



SEXUAL ASSAULT EVIDENTIARY EXAM PAYMENT

In Minnesota, victims of sexual assault who have an evidentiary exam done for the purpose of gathering evidence of sexual assault need not pay for that service. MS § 609.35.

What is an evidentiary exam?

Many hospitals in Minnesota are trained and equipped to conduct sexual assault evidentiary exams. The exams are designed to capture any physical evidence, such as hair, fibers, bodily fluids from the assailant, as well as to note any observable injury or trauma. The goal of the evidentiary exam is to locate and preserve anything that will prove an assault occurred and identify a suspect. The kit may be processed by the Bureau of Criminal Apprehension (BCA) at the time the victim decides to make a report to law enforcement. At the time of an evidentiary exam, medical personnel will also screen for and provide treatment for medical conditions that may require treatment, such as sexually transmitted infections, pregnancy, and physical trauma. The statute is specific to costs of evidence collection, however, not treatment of injury.

Who pays for the exam?

- In Minnesota, the county in which the assault occurred is responsible for covering the cost of the exam. **The victim does not have to report the assault to law enforcement in order for the county to pay.**
- The statute does not identify which county agency is responsible. It may be the sheriff's office, county attorney's office, or county financial office that administers this. The agencies designate should take steps to carefully protect a victim's identity.
- These covered 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.
- Victims can visit the hospital of their choice. They do not need to consult a hospital in the county in which the assault occurred. They do not need to be referred by the prosecutor or law enforcement officer.

What if the victim does not want the county to pay?

A victim may be concerned about her/his privacy and may not want the county to pay for the exam. In that case, the county can inform the victim that they may submit the cost to their insurance company for payment. In order to ensure that victims are not pressured to bill insurance, this option may not be addressed until the exam is completed. Victims must be informed that if they do not want their insurance billed, the county is obligated to pay. This will not negatively affect how the county proceeds with the case or the victim.

When should an evidentiary exam be done?

Most agree that the sooner an exam is conducted, the more likely it is that evidence can be collected. In most cases, hospitals will conduct exams within 72 hours of an assault. In some instances, exams can be conducted after that time.

Does a rape victim have to consent to the exam?

The exam is only done with the consent of the victim. The victim will also be asked to sign a release to share the results of the exam with law enforcement, if the victim has decided to report the assault.

Can a victim take time

Yes. However, most hospitals will hold the evidence kit only a limited time (2

<p>deciding whether or not to report the assault to law enforcement?</p>	<p>weeks to 6 months.) Check with your hospital to determine if they have a time limit. Victims should be advised that, while they can always make a report, a delay in reprotng can make a case more difficult to prosecute.</p>
<p>What exact costs are covered by the county?</p>	<p>What is considered evidentiary in nature depends upon the specifics of the assault. Costs that are considered primarily related to medical treatment are the responsibility of the victim. For crime victims, some costs can be submitted to the Crime Victims Reparations Board for reimbursement in those instances when the victim is working with law enforcement. Other costs may be recouped from an offender as a part of sentencing via a restitution claim. Also, many counties have crime victim emergency funds that may assist a victim with uncovered costs.</p>
<p>Is this a special service just for victims of sexual assault?</p>	<p>The reasons these charges are covered is that they are the result of “processing the crime scene” for the local jurisdiction. This is not a special service for rape victims – but a criminal justice investigative procedure. The goal is to ensure that physical evidence is gathered if there is any potential of future criminal charges.</p>
<p>FAQs for advocates</p>	<p>Won't this lead to a dramatic increase of women who have not really been assaulted accessing exams – perhaps for free STD/STI checks? Probably not. The process of a full rape exam is quite involved, lengthy and intrusive. There are a variety of other ways free STD/STI testing can be accessed in most communities. Additionally, professionals in hospitals and advocacy are in the position to discuss with patients the reasons to have a rape exam conducted. Counties who have routinely paid for all exams have not experienced a large number of victims who have not chosen to report to law enforcement.</p> <p>Why should the county be responsible for the costs of these exams if the victim is unsure about reporting the assault? The primary reason for advocating for this language change is to remove barriers for victims who consider reporting an assault to law enforcement. The purpose behind the original and updated language is to avoid forcing a victim to decide, at the time of crisis, whether or not to have the evidentiary exam done based on their ability to pay if they choose to not report the incident to law enforcement. Forcing this decision effectively limits the choices of the victim. Furthermore, victims who choose to not have the exam done rather than risk having to cover the cost may destroy their chances of prosecution should they choose later to report the assault. Without the prompt collection of physical evidence, prosecution may not be able to go forward.</p> <p>How do local jurisdictions find out about this change? Often, they don't hear about new legislation such as this. We encourage local professionals who work with sexual assault victims to come together and determine how this statute will be implemented in your county. For help, contact the SVJI at the number below.</p>

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