SAMFEs through one of four entities: the statewide victim compensation funds, the county where the offense occurred, the requesting or referring law enforcement agency, or a designated sexual assault program or fund that is only authorized to reimburse or directly pay for SAMFEs. A majority of states (32) pay through a victim compensation program; six states require the county where the offense occurred to pay for the examination; six states require that the law enforcement agency that requests the forensic examination pay for its commission⁴; and six states designate a sexual assault reimbursement program to pay for forensic examinations.

Additionally, there are six states that do not follow the general model but rather designate a specific state government department to pay for SAMFEs. In Maryland, the Department of Health and Mental Hygiene is

¹ The following document was created from research using numerous sources, including state statutes and state agencies' standards and guidelines. It is important to note that states may have additional protocols that will affect payment for forensic examinations. Additionally, the analysis presented here looks exclusively at state statutes and it is important to also look to local practices. If you have any questions about the interpretation of your state's laws it is important to check with your state Attorney General's Office or state sexual assault coalition to ensure the most up to date and complete account of the payment mechanisms in your jurisdiction. For additional questions contact End Violence Against Women International, <http://www.evawintl.org> or AEquitas: The Prosecutors' Resource on Violence Against Women, <http://www.aequitasresource.org>. For more information regarding local practices, *see also* Office of Violence Against Women, STOP Administrators Contact List, <http://www.ovw.usdoj.gov/stop-contactlist.htm>; *see also* Office of Violence Against Women, Local Resources, <http://www.ovw.usdoj.gov/statedomestic.htm>.

² This summary should be read along with the prepared laws and charts. Please contact AEquitas: The Prosecutors' Resource on Violence Against Women for these additional resources.

³ Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109-162, 119 Stat. 2960 (2006)

⁴ The six states requiring a law enforcement agency to pay are listed twice because these states direct the agency to pay when the victim reports and cooperates with law enforcement through investigation and prosecution. Alternatively, where the victim does not report or cooperate, the agency will not be required to pay but instead another fund or department will bear the costs.

directed to pay the physician's usual fee as well as costs for evidence collection; however, the state victim compensation/services program pays any additional costs not paid by the Department of Health. In Missouri, the Department of Public Safety pays. In Texas, the Department of Public Safety pays if the assault has not been reported to a law enforcement agency.⁵ In North Dakota, the statute requires the state Attorney General to pay for SAMFEs. Finally, Wisconsin requires that the state's Department of Justice pay for SAMFEs. It is important to note that most victim compensation funds are administered by the state Attorney General Office's general victim compensation fund. As such, it is possible that some of those offices' general funds are used to pay for SAMFEs.

It should also be noted that 12 states cover the cost of medical forensic examinations in more than one way, depending on factors such as whether the victim reports the assault, whether the victim has insurance, or consents to his/her insurance being billed. These states are represented more than once, to account for all methods of payment, in the table below.

⁵ If the assault has been reported to law enforcement, that agency may request a medical examination and will then bear the costs of the exam. TEX. CODE OF CRIM. PROC. ANN. ART. § 56.06 (2011).

Who Pays for the Medical Examination⁶

State Victim Compensation/Services Program ⁷			County Where Offense Occurred	Law Enforcement Agency with Jurisdiction
Alabama	Kentucky	Puerto Rico	Arizona	<i>California</i> ¹²
Arkansas	Maine	Rhode Island	Kansas	<i>Colorado</i>
Delaware ⁸	Maryland	South Carolina	Louisiana	<i>Montana</i> ¹³
District of Columbia	Massachusetts	Tennessee	Minnesota	Nebraska
Florida	Michigan	Utah	Nevada	<i>Texas</i> (when requesting exam)
Georgia	Mississippi	Vermont	South Dakota	Wyoming (if investigating)
Hawaii	New Hampshire ⁹	Virginia		
Idaho	New Jersey	Virgin Islands		
Indiana	New York	Washington		
Iowa	Ohio	Wyoming ¹¹		
	Oklahoma			
	Pennsylvania ¹⁰			
State Sexual Assault Reimbursement Program	Victim's Insurer Billed First	Other		
Connecticut Illinois New Mexico North Carolina Oregon West Virginia ¹⁴	<i>Delaware</i> <i>Illinois</i> <i>Maine</i> <i>New Hampshire</i> <i>Pennsylvania</i> (with victim's consent)	<i>California</i> – Emergency Management Agency shall use discretionary funds from federal grants to pay for medical examination costs not paid for by law enforcement. <i>Maryland</i> – Department of Health and Mental Hygiene <i>Missouri</i> – Department of Public Safety; Department of Health and Senior Services <i>Montana</i> – Office of Restorative Justice in the Department of Justice (if the cost is not the responsibility of a local law enforcement agency) <i>North Dakota</i> – Attorney General <i>Texas</i> – Department of Public Safety (if victim has not reported assault to local law enforcement) <i>Wisconsin</i> – Department of Justice		

⁶ Italics in this chart indicate that the state is listed twice within the table because the state provides for more than one payment agency, depending on the circumstances.

⁷ Note that this list references all victim compensation funds. For a list of victim compensation funds specifically created for sexual assault/forensic examination funds contact AEquitas: The Prosecutors' Resource on Violence Against Women, www.aequitasresource.org.

⁸ Delaware's state victim compensation/services program will bear the costs when the victim's insurer does not already cover payment.

⁹ New Hampshire's state victim compensation/services program will bear the costs if the victim has no insurance.

¹⁰ Pennsylvania's victim compensation/services program will bear the costs if the victim's insurance does not cover the examination or the victim requests that the insurance carrier not be billed.

¹¹ Wyoming's state victim compensation/services program will bear the costs where no investigation is conducted.

¹² In California, if the victim does not cooperate, law enforcement may seek reimbursement from a state agency.

¹³ In Montana, the law enforcement agency with jurisdiction will bear the costs of the examination, 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.

¹⁴ Pursuant to W.Va. Code § 61-8B-15, the West Virginia Prosecuting Attorney Institute will make expenditures from a special fund, the "Medical forensic Examination Fund."

SEXUAL ASSAULT FORENSIC EXAMINATION KITS

Eighteen states have developed uniform SAMFE kits and distribute them, at no charge, to health care providers and other professionals who administer forensic examinations throughout the state. These states include:

- Alabama
- Alaska
- Connecticut
- Illinois
- Maine
- Maryland
- Massachusetts
- Missouri
- Montana
- Nebraska
- New Hampshire
- New Jersey
- New Mexico
- New York
- Oregon
- South Carolina
- Utah
- Virgin Islands

Texas does not provide SAMFE kits, but the state does issue a standard protocol distributed by Sexual Assault Prevention and Crisis Services.¹⁵

PAYMENT CRITERIA

Thirty-nine states statutorily prohibit a health care provider from charging a sexual assault victim for performance of the SAMFE; these states include:

- Alaska
- Arkansas
- California
- Colorado
- Connecticut
- Delaware
- Florida
- Georgia
- Illinois
- Indiana
- Iowa
- Kansas
- Kentucky
- Maine
- Maryland
- Michigan
- Minnesota
- Mississippi
- Missouri
- Montana
- Nevada
- New Hampshire
- New Jersey
- New Mexico
- New York
- North Carolina
- North Dakota
- Ohio
- Oregon
- Pennsylvania
- South Carolina
- South Dakota
- Tennessee
- Utah
- Vermont
- Virgin Islands
- Washington
- West Virginia
- Wisconsin

Twenty-eight states indicate, by statute, how much the state will pay toward a SAMFE. Nineteen indicate a set maximum, which ranges from \$80 to \$1000 (Rhode Island's maximum of \$25,000 is not specific to sexual assault medical forensic examinations but relates to general rules and regulations pertaining to the Crime Victim Compensation Program. Four states, providing for payment of SAMFEs, indicate that a set maximum exists, but the number is not included in the statute; Wisconsin notes that payment is limited to the examination costs. Five states will pay a set percentage of the bills for the examination, ranging from 70% to 100%. Arkansas will pay 65% of relevant medical bills, not to exceed a maximum of \$10,000 (although this cost ceiling is not specific to medical forensic examinations). Ohio pays a flat fee of \$500.

¹⁵ Attorney General of Texas, Sexual Assault Prevention and Crisis Services, <https://www.oag.state.tx.us/victims/sapcs.shtml>.

Costs Paid

Set Maximum		Percentage of Bill	Other	
Implied but no amount in statute	Delaware, Missouri, Virginia, Wisconsin (limited to exam costs)	Utah – 70% of the eligible hospital services and supplies Vermont – 70% Louisiana – 100% New Mexico – 100% of bills resulting from exams, evidence collection, or child sexual abuse exams	Arkansas will reimburse up to 65% of the medical bills, not to exceed a total reimbursement of \$10,000 (not specific to medical forensic exams)	
\$80	Maryland (for examination and collection of evidence)			
\$150	New Mexico (for medical costs not associated with evidence collection)			
\$300	California ¹⁶ , Utah ¹⁷			
\$350	Utah (for rent or use of an examination room or space for the purpose of conducting a sexual assault forensic exam)			
\$500	Florida, Iowa, ¹⁸ Oklahoma ¹⁹			
\$600	Michigan, ²⁰ Montana, Utah ²¹			
\$700	Texas			Ohio will reimburse a flat fee of \$500
\$750	Maine, Tennessee			
\$785	Oregon ²²			
\$800	New York, North Carolina ²³			
\$900	Connecticut ²⁴			
\$1000	Georgia, Nevada, Pennsylvania			
\$25,000	Rhode Island (not specific to medical forensic exams)			

SERVICES INCLUDED

Apart from SAMFE kit costs and any other costs immediately related to the administration of the examination, 35 state statutes include specific collateral services to the victim's care, for which the state will cover the costs. Thirteen states cover the cost of a pregnancy test, and six of those states provide payment for emergency contraception. Sixteen states will pay for tests for sexually transmitted infections (STI). Sixteen states cover costs of medications prescribed following the forensic examination. Ten states will pay hospital and emergency room fees. Two states, Indiana and Vermont, will pay for the victim's counseling related to the sexual assault. Five states will pay for treatment of injuries related to the sexual assault. Four states provide payment for reasonable medical care related to the sexual assault. Three states pay for toxicology and drug testing.

¹⁶ For more information and guidance on the recently amended Cal. Penal Code §§ 13823.7, 13823.13, and 13823.95, see California Emergency Management Agency, Information Bulletin: Sexual Assault (Jan. 1, 2012), available at http://www.californiapolicechiefs.org/files/legislative/VAWA_Information_Bulletin.pdf.

¹⁷ Utah will reimburse up to \$300 without photo documentation and up to \$600 with photo documentation.

¹⁸ Up to \$300 for the examination facility and \$200 for examiner fees.

¹⁹ A maximum of \$500 may be paid; \$450 for a sexual assault examination and \$50 for medications, which are related to the sexual assault and directed and deemed necessary by said health care professional.

²⁰ Maximum of \$600 with not more than \$400 for the use of facilities and the forensic examination; not more than \$125 for laboratory services; not more than \$75 for dispensing pharmaceutical items related to the sexual assault.

²¹ See above, note 15.

²² \$380 for examination plus collection of forensic evidence with the State Police Kit; \$175 for examination without collection of forensic evidence; \$55 for emergency contraception (including urine pregnancy test); \$100 for STD prophylaxis; and an additional payment of \$75 for examination conducted by a SANE.

²³ Maximum of \$800; \$350 for physician or SANE; \$250 for hospital/facility fee; \$200 for other eligible expenses.

²⁴ Hospitals may be reimbursed for up to \$900 of examination expenses and are responsible for absorbing any expenses in excess of that amount; victims are not billed for the examination or evidence collection.

Medical Costs Covered

Pregnancy Test	STI Test	Medications	Hospital/ER Fees	Reasonable Medical Care
California Connecticut Delaware Indiana Iowa Maine Minnesota Montana New Jersey New Mexico South Carolina Texas Utah Virgin Islands	California Connecticut Delaware Illinois Indiana Iowa Maine Minnesota Montana New Jersey New Mexico ²⁵ South Carolina Texas Utah Virgin Islands Wisconsin	District of Columbia Illinois Indiana Maine Michigan Montana New Hampshire ²⁶ New Mexico New York North Carolina North Dakota Ohio Oklahoma Pennsylvania Utah Wisconsin	Delaware Iowa Maine Maryland Montana New Jersey New Mexico New York North Carolina South Dakota Utah	Massachusetts Mississippi Rhode Island West Virginia
Emergency Contraception	Toxicology/Drug Testing	Counseling	Treatment for Injuries Related to the Sexual Assault	
California District of Columbia Maine New Jersey South Carolina Utah Virgin Islands	Connecticut Montana Texas	Indiana Vermont	Illinois Indiana Maryland Nevada New Mexico	

SERVICES NOT INCLUDED

Some states specifically exclude certain services from payment.²⁷ Seven states will not pay for treatment of injuries related to the sexual assault. Seven states will not pay for any services unrelated to the sexual assault examination. Three states will not pay for medications prescribed to the victim as a result of the forensic examination. Three states will not pay the costs of tests for sexually transmitted infections. Two states, Missouri and West Virginia, will not pay for emergency contraception or pregnancy testing. Indiana will not pay for inpatient hospital services, and Pennsylvania will not pay for drug testing.

²⁵ For patients 12 years and younger, and for patients 17 and under where child sexual abuse is suspected, cultures/texts and treatment for STIs are covered.

²⁶ New Hampshire will provide a voucher for a victim to obtain prophylaxis for HIV/AIDS.

²⁷ These seven states include Alabama, Missouri, Montana, Oregon, Texas, Washington, and West Virginia. Three states do not provide for any further payment mechanism, including Alabama, Oregon, and Texas. ALA. ADMIN. CODE R. 262-X-11.01(2)(A-B); OR. ADMIN. CODE R. 137.084-0030(1); TX. CODE OF CRIM. PRO. ANN. ART. §56.06(E). However, Missouri provides for eligible victims to claim under victim compensation laws; Montana holds the victim responsible for paying additional costs; Washington requires the victim to personally apply for additional compensation; and West Virginia allows the medical provider to seek payment from the insurer. MO. CODE REGS. TIT. 19, §40-10.010(5); MONT. ADMIN. R. 23.15.402(5); WASH. ADMIN. CODE §296-30-170; W.VA. CODE §61-8B-16(A)(2).

Treatment and Services Not Covered

Treatment for Injuries	Alabama, Missouri, Montana, Oregon, Texas, Washington, West Virginia
Services Unrelated to SAMFE	Connecticut ²⁸ , Indiana, Massachusetts, North Dakota, Oregon, Rhode Island, West Virginia
Medication	Alabama, Missouri, Oregon
Emergency Contraception	Missouri, West Virginia
Inpatient Hospital Services	Indiana
Drug Testing	Pennsylvania
STI Testing	Missouri, Oregon, West Virginia
Pregnancy Testing	Missouri, West Virginia

OTHER AUTHORIZATION OR ELIGIBILITY REQUIREMENTS

Some states include certain authorization or eligibility requirements in their payment statutes. The most common requirements pertain to the time following the assault within which the victim must seek a medical forensic examination or the time following the examination within which the claim for payment must be submitted. Six states require that the medical forensic examination be performed within a certain timeframe after the sexual assault, ranging from 72 hours to seven days. Seven states require that the claim for payment or reimbursement be filed within a certain amount of time following the administration of the examination, ranging from 120 days to three years.²⁹

There are some states that require a victim to report a sexual assault to law enforcement in order to be eligible for payment of medical care.³⁰ Most of these states' statutes provide that a victim seeking a medical forensic examination satisfies this law enforcement reporting requirement. This reporting requirement is separate from the mandated reporting familiar to health care providers. Indiana and the Virgin Islands specifically require the victim to report the assault to law enforcement in order to receive payment for the medical forensic examination. Maryland also requires that the victim report to law enforcement but does not necessarily require immediate reporting, and if the victim wants evidence collected, the sexual assault forensic examiner may still perform the examination and collect evidence to satisfy this requirement.³¹ Additionally, Indiana requires a written statement from a representative of a law enforcement agency confirming that the sex crime victim has cooperated in the initial law enforcement investigation and report.

A minority of states impose various other requirements on a claim for payment of a medical forensic examination. Seven states require the submission of an itemized bill with the application for payment or reimbursement. Most states require the hospital or medical provider to submit the itemized bill but providers should also note their specific state law. Three states include specific language that a medical professional or sexual assault nurse examiner must perform the examination. Two states will only pay for forensic examinations that use the standardized SAMFE kit provided by the state. Georgia will only pay for forensic examinations that are specifically administered for evidence collection.³² New York requires the

²⁸ Connecticut Technical Guidelines for Healthcare Response to Victims of Sexual Assault provides that physical injuries requiring medical treatment beyond the scope of the SAMFE examination are not covered costs.

²⁹ These states require that the hospital or health care provider submit the claim for reimbursement. Only one state, Oklahoma, provides that the victim must submit the claim, OKLA. STAT. ANN. TIT. 21, §142.20.

³⁰ See "Other Provisions Summary Chart" for all states that permit a medical forensic examination to satisfy the requirement that the victim report the sexual assault to law enforcement.

³¹ The statute allows for the sexual assault forensic examiner to perform the exam and collect evidence to be held in case the victim wishes to report at a later date. MD. CODE REGS. 10.12.02.03 (2011).

³² Specifically, Georgia does not require the victim to cooperate with law enforcement under GA. CODE ANN. §17-5-72 but under GA. CODE ANN. §16-6-1 the Georgia Crime Victims Emergency Fund will only be "responsible for the cost of the medical examination to the extent that the expense is incurred for the limited purpose of collecting evidence."

use of a standardized form for payment or reimbursement requests. Indiana will only pay for forensic examinations on victims over the age of 18.³³

Additional Eligibility Requirements

Examination Performed Within Specified Time Frame after the Assault	72 Hours: Arkansas (waivable for good cause), Connecticut ³⁴ , Montana, New Mexico (pediatrics), North Dakota
	84 Hours: Oregon (complete exam) ³⁵
	96 Hours: New York, Texas
	120 Hours: Maryland, New Mexico (adult examinations)
	7 Days: Oregon (partial exam)
Claim Filed Within Specified Time Frame After the Examination	120 Days: Missouri
	1 Year: New York, Pennsylvania, Tennessee, Utah, Wisconsin
	3 Years: Massachusetts
Report to Law Enforcement	Indiana, Maryland, ³⁶ Virgin Islands
Cooperation with Law Enforcement	Indiana ³⁷
Performed by Physician or SANE	Maryland, Montana, Texas
Limited Purpose of Evidence Collection³⁸	Georgia
Itemized Bill	Arkansas, Florida, Iowa, New Mexico, New York, Oklahoma, Tennessee, Utah
Standard Form	New Mexico, New York
Victim over 18	Indiana ³⁹
Use of Standard SAMFE Kit	Maryland, Montana

DISQUALIFYING FACTORS

Some states indicate statutory factors that will disallow payment or reimbursement for a SAMFE. For example, Oregon will deny payment if (1) the claim is for duplicate services related to one assault, (2) the provider who administered the examination was not an eligible medical provider, (3) the state has insufficient funds to pay for the examination, (4) the services claimed were provided to someone other than the victim, or (5) statutory or administrative requirements for the claim were not met. Massachusetts and Rhode Island will bar payment if unjust enrichment will occur if the state pays for the examination. Alabama will deny payment on a submitted bill where the investigation determined that a rape or sexual assault did not occur. Also, in Alabama, if the kit was provided at no cost, the health care provider cannot be paid for the cost of the kit, even when it is included on the billing statement. Wisconsin will not pay for a victim’s medical forensic examination if the victim received compensation for the exam from another source.

³³ If the victim is less than 18 years of age, a report of the sex crime must be made to child protective services or a law enforcement officer; and the sex crime occurred in Indiana. IND. CODE § 5-2-6.1-39(F)(2011).

³⁴ After 72 hours, completion of the SAMFE kit is not routinely done. Connecticut Technical Guidelines for Healthcare Response to Victims of Sexual Assault p. 21

³⁵ Oregon’s statute provides for compensation for both a complete and partial medical assessment using the Oregon State Police SAMFE Kit, with separate time requirements. OR. ADMIN. R. 137-084-0010.

³⁶ See above for more information on Maryland’s reporting requirement; *see also* MD. CODE REGS. 10.12.02.03.

³⁷ Provided that within 48 hours following the alleged crime, a police report regarding the incident has been filed; or appropriate law enforcement agency has been contacted. A representative of a law enforcement agency must, in writing, confirm that the sex crime victim has cooperated in the initial law enforcement investigation and report. 203 IND. ADMIN. CODE 1-2-1(A)).

³⁸ Georgia’s laws specifically state that the Georgia Crime Victims Emergency Fund is responsible for the payment of a medical examination to the extent that the costs incurred were for the limited purpose of collecting evidence. GA. CODE ANN., § 16-6-1(c).

³⁹ *Supra* note 29 (providing that the victim is at least 18 years of age and procedures for when the victim is less than 18).

Alabama	Evidence that assault did not occur
	Sexual Assault Evidence Collection Kit if the kit was provided at no cost to the health care provider
Massachusetts	Unjust enrichment
Oregon	Duplicate services
	Insufficient funds ⁴⁰
	Provider is not eligible medical provider
	Services were provided to someone other than an eligible victim
	Services were not provided in accordance with statutory requirements
	Administrative omissions on part of medical services provider
Rhode Island⁴¹	Unjust enrichment
	Injury while serving time in any federal, state, county or city jail, prison, correctional facility or criminal institution
Wisconsin	Received compensation from any other source

PAYMENT METHOD

Most states that cover the costs of a victim’s SAMFE provide such payment through one of two methods: (1) either the health care provider bills the state directly and receives direct payment from the state or (2) the state reimburses whatever entity or individual already paid for the costs of the forensic examination. Twenty-five states provide for payment to go from the agency to the health care provider, with 11 of those states providing for “direct payment” and 14 stating that an agency will “reimburse” the health care provider who administers a forensic examination.⁴² This distinction is simply based on the specific language choice each state has used to codify payment, and thus the 25 aforementioned states are listed together in the table below. Three states provide direct reimbursement to the victim. This happens in Alabama and Iowa if the victim personally paid for the examination; and in Pennsylvania, if the victim was erroneously billed and subsequently paid for the examination.

Four states require the health care provider to seek reimbursement from the victim’s insurer before turning to the state for payment. Six states allow the health care provider to bill the victim’s insurer, but only with the victim’s consent. Two states allow health care providers to bill the victim’s insurer only for services provided that were outside the scope of the SAMFE. Three states prohibit health care providers from billing a victim’s insurer for the costs of the examination. In Oregon, the health care provider may bill the victim’s insurer if the paying department has insufficient funds to pay for the examination. In New Hampshire, if a victim pays an insurance deductible or co-payment at the time of the examination, the victim compensation fund will reimburse that payment to the victim.

⁴⁰ If the Sexual Assault Victims’ Emergency Medical Response Fund exhausts its funds, and there is not enough left in the account to cover the costs, they will not pay. OR. ADMIN. R. 137-084-0030(2)(F).

⁴¹ Rhode Island’s criminal injury compensation laws are general and not specific to sexual assault; thus, the disqualifying factors listed in this table may not always be relevant but professionals should be aware of the law.

⁴² The states that will reimburse a health care provider are Arizona, Arkansas, Illinois, Indiana, Iowa (to the party that paid), Kentucky, Maryland, New Hampshire, New York, North Dakota, Oklahoma, Oregon, South Carolina, and the Virgin Islands.

How Costs of Medical Examination are Paid

Direct Payment or Reimbursement from State to Health Care Provider		Reimbursement to Victims who Paid for Exam
Alabama	New Hampshire	Alabama (if victim paid)
Arkansas	New Mexico	Iowa (no restrictions)
Connecticut	New York	New Hampshire (if victim paid insurance deductible)
Delaware	North Carolina	Pennsylvania (if erroneously billed)
Illinois	North Dakota	
Indiana	Oklahoma ⁴³	
Iowa (to whoever paid)	Oregon	
Kentucky	South Carolina	
Maine	Texas ⁴⁴	
Maryland	Virgin Islands	
Massachusetts	Virginia	
Mississippi	Wisconsin	
	Wyoming	

Insurance Requirements

Bill Insurance First	Bill Insurance Only with Victim's Consent	Bill Insurance for Services Outside Scope of SAMFE	May Not Bill Insurance
Delaware Massachusetts South Dakota Utah	Michigan Minnesota New York Oklahoma ⁴⁵ Pennsylvania Wisconsin	Maine West Virginia	North Carolina Ohio Oregon ⁴⁶

RESTITUTION FROM GUILTY DEFENDANT

Ten states provide that a defendant who is convicted of a sex crime can or will be liable for restitution. In two states, a defendant found guilty in a sex crime case is assessed an additional fee. In Delaware, the fee is \$50 for each misdemeanor conviction and \$100 for each felony conviction, to be paid to the Victim Compensation fund. In New Jersey, the fee is \$800 to be paid to the Statewide Sexual Assault Nurse Examiner Program Fund. Restitution may be ordered by the court, in Pennsylvania, to pay for property damages and personal injury losses.

⁴³ 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*. OKLA. STAT. ANN. TIT. 21, §142.20 (emphasis added). See also OKLA. ADMIN. CODE §185:15-1-3 (providing that victim must sign, prior to examination, the Official Sexual Assault Examination Application and shall submit the application and a copy of the itemized statement for medical treatment for payment).

⁴⁴ Texas law provides that the Department of Public Safety shall pay the appropriate fees as set out by Attorney General Standards for the forensic portion of the medical exam and that the Attorney General's Office shall reimburse the department for fees paid under this section of the law. TEX. CODE OF CRIM. PROC. ANN. ART. §56.065(d).

⁴⁵ Oklahoma law provides that if the victim submits an insurance claim, after their examination has already been paid by the Crime Victim Compensation Board, the insurance payment will go to the Sexual Assault Examination Fund.

⁴⁶ The victim's insurance may not be billed, unless the State Department of Justice has insufficient funds to pay. OR. REV. STAT. §147.397(4); OR. ADMIN. R. 137-084-0020(4).

Defendant Required to Pay Restitution

Restitution	Additional Fees to be Paid
California Florida Iowa Kansas Mississippi South Dakota Utah Virginia Wyoming	Delaware: \$50 for each misdemeanor conviction; \$100 for each felony conviction New Jersey: \$800

EVIDENCE RETENTION

Because one of the objectives of a SAMFE is to collect evidence, many states have statutes covering the procedures for evidence collection and retention. Fourteen states indicate, by statute, the length of time that evidence collected from a SAMFE will be maintained before being destroyed, ranging from 30 days to 55 years. Four states indicate that evidence will be maintained until the earlier of two instances: in Alabama, this is the earlier of 50 years or the resolution of the crime in which the SAMFE kit may be used as evidence; in Arizona, it is the earlier of 55 years or the end of the defendant's state supervision; in Connecticut, it is the earlier of 60 days or the end of criminal proceedings in which the SAMFE kit may be used as evidence; and in Indiana, it is the earlier of one year or the end of criminal proceedings in which the SAMFE kit may be used as evidence.

Duration of Evidence Collected During Medical Examination

Evidence Retention	30 Days	Louisiana, New York
	60 Days	Montana, New Hampshire
	90 Days	Kentucky, Maine
	6 Months	Massachusetts, Oregon
	2 Years	Texas
	5 Years	Kansas
Earlier of Two Instances: Stated Time or End of Criminal Proceedings	60 Days: Connecticut	
	1 Year: Indiana	
Earlier of Two Instances: Stated Time or End of Defendant's Supervision	55 Years: Arizona	
Earlier of Two Instances: Duration of Unsolved Crime	50 Years: Alabama	