

9669

I N A S S E M B L Y

March 23, 2012

Introduced by M. of A. GABRYSZAK -- read once and referred 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 ASSEM-
BLY, 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.

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

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

16 3. THE COMMISSIONER SHALL PROMULGATE SUCH RULES AND REGULATIONS AS MAY
17 BE NECESSARY AND PROPER TO CARRY OUT EFFECTIVELY THE PROVISIONS OF THIS
18 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 TO THE PROVISIONS OF THIS SECTION; (B) PROVIDE DEFINITIONS FOR EVIDENCE 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.

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

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1 4. ON OR BEFORE NOVEMBER THIRTIETH, TWO THOUSAND SIXTEEN, THE COMMIS-
2 SIONER SHALL PROVIDE A REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT
3 OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY, CONCERNING THE DOMESTIC
4 VIOLENCE FORENSIC EXAMINER PROGRAM ESTABLISHED UNDER THIS SECTION. SUCH
5 REPORT SHALL INCLUDE AN EVALUATION OF THE EFFICACY OF SUCH PROGRAM IN
6 OBTAINING USEFUL FORENSIC EVIDENCE IN DOMESTIC VIOLENCE CASES AND ASSUR-
7 ING QUALITY TREATMENT TO SURVIVORS OF DOMESTIC VIOLENCE. SUCH REPORT
8 SHALL ALSO RECOMMEND WHETHER THIS PROGRAM SHOULD BE EXPANDED AND SHALL
9 ESTIMATE THE FINANCIAL COST, IF ANY, OF SUCH EXPANSION.

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

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

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

24 (B) THE OFFICE, IN CONSULTATION WITH THE DEPARTMENT OF HEALTH, SHALL
25 ESTABLISH A DIRECT REIMBURSEMENT PROGRAM AND SHALL GENERATE THE NECES-
26 SARY REGULATIONS AND FORMS FOR SUCH PROGRAM. THE RATE FOR REIMBURSEMENT
27 SHALL BE THE AMOUNT OF ITEMIZED CHARGES, NOT TO EXCEED SIX HUNDRED FIFTY
28 DOLLARS, TO BE REVIEWED AND ADJUSTED ANNUALLY BY THE OFFICE IN CONSULTA-
29 TION WITH THE DEPARTMENT OF HEALTH. THE DOMESTIC VIOLENCE FORENSIC EXAM-
30 INER PROGRAM OR LICENSED HEALTH CARE PROVIDER SHALL ACCEPT SUCH
31 REIMBURSEMENT AS PAYMENT IN FULL FOR SUCH SPECIFIED SERVICES. NO ADDI-
32 TIONAL BILLING OF THE SURVIVOR FOR SUCH SERVICES IS PERMISSIBLE.

33 (C) A SURVIVOR OF DOMESTIC VIOLENCE MAY VOLUNTARILY ASSIGN ANY PRIVATE
34 INSURANCE BENEFITS TO WHICH SHE OR HE IS ENTITLED FOR THE HEALTH CARE
35 FORENSIC EXAMINATION, IN WHICH CASE THE HOSPITAL OR HEALTH CARE PROVIDER
36 MAY NOT CHARGE THE OFFICE. A DOMESTIC VIOLENCE FORENSIC EXAMINER PROGRAM
37 OR LICENSED HEALTH CARE PROVIDER SHALL, AT THE TIME OF THE INITIAL
38 VISIT, REQUEST ASSIGNMENT OF ANY PRIVATE HEALTH INSURANCE BENEFITS TO
39 WHICH THE SURVIVOR OF DOMESTIC VIOLENCE IS ENTITLED ON A FORM PRESCRIBED
40 BY THE OFFICE. SUCH SURVIVOR OF DOMESTIC VIOLENCE SHALL BE ADVISED ORAL-
41 LY AND IN WRITING THAT HE OR SHE MAY DECLINE TO PROVIDE SUCH INFORMATION
42 REGARDING PRIVATE HEALTH INSURANCE BENEFITS IF HE OR SHE BELIEVES THAT
43 THE PROVISION OF SUCH INFORMATION WOULD SUBSTANTIALLY INTERFERE WITH HIS
44 OR HER PERSONAL PRIVACY OR SAFETY AND IN SUCH EVENT, THE DOMESTIC
45 VIOLENCE FORENSIC EXAMINATION FEE SHALL BE PAID BY THE OFFICE. SUCH
46 SURVIVOR OF DOMESTIC VIOLENCE SHALL ALSO BE ADVISED THAT PROVIDING SUCH
47 INFORMATION MAY PROVIDE ADDITIONAL RESOURCES TO PAY FOR SERVICES TO
48 OTHER DOMESTIC VIOLENCE SURVIVORS. IF HE OR SHE DECLINES TO PROVIDE SUCH
49 HEALTH INSURANCE INFORMATION, HE OR SHE SHALL INDICATE SUCH DECISION ON
50 SUCH FORM PROVIDED BY THE DOMESTIC VIOLENCE FORENSIC EXAMINER PROGRAM OR
51 LICENSED HEALTH CARE PROVIDER, AS PRESCRIBED BY THE OFFICE.

52 S 3. This act shall take effect immediately.