

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE APRIL 25, 2011

**SENATE BILL**

**No. 534**

---

**Introduced by Senator Corbett  
(Coauthors: Senators Hancock, Liu, and Price)**

February 17, 2011

---

An act to amend *Section 17612 of the Government Code*, and to amend Section 13823.95 of the Penal Code, relating to victims of sexual assault.

LEGISLATIVE COUNSEL'S DIGEST

SB 534, as amended, Corbett. Victims of sexual assault.

Existing law provides that no costs incurred by a qualified health care professional, hospital, or other emergency medical facility for the examination of the victim of a sexual assault for the purposes of gathering evidence for possible prosecution shall be charged directly or indirectly to the victim of the assault. Existing law provides that the law enforcement agency in the jurisdiction in which the alleged sexual assault was committed which requests the examination has the option of determining whether or not the examination will be performed in the office of a physician and surgeon, and that local jurisdiction shall bear those costs.

This bill would provide that victims of sexual assault are not required to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam. Because this bill would expand ~~a victim's right to a~~ *the provision of forensic medical exam examinations* paid for by a local agency, it would impose a state-mandated local program. *The bill would provide that specified funds in the annual Budget Act for the California Emergency*

*Management Agency shall be used to reimburse any state-mandated reimbursable costs resulting from this act that would otherwise be claimable through the state mandates reimbursement process. The bill would make related conforming changes.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 17612 of the Government Code is  
2     amended to read:

3     17612. (a) Upon receipt of the report submitted by the  
4     commission pursuant to Section 17600, *except as provided in*  
5     *Section 13823.95 of the Penal Code*, funding shall be provided in  
6     the subsequent Budget Act for costs incurred in prior years. No  
7     funding shall be provided for years in which a mandate is  
8     suspended.

9     (b) The Legislature may amend, modify, or supplement the  
10    parameters and guidelines, reasonable reimbursement methodology,  
11    and adopted statewide estimate of costs for the initial claiming  
12    period and budget year for mandates contained in the annual  
13    Budget Act. If the Legislature amends, modifies, or supplements  
14    the parameters and guidelines, reasonable reimbursement  
15    methodology, and adopted statewide estimate of costs for the initial  
16    claiming period and budget year, it shall make a declaration in  
17    separate legislation specifying the basis for the amendment,  
18    modification, or supplement.

19    (c) If the Legislature deletes from the annual Budget Act funding  
20    for a mandate, the local agency or school district may file in the  
21    Superior Court of the County of Sacramento an action in  
22    declaratory relief to declare the mandate unenforceable and enjoin  
23    its enforcement for that fiscal year.

1     **SECTION 1.**

2     **SEC. 2.** Section 13823.95 of the Penal Code is amended to  
3 read:

4     13823.95. (a) No costs incurred by a qualified health care  
5 professional, hospital, or other emergency medical facility for the  
6 examination of the victim of a sexual assault, as described in the  
7 protocol developed pursuant to Section 13823.5, when the  
8 examination is performed, pursuant to Sections 13823.5 and  
9 13823.7, for the purposes of gathering evidence for possible  
10 prosecution, shall be charged directly or indirectly to the victim  
11 of the assault. Those costs shall be treated as local costs and  
12 charged to the local governmental agency in whose jurisdiction  
13 the alleged offense was committed.

14     (b) Bills for these costs shall be submitted to the law  
15 enforcement agency in the jurisdiction in which the alleged offense  
16 was committed which requests the examination.

17     (c) Victims of sexual assault are not required to participate in  
18 the criminal justice system or cooperate with law enforcement in  
19 order to be provided with a forensic medical exam.

20     (d) The law enforcement agency in the jurisdiction in which the  
21 alleged offense was committed that requests the examination has  
22 the option of determining whether or not the examination will be  
23 performed in the office of a physician and surgeon.

24     (e) *Funds provided to the California Emergency Management*  
25 *Agency pursuant to Item 0690-102-0890 of the annual Budget Act*  
26 *shall be made available to the Controller to be used for claims*  
27 *pursuant to this section that are approved by the Commission on*  
28 *State Mandates that would otherwise be claimable through the*  
29 *state mandates reimbursement process.*

30     ~~SEC. 2.~~

31     **SEC. 3.** If the Commission on State Mandates determines that  
32 this act contains costs mandated by the state, reimbursement to  
33 local agencies and school districts for those costs shall be made  
34 pursuant to Part 7 (commencing with Section 17500) of Division  
35 4 of Title 2 of the Government Code.

O