

SENATE BILL NO. 491

INTRODUCED BY B. PHALEN, D. EMRICH, A. REGIER, B. LER, B. USHER, B. MITCHELL, T. TEZAK

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PAYMENT FOR MEDICAL EVIDENCE COLLECTION RELATED TO ALLEGED SEXUAL OFFENSES; ELIMINATING THE RESPONSIBILITY OF LAW ENFORCEMENT AGENCIES TO PAY FOR SEXUAL ASSAULT MEDICAL FORENSIC EXAMINATIONS; REVISING THE TRANSFER OF EXCESS FUNDS FROM THE MARIJUANA STATE SPECIAL REVENUE FUND; ESTABLISHING A STATE SPECIAL REVENUE FUND; PROVIDING AN APPROPRIATION; AND AMENDING SECTIONS 16-12-111, 44-7-303, 46-15-411, AND 46-15-412, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Sexual assault medical forensic examination fund. (1) There is a sexual assault medical forensic examination fund in the state special revenue fund established in 17-2-102. The account consists of money transferred to the account pursuant to 16-12-111.

(2) Money in the account must be used by the department of justice to:

(A) PURCHASE AND DISTRIBUTE SEXUAL ASSAULT EVIDENCE KITS FOR USE BY MEDICAL FACILITIES AT NO COST TO COLLECT EVIDENCE DURING A SEXUAL ASSAULT MEDICAL FORENSIC EXAMINATION;

(B) reimburse medical providers for sexual assault medical forensic examinations of victims of alleged incidents of sexual intercourse without consent, sexual assault, or incest as provided in 46-15-411 at a maximum rate of \$800 for each examination ; AND

(C) ESTABLISH AND MAINTAIN A SECURE ELECTRONIC SYSTEM BY WHICH REQUESTS FOR REIMBURSEMENT PURSUANT TO 46-15-411 AND PERTINENT TREATMENT RECORDS MAY BE SUBMITTED.

(3) Interest and income earned on the account and any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

Section 2. Section 16-12-111, MCA, is amended to read:

"16-12-111. Marijuana state special revenue account -- operating reserve -- transfer of excess

funds. (1) There is a dedicated marijuana state special revenue account within the state special revenue fund established in 17-2-102, to be administered by the department.

(2) The account consists of:

(a) money deposited into the account pursuant to this chapter;

(b) the taxes collected pursuant to Title 15, chapter 64, part 1;

(c) license and registered cardholder fees deposited into the account pursuant to this chapter;

(d) taxes deposited into the account pursuant to 16-12-310; and

(e) civil penalties collected under this chapter.

(3) Except as provided in subsection (4), money in the account must be used by the department for the purpose of administering the provisions of this chapter.

(4) At the end of each fiscal year, the department shall transfer funds in excess of a 3-month operating reserve necessary to fund operating costs at the beginning of the next fiscal year in the following order:

(a) an amount not to exceed \$6 million must be transferred to the healing and ending addiction through recovery and treatment (HEART) account established in 16-12-122;

(b) the net balance remaining after distribution to the HEART account must be distributed as follows:

(i) 20% to the credit of the department of fish, wildlife, and parks to be used solely as funding for wildlife habitat in the same manner as funding generated under 87-1-242(3) and used pursuant to 87-1-209;

(ii) 4% to the state park account established in 23-1-105(1);

(iii) 4% to the trails and recreational facilities account established in 23-2-108;

(iv) 4% to the nongame wildlife account established in 87-5-121;

(v) 3% or \$200,000, whichever is less, to the veterans and surviving spouses state special revenue account provided for in 10-2-108;

(vi) for the biennium beginning July 1, 2021, \$300,000 to the department of justice to administer grant funding to local and state law enforcement agencies for the purpose of purchasing and training drug detection canines and canine handlers, including canines owned by local law enforcement agencies to replace

canines who were trained to detect marijuana;

(vii) \$150,000 to the board of crime control to fund crisis intervention team training as provided in 44-7-110; and

(viii) ~~\$375,000~~ \$800,000 to the sexual assault medical forensic examination fund established in [section 1]; and

~~(viii)(ix)~~ the remainder to the general fund. (Subsection (4)(b)(vi) terminates June 30, 2025--sec. 117(2), Ch. 576, L. 2021.)"

Section 3. Section 44-7-303, MCA, is amended to read:

"44-7-303. Restorative justice fund created -- source of funding -- use of fund. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the restorative justice fund.

(2) There must be deposited in the account:

(a) money received from legislative allocations;

(b) a transfer of money from a state or local agency for the purposes of 44-7-302; AND

(c) a gift, donation, grant, legacy, bequest, or devise made for the purposes of 44-7-302; ~~and~~

~~(d) money received by the department of justice for the purpose of administering 46-15-411 (2).~~

(3) ~~Except as provided in subsection (2)(d), the~~ THE fund may be used only to provide grants for restorative justice programs as provided in 44-7-302 to community-based, including faith-based, organizations."

Section 4. Section 46-15-411, MCA, is amended to read:

"46-15-411. Payment for medical evidence -- alleged sexual offenses. ~~(1) The local law enforcement agency within whose jurisdiction an alleged incident of sexual intercourse without consent, sexual assault, or incest occurs shall pay for the sexual assault medical forensic examination of a victim of the alleged offense when the examination is directed by the agency or when evidence obtained by the examination is used for the investigation, prosecution, or resolution of an offense.~~

~~(2) (a)~~ (1) The department of justice shall, as long as funds are available from an appropriation made for this purpose, pay for the sexual assault medical forensic examination of a victim of an alleged incident of sexual intercourse without consent, sexual assault, or incest if the cost is not the responsibility of a local law

enforcement agency under subsection (1).

(b)(a) In administering the provisions of this subsection (2)(a) (1), the department shall:

- (i) identify priorities for funding services, activities, and criteria for the receipt of program funds;
- (ii) monitor the expenditure of funds by organizations receiving funds under this section;
- (iii) evaluate the effectiveness of services and activities under this section; and
- (iv) adopt rules necessary to implement this subsection (2) (1).

(3)(2) This section does not require a law enforcement agency or the state to pay any costs of treatment for injuries resulting from the alleged offense."

Section 5. Section 46-15-412, MCA, is amended to read:

"46-15-412. Testing of sexual assault evidence kits. Except for a sexual assault evidence kit that is submitted to the department of justice as provided in 46-15-411(2)(a), 46-15-404(3), a local law enforcement agency shall submit all other kits to the division of forensic science within 30 days after the local law enforcement agency receives the kit."

NEW SECTION. SECTION 6. APPROPRIATION. (1) THERE IS APPROPRIATED FOR EACH YEAR OF THE BIENNIUM BEGINNING JULY 1, 2025, \$800,000 FROM THE SEXUAL ASSAULT MEDICAL FORENSIC EXAMINATION FUND ESTABLISHED IN [SECTION 1] TO THE DEPARTMENT OF JUSTICE FOR THE PURPOSES DESCRIBED IN [SECTION 1].

(2) THE LEGISLATURE INTENDS THAT THE APPROPRIATION IN THIS SECTION BE CONSIDERED PART OF THE ONGOING BASE FOR THE NEXT LEGISLATIVE SESSION.

NEW SECTION. SECTION 7. NOTIFICATION TO TRIBAL GOVERNMENTS. THE SECRETARY OF STATE SHALL SEND A COPY OF [THIS ACT] TO EACH FEDERALLY RECOGNIZED TRIBAL GOVERNMENT IN MONTANA.

NEW SECTION. SECTION 8. CODIFICATION INSTRUCTION. [SECTION 1] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 46, CHAPTER 15, PART 4, AND THE PROVISIONS OF TITLE 46, CHAPTER 15, PART 4, APPLY TO [SECTION 1].

1 NEW SECTION. SECTION 9. EFFECTIVE DATES. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS ACT] IS

2 EFFECTIVE JULY 1, 2025.

3 (2) [SECTION 2] AND THIS SECTION ARE EFFECTIVE ON PASSAGE AND APPROVAL.

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