

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act 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*
 3 *Virginia, relating to victims of crime; reimbursement for expenses; work group.*

4 [S 812]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **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**
8 **and reenacted as follows:**9 **§ 19.2-165.1. Payment of medical fees in certain criminal cases; reimbursement.**

10 A. Except as provided in subsection B, all medical fees expended in the gathering of evidence for all
 11 criminal cases where medical evidence is necessary to establish a crime has occurred and for cases involving
 12 abuse of children ~~under the age of~~ *younger than 18 years of age* shall be paid by the Commonwealth out of
 13 the appropriation for criminal charges, provided that any medical evaluation, examination, or service
 14 rendered be performed by a physician or facility specifically designated by the attorney for the
 15 Commonwealth in the city or county having jurisdiction of such case for such a purpose. If no such physician
 16 or facility is reasonably available in such city or county, then the attorney for the Commonwealth may
 17 designate a physician or facility located outside and adjacent to such city or county.

18 Where there has been no prior designation of such a physician or facility, such medical fees shall be paid
 19 out of the appropriation for criminal charges upon authorization by the attorney for the Commonwealth of the
 20 city or county having jurisdiction over the case. Such authorization may be granted prior to or within 48
 21 hours after the medical evaluation, examination, or service rendered.

22 B. All medical fees expended in the gathering of evidence through (i) physical evidence recovery kit
 23 examinations, *defined in § 19.2-11.5*, conducted on victims complaining of sexual assault under Article 7
 24 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 and (ii) *anonymous trace evidence collection kit examinations,*
 25 *defined in § 19.2-11.5, conducted on victims complaining of strangulation in violation of § 18.2-51.6* shall be
 26 paid by the Commonwealth pursuant to subsection F of § 19.2-368.11:1. ~~Victims complaining of sexual~~
 27 ~~assault~~ *Such victims* shall not be required to participate in the criminal justice system or cooperate with
 28 law-enforcement authorities in order to be provided with such ~~forensic~~ medical exams.

29 C. Upon conviction of the defendant in any case requiring the payment of medical fees authorized by this
 30 section, the court shall order that the defendant reimburse the Commonwealth for payment of such fees.

31 **§ 19.2-368.2. Definitions.**

32 For the purpose of this chapter:

33 *"Anonymous trace evidence collection kit" means the same as that term is defined in § 19.2-11.5.*34 *"Claimant" means the person filing a claim pursuant to this chapter.*35 *"Commission" means the Virginia Workers' Compensation Commission.*

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

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

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

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

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

52 **§ 19.2-368.3. Powers and duties of Commission.**53 The Commission shall have the following powers and duties in the administration of the provisions of this
54 chapter:

55 1. To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions and
 56 purposes of this chapter, to include a distinct policy (i) for the payment of physical evidence recovery kit

ENROLLED

SB812ER

57 examinations, including mileage at a rate provided by law incurred by a sexual assault forensic examiner as
 58 defined in § 19.2-11.5, *or anonymous trace evidence collection kit examinations* and (ii) to require each
 59 health care provider as defined in § 8.01-581.1 that provides services under this chapter to negotiate with the
 60 Commission or its designee to establish prospective agreements relating to rates for payment of claims for
 61 such services allowed under § 19.2-368.11:1, such rates to discharge the obligation to the provider in full
 62 except where the provider is an agency of the Commonwealth and the claimant receives a third party
 63 recovery in addition to the payment from the Fund.

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

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

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

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

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

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

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

89 9. To collect and disburse unclaimed restitution pursuant to subsection I of § 19.2-305.1 and develop, in
 90 consultation with circuit court clerks and the Office of the Executive Secretary of the Supreme Court of
 91 Virginia, policies and procedures for the receipt, collection, and disbursement of unclaimed restitution to
 92 victims of crime.

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

100 **§ 19.2-368.11:1. Amount of award.**

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

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

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

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

119 E. Compensation for Unreimbursed Medical Costs, Funeral Expenses, Services, etc.: Awards may also be
 120 made on claims or portions of claims based upon the claimant's actual expenses incurred as are determined by
 121 the Commission to be appropriate, for (i) unreimbursed medical expenses or indebtedness reasonably
 122 incurred for medical expenses; (ii) expenses reasonably incurred in obtaining ordinary and necessary services
 123 in lieu of those the victim would have performed, for the benefit of himself and his family, if he had not been
 124 a victim of crime; (iii) expenses directly related to funeral or burial, not to exceed \$10,000; (iv) expenses
 125 attributable to pregnancy resulting from forcible rape; (v) mental health counseling for survivors as defined
 126 under subdivisions A 2 and A 4 of § 19.2-368.4, not to exceed \$3,500 per claim; (vi) reasonable and
 127 necessary moving expenses, not to exceed \$2,000, incurred by a victim or survivors as defined under
 128 subdivisions A 2 and A 4 of § 19.2-368.4; and (vii) any other reasonable and necessary expenses and
 129 indebtedness incurred as a direct result of the injury or death upon which such claim is based, not otherwise
 130 specifically provided for. Notwithstanding any other provision of law, a person who is not eligible for an
 131 award under subsection A of § 19.2-368.4 who pays expenses directly related to funeral or burial is eligible
 132 for reimbursement subject to the limitations of this section.

133 F. Notwithstanding the provisions of subdivision 3 of § 19.2-368.10, §§ 19.2-368.5, 19.2-368.5:1,
 134 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
 135 Compensation Fund shall pay for physical evidence recovery kit examinations conducted on victims of
 136 sexual assault *and anonymous trace evidence collection kit examinations conducted on victims of*
 137 *strangulation*. Any individual that submits to and completes a ~~physical evidence recovery kit~~ *any such*
 138 examination shall be considered to have met the reporting requirements of this chapter. Funds paid for
 139 physical evidence recovery kit *or anonymous trace evidence collection kit* collection shall not be offset
 140 against the Fund's maximum allowable award as provided in subsection H. Payments may be subject to
 141 negotiated agreements with the provider. Health care providers that complete physical evidence recovery kit
 142 *or anonymous trace evidence collection kit* examinations may bill the Fund directly subject to the provisions
 143 of § 19.2-368.5:2. The Commission shall develop policies for a distinct payment process for physical
 144 evidence recovery kit *and anonymous trace evidence collection kit* examination expenses as required under
 145 subdivision 1 of § 19.2-368.3.

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

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

151 H. To qualify for an award under this chapter, a claim must have a minimum value of \$100, and payments
 152 for injury or death to a victim of crime, to the victim's dependents or to others entitled to payment for covered
 153 expenses, after being reduced as provided in subsection G, shall not exceed \$35,000 in the aggregate.

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