

# **Nonfatal Strangulations in Washington State**

## **2SSB 5183**

*2022 Report to the Legislature*

October 2022

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# Executive Summary

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Following passage of 2SSB 5183 the Crime Victims Compensation (CVC) program began processing claims for forensic exams for victims of domestic violence nonfatal strangulation assaults (DVS). Prior to its passage, CVC did not cover these costs unless the victim applied for and had an approved claim. The law change authorizes the CVC program to pay forensic exam costs for DVS. The victims are not billed or charged, directly or indirectly, for these exams. The victims do not need to delay seeking this medical care and are not subject to claim eligibility criteria.

The law expires July 30, 2023 at which time the CVC program will return to requiring the DVS victim to again file an application and be accepted by CVC in order to have the cost of the exam paid by CVC. Through June 30, 2022, CVC paid approximately \$74,000 for these exams.

Current data indicates that the number of nonfatal DVS during a sexual assault is far more common than nonfatal DVS during a domestic violence assault.

# Introduction

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The Department of Labor & Industries' (L&I) Crime Victims Compensation (CVC) program assists victims with costs associated with violent crime. The CVC program provides financial compensation to crime victims for expenses such as medical, dental bills, loss of financial support, and funeral expenses.

The CVC program is a payer of last resort, after all other financial sources (such as medical, auto, or life insurance) have been exhausted. Victims who suffer bodily injury or emotional trauma from a crime may be eligible for assistance, provided funds are available.

The CVC program is required to pay for sexual assault forensic exams without application. Prior to the 2021 legislative action, the program could pay the costs of a forensic exam related to nonfatal DVS assault that did not involve sexual assault only if the victim applied for benefits and was accepted through the program, which also requires filing a police report.

In 2021, the Washington State Legislature passed Second Substitute Senate Bill (2SSB) 5183. This bill authorized L&I's CVC program to pay for forensic exams for victims of nonfatal DVS in the same manner as sexual assault forensic examinations:

- Victims are not required to file a police report or otherwise apply for the CVC program.
- Victims are not required to use their own resources such as medical insurance.

The CVC program staff reached out to medical providers and specifically forensic nurse examiners about the new legislation, victim benefits, and claim processing. The CVC program in consultation with some providers designed new forms and billing instructions to facilitate compliance with the reporting requirements.

Beginning on July 25, 2021, L&I's CVC program began processing claims for forensic exams for victims of DVS. Initial data showed that the number of DVS claims involving sexual assault far outnumbered claims for nonfatal DVS exams alone.

This may be due to a number of factors including, the limited capacity for smaller facilities to offer forensic services, the availability of forensic nurse examiners, and limited training opportunities for this specialty.

The number of claims for DVS exams increased toward the end of the reporting period, which may indicate some delay in medical providers becoming aware of the availability of funding. It may also point to the continued need to fund this service for victims.

## BACKGROUND

During the 2021 legislative session, a group of legislators, community advocates, and medical professionals acknowledged that survivors of nonfatal DVS may experience adverse health outcomes and require compassionate medical care. Some expressed concern that the CVC program paid for sexual assault exams without the need for any further criteria being met, but it did not do the same for nonfatal DVS forensic exams.

For example, a victim of sexual assault could go immediately to a hospital or other emergency medical facility, and if a forensic nurse examiner is available, the victim could obtain a sexual assault exam. The facility would then submit the bills to the CVC program, and the CVC program would cover the cost of that forensic exam. In contrast, a domestic violence victim would be required to complete an injury claim application for benefits, file a report with law enforcement, and then wait for claim approval before the CVC program could cover the cost of a nonfatal DVS forensic exam. Moreover, the CVC program would be a payer of last resort for that DVS exam, secondary to a victim's private or public medical insurance. These victims required a higher standard of response and medical care.

2SSB 5183 authorizes the CVC program to pay forensic examination costs for victims of nonfatal DVS. The victims are not billed or charged, directly or indirectly, for these exams. The victims do not need to delay seeking this medical care and are not subject to claim eligibility criteria.

# Reporting Requirements

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The law required specific data elements be reported, including:

- The number, type, and amount of claims received by victims of suspected nonfatal strangulation, with a subtotal of claims that also involved sexual assault;
- The number, type, and amount of claims paid for victims of suspected nonfatal strangulation, with a subtotal of claims that also involved sexual assault; and
- The number of police reports filed by victims of suspected nonfatal strangulation who received services under this section.

Each of these requirements are addressed, below.

## TYPE OF CLAIMS RECEIVED

For purposes of this report, claim counts include domestic violence claims received for nonfatal DVS, sexual assault involving DVS, whether child or adult. Types of incidents include physical assault of an adult or child when nonfatal DVS was the assault type and sexual assault of an adult or child when DVS is involved in the sexual assault crime.

## CLAIMS RECEIVED AND PAID: TOTAL NUMBER, TYPE, AMOUNT BILLED AND AMOUNT PAID

In Fiscal Year 2022 (July 01,2021 to June 30, 2022), L&I received over 4,200 regular Crime Victims Compensation claims, over 3,400 sexual assault exam claims which included more than 200 exam claims for nonfatal DVS with or without sexual assault. The total billed for the nonfatal DVS exams was \$1,995,834 and the amount paid was \$509,181. Further details are provided in Figure 1. Crime Victims Compensation uses the L&I workers' comp fee schedule to pay for medical services.

Figure 1 shows the number, type of claims received, dollar amount billed and paid for the new type of exam allowed by 2SSB 5183 and prior allowed claims that included sexual assault. The new exam is referred to as nonfatal DVS not involving sexual assault. Overall exams for nonfatal DVS involving sexual assault were roughly 2.5 times as frequent as those without sexual assault during the reporting period. As is expected, billing amount for sexual assault claims are higher due to the added complexity of the exam.

All claims paid were for nonfatal DVS forensic exams. The services provided during an exam depend on the nature of the victim’s injuries. The exams cover a wide array of services such as CT scans, x-rays, medical examination, and documentation of injuries. Lab work may be included if needed.

In addition, figure 1 shows 64 of the 77 claims filed for nonfatal DVS not involving sexual assault were paid, and the reasons for the remaining 11 not being paid, where for instance the program did not receive medical bills, Overall, CVC paid just over \$74,000 for nonfatal DVS claims that did not involve sexual assault. Again, these 64 claims were the newly allowed exam under 2SSB 5183.

**Figure 1: Number, type, and amount billed for claims received from July 25, 2021 to June 30, 2022**

Claim Type	Number of Claims Received	Number of claims paid	Amount Billed	Amount paid
Nonfatal DVS not involving sexual assault (expensed to 2SSB 5183)	77	64*	\$314,616	\$74,113
Nonfatal DVS involving Sexual Assault (expensed to regular claims)	187	187	\$ 1,641,218	\$428,921
<b>Total</b>	264	245	\$1,995,834	\$509,181

\*claims not paid include the following:

- Exam form submitted, no medical bills submitted for payment: 11
- Out of state crime: 1
- Not DV/ strangulation by a stranger: 1

## TOTAL NUMBER OF POLICE REPORTS FILED BY VICTIMS

When victims of nonfatal DVS, whether sexual assault is involved or not, received services under this section, at the time of treatment medical personnel indicate if victims/patients filed a police report. CVC has added this question on the exam form only to capture the information required under the new law. Filing a police report is not required in order to receive an exam.

The data shows just under half (45%) of the 264 total claims reported filing a police report, and about half are unknown.

**Figure 2: Police reporting for strangulation claims received from July 25, 2021 to June 30, 2022**

Claim Type	Police Report Filed	No Report Indicated	Unknown
Nonfatal DVS not involving sexual assault (allowed by 2SSB 5183)	65	6	6
Nonfatal DVS involving Sexual Assault	53	17	117
<b>Total</b>	<b>118</b>	<b>23</b>	<b>123</b>

## Conclusion

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During the first fiscal year that 2SSB 5183 was in effect, L&I received 77 claims for nonfatal DVS exams, a 41 percent increase in nonfatal DVS when compared with claims for sexual assault that also involved nonfatal DVS. For the DV related claims, CVC paid for 64 of those claims, totaling more than \$74,000. In the same time period L&I received and paid for 187 claims for nonfatal DVS involving sexual assault exams, totaling nearly \$430,000.

The legislation allows the CVC to pay for the forensic exam for an assault involving nonfatal DVS without the victim applying to the department. Prior to its passage, CVC did not cover these costs unless the victim applied for and was approved.. The victims are not billed or charged, directly or indirectly, for these exams.

Additional considerations that may affect the current volume of forensic exams include the possibility that victims of domestic violence involving sexual assault are more likely to seek medical treatment than victims of physical assault or abuse alone. Victims may be more aware of the availability of forensic sexual assault exams. Staffing levels, availability of specially trained forensic nurse examiners, and facility resources, particularly at smaller or rural medical clinics, may affect the ability to provide nonfatal DVS exams.

The law expires July 30, 2023 at which time the CVC program will return to requiring the domestic violence victim of nonfatal strangulation not involving sexual assault to again file an application and be accepted by CVC in order to have the cost of the exam paid by CVC. However, this report shows that there is a clear need for these services. With time, additional training and education efforts to our stakeholder community and as DV victims, advocates and providers become more aware of this benefit; the number of victims who will be offered this service in a medical setting will increase.