

VOLUME NO. 40

OPINION NO. 66

CITIES AND TOWNS - Costs of medical examinations of victims of alleged sexual intercourse without consent;  
COUNTIES - Costs of medical examinations of victims of alleged sexual intercourse without consent;

MONTANA CODE ANNOTATED - Section 46-15-411;  
OPINIONS OF THE ATTORNEY GENERAL - 38 Op. Att'y Gen. No.  
77 (1980).

HELD: The local law enforcement agency that directs that a medical examination be conducted pursuant to section 46-15-411, MCA, and within whose jurisdiction the alleged sexual offense occurred, is responsible for bearing the costs of the examination.

12 September 1984

J. Fred Bourdeau  
Cascade County Attorney  
Cascade County Courthouse  
Great Falls MT 59401

Dear Mr. Bourdeau:

You have requested my opinion on the following question:

Whether the city or the county bears the financial responsibility for the costs of a medical examination of a victim of alleged sexual intercourse without consent, when such examination is performed pursuant to section 46-15-411, MCA.

Section 46-15-411, MCA, concerns payment by a "local law enforcement agency" of the costs associated with certain medical examinations. The complete statute provides:

Payment for medical evidence. (1) The local law enforcement agency within whose jurisdiction an alleged incident of sexual intercourse without consent occurs shall pay for the medical examination of a victim of alleged sexual intercourse without consent when the examination is directed by such agency and when evidence obtained by the examination is used for the investigation or prosecution of an offense.

(2) This section does not require a law enforcement agency to pay any costs of

treatment for injuries resulting from the alleged offense.

Your question involves the meaning of the word "local" in the phrase "local law enforcement agency," i.e., whether it refers to the city or to the county. No definition of the term is provided in the statute itself.

The fundamental rule of statutory construction is that the intent of the Legislature controls. State Bar of Montana v. Krivec, 38 St. Rptr. 1322, 1324, 632 P.2d 707, 710 (1981). If possible, legislative intent must be inferred from the plain meaning of the words contained in the statute. Link v. School District No. 6, 39 St. Rptr. 1448, 1453, 649 P.2d 1263, 1267 (1982).

The language of section 46-15-411, MCA, identifies the party responsible for bearing the costs of the medical examination as the "local law enforcement agency within whose jurisdiction [the] alleged incident of sexual intercourse without consent occurs ... when the examination is directed by such agency..." (Emphasis added.) The plain meaning of the underscored language would require the county to bear the expenses of the medical examination if the alleged crime occurs within the county's jurisdiction and the examination is directed by the county. By contrast, if a city law enforcement agency directs that the examination be conducted, and the alleged crime occurred within the city's jurisdiction, the city would bear the costs of the examination.

This opinion should not be regarded as inconsistent with 38 Op. Att'y Gen. No. 77 (1980), which concluded that counties are responsible for paying the costs incurred after arrest by city police in the investigation of felony offenses. That opinion dealt with the law concerning general costs associated with the detection, investigation, and prosecution of felonies, and it applies to the great number of felonies which are not otherwise addressed by special statutes. See 1A Sutherland, Statutes and Statutory Construction § 23.16 (1972). Section 46-15-411, MCA, concerns a special area of the criminal law and represents an exception to the general rule espoused in 38 Op. Att'y Gen. No. 77 (1980). Section 46-15-411, MCA, and for that matter

Title 46, chapter 15, part 4, MCA, in its entirety, deal only with evidence in cases involving sexual offenses.

THEREFORE, IT IS MY OPINION:

The local law enforcement agency that directs that a medical examination be conducted pursuant to section 46-15-411, MCA, and within whose jurisdiction the alleged sexual offense occurred, is responsible for bearing the costs of the examination.

Very truly yours,

MIKE GREELY  
Attorney General