



2023 ASSEMBLY BILL 734

December 6, 2023 - Introduced by Representatives CONLEY, C. ANDERSON, J. ANDERSON, CONSIDINE, DRAKE, EMERSON, JACOBSON, JOERS, MADISON, OHNSTAD, ORTIZ-VELEZ, PALMERI, RATCLIFF, SHANKLAND, SHELTON, SINICKI and STUBBS, cosponsored by Senators AGARD, HESSELBEIN, L. JOHNSON, LARSON, PFAFF, ROYS, SMITH, SPREITZER, TAYLOR and WIRCH. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to amend* subchapter II (title) of chapter 949 [precedes 949.20], 949.20
2 (1), 949.20 (3), 949.20 (9), 949.24 (1), 949.24 (3), 949.26 (1) and 949.26 (3); and
3 **to create** 20.455 (5) (dm), 165.934, 949.20 (2L) and 949.20 (3d) of the statutes;
4 **relating to:** forensic examinations done on a crime victim to gather evidence,
5 modifying administrative rules relating to reimbursement for forensic
6 examinations, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Justice must award a health care provider the costs of an examination that the provider performs on a victim to gather evidence regarding a sex offense. The award does not depend upon whether the victim of the sex offense cooperates with law enforcement or whether the sex offense is investigated or prosecuted. Under this bill, DOJ must also award a health care provider the costs of an examination the provider performs on a victim to gather evidence regarding an offense that involves an allegation of domestic abuse or that involves strangulation. The bill also treats the administrative rules to increase the maximum award for such an examination to \$3,000.

Under current law, DOJ administers various grant programs, including a program that awards grants to organizations that provide services to victims of sexual assault. This bill requires DOJ to administer a program to award grants to health care facilities that create a new position for a health care provider who

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conducts, or a recruitment, retention, or training program for health care providers who conduct, examinations to gather evidence regarding an offense that involves an allegation of domestic abuse or that involves strangulation.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

			2023-24	2024-25
3 20.455 Justice, department of				
4 (5) VICTIMS AND WITNESSES				
5 (dm) Grants for recruiting and retain-				
6 ing health care providers to con-				
7 duct examinations	GPR	B	2,500,000	2,500,000

8 **SECTION 2.** 20.455 (5) (dm) of the statutes is created to read:
9 20.455 (5) (dm) *Grants for recruiting and retaining health care providers to*
10 *conduct examinations.* Biennially, the amounts in the schedule to provide grants to
11 health care facilities under s. 165.934 and to administer the grant program.

12 **SECTION 3.** 165.934 of the statutes is created to read:
13 **165.934 Grants to health care facilities to conduct examinations of**
14 **victims.** (1) DEFINITION. In this section, “department” means the department of
15 justice.
16 (2) GRANTS. The department shall provide grants to health care facilities that
17 are eligible under sub. (3).

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1 **(3) GRANT ELIGIBILITY.** A health care facility is eligible to apply for and receive
2 a grant under this section if the facility meets all of the following criteria:

3 (a) The health care facility creates a new position for a health care provider who
4 conducts, or a recruitment program, a retention program, or a training program for
5 health care providers who conduct, examinations described under s. 949.20 (3) for
6 offenses that involve an allegation of domestic abuse or that involve strangulation.

7 (b) The health care facility provides that it will maintain any position or
8 program created with the grant moneys for a period determined by the department
9 after the grant funding ends.

10 **(4) GOALS.** When providing grants under this section, the department shall
11 attempt to provide funding to recruit or retain a number of health care providers who
12 conduct examinations described under s. 949.20 (3) in each county that is one more
13 than the number of such health care providers that the county has on the effective
14 date of this subsection (LRB inserts date).

15 **SECTION 4.** Subchapter II (title) of chapter 949 [precedes 949.20] of the statutes
16 is amended to read:

CHAPTER 949

SUBCHAPTER II

~~SEXUAL ASSAULT FORENSIC~~

~~EXAMINATION COMPENSATION~~

21 **SECTION 5.** 949.20 (1) of the statutes is amended to read:

22 949.20 (1) “Cooperate with a law enforcement agency” means to report ~~a sex~~
23 an offense to a law enforcement agency or to aid a law enforcement agency in the
24 investigation of ~~a sex~~ an offense.

25 **SECTION 6.** 949.20 (2L) of the statutes is created to read:

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1 949.20 (2L) “Domestic abuse” has the meaning given in s. 813.12 (1) (am) 1. or

2 2.

3 **SECTION 7.** 949.20 (3) of the statutes is amended to read:

4 949.20 (3) “Examination costs” means the costs of an examination ~~that is done~~
5 to gather evidence regarding a sex offense and, if the offense involved is a sex offense,
6 any procedure during that examination process that tests for or prevents a sexually
7 transmitted disease, and any medication provided or prescribed, ~~during that~~ related
8 to the examination process, that prevents or treats a sexually transmitted disease
9 that the person performing the examination or procedure believes could be a
10 consequence of the sex offense. “Examination costs” does not include any processing
11 or administrative costs, attorney fees, or other expenses.

12 **SECTION 8.** 949.20 (3d) of the statutes is created to read:

13 949.20 (3d) “Examination to gather evidence” means an examination that is
14 done on a victim to gather evidence regarding a sex offense, an offense that involves
15 an allegation of domestic abuse, or an offense that involves strangulation.

16 **SECTION 9.** 949.20 (9) of the statutes is amended to read:

17 949.20 (9) “Victim” means a person against whom a sex offense, an offense that
18 involves an allegation of domestic abuse, or an offense that involves strangulation
19 has been committed.

20 **SECTION 10.** 949.24 (1) of the statutes is amended to read:

21 949.24 (1) ELIGIBILITY. Any health care provider who conducts an examination
22 to gather evidence ~~regarding a sex offense~~ may apply for an award under this
23 subchapter.

24 **SECTION 11.** 949.24 (3) of the statutes is amended to read:

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1 949.24 **(3)** MEDICAL RECORDS. An applicant shall submit to the department
2 reports from any physician, physician's assistant, or nurse who treated or examined
3 the victim to gather evidence ~~regarding a sex offense~~, performed any procedure
4 during that treatment or examination that tests for or prevents a sexually
5 transmitted disease, or provided or prescribed any medication to prevent or treat a
6 sexually transmitted disease. The applicant may not submit to the department any
7 other records than those pertaining to the examination, treatment, procedure, or
8 medication for which the applicant is seeking an award.

9 **SECTION 12.** 949.26 (1) of the statutes is amended to read:

10 949.26 **(1)** Except as provided in sub. (1m), the department shall make an
11 award under this section to a health care provider who conducts an examination to
12 gather evidence ~~regarding a sex offense~~ to reimburse the health care provider only
13 for the examination costs, as follows:

14 (a) If, under sub. (2) (b), the health care provider is not authorized to seek
15 payment from insurance or another available source of payment, the award shall be
16 the examination costs, regardless of whether the victim, or any guardian of the
17 victim, cooperates with a law enforcement agency regarding the ~~sex~~ offense.

18 (b) If, under sub. (2) (b), the health care provider is authorized to seek payment
19 from insurance or another available source of payment and the victim, or any
20 guardian of the victim, does not cooperate with a law enforcement agency regarding
21 the ~~sex~~ offense, the award shall be the examination costs, reduced by any payment
22 to be received as a result of the authorization under sub. (2) (b).

23 **SECTION 13.** 949.26 (3) of the statutes is amended to read:

24 949.26 **(3)** The department may not refuse to make an award under this
25 section because the victim or the guardian of the victim does not cooperate with

ASSEMBLY BILL 734**SECTION 13**

1 a law enforcement agency regarding the ~~sex~~ offense, or due to lack of an
2 investigation or prosecution of the ~~sex~~ offense.

3 **SECTION 14.** Jus 11.16 (4) of the administrative code is amended to read:

4 Jus 11.16 (4) **MAXIMUM AMOUNT OF AWARD.** The department will pay two-thirds
5 of the amount billed for eligible services, up to a maximum of ~~\$1200~~ \$3,000 for each
6 examination. In exceptional cases, the department in its sole discretion may approve
7 an award in excess of the maximum amount if the health care provider submits
8 evidence that that maximum amount did not fairly and equitably compensate it for
9 the costs incurred in conducting the examination. Beginning January 1, ~~2017~~ 2025,
10 the maximum amount of an award shall be adjusted annually by the “inflation
11 factor” as defined in s. 79.05 (1) (am), Stats., and certified by the department of
12 revenue under s. 79.05 (2m), Stats.

13 **SECTION 15. Nonstatutory provisions.**

14 (1) **GRANT ADMINISTRATOR.** The authorized FTE positions for the department of
15 justice are increased by 1.0 GPR positions to be funded from the appropriation under
16 s. 20.455 (5) (dm) for the purpose of administering the grant program under s.
17 165.934.

18 **SECTION 16. Fiscal changes.**

19 (1) **EXAMINATION TRAINING.** In the schedule under s. 20.005 (3) for the
20 appropriation to the department of justice under s. 20.455 (5) (a), the dollar amount
21 for fiscal year 2023-24 is increased by \$100,000 to increase the authorized FTE
22 positions for the department by 0.5 GPR positions to train health care providers on
23 how to conduct examinations to gather evidence of domestic abuse and
24 strangulation. In the schedule under s. 20.005 (3) for the appropriation to the
25 department of justice under s. 20.455 (5) (a), the dollar amount for fiscal year

