

To whom it may concern,

Please find attached the Crime Victims Reparations Board rules that were approved for repeal by Act 781 of 2017.

The rules for repeal are as follows:

- Rule 11 – Garnishment and Assignment of Award
- Rule 15 – Subrogation Rights of Board
- Rule 20 – Eligibility Requirements and Application Review Procedure for the Sexual Assault Reimbursement Program

Thank you,

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Assistant Attorney General
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Rule No. 11

GARNISHMENT AND ASSIGNMENT OF AWARD

1. An award shall not be subject to execution, attachment, garnishment or other process, except that an award for allowable expense shall not be exempt from a claim of a creditor to the extent such creditor has provided products, services or accommodations, the costs of which are included in the award.
2. An assignment by the claimant to any future award is unenforceable, except:
 - a. For work loss to assure payment of court-ordered alimony, maintenance or child support;
 - b. For allowable expense to the extent that the benefits are for the cost of products, services or accommodations necessitated by the injury or death.

Rule No. 15

SUBROGATION RIGHTS OF THE BOARD

1. Upon an award of compensation by the Board for personal injury or death, the Board shall be subrogated to recover from a collateral source to the extent reparations were awarded.
2. Should the claimant/victim file a cause of action against any third person responsible for such injury or death, and be entitled to recover the amount of damages sustained by the claimant/victim then the amount recovered and collected in the action is subrogated to the Board for the amount of reparations awarded.
3. In the event a defendant is convicted of a crime and ordered to pay restitution, the office of the Attorney General may seek to recover any or all of the restitution paid. Any excess amount recovered over the reparation amount awarded and paid shall be paid to the claimant/victim.

Rule No. 20

**ELIGIBILITY REQUIREMENTS AND APPLICATION REVIEW
PROCEDURE FOR THE SEXUAL ASSAULT REIMBURSEMENT PROGRAM**

DEFINITIONS

“Victim” means any person who has been a victim of any sexual assault or incest.

“Appropriate emergency medical-legal examinations” means health care delivered to out-patients with emphasis on the collection of evidence for the purpose of prosecution and shall include, but not be limited to:

1. Appropriate stains and cultures to determine the presence or absence of venereal disease.
2. Components contained in an evidence collection kit for sexual assault examinations deemed appropriate by the Serology Division of the State Crime Laboratory
3. Evidence collection shall not include treatment of emotional trauma or ambulance services.

“Licensed health care provider”

“Medical facility” means any health care provider that is currently licensed by the Department of Health and providing emergency services, and all publicly owned or tax-supported medical facilities in Arkansas.

**PROCEDURES GOVERNING MEDICAL TREATMENT
ADULT VICTIMS**

1. All medical facilities in Arkansas shall adhere to the procedures set forth below in the event that a person presents himself or is presented at the medical facility for treatment as a victim of rape, attempted rape, any other type of sexual assault, or incest.
2. Any adult victim presented for medical treatment shall make the decision of whether or not the incident will be reported to a law enforcement agency.
 - a. No medical facility may require an adult victim to report the incident in order to receive medical treatment.
 - b. The victim shall be examined and treated as a regular emergency room patient, and any injuries requiring medical attention will be treated in the standard manner.
 - c. b. Evidence will be collected only with the permission of the victim. However, permission shall not be required in instances where the victim is unconscious, mentally incapable of consent or intoxicated.

3. Should an adult victim wish to report the incident to a law enforcement agency, the appropriate law enforcement agencies shall be contacted by the medical facility.
 - a. The victim shall be examined and treated as a regular emergency room patient, any injuries requiring medical attention will be treated in the standard manner and a medical-legal examination shall be conducted and specimens shall be collected for evidence.
 - b. The evidence shall be turned over to the law enforcement officers when they arrive to assume responsibility for investigation of the incident.

PROCEDURES GOVERNING MEDICAL TREATMENT OF MINOR VICTIMS

1. All medical facilities in Arkansas shall adhere to the procedures set forth below in the event that a person presents himself/herself or is presented at the medical facility for treatment as a victim of rape, attempted rape, any other type of sexual assault, or incest.
2. The reporting medical facility shall report the injuries of the victim under eighteen (18) years of age immediately by telephone and shall then follow up with a written report within forty-eight (48) hours if so requested by the receiving agency. The receiving agency shall immediately prepare and forward written report to the statewide central registry within twenty-four (24) hours. The Department of Human Services shall notify and initiate an investigation in cooperation with law enforcement agencies and the prosecuting attorney..
3. Any victim under the age of eighteen (18) years of age shall be examined and treated as a regular emergency room patient and any injury requiring medical attention will be treated in the standard manner.
4. A medical-legal examination shall be performed and specimens shall be collected for evidence.
5. The evidence shall be turned over to the law enforcement officers when they arrive to assume responsibility for investigation of the incident.

PROCEDURES APPLICABLE TO BOTH ADULT AND MINOR VICTIMS TRANSFERS

The victim shall not be transferred to another medical facility unless:

- a. The victim requests to be transferred, or

- b. A physician or other qualified medical personnel when a physician is not available has signed a certification that the benefits to the patient's health would outweigh the risks to the patient's health as a result of the transfer, and
- c. The transferring hospital provides all necessary medical records and insures that appropriate transportation is available.

EXAMINATIONS AND TREATMENT -- PAYMENTS

1. All University of Arkansas Medical Sciences Campuse shall provide prompt, appropriate emergency medical-legal examinations for sexual assault victims.
2. All victims seeking treatment shall be exempted from the payment of expenses incurred as a result of the treatment provided the following conditions are met:
 - a. The assault must be reported to a law enforcement agency, and
 - b. The victim must receive the medical-legal examination within forty-eight (48) hours of the attack.
 - c. In the event the victim is a minor, the forty-eight (48) hour time limitation may be waived, if, in the opinion of the examining physician, evidence of sexual activity could be found.

REIMBURSEMENT OF ALL MEDICAL FACILITIES

1. The Arkansas Crime Victims Reparations Board may reimburse any medical facility for reasonable costs of emergency medical examinations for sexual assault victims. The Board may mandate cost ceilings for claims and determine reasonable cost.
2. Medical facilities must be currently licensed by the Department of Health and providing emergency services.
3. Medical facilities are responsible for fulfillment of the following procedures since reimbursement is made directly to them:
 - c. Claims will be paid only if submitted on Arkansas Crime Victims Reparations Board Sexual Assault Reimbursement Forms which must include:
 - i. Victims name, date of birth and address
 - ii. Date and time of incident
 - iii. date and time of treatment by medical facility
 - iv. Name and address of law enforcement agency notified
 - v. Name and address of medical facility
 - vi. Medical facility contact person and telephone number
 - vii. brief description of examination, treatment and tests
 - viii. signed verification from the physician

- ix. Signed verification from law enforcement or victim witness coordinator or verified victim advocate
 - x. All itemized copies of medical bills complete with current procedural terminology (CPT) codes
- b. The medical facility must send the reimbursement form with the attached itemized bills to the Arkansas Crime Victims Reparations Board.

The Board shall make payments for the following sexual assault- medical-legal examination services:

1. Physician's fee
 - a. History
 - b. Physical
 - c. Collection of specimens
 - d. Treatment for the prevention of venereal disease
2. Emergency department
 - a. Emergency room, clinic room or office room fee
 - b. Pelvic tray
3. Laboratory
 - a. Wet mount for sperm
 - b. Fixed smear for sperm (pap)
 - c. Blood test for VDRL
 - d. Blood testing for syphilis and Hepatitis B
 - e. HIV test
 - f. Cultures for gonorrhea, chlamydia, trichomonas and other sexually transmitted disease (STD)
4. Pregnancy testing (blood test or urinalysis if indicated)
5. Other laboratory test that are required for the purpose of evidentiary examination
6. Medications
 - a. Prophylaxies
 - b. One dose sedative, antidepressant or tranquilizer

The Administrator of the Arkansas Crime Victims Reparations Board will then approve the reimbursement for reasonable and customary costs related to the collection of evidence and immediate emergency medical treatment (medical-legal examination). The payment of said fees will be based on past practices and costs (average of fiscal year 1991, 1992 and 1993); however excessive fees which are denied may be appealed by the medical provider in writing to the Arkansas Crime Victims Reparations Board. An annual review of said fees will be conducted by the Administrator of the Arkansas Crime Victims Reparations Board.

4. Acceptance of payment for services paid by the Arkansas Crime Victims Reparations Board shall be considered payment in full and bars any legal action for collection. The provider of medical services to whom the award is made will be notified that by accepting the approved payment, they are agreeing not to commence civil actions against the victim or his/her legal representative to recover any balance due under the bill.

5. The victim is not responsible for the payment of the cost of the medical-legal examination. A medical facility shall not submit any remaining balance after reimbursement by this Board to the victim.
6. Victims may be eligible for crime victim compensation through the Crime Victims Reparations Board for medical care that was not part of the sexual assault – medical-legal examination. Medical care may include: x-rays, stitches, hospitalization, pain medication and counseling that may be needed as a direct result of the sexual assault victimization. A crime victim compensation form must be completed for compensation to be reimbursed for medical care. The form must be accompanied by a police offense report and medical bills.