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SENATE BILL NO. 812  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee for Courts of Justice  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Senator Boysko)

*A BILL to amend and reenact §§ 19.2-165.1, 19.2-368.2, 19.2-368.3, and 19.2-368.11:1 of the Code of Virginia, relating to victims of crime; reimbursement for expenses; work group.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-165.1, 19.2-368.2, 19.2-368.3, and 19.2-368.11:1 of the Code of Virginia are amended and reenacted as follows:**

**§ 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~~ *younger than 18 years of age* 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 (i) physical evidence recovery kit examinations, *defined in § 19.2-11.5*, conducted on victims complaining of sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 and (ii) *anonymous trace evidence collection kit examinations, defined in § 19.2-11.5, conducted on victims complaining of strangulation in violation of § 18.2-51.6* shall be paid by the Commonwealth pursuant to subsection F of § 19.2-368.11:1. ~~Victims complaining of sexual assault~~ *Such victims* 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

32 section, the court shall order that the defendant reimburse the Commonwealth for payment of such fees.

33 **§ 19.2-368.2. Definitions.**

34 For the purpose of this chapter:

35 *"Anonymous trace evidence collection kit" means the same as that term is defined in § 19.2-11.5.*

36 "Claimant" means the person filing a claim pursuant to this chapter.

37 "Commission" means the Virginia Workers' Compensation Commission.

38 "Crime" means an act committed by any person in the Commonwealth of Virginia which would constitute  
39 a crime as defined by the Code of Virginia or at common law. However, no act involving the operation of a  
40 motor vehicle which results in injury shall constitute a crime for the purpose of this chapter unless the injuries  
41 (i) were intentionally inflicted through the use of such vehicle or (ii) resulted from a violation of § 18.2-51.4  
42 or 18.2-266 or from a felony violation of § 46.2-894.

43 "Family," when used with reference to a person, means (i) any person related to such person within the  
44 third degree of consanguinity or affinity, (ii) any person residing in the same household with such person, or  
45 (iii) a spouse.

46 *"Physical evidence recovery kit" means the same as that term is defined in § 19.2-11.5.*

47 "Sexual abuse" means sexual abuse as defined in subdivision 6 of § 18.2-67.10 and acts constituting rape,  
48 sodomy, object sexual penetration or sexual battery as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of  
49 Title 18.2.

50 "Victim" means a person who suffers personal physical injury or death as a direct result of a crime  
51 including a person who is injured or killed as a result of foreign terrorism or who suffers personal emotional  
52 injury as a direct result of being the subject of a violent felony offense as defined in subsection C of  
53 § 17.1-805, or stalking as described in § 18.2-60.3, or attempted robbery or abduction.

54 **§ 19.2-368.3. Powers and duties of Commission.**

55 The Commission shall have the following powers and duties in the administration of the provisions of this  
56 chapter:

57 1. To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions and  
58 purposes of this chapter, to include a distinct policy (i) for the payment of physical evidence recovery kit  
59 examinations, including mileage at a rate provided by law incurred by a sexual assault forensic examiner as  
60 defined in § 19.2-11.5, *or anonymous trace evidence collection kit examinations* and (ii) to require each  
61 health care provider as defined in § 8.01-581.1 that provides services under this chapter to negotiate with the  
62 Commission or its designee to establish prospective agreements relating to rates for payment of claims for

63 such services allowed under § 19.2-368.11:1, such rates to discharge the obligation to the provider in full  
64 except where the provider is an agency of the Commonwealth and the claimant receives a third party  
65 recovery in addition to the payment from the Fund.

66 2. Notwithstanding the provisions of §§ 2.2-3706 and 2.2-3706.1, to acquire from the attorneys for the  
67 Commonwealth, State Police, local police departments, sheriffs' departments, and the Chief Medical  
68 Examiner such investigative results, information, and data as will enable the Commission to determine if, in  
69 fact, a crime was committed or attempted, and the extent, if any, to which the victim or claimant was  
70 responsible for his own injury. These data shall include prior adult arrest records and juvenile court  
71 disposition records of the offender. For such purposes and in accordance with § 16.1-305, the Commission  
72 may also acquire from the juvenile and domestic relations district courts a copy of the order of disposition  
73 relating to the crime. The use of any information received by the Commission pursuant to this subdivision  
74 shall be limited to carrying out the purposes set forth in this section, and this information shall be confidential  
75 and shall not be disseminated further. The agency from which the information is requested may submit  
76 original reports, portions thereof, summaries, or such other configurations of information as will comply with  
77 the requirements of this section.

78 3. To hear and determine all claims for awards filed with the Commission pursuant to this chapter, and to  
79 reinvestigate or reopen cases as the Commission deems necessary.

80 4. To require and direct medical examination of victims.

81 5. To hold hearings, administer oaths or affirmations, examine any person under oath or affirmation and to  
82 issue summonses requiring the attendance and giving of testimony of witnesses and require the production of  
83 any books, papers, documentary or other evidence. The powers provided in this subsection may be delegated  
84 by the Commission to any member or employee thereof.

85 6. To take or cause to be taken affidavits or depositions within or without the Commonwealth.

86 7. To render each year to the Governor and to the General Assembly a written report of its activities. This  
87 report shall include a detailed section on all unclaimed restitution collected and disbursed to the victim from  
88 the Criminal Injuries Compensation Fund pursuant to subsection I of § 19.2-305.1.

89 8. To accept from the government of the United States grants of federal moneys for disbursement under  
90 the provisions of this chapter.

91 9. To collect and disburse unclaimed restitution pursuant to subsection I of § 19.2-305.1 and develop, in  
92 consultation with circuit court clerks and the Office of the Executive Secretary of the Supreme Court of

93 Virginia, policies and procedures for the receipt, collection, and disbursement of unclaimed restitution to  
94 victims of crime.

95 10. To identify and locate victims of crime for whom restitution owed to such victims has been deposited  
96 into the Criminal Injuries Compensation Fund pursuant to subsection I of § 19.2-305.1. Notwithstanding the  
97 provisions of §§ 2.2-3706 and 2.2-3706.1, the Commission may acquire from the attorneys for the  
98 Commonwealth, State Police, local police departments, and sheriffs' departments such information as will  
99 enable the Commission to identify and locate such victims. The use of any information received by the  
100 Commission pursuant to this subdivision shall be limited to carrying out the purposes set forth in this section,  
101 and this information shall be confidential and shall not be disseminated further.

102 **§ 19.2-368.11:1. Amount of award.**

103 A. Compensation for Total Loss of Earnings: An award made pursuant to this chapter for total loss of  
104 earnings that results directly from incapacity incurred by a crime victim shall be payable during total  
105 incapacity to the victim or to such other eligible person, at a weekly compensation rate equal to 66-2/3  
106 percent of the victim's average weekly wages. The victim's average weekly wages shall be determined as  
107 provided in § 65.2-101.

108 B. Compensation for Partial Loss of Earnings: An award made pursuant to this chapter for partial loss of  
109 earnings that results directly from incapacity incurred by a crime victim shall be payable during incapacity at  
110 a weekly rate equal to 66-2/3 percent of the difference between the victim's average weekly wages before the  
111 injury and the weekly wages that the victim is able to earn thereafter. The combined total of actual weekly  
112 earnings and compensation for partial loss of earnings shall not exceed \$600 per week.

113 C. Compensation for Loss of Earnings of Parent of Minor Victim: The parent or guardian of a minor  
114 crime victim may receive compensation for loss of earnings, calculated as specified in subsections A and B,  
115 for time spent obtaining medical treatment for the child and for accompanying the child to, attending or  
116 participating in investigative, prosecutorial, judicial, adjudicatory, and post-conviction proceedings.

117 D. Compensation for Dependents of a Victim Who Is Killed: If death results to a victim of crime entitled  
118 to benefits, dependents of the victim shall be entitled to compensation in accordance with the provisions of  
119 §§ 65.2-512 and 65.2-515 in an amount not to exceed the maximum aggregate payment or the maximum  
120 weekly compensation that would have been payable to the deceased victim under this section.

121 E. Compensation for Unreimbursed Medical Costs, Funeral Expenses, Services, etc.: Awards may also be  
122 made on claims or portions of claims based upon the claimant's actual expenses incurred as are determined by  
123 the Commission to be appropriate, for (i) unreimbursed medical expenses or indebtedness reasonably

124 incurred for medical expenses; (ii) expenses reasonably incurred in obtaining ordinary and necessary services  
125 in lieu of those the victim would have performed, for the benefit of himself and his family, if he had not been  
126 a victim of crime; (iii) expenses directly related to funeral or burial, not to exceed \$10,000; (iv) expenses  
127 attributable to pregnancy resulting from forcible rape; (v) mental health counseling for survivors as defined  
128 under subdivisions A 2 and A 4 of § 19.2-368.4, not to exceed \$3,500 per claim; (vi) reasonable and  
129 necessary moving expenses, not to exceed \$2,000, incurred by a victim or survivors as defined under  
130 subdivisions A 2 and A 4 of § 19.2-368.4; and (vii) any other reasonable and necessary expenses and  
131 indebtedness incurred as a direct result of the injury or death upon which such claim is based, not otherwise  
132 specifically provided for. Notwithstanding any other provision of law, a person who is not eligible for an  
133 award under subsection A of § 19.2-368.4 who pays expenses directly related to funeral or burial is eligible  
134 for reimbursement subject to the limitations of this section.

135 F. Notwithstanding the provisions of subdivision 3 of § 19.2-368.10, §§ 19.2-368.5, 19.2-368.5:1,  
136 19.2-368.6, 19.2-368.7, and 19.2-368.8, subsection G of this section, and § 19.2-368.16, the Criminal Injuries  
137 Compensation Fund shall pay for physical evidence recovery kit examinations conducted on victims of  
138 sexual assault *and anonymous trace evidence collection kit examinations conducted on victims of*  
139 *strangulation*. Any individual that submits to and completes a ~~physical evidence recovery kit~~ *any such*  
140 examination shall be considered to have met the reporting requirements of this chapter. Funds paid for  
141 physical evidence recovery kit *or anonymous trace evidence collection kit* collection shall not be offset  
142 against the Fund's maximum allowable award as provided in subsection H. Payments may be subject to  
143 negotiated agreements with the provider. Health care providers that complete physical evidence recovery kit  
144 *or anonymous trace evidence collection kit* examinations may bill the Fund directly subject to the provisions  
145 of § 19.2-368.5:2. The Commission shall develop policies for a distinct payment process for physical  
146 evidence recovery kit *and anonymous trace evidence collection kit* examination expenses as required under  
147 subdivision 1 of § 19.2-368.3.

148 In order for the Fund to consider additional crime-related expenses, victims shall file with the Fund  
149 following the provisions of this chapter and Criminal Injuries Compensation Fund policy.

150 G. Any claim made pursuant to this chapter shall be reduced by the amount of any payments received or  
151 to be received as a result of the injury from or on behalf of the person who committed the crime or from any  
152 other public or private source, including an emergency award by the Commission pursuant to § 19.2-368.9.

153 H. To qualify for an award under this chapter, a claim must have a minimum value of \$100, and payments  
154 for injury or death to a victim of crime, to the victim's dependents or to others entitled to payment for covered

155 expenses, after being reduced as provided in subsection G, shall not exceed \$35,000 in the aggregate.

156 **2. That the Director of the Department of Criminal Justice Services (the Director) shall convene a work**  
157 **group to include the Commissioner of Health or his designee, the Executive Director of the Virginia**  
158 **Workers' Compensation Commission or his designee, the Executive Secretary of the Supreme Court of**  
159 **Virginia or his designee, one representative from the Virginia Hospital & Healthcare Association, one**  
160 **representative from the Virginia Chapter of the International Association of Forensic Nurses, one**  
161 **representative from the Medical Society of Virginia, one representative from the Virginia Nurses**  
162 **Association, one representative from the Virginia Sexual and Domestic Violence Action Alliance, one**  
163 **representative from the Commonwealth's Attorneys' Services Council, one representative from the**  
164 **Virginia Forensic Nursing Advisory Council, and other stakeholders designated by the Director or his**  
165 **designee. The work group shall discuss and submit recommendations for (i) streamlining and**  
166 **providing clarifying guidelines on the Office of the Executive Secretary reimbursement process for**  
167 **forensic medical examinations; (ii) offering statewide educational training on the reimbursement**  
168 **process for forensic nurses; (iii) establishing clear personnel contacts for forensic nurses during the**  
169 **reimbursement process; (iv) ensuring sustainability of funding for all medical forensic examinations;**  
170 **(v) increasing the percentage of the submitted costs reimbursed by the Criminal Injuries**  
171 **Compensation Fund, created pursuant to § 19.2-368.18 of the Code of Virginia; (vi) eliminating law**  
172 **enforcement involvement in the Office of the Executive Secretary reimbursement process for**  
173 **established forensic nursing programs; (vii) reimbursing forensic nursing expert witness preparation**  
174 **and testimony by the Office of the Executive Secretary; and (viii) reimbursing forensic nurses for**  
175 **services including mileage, professional time, and patient transportation costs associated with medical**  
176 **forensic examinations and follow-up care, including (a) travel between examination sites, (b)**  
177 **preparation for and participation in court proceedings, (c) participation in Sexual Assault Response**  
178 **Team (SART) and multidisciplinary team (MDT) meetings, (d) telehealth forensic services and**  
179 **consultations provided by both originating and receiving providers, and (e) transportation of patients**  
180 **to and from forensic and follow-up examinations. The work group shall submit a report with**  
181 **recommendations to the Chairs of the House Committee on Health and Human Services, the House**  
182 **Committee on Appropriations, the Senate Committee on Education and Health, and the Senate**  
183 **Committee on Finance and Appropriations by November 1, 2026.**