

**OPINION NO. 76-072****Syllabus:**

When the victim of an alleged sex offense undergoes a medical examination at a county or municipal emergency medical facility for the purpose of gathering physical evidence for a possible prosecution, R.C. 2907.28 requires that the costs incurred in such examination are to be paid by the county or municipality operating the facility regardless of the subdivision in which the alleged offense was committed.

**To: Morris J. Turkelson, Warren County Pros. Atty., Lebanon, Ohio**  
**By: William J. Brown, Attorney General, October 28, 1976**

Your request for my opinion reads as follows:

"Who must pay the cost incurred by a hospital (or other emergency medical facility) in conducting a medical examination of a victim of a sex offense which occurred in a County where there are NO medical facilities whatsoever?

"Section 2907.28 of Bill No. 144 provides that costs incurred in conducting an examination of the victim of a sex offense shall be charged to and paid by the appropriate local government.

Sub-paragraph (A) provides that costs incurred by a county facility shall be charged to and paid by the county; sub-paragraph (B) provides that costs incurred by a municipal facility shall be charged to and paid by the municipality; sub-paragraph (C) provides that costs incurred by a private facility shall be charged to and paid by the municipality or county in which the alleged offense was committed.

"Inasmuch as there are NO medical facilities in Warren County, Ohio, must the municipal or county facility in a neighboring city or county pay the costs of such examination, or does the policy set forth in sub-paragraph (C) apply?"

The medical examination to which you refer is authorized by R.C. 2907.29 for the purpose of gathering physical evidence of violations of R.C. Sections 2907.02 to 2907.06 or R.C. 2907.12. The payment of the costs of such examinations is provided for in R.C. 2907.28, which states that:

"Any cost incurred by a hospital or other emergency medical facility in conducting a medical examination of a victim of an offense under sections 2907.02 to 2907.06 or section 2907.12 of the Revised Code for the purpose of gathering physical evidence for a possible prosecution shall be charged to and paid by the appropriate local government as follows:

"(A) Cost incurred by a county facility shall be charged to and paid by the county;

"(B) Cost incurred by a municipal facility shall be charged to and paid by the municipality;

"(C) Cost incurred by a private facility shall be charged to and paid by the municipality in which the alleged offense was committed, or charged to and paid by the county, if committed within an unincorporated area. If separate counts of an offense or separate offenses under sections 2907.02 to 2907.06 or section 2907.12 of the Revised Code took place in more than one municipality or more than one unincorporated area, or both, the local governments shall share the cost of the examination."

The clear purpose then of such medical examinations is to aid in gathering evidence to be used in possible prosecutions. It does not follow, however, that the cost of such medical examinations will in all cases fall on the municipality or county in which the alleged offense was committed. While R.C. 2907.28(C) requires such an assignment of costs in the event of an examination by a private facility, the General Assembly has made no similar provision in the case of examinations by county or municipal facilities. On the contrary, R.C. 2907.28(A) and (B) provide that costs incurred by a county facility or by a municipal facility are to be paid by the county or municipality respectively.

It is well settled that when the language of a statute is clear and unambiguous, that language must, in the absence of an absurd or impractical result, be complied with. Board of Edn. v. Fulton County Budget Comm., 41 Ohio St. 2d 147, 156 (1975); The Cleveland Trust Co. v. Eaton, 21 Ohio St. 2d 129 (1970); Sears v. Weimer, 143 Ohio St. 312 (1944); Swetland et al. v. Miles, 101 Ohio St. 501 (1920); Slingluff v. Weaver, 66 Ohio St. 621 (1902), 1975 Op. Att'y Gen. No. 75-010. As the Supreme Court noted at p. 156 in Board of Edn. v. Fulton Co. Budget Comm., supra, it "does not sit as a superlegislature to amend Acts of the General Assembly."

In R.C. 2907.28 the General Assembly has stated in plain and unambiguous language that costs incurred by a county facility are to be paid by the county and costs incurred by a municipal facility are to be paid by the municipality. No qualification of this assignment of costs is made for cases in which the examination takes place in a subdivision (county or municipality) other than that in which the alleged offense was committed.

In answer to your question it is therefore my opinion that when the victim of an alleged sex offense undergoes a medical examination at a county or municipal emergency medical facility for the purpose of gathering physical evidence for a possible prosecution, R.C. 2907.28 requires that the costs incurred in such examination are to be paid by the county or municipality operating the facility regardless of the subdivision in which the alleged offense was committed.