

Department of Legislative Services  
Maryland General Assembly  
2003 Session

FISCAL AND POLICY NOTE

House Bill 152  
Judiciary

(Delegates Owings and O'Donnell)

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Criminal Procedure - Restitution - Sexual Assault Expenses

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This bill authorizes a court to enter a judgment of restitution that orders a criminal defendant in a sexual assault case to make restitution – in addition to any other penalty – for the commission of a sexual assault if a victim, governmental unit, or private provider, including a hospital or clinic, incurred expenses by a Sexual Assault Forensic Examiner (SAFE) nurse for a medical examination or testimony.

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Fiscal Summary

**State Effect:** Potential minimal general fund revenue increases annually through the Department of Health and Mental Hygiene (DHMH). Expenditures would not be affected.

**Local Effect:** Potential minimal increase in reimbursement revenues for local health departments, SAFE programs, and hospitals. Expenditures would not be affected.

**Small Business Effect:** Potential minimal. Private medical care providers that qualify as small businesses may be able to recover medical examination costs or the costs of testimony by SAFE nurses under the provisions of this bill.

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Analysis

**Current Law:** A court may enter a judgment of restitution that orders a defendant or child respondent to make restitution in addition to any other penalty for the commission of a crime or delinquent act, if:

- as a direct result of the crime or delinquent act, property of the victim was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value substantially decreased;

- as a direct result of the crime or delinquent act, the victim suffered:
  - actual medical, dental, hospital, counseling, funeral, or burial expenses;
  - any other direct out-of-pocket loss; or
  - loss of earnings;
- the victim incurred medical expenses that were paid by DHMH or any other governmental unit;
- a governmental unit incurred expenses in removing, towing, transporting, preserving, storing, selling, or destroying an abandoned vehicle;
- the Criminal Injuries Compensation Board paid benefits to a victim; or
- DHMH or another governmental unit paid certain other expenses.

The bill does not define the term “sexual assault” by any specific statutory offense.

**Background:** The regulations governing registered nurses working as a SAFE became effective December 13, 1999. SAFE nurses and programs are regulated by the State Board of Nursing. Unless a nurse is certified, the nurse will not be eligible to work as a sexual assault forensic examiner.

The only approved SAFE training programs in Maryland are in Calvert County, Prince George’s County, and Baltimore City. There are 99 RN-SAFE nurses statewide as follows:

Allegany County	2	Harford County	6
Anne Arundel County	7	Howard County	8
Baltimore County	17	Kent County	1
Baltimore City	5	Montgomery County	4
Calvert County	6	Prince George’s County	7
Carroll County	8	St. Mary’s County	2
Cecil County	6	Talbot County	2
Charles County	5	Washington County	1
Frederick County	10	Worcester County	2

Current statewide SAFE program funding is provided through grants from the National Trauma Center, as well as from individual billings and grants from DHMH. The National Trauma Center statewide grant was for three years and local hospitals must submit individual grant applications to receive funding from the statewide award. Local hospital grant money may be used for both the examination and testimony by SAFE nurses. However, costs beyond the reach of grant money for such examinations and testimony is absorbed by the local hospital. This bill is intended to provide an ongoing reimbursement source for victims and public and private medical centers to remedy the current shortfall in covering such costs.

In 2002, there were 3,324 rape examinations in hospitals across Maryland (not counting any occurring in specialized abuse centers in the State). Of that number, 30% (or about 997) led to cases being filed with a State's Attorney. Of the cases referred to State's Attorneys, 30% (or about 299) went to trial.

**State Revenues:** It is unknown how often a crime victim, governmental unit, or private medical care provider may incur expenses for a medical examination or testimony by a SAFE nurse in criminal proceedings annually. DHMH advises that the department spends about \$835,000 on clinical examinations and about \$439,250 on physician services for sexual assault cases annually. DHMH estimates that such costs average \$727 per victim for both clinical examinations and physician services. The State Board of Nursing advises that these costs vary per hospital and could likely be higher than \$727 per victim. In any case, costs attributed to testimony by SAFE nurses tend to average about \$100 per case, including preparation time. (It is also noted that 42% of victims of sexual assault have injuries sufficient for the victim to be referred to a specialist.)

For purposes of illustration only, if half of all above cited sexual assault cases going to trial (150) resulted in a conviction, and restitution under this bill were ordered and paid, and DHMH resources were employed for every case's medical examinations or testimony by a SAFE nurse (at \$727 per case), this bill could result in additional general fund revenues of \$109,050 per year. However, the extent to which the State would be successful in collecting the full amounts of any such restitution orders is unknown.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene (State Board of Nursing, Family Health Administration), Department of Public Safety and Correctional Services, Department of Legislative Services

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