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Under MCL 333.5129(1) and (3), the Court may order an individual to be examined and tested for sexually transmitted diseases if the individual is arrested and charged, or bound over to Circuit Court, for certain specified sex and drug offenses. Examination and testing is also required upon conviction of certain specified sex and drug offenses. MCL 333.5129(4).

The statute does not expressly require the local health department to conduct the Court-ordered examination and testing, but the examination and testing must be administered by a licensed physician, the MDHHS, or the local health department. MCL 333.5129(3). The results of the testing, if positive for a listed disease, must be reported to the local health department. MCL 333.5129(1).

Pursuant to MCL 333.5129(10), the Court may, upon conviction of an individual, order the individual to pay the actual and reasonable costs of the examination and testing incurred by the licensed physician or local health department that administered the examination and testing.

Under MCL 333.5129(11), an individual who is ordered to pay the costs for examination and testing shall pay those costs within 30 days, or as otherwise provided by the Court. The amount ordered to be paid must be paid to the Court Clerk, who shall transmit the appropriate amount to the physician or local health department named in the order. Failure to pay the costs timely is a misdemeanor.

However, if the defendant is also ordered to pay fines, court costs, restitution and other fees in addition to the costs of the examination and testing, the payment must be allocated as provided in the Code of Criminal Procedure and the Crime Victim's Rights Act.

In summary, the health department may provide court-ordered examination and testing. There is nothing in the statute to preclude the health department from charging the individual the fees established by the Board of Health under MCL 333.2444(1). If the individual is unable to pay, the health department must submit its invoice to the Court, for possible payment by the individual upon

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conviction. However, if other fines, costs, and restitution are ordered, the payments from the individual, if any, are allocated according to statute. If the individual fails to pay, the health department has little recourse to collect, except perhaps by requesting that the Prosecutor institute new criminal charges against the individual for failure to pay timely.

In order to mitigate the financial burden of non-payment of the costs of examination and testing, the health department could request payment at the time of service, either from the individual or from the court ordering the testing. The statute is unclear as to whether the health department can decline to perform the examination and testing. However, if ordered by the Court, the health department should conduct the examination and administer the test, and send the invoice to the Court for reimbursement. Payment is not necessarily assured.

Please contact me if you wish to discuss further.