

## SUPPORT FOR SEXUAL ASSAULT SURVIVORS

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<http://www.house.mi.gov/hfa>

**House Bill 4488 as introduced**  
**Sponsor: Rep. Christine Morse**  
**Committee: Criminal Justice**  
**Complete to 2-12-24**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4488 would amend the Sexual Assault Victims' Medical Forensic Intervention and Treatment Act to provide that sexual assault survivors have the right to have a support person and an attorney with them during investigatory interviews and the right to consult with a sexual assault counselor and an attorney when a sexual assault evidence kit is being administered. The bill also would require the Domestic and Sexual Violence Prevention and Treatment Board to study and report on whether there is a need for additional sexual assault counselors in Michigan and, if so, how that need could be met.

The act creates the Sexual Assault Victims' Medical Forensic Intervention and Treatment Fund and prescribes how the Domestic and Sexual Violence Prevention and Treatment Board<sup>1</sup> can spend money appropriated from that fund. Money is allocated annually to the fund from the Justice System Fund created under the Revised Judicature Act.<sup>2</sup>

#### Rights to support for sexual assault survivors

The bill would provide that a sexual assault survivor (a survivor of *criminal sexual conduct*) has a right to have a support person selected by them and an attorney retained by them present during an interview conducted in an investigation of criminal sexual conduct. However, unless the support person is an attorney retained by the sexual assault survivor, the right to have the support person present would not apply if a law enforcement officer, prosecutor, or defense attorney conducting the interview determines in their good-faith professional judgment that the support person's presence would be detrimental to the interview's purposes.

*Criminal sexual conduct* means either of the following:

- A violation, attempted violation, or solicitation or conspiracy to commit a violation of section 520b, 520c, 520d, 520e, 520f, or 520g of the Michigan Penal Code.
- An offense originally charged as one of the above that is subsequently reduced to an offense that is not included above.

A sexual assault survivor also would have a right to consult with a *sexual assault counselor* and an attorney retained by the sexual assault survivor during the administration of a *sexual assault evidence kit*. If the sexual assault counselor or attorney could not be summoned in a timely manner, the sexual assault survivor would have to be notified of any ramifications to delaying the administration of the sexual assault evidence kit.

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<sup>1</sup> <https://www.michigan.gov/mdhhs/safety-injury-prev/publicsafety/crimevictims/boards-and-commissions/michigan-domestic-and-sexual-violence-prevention-and-treatment-board>

<sup>2</sup> The Justice System Fund receives revenue from fines paid by those found guilty of criminal offenses or responsible for civil infractions. [https://www.house.mi.gov/hfa/PDF/Alpha/Fiscal\\_Brief\\_Justice\\_System\\_Fund\\_Feb2023.pdf](https://www.house.mi.gov/hfa/PDF/Alpha/Fiscal_Brief_Justice_System_Fund_Feb2023.pdf)

***Sexual assault counselor*** means an employee of a ***sexual assault crisis center*** whose primary purpose is providing advice, counseling, or assistance to victims or advocacy for ***victims***.

***Sexual assault crisis center*** means a public or private agency that offers specialized direct assistance to victims, including:

- A telephone hotline operated 24 hours a day and answered by a sexual assault counselor or trained volunteer.
- Information and referral services.
- Crisis intervention services.
- Advocacy services.
- Service coordination.
- Community awareness or education programs on sexual assault services.

***Victim*** means a person who consults a sexual assault counselor for advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by sexual abuse or sexual violence.

***Sexual assault evidence kit*** means a standardized set of equipment and written procedures approved by the Department of State Police that have been designed to be administered to an individual principally to gather evidence of sexual conduct of the type offered in court by the Forensic Science Division of the Department of State Police for prosecuting a case under sections 520a to 520l of the Michigan Penal Code.

A sexual assault survivor would have to be informed of the rights described above. A sexual assault survivor could not be required to participate in the criminal justice system or cooperate with law enforcement as a condition of exercising a right described above. Except as otherwise required by law, the presence of a support person would not waive a privilege a survivor is otherwise entitled to.

#### Study and report

By 18 months after the bill takes effect, the Domestic and Sexual Violence Prevention and Treatment Board would have to do all of the following:

- Study nationally recognized best practices regarding the following topics:
  - The number of current sexual assault counselors and use of those counselors.
  - The use of sexual assault counselors after a medical examination following a sexual assault or after the administration of a sexual assault evidence kit.
- Collect data from Michigan regarding all of the following:
  - The reporting of sexual assaults.
  - Arrest and prosecution rates for criminal sexual conduct.
  - Sexual assault survivor access to sexual assault crisis centers and sexual assault counselors.
  - Any other information the board considers important in creating the report described below.
- Collect information regarding the care and treatment of sexual assault survivors from stakeholders, practitioners, state and local law enforcement agencies, providers of victim services, forensic science practitioners, and health care providers.
- Consult with experts.

- Create a report that includes all of the following:
  - A conclusion as to whether there is a need for additional sexual assault counselors in Michigan.
  - The information used for the above conclusion.
  - If applicable, a plan to provide a sufficient number of sexual assault counselors with sexual assault crisis centers to meet the needs of sexual assault survivors.
  - If applicable, an estimate of the cost of and any method of funding for the plan described above.

Proposed MCL 400.1532a and 400.1532b

**FISCAL IMPACT:**

House Bill 4488 would have an indeterminate but likely minimal fiscal impact on state expenditures to the Department of Health and Human Services (DHHS) and no significant fiscal impact on local units of government. The fiscal impact of the bill would be dependent on the administrative cost of data collection and research required for the Domestic and Sexual Violence Prevention and Treatment Board to generate a report outlining potential improvement strategies for victim services.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.