

1593

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. GRISANTI -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law and the executive law, in relation to establishing a domestic violence forensic examiner program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The public health law is amended by adding a new article
2 27-M to read as follows:

3 ARTICLE 27-M

4 DOMESTIC VIOLENCE FORENSIC

5 EXAMINER PROGRAM

6 SECTION 2799-T. TREATMENT OF SURVIVORS OF DOMESTIC VIOLENCE AND MAINTENANCE OF EVIDENCE; DOMESTIC VIOLENCE FORENSIC EXAMINER PROGRAM ESTABLISHED.

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9 S 2799-T. TREATMENT OF SURVIVORS OF DOMESTIC VIOLENCE AND MAINTENANCE
10 OF EVIDENCE; DOMESTIC VIOLENCE FORENSIC EXAMINER PROGRAM ESTABLISHED. 1.
11 THE COMMISSIONER SHALL ESTABLISH A PROGRAM IN THIS STATE THROUGH WHICH A
12 TRAINED NURSE PRACTITIONER, PHYSICIAN'S ASSISTANT, REGISTERED NURSE OR
13 PHYSICIAN SHALL PROVIDE APPROPRIATE FORENSIC EXAMINATIONS AND RELATED
14 MEDICAL SERVICES TO SURVIVORS OF DOMESTIC VIOLENCE.

15 2. THE COMMISSIONER SHALL, IN CONSULTATION WITH THE COMMISSIONER OF
16 CRIMINAL JUSTICE SERVICES, DESIGNATE FACILITIES LOCATED IN THE STATE AS
17 OFFICIAL SITES FOR DOMESTIC VIOLENCE FORENSIC EXAMINER PROGRAMS.

18 3. THE COMMISSIONER SHALL PROMULGATE SUCH RULES AND REGULATIONS AS MAY
19 BE NECESSARY AND PROPER TO CARRY OUT EFFECTIVELY THE PROVISIONS OF THIS
20 SECTION. PRIOR TO PROMULGATING SUCH RULES AND REGULATIONS, THE COMMISSIONER SHALL CONSULT WITH RELEVANT POLICE AGENCIES, FORENSIC LABORATORIES, AND OTHER SUCH PERSONS AS THE COMMISSIONER DEEMS NECESSARY. SUCH RULES AND REGULATIONS SHALL: (A) IDENTIFY ANY CRIMINAL OFFENSES SUBJECT
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24 TO THE PROVISIONS OF THIS SECTION; (B) PROVIDE DEFINITIONS FOR EVIDENCE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

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COLLECTED IN DOMESTIC VIOLENCE CASES; AND (C) REQUIRE EACH FACILITY TO CONTACT ITS LOCAL POLICE AGENCY AND FORENSIC LABORATORY TO DETERMINE THEIR SPECIFIC NEEDS OR REQUIREMENTS.

4. ON OR BEFORE NOVEMBER THIRTIETH, TWO THOUSAND SEVENTEEN, THE COMMISSIONER SHALL PROVIDE A REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY, CONCERNING THE DOMESTIC VIOLENCE FORENSIC EXAMINER PROGRAM ESTABLISHED UNDER THIS SECTION. SUCH REPORT SHALL INCLUDE AN EVALUATION OF THE EFFICACY OF SUCH PROGRAM IN OBTAINING USEFUL FORENSIC EVIDENCE IN DOMESTIC VIOLENCE CASES AND ASSURING QUALITY TREATMENT TO SURVIVORS OF DOMESTIC VIOLENCE. SUCH REPORT SHALL ALSO RECOMMEND WHETHER THIS PROGRAM SHOULD BE EXPANDED AND SHALL ESTIMATE THE FINANCIAL COST, IF ANY, OF SUCH EXPANSION.

S 2. Section 631 of the executive law is amended by adding a new subdivision 18 to read as follows:

18. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE, OR REGULATION TO THE CONTRARY, WHEN ANY NEW YORK STATE ACCREDITED DOMESTIC VIOLENCE FORENSIC EXAMINER PROGRAM OR LICENSED HEALTH CARE PROVIDER FURNISHES SERVICES TO A SURVIVOR OF DOMESTIC VIOLENCE, INCLUDING BUT NOT LIMITED TO, A HEALTH CARE FORENSIC EXAMINATION IN ACCORDANCE WITH THE DOMESTIC VIOLENCE EVIDENCE COLLECTION PROTOCOL AND STANDARDS ESTABLISHED BY THE DEPARTMENT OF HEALTH, SUCH DOMESTIC VIOLENCE FORENSIC EXAMINER PROGRAM OR LICENSED HEALTH CARE PROVIDER SHALL PROVIDE SUCH SERVICES TO SUCH PERSON WITHOUT CHARGE AND SHALL BILL THE OFFICE DIRECTLY.

(A) THE OFFICE, IN CONSULTATION WITH THE DEPARTMENT OF HEALTH, SHALL DEFINE THE SPECIFIC SERVICES TO BE COVERED BY THE DOMESTIC VIOLENCE FORENSIC EXAMINATION REIMBURSEMENT FEE.

(B) THE OFFICE, IN CONSULTATION WITH THE DEPARTMENT OF HEALTH, SHALL ESTABLISH A DIRECT REIMBURSEMENT PROGRAM AND SHALL GENERATE THE NECESSARY REGULATIONS AND FORMS FOR SUCH PROGRAM. THE RATE FOR REIMBURSEMENT SHALL BE THE AMOUNT OF ITEMIZED CHARGES, NOT TO EXCEED SIX HUNDRED FIFTY DOLLARS, TO BE REVIEWED AND ADJUSTED ANNUALLY BY THE OFFICE IN CONSULTATION WITH THE DEPARTMENT OF HEALTH. THE DOMESTIC VIOLENCE FORENSIC EXAMINER PROGRAM OR LICENSED HEALTH CARE PROVIDER SHALL ACCEPT SUCH REIMBURSEMENT AS PAYMENT IN FULL FOR SUCH SPECIFIED SERVICES. NO ADDITIONAL BILLING OF THE SURVIVOR FOR SUCH SERVICES IS PERMISSIBLE.

(C) A SURVIVOR OF DOMESTIC VIOLENCE MAY VOLUNTARILY ASSIGN ANY PRIVATE INSURANCE BENEFITS TO WHICH SHE OR HE IS ENTITLED FOR THE HEALTH CARE FORENSIC EXAMINATION, IN WHICH CASE THE HOSPITAL OR HEALTH CARE PROVIDER MAY NOT CHARGE THE OFFICE. A DOMESTIC VIOLENCE FORENSIC EXAMINER PROGRAM OR LICENSED HEALTH CARE PROVIDER SHALL, AT THE TIME OF THE INITIAL VISIT, REQUEST ASSIGNMENT OF ANY PRIVATE HEALTH INSURANCE BENEFITS TO WHICH THE SURVIVOR OF DOMESTIC VIOLENCE IS ENTITLED ON A FORM PRESCRIBED BY THE OFFICE. SUCH SURVIVOR OF DOMESTIC VIOLENCE SHALL BE ADVISED ORALLY AND IN WRITING THAT HE OR SHE MAY DECLINE TO PROVIDE SUCH INFORMATION REGARDING PRIVATE HEALTH INSURANCE BENEFITS IF HE OR SHE BELIEVES THAT THE PROVISION OF SUCH INFORMATION WOULD SUBSTANTIALLY INTERFERE WITH HIS OR HER PERSONAL PRIVACY OR SAFETY AND IN SUCH EVENT, THE DOMESTIC VIOLENCE FORENSIC EXAMINATION FEE SHALL BE PAID BY THE OFFICE. SUCH SURVIVOR OF DOMESTIC VIOLENCE SHALL ALSO BE ADVISED THAT PROVIDING SUCH INFORMATION MAY PROVIDE ADDITIONAL RESOURCES TO PAY FOR SERVICES TO OTHER DOMESTIC VIOLENCE SURVIVORS. IF HE OR SHE DECLINES TO PROVIDE SUCH HEALTH INSURANCE INFORMATION, HE OR SHE SHALL INDICATE SUCH DECISION ON SUCH FORM PROVIDED BY THE DOMESTIC VIOLENCE FORENSIC EXAMINER PROGRAM OR LICENSED HEALTH CARE PROVIDER, AS PRESCRIBED BY THE OFFICE.

S 3. This act shall take effect immediately.