

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 569
100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Offered March 10, 2020.

Senate Substitute adopted March 10, 2020.

Taken up for Perfection March 10, 2020. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

4010S.04P

AN ACT

To repeal section 595.220, RSMo, and to enact in lieu thereof five new sections relating to victims of sexual offenses.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 595.220, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 192.2520, 197.135, 595.201, 595.202, and 595.220, to read as follows:

192.2520. 1. Sections 192.2520 and 197.135 shall be known and may be cited as the "Justice for Survivors Act".

2. As used in this section, the following terms shall mean:

(1) "Appropriate medical provider", the same meaning as used in section 595.220;

(2) "Department", the department of health and senior services;

(3) "Evidentiary collection kit", the same meaning as used in section 595.220;

(4) "Forensic examination", the same meaning as used in section 595.220;

(5) "Telehealth", the same meaning as used in section 191.1145.

3. No later than July 1, 2022, there shall be established within the department a statewide telehealth network for forensic

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 examinations of victims of sexual offenses in order to provide access to
15 sexual assault nurse examiners (SANE) or other similarly trained
16 appropriate medical providers. A statewide coordinator for the
17 telehealth network shall be selected by the director of the department
18 of health and senior services and shall have oversight responsibilities
19 and provide support for the training programs offered by the network,
20 as well as the implementation and operation of the network.

21 4. The network shall provide mentoring and educational training
22 services, including:

23 (1) Conducting a forensic examination of a victim of a sexual
24 offense, in accordance with best practices, while utilizing an
25 evidentiary collection kit;

26 (2) Proper documentation, transmission, and storage of the
27 examination evidence;

28 (3) Utilizing trauma-informed care to address the needs of
29 victims;

30 (4) Utilizing telehealth technology while conducting a live
31 examination; and

32 (5) Providing ongoing case consultation and serving as an expert
33 witness in event of a trial.

34 The network shall, in the mentoring and educational training services
35 provided, emphasize the importance of obtaining a victim's informed
36 consent to evidence collection, including issues involving minor
37 consent, and the scope and limitations of confidentiality regarding
38 information gathered during the forensic examination.

39 5. The training offered may be made available both online or in
40 person, including the use of video conferencing technology to connect
41 trained interdisciplinary experts with providers in a case-based
42 learning environment.

43 6. The network shall, through telehealth services available
44 twenty-four hours a day, seven days a week, by a SANE or another
45 similarly trained appropriate medical provider, provide mentoring,
46 consultation services, guidance, and technical assistance to appropriate
47 medical providers during and outside of a forensic examination of a
48 victim of a sexual offense. The network shall ensure that the system
49 through which the network provides telehealth services meets national
50 standards for interoperability to connect to telehealth systems.

51 7. The department may consult and enter into any necessary
52 contracts with any other local, state, or federal agency, institution of
53 higher education, or private entity to carry out the provisions of this
54 section, including, but not limited to, a contract to:

55 (1) Develop, implement, maintain, or operate the network;

56 (2) Train and provide technical assistance to appropriate
57 medical providers on conducting forensic examinations of victims of
58 sexual offenses and the use of telehealth services; and

59 (3) Provide consultation, guidance, or technical assistance to
60 appropriate medical providers using telehealth services during a
61 forensic examination of a victim of a sexual offense.

62 8. Beginning October 1, 2021, and each year thereafter, all
63 hospitals licensed under chapter 197 shall report to the department the
64 following information for the previous year:

65 (1) The number of forensic examinations of victims of a sexual
66 offense performed at the hospital;

67 (2) The number of forensic examinations of victims of a sexual
68 offense requested to be performed by a victim of a sexual offense that
69 the hospital did not perform and the reason why the examination was
70 not performed;

71 (3) The number of evidentiary collection kits submitted to a law
72 enforcement agency for testing; and

73 (4) After July 1, 2022, the number of appropriate medical
74 providers employed at or contracted with the hospital who utilized the
75 training and telehealth services provided by the network.

76 The information reported under this subsection and subsection 9 of this
77 section shall not include any personally identifiable information of any
78 victim of a sexual offense or any appropriate medical provider
79 performing a forensic examination of such victim.

80 9. Beginning January 1, 2022, and each year thereafter, the
81 department shall make publicly available a report that shall include the
82 information submitted under subsection 8 of this section. The report
83 shall also include, in collaboration with the department of public
84 safety, information about the number of evidentiary collection kits
85 submitted by a person or entity outside of a hospital setting, as well as
86 the number of appropriate medical providers utilizing the training and
87 telehealth services provided by the network outside of a hospital

88 setting.

89 10. (1) The funding for the network shall be subject to
90 appropriations. In addition to appropriations from the general
91 assembly, the department shall apply for available grants and shall be
92 able to accept other gifts, grants, bequests, and donations to develop
93 and maintain the network and the training offered by the network.

94 (2) There is hereby created in the state treasury the "Justice for
95 Survivors Telehealth Network Fund", which shall consist of any gifts,
96 grants, bequests, and donations accepted under this subsection. The
97 state treasurer shall be custodian of the fund. In accordance with
98 sections 30.170 and 30.180, the state treasurer may approve
99 disbursements. The fund shall be a dedicated fund and money in the
100 fund shall be used solely by the department for the purpose of
101 developing and maintaining the network and the training offered by
102 the network. The state treasurer shall invest moneys in the fund in the
103 same manner as other funds are invested. Any interest and moneys
104 earned on such investments shall be credited to the fund.

105 11. The department shall promulgate rules and regulations in
106 order to implement the provisions of this section, including, but not
107 limited to, the following:

108 (1) The operation of a statewide telehealth network for forensic
109 examinations of victims of sexual offenses;

110 (2) The development of training for appropriate medical
111 providers conducting a forensic examination of a victim of a sexual
112 offense; and

113 (3) Maintenance of records and data privacy and security of
114 patient information.

115 Any rule or portion of a rule, as that term is defined in section 536.010,
116 that is created under the authority delegated in this section shall
117 become effective only if it complies with and is subject to all of the
118 provisions of chapter 536 and, if applicable, section 536.028. This
119 section and chapter 536 are nonseverable and if any of the powers
120 vested with the general assembly pursuant to chapter 536 to review, to
121 delay the effective date, or to disapprove and annul a rule are
122 subsequently held unconstitutional, then the grant of rulemaking
123 authority and any rule proposed or adopted after August 28, 2020, shall
124 be invalid and void.

197.135. 1. Beginning January 1, 2023, any hospital licensed under this chapter shall perform a forensic examination using an evidentiary collection kit upon the request and consent of the victim of a sexual offense, or the victim's guardian, when the victim is at least fourteen years of age. In the case of minor consent, the provisions of subsection 2 of section 595.220 shall apply. Victims under fourteen years of age shall be referred to a SAFE CARE provider, as such term is defined in section 334.950, for medical or forensic evaluation and case review. Nothing in this section shall be interpreted to preclude a hospital from performing a forensic examination for a victim under fourteen years of age upon the request and consent of the victim or victim's guardian, subject to the provisions of section 595.220 and the rules promulgated by the department of public safety.

2. An appropriate medical provider, as such term is defined in section 595.220, shall perform the forensic examination of a victim of a sexual offense. The hospital shall ensure that any provider performing the examination has received training conducting such examinations that is, at a minimum, equivalent to the training offered by the statewide telehealth network under subsection 4 of section 192.2520. If the provider is not a sexual assault nurse examiner (SANE), or another similarly trained physician or nurse, then the hospital shall utilize telehealth services during the examination, such as those provided by the statewide telehealth network, to provide guidance and support through a SANE, or other similarly trained physician or nurse, who may observe the live forensic examination and who shall communicate with and support the onsite provider with the examination, forensic evidence collection, and proper transmission and storage of the examination evidence.

3. The department of health and senior services may issue a waiver of the telehealth requirements of subsection 2 of this section if the hospital demonstrates to the department, in writing, a technological hardship in accessing telehealth services or a lack of access to adequate broadband services sufficient to access telehealth services. Such waivers shall be granted sparingly and for no more than a year in length at a time, with the opportunity for renewal at the department's discretion.

4. The department shall waive the requirements of this section

38 if the statewide telehealth network established under section 192.2520
39 ceases operation, the director of the department of health and senior
40 services has provided written notice to hospitals licensed under this
41 chapter that the network has ceased operation, and the hospital cannot,
42 in good faith, comply with the requirements of this section without
43 assistance or resources of the statewide telehealth network. Such
44 waiver shall remain in effect until such time as the statewide telehealth
45 network resumes operation or until the hospital is able to demonstrate
46 compliance with the provisions of this section without the assistance
47 or resources of the statewide telehealth network.

48 5. The provisions of section 595.220 shall apply to the
49 reimbursement of the reasonable costs of the examinations and the
50 provision of the evidentiary collection kits.

595.201. 1. This section shall be known and may be cited as the
2 "Sexual Assault Survivors' Bill of Rights".

3 2. The rights provided to survivors in this section attach
4 whenever a survivor is subject to a forensic examination, as provided
5 in section 595.220; and whenever a survivor is subject to an interview
6 by a law enforcement official, prosecuting attorney, or defense
7 attorney. A survivor retains all the rights of this section at all times
8 regardless of whether the survivor agrees to participate in the criminal
9 justice system or in family court; and regardless of whether the
10 survivor consents to a forensic examination to collect sexual assault
11 forensic evidence. The following rights shall be afforded to sexual
12 assault survivors:

13 (1) A survivor has the right to consult with an employee or
14 volunteer of a rape crisis center during any forensic examination that
15 are subject to confidentiality requirements pursuant to section 455.003,
16 as well as the right to have a support person of the survivor's choosing
17 present, subject to federal regulations as provided in 42 CFR 482; and
18 during any interview by a law enforcement official, prosecuting
19 attorney, or defense attorney. A survivor retains this right even if the
20 survivor has waived the right in a previous examination or interview;

21 (2) Reasonable costs incurred by a medical provider for the
22 forensic examination portion of the examination of a survivor shall be
23 paid by the department of public safety, out of appropriations made for
24 that purpose, as provided under section 595.220. Evidentiary collection

25 kits shall be developed and made available, subject to appropriations,
26 to appropriate medical providers by the highway patrol or its designees
27 and eligible crime laboratories. All appropriate medical provider
28 charges for eligible forensic examinations shall be billed to and paid by
29 the department of public safety;

30 (3) Before a medical provider commences a forensic examination
31 of a survivor, the medical provider shall provide the survivor with a
32 document to be developed by the department of public safety that
33 explains the rights of survivors, pursuant to this section, in clear
34 language that is comprehensible to a person proficient in English at the
35 fifth grade level, accessible to persons with visual disabilities, and
36 available in all major languages of the state. This document shall
37 include, but is not limited to:

38 (a) The survivor's rights pursuant to this section and other rules
39 and regulations by the department of public safety and the department
40 of health and senior services, which shall be signed by the survivor of
41 sexual assault to confirm receipt;

42 (b) The survivor's right to consult with an employee or volunteer
43 of a rape crisis center, to be summoned by the medical provider before
44 the commencement of the forensic examination, unless no employee or
45 volunteer of a rape crisis center can be summoned in a reasonably
46 timely manner, and to have present at least one support person of the
47 victim's choosing;

48 (c) If an employee or volunteer of a rape crisis center or a
49 support person cannot be summoned in a timely manner, the
50 ramifications of delaying the forensic examination; and

51 (d) After the forensic examination, the survivor's right to shower
52 at no cost, unless showering facilities are not reasonably available;

53 (4) Before commencing an interview of a survivor, a law
54 enforcement officer, prosecuting attorney, or defense attorney shall
55 inform the survivor of the following:

56 (a) The survivor's rights pursuant to this section and other rules
57 and regulations by the department of public safety and the department
58 of health and senior services, which shall be signed by the survivor of
59 sexual assault to confirm receipt;

60 (b) The survivor's right to consult with an employee or volunteer
61 of a rape crisis center during any interview by a law enforcement

62 official, prosecuting attorney, or defense attorney, to be summoned by
63 the interviewer before the commencement of the interview, unless no
64 employee or volunteer of a rape crisis center can be summoned in a
65 reasonably timely manner;

66 (c) The survivor's right to have a support person of the
67 survivor's choosing present during any interview by a law enforcement
68 officer, prosecuting attorney, or defense attorney, unless the law
69 enforcement officer, prosecuting attorney, or defense attorney
70 determines in his or her good faith professional judgment that the
71 presence of that individual would be detrimental to the purpose of the
72 interview; and

73 (d) For interviews by a law enforcement officer, the survivor's
74 right to be interviewed by a law enforcement official of the gender of
75 the survivor's choosing. If no law enforcement official of that gender
76 is reasonably available, the survivor shall be interviewed by an
77 available law enforcement official only upon the survivor's consent;

78 (5) The right to counsel during an interview by a law
79 enforcement officer or during any interaction with the legal or criminal
80 justice systems within the state;

81 (6) A law enforcement official, prosecuting attorney, or defense
82 attorney shall not, for any reason, discourage a survivor from receiving
83 a forensic examination;

84 (7) A survivor has the right to prompt analysis of sexual assault
85 forensic evidence, as provided under section 595.220;

86 (8) A survivor has the right to be informed, upon the survivor's
87 request, of the results of the analysis of the survivor's sexual assault
88 forensic evidence, whether the analysis yielded a DNA profile, and
89 whether the analysis yielded a DNA match, either to the named
90 perpetrator or to a suspect already in CODIS. The survivor has the
91 right to receive this information through a secure and confidential
92 message in writing from the crime laboratory so that the survivor can
93 call regarding the results;

94 (9) A defendant or person accused or convicted of a crime
95 against a survivor shall have no standing to object to any failure to
96 comply with this section, and the failure to provide a right or notice to
97 a survivor under this section may not be used by a defendant to seek
98 to have the conviction or sentence set aside;

99 **(10) The failure of a law enforcement agency to take possession**
100 **of any sexual assault forensic evidence or to submit that evidence for**
101 **analysis within the time prescribed under section 595.220 does not alter**
102 **the authority of a law enforcement agency to take possession of that**
103 **evidence or to submit that evidence to the crime laboratory, and does**
104 **not alter the authority of the crime laboratory to accept and analyze**
105 **the evidence or to upload the DNA profile obtained from that evidence**
106 **into CODIS. The failure to comply with the requirements of this**
107 **section does not constitute grounds in any criminal or civil proceeding**
108 **for challenging the validity of a database match or of any database**
109 **information, and any evidence of that DNA record shall not be excluded**
110 **by a court on those grounds;**

111 **(11) No sexual assault forensic evidence shall be used to**
112 **prosecute a survivor for any misdemeanor crimes or any misdemeanor**
113 **crime pursuant to sections 579.015 to 579.185; or as a basis to search for**
114 **further evidence of any unrelated misdemeanor crimes or any**
115 **misdemeanor crime pursuant to sections 579.015 to 579.185, that shall**
116 **have been committed by the survivor, except that sexual assault**
117 **forensic evidence shall be admissible as evidence in any criminal or**
118 **civil proceeding against the defendant or person accused;**

119 **(12) Upon initial interaction with a survivor, a law enforcement**
120 **officer shall provide the survivor with a document to be developed by**
121 **the department of public safety that explains the rights of survivors,**
122 **pursuant to this section, in clear language that is comprehensible to a**
123 **person proficient in English at the fifth grade level, accessible to**
124 **persons with visual disabilities, and available in all major languages of**
125 **the state. This document shall include, but is not limited to:**

126 **(a) A clear statement that a survivor is not required to**
127 **participate in the criminal justice system or to receive a forensic**
128 **examination in order to retain the rights provided by this section and**
129 **other relevant law;**

130 **(b) Telephone and internet means of contacting nearby rape**
131 **crisis centers and employees or volunteers of a rape crisis center;**

132 **(c) Forms of law enforcement protection available to the**
133 **survivor, including temporary protection orders, and the process to**
134 **obtain such protection;**

135 **(d) Instructions for requesting the results of the analysis of the**

136 survivor's sexual assault forensic evidence; and

137 (e) State and federal compensation funds for medical and other
138 costs associated with the sexual assault and any municipal, state, or
139 federal right to restitution for survivors in the event of a criminal trial;

140 (13) A law enforcement official shall, upon written request by a
141 survivor, furnish within fourteen days of receiving such request a free,
142 complete, and unaltered copy of all law enforcement reports concerning
143 the sexual assault, regardless of whether the report has been closed by
144 the law enforcement agency;

145 (14) A prosecuting attorney shall, upon written request by a
146 survivor, provide:

147 (a) Timely notice of any pretrial disposition of the case;

148 (b) Timely notice of the final disposition of the case, including
149 the conviction, sentence, and place and time of incarceration;

150 (c) Timely notice of a convicted defendant's location, including
151 whenever the defendant receives a temporary, provisional, or final
152 release from custody, escapes from custody, is moved from a secure
153 facility to a less secure facility, or re-enters custody; and

154 (d) A convicted defendant's information on a sex offender
155 registry, if any;

156 (15) In either a civil or criminal case relating to the sexual
157 assault, a survivor has the right to be reasonably protected from the
158 defendant and persons acting on behalf of the defendant, as provided
159 under section 595.209 and Article I, Section 32 of the Missouri
160 Constitution;

161 (16) A survivor has the right to be free from intimidation,
162 harassment, and abuse, as provided under section 595.209 and Article
163 I, Section 32 of the Missouri Constitution;

164 (17) A survivor shall not be required to submit to a polygraph
165 examination as a prerequisite to filing an accusatory pleading, as
166 provided under 595.223, or to participating in any part of the criminal
167 justice system;

168 (18) A survivor has the right to be heard through a survivor
169 impact statement at any proceeding involving a post-arrest release
170 decision, plea, sentencing, post-conviction release decision, or any
171 other proceeding where a right of the survivor is at issue, as provided
172 under section 595.229 and Article I, Section 32 of the Missouri

173 **Constitution.**

174 **3. For purposes of this section, the following terms mean:**

175 **(1) "CODIS", the Federal Bureau of Investigation's Combined DNA**
176 **Index System that allows the storage and exchange of DNA records**
177 **submitted by federal, state, and local DNA crime laboratories. The term**
178 **"CODIS" includes the National DNA Index System administered and**
179 **operated by the Federal Bureau of Investigation;**

180 **(2) "Crime", an act committed in this state which, regardless of**
181 **whether it is adjudicated, involves the application of force or violence**
182 **or the threat of force or violence by the offender upon the victim and**
183 **shall include the crime of driving while intoxicated, vehicular**
184 **manslaughter and hit and run; and provided, further, that no act**
185 **involving the operation of a motor vehicle, except driving while**
186 **intoxicated, vehicular manslaughter and hit and run, which results in**
187 **injury to another shall constitute a crime for the purpose of this**
188 **section, unless such injury was intentionally inflicted through the use**
189 **of a motor vehicle. A crime shall also include an act of terrorism, as**
190 **defined in 18 U.S.C. Section 2331, which has been committed outside of**
191 **the United States against a resident of Missouri;**

192 **(3) "Crime laboratory", a laboratory operated or supported**
193 **financially by the state, or any unit of city, county, or other local**
194 **Missouri government that employs at least one scientist who examines**
195 **physical evidence in criminal matters and provides expert or opinion**
196 **testimony with respect to such physical evidence in a state court of**
197 **law;**

198 **(4) "Disposition", the sentencing or determination of a penalty or**
199 **punishment to be imposed upon a person convicted of a crime or found**
200 **delinquent or against who a finding of sufficient facts for conviction or**
201 **finding of delinquency is made;**

202 **(5) "Law enforcement official", a sheriff and his regular deputies,**
203 **municipal police officer, or member of the Missouri state highway**
204 **patrol and such other persons as may be designated by law as peace**
205 **officers;**

206 **(6) "Medical provider", any qualified health care professional,**
207 **hospital, other emergency medical facility, or other facility conducting**
208 **a forensic examination of the survivor;**

209 **(7) "Rape crisis center", any public or private agency that offers**

210 assistance to victims of sexual assault, as the term sexual assault is
211 defined in section 455.010, who are adults, as defined by section 455.010,
212 or qualified minors, as defined by section 431.056;

213 (8) "Restitution", money or services which a court orders a
214 defendant to pay or render to a survivor as part of the disposition;

215 (9) "Sexual assault survivor", any person who is a victim of an
216 alleged sexual offense under sections 566.010 to 566.223 and, if the
217 survivor is incompetent, deceased, or a minor who is unable to consent
218 to counseling services, the parent, guardian, spouse, or any other
219 lawful representative of the survivor, unless such person is the alleged
220 assailant;

221 (10) "Sexual assault forensic evidence", any human biological
222 specimen collected by a medical provider during a forensic medical
223 examination from an alleged survivor, as provided for in section
224 595.220, including, but not limited to, a toxicology kit;

225 (11) "Survivor", a natural person who suffers direct or threatened
226 physical, emotional, or financial harm as the result of the commission
227 or attempted commission of a crime. The term "victim" also includes
228 the family members of a minor, incompetent or homicide victim.

595.202. 1. There is hereby created the "Missouri Rights of
2 Victims of Sexual Assault Task Force" to consist of the following
3 members:

4 (1) The following four members of the general assembly:

5 (a) Two members of the senate, with no more than one member
6 from the same political party and each member to be appointed by the
7 president pro tempore of the senate; and

8 (b) Two members of the house of representatives, with no more
9 than one member from the same political party and each member to be
10 appointed by the speaker of the house of representatives;

11 (2) The director of the department of health and senior services
12 or his or her designee;

13 (3) A private citizen appointed by the governor;

14 (4) A representative of a statewide coalition against domestic
15 and sexual violence appointed by the governor;

16 (5) A representative of rape crisis centers appointed by the
17 governor;

18 (6) The superintendent of the Missouri highway patrol or his or

19 her designee;

20 (7) A law enforcement officer appointed by the governor;

21 (8) The director of the Missouri highway patrol crime lab or his
22 or her designee;

23 (9) An attorney appointed by the governor; and

24 (10) A representative of the Missouri Hospital Association.

25 2. The task force shall study nationally recognized best practices
26 and make recommendations regarding:

27 (1) The development and implementation of an effective
28 mechanism for submitting, tracking, and investigating complaints
29 regarding the handling of, or response to, a sexual assault report or
30 investigation by any agency or organization involved in the response;

31 (2) The development of documentation for medical providers and
32 law enforcement officers, in conjunction with the department of public
33 safety, to provide to survivors informing them of their rights pursuant
34 to section 595.201;

35 (3) Whether a need exists for additional employees or volunteers
36 of a rape crisis center for victims of sexual assault, and if such a need
37 does exist, the task force shall:

38 (a) Create a plan for how the state can provide, in conjunction
39 with rape crisis centers, victims' advocates organizations, and the
40 department of health and senior services, additional employees or
41 volunteers of a rape crisis center to meet the needs identified; and

42 (b) Determine the cost of funding such a plan;

43 (4) Whether a need exists to expand the right to an employee or
44 volunteer of a rape crisis center beyond the medical examination and
45 law enforcement interview settings, and if such a need does exist, the
46 task force shall:

47 (a) Identify the scope and nature of the need; and

48 (b) Make recommendations on how best to fill that need, whether
49 legislatively or otherwise;

50 (5) Whether a need exists to provide for ongoing evaluation of
51 the implementation of these rights, and if such a need does exist, the
52 task force shall:

53 (a) Identify the scope and nature of the need; and

54 (b) Make recommendations on how best to fill that need, whether
55 legislatively or otherwise.

56 **3. The task force shall:**

57 **(1) Collect data regarding sexual assault reporting, arrests,**
58 **prosecution rates, access to sexual assault victims services, and any**
59 **other data important for its deliberations and recommendations; and**

60 **(2) Collect feedback from stakeholders, practitioners, and**
61 **leadership throughout the state and local law enforcement, victim**
62 **services, forensic science practitioners, and health care communities**
63 **to inform development of future best practices or clinical guidelines**
64 **regarding the care and treatment of survivors.**

65 **4. The department of public safety shall provide administrative**
66 **support to the task force.**

67 **5. On or before December 31, 2021, the task force shall submit a**
68 **report on its findings to the governor and general assembly. The report**
69 **shall include any dissenting opinions in addition to any majority**
70 **opinions.**

71 **6. The task force shall expire on December 31, 2021.**

595.220. 1. The department of public safety shall make payments to
2 appropriate medical providers, out of appropriations made for that purpose, to
3 cover the reasonable charges of the forensic examination of persons who may be
4 a victim of a sexual offense if:

5 (1) The victim or the victim's guardian consents in writing to the
6 examination; and

7 (2) The report of the examination is made on a form approved by the
8 attorney general with the advice of the department of public safety.

9 The department shall establish maximum reimbursement rates for charges
10 submitted under this section, which shall reflect the reasonable cost of providing
11 the forensic exam.

12 2. A minor may consent to examination under this section. Such consent
13 is not subject to disaffirmance because of minority, and consent of parent or
14 guardian of the minor is not required for such examination. The appropriate
15 medical provider making the examination shall give written notice to the parent
16 or guardian of a minor that such an examination has taken place.

17 3. The department of public safety, with the advice of the attorney
18 general, shall develop the forms and procedures for gathering, transmitting, and
19 storing evidence during and after the forensic examination under the provisions
20 of this section. The department of health and senior services shall develop a

21 checklist, protocols, and procedures for appropriate medical providers to refer to
22 while providing medical treatment to victims of a sexual offense, including those
23 specific to victims who are minors. The procedures for transmitting and storing
24 examination evidence shall include the following requirements:

25 (1) An appropriate medical provider shall provide electronic notification
26 to the appropriate law enforcement agency when the provider has a reported or
27 anonymous evidentiary collection kit;

28 (2) Within fourteen days of notification from the appropriate medical
29 provider, the law enforcement agency shall take possession of the evidentiary
30 collection kit;

31 (3) Within fourteen days of taking possession, the law enforcement agency
32 shall provide the evidentiary collection kit to a laboratory;

33 (4) A law enforcement agency shall secure an evidentiary collection kit for
34 a period of thirty years if the offense has not been adjudicated.

35 4. Evidentiary collection kits shall be developed and made available,
36 subject to appropriation, to appropriate medical providers by the highway patrol
37 or its designees and eligible crime laboratories. Such kits shall be distributed
38 with the forms and procedures for gathering evidence during forensic
39 examinations of victims of a sexual offense to appropriate medical providers upon
40 request of the provider, in the amount requested, and at no charge to the medical
41 provider. All appropriate medical providers shall, with the written consent of the
42 victim, perform a forensic examination using the evidentiary collection kit, or
43 other collection procedures developed for victims who are minors, and forms and
44 procedures for gathering evidence following the checklist for any person
45 presenting as a victim of a sexual offense.

46 5. In reviewing claims submitted under this section, the department shall
47 first determine if the claim was submitted within ninety days of the examination.
48 If the claim is submitted within ninety days, the department shall, at a
49 minimum, use the following criteria in reviewing the claim: examination charges
50 submitted shall be itemized and fall within the definition of forensic examination
51 as defined in subdivision (6) of subsection 8 of this section.

52 6. All appropriate medical provider charges for eligible forensic
53 examinations shall be billed to and paid by the department of public safety. No
54 appropriate medical provider conducting forensic examinations and providing
55 medical treatment to victims of sexual offenses shall charge the victim for the
56 forensic examination. For appropriate medical provider charges related to the

57 medical treatment of victims of sexual offenses, if the victim is an eligible
58 claimant under the crime victims' compensation fund, the victim shall seek
59 compensation under sections 595.010 to 595.075.

60 7. The department of public safety shall establish rules regarding the
61 reimbursement of the costs of forensic examinations for children under fourteen
62 years of age, including establishing conditions and definitions for emergency and
63 nonemergency forensic examinations and may by rule establish additional
64 qualifications for appropriate medical providers performing nonemergency
65 forensic examinations for children under fourteen years of age. The department
66 shall provide reimbursement regardless of whether or not the findings indicate
67 that the child was abused.

68 8. For purposes of this section, the following terms mean:

69 (1) "Anonymous evidentiary collection kit", an evidentiary collection kit
70 collected from a victim[, or his or her designee,] **who wishes to remain**
71 **anonymous, but** who has consented, **or his or her designee has consented**
72 **on his or her behalf**, to the collection of the evidentiary collection kit[, and to
73 participate in the criminal justice process[, but who wishes to remain
74 anonymous];

75 (2) "Appropriate medical provider":

76 (a) Any licensed nurse, physician, or physician assistant, and any
77 institution employing licensed nurses, physicians, or physician assistants,
78 provided that such licensed professionals are the only persons at such institution
79 to perform tasks under the provisions of this section; or

80 (b) For the purposes of any nonemergency forensic examination of a child
81 under fourteen years of age, the department of public safety may establish
82 additional qualifications for any provider listed in paragraph (a) of this
83 subdivision under rules authorized under subsection 7 of this section;

84 (3) "**Component**", **any piece of evidence that contains, or may**
85 **contain, DNA related to the sexual offense for which the forensic**
86 **examination was performed and that is not stored or maintained within**
87 **the evidentiary collection kit;**

88 (4) "Consent", the electronically documented authorization by the victim,
89 or his or her designee, to allow the evidentiary collection kit to be analyzed;

90 [(4)] (5) "Emergency forensic examination", an examination of a person
91 under fourteen years of age that occurs within five days of the alleged sexual
92 offense. The department of public safety may further define the term emergency

93 forensic examination by rule;

94 **[(5)] (6)** "Evidentiary collection kit", a kit used during a forensic
95 examination that includes materials necessary for appropriate medical providers
96 to gather evidence in accordance with the forms and procedures developed by the
97 department of public safety for forensic examinations;

98 **[(6)] (7)** "Forensic examination", an examination performed by an
99 appropriate medical provider on a victim of an alleged sexual offense to gather
100 evidence for the evidentiary collection kit or using other collection procedures
101 developed for victims who are minors;

102 **[(7)] (8)** "Medical treatment", the treatment of all injuries and health
103 concerns resulting directly from a patient's sexual assault or victimization;

104 **[(8)] (9)** "Nonemergency forensic examination", an examination of a
105 person under fourteen years of age that occurs more than five days after the
106 alleged sexual offense. The department of public safety may further define the
107 term nonemergency forensic examination by rule;

108 **[(9)] (10)** "Reported evidentiary collection kit", an evidentiary collection
109 kit collected from a victim, or his or her designee, who has consented to the
110 collection of the evidentiary collection kit and has consented to participate in the
111 criminal justice process;

112 **[(10)] (11)** "Unreported evidentiary collection kit", an evidentiary
113 collection kit collected from a victim, or his or her designee, who has consented
114 to the collection of the evidentiary collection kit but has not consented to
115 participate in the criminal justice process.

116 9. The attorney general shall establish protocols and an electronic
117 platform to implement an electronic evidence tracking system that:

118 (1) Identifies, documents, records, and tracks evidentiary collection kits
119 and their components, including individual specimen containers, through their
120 existence from forensic examination, to possession by a law enforcement agency,
121 to testing, to use as evidence in criminal proceedings, and until disposition of
122 such proceedings;

123 (2) Assigns a unique alphanumeric identifier to each respective
124 evidentiary collection kit, and all its respective components, and to each
125 respective person, or his or her designees, who may handle an evidentiary test
126 kit;

127 (3) Links the identifiers of an evidentiary collection kit and its
128 components, which shall be machine-readable indicia;

129 (4) Allows each person, or his or her designees, who is properly
130 credentialed to handle an evidentiary test kit to check the status of an
131 evidentiary test kit or its components and to save a portfolio of identifiers so that
132 the person, or his or her designees, may track, obtain reports, and receive updates
133 [of] **on** the status of evidentiary collection kits or their components; and

134 (5) Allows sexual assault victims, or their designees, [access in order to
135 monitor the current status of their evidentiary test kit] **to track and obtain**
136 **reports on the status and location of their evidentiary collection**
137 **kits. This shall be a secured web-based or similar electronic-based**
138 **communications system that shall require sexual assault victims, or**
139 **their designees, to register to access tracking and reports of their**
140 **evidentiary collection kits.**

141 10. **Appropriate medical providers, law enforcement agencies,**
142 **laboratories, court personnel, persons or entities involved in the final**
143 **disposition or destruction of evidentiary collection kits, and all other**
144 **entities which and persons who have custody of evidentiary collection**
145 **kits shall participate in the electronic evidence tracking system.**

146 11. **The department of public safety, with the advice of the**
147 **attorney general and the assistance of the department of health and**
148 **senior services, shall develop and retain within the state a central**
149 **repository for unreported evidentiary collection kits, where such kits**
150 **can be kept in a temperature-controlled environment that preserves the**
151 **integrity of the evidence and diminishes degradation. Unreported**
152 **evidentiary collection kits shall be retained for a period of five years.**
153 **In the case of a minor under the age of eighteen when the unreported**
154 **kit was collected, the unreported evidentiary kit shall be retained for**
155 **a period of five years after the victim attains the age of eighteen.**

156 12. **Records entered into the electronic evidence tracking system**
157 **shall be confidential and shall not be subject to disclosure under**
158 **chapter 610.**

159 13. **The department shall have authority to promulgate rules and**
160 **regulations necessary to implement the provisions of this section. Any rule or**
161 **portion of a rule, as that term is defined in section 536.010, that is created under**
162 **the authority delegated in this section shall become effective only if it complies**
163 **with and is subject to all of the provisions of chapter 536 and, if applicable,**
164 **section 536.028. This section and chapter 536 are nonseverable and if any of the**

165 powers vested with the general assembly pursuant to chapter 536 to review, to
166 delay the effective date, or to disapprove and annul a rule are subsequently held
167 unconstitutional, then the grant of rulemaking authority and any rule proposed
168 or adopted after August 28, 2009, shall be invalid and void.

✓

Unofficial

Bill

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