

FIRST REGULAR SESSION

HOUSE BILL NO. 467

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WALKER.

0826H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 595.220, RSMo, and to enact in lieu thereof one new section relating to forensic examinations.

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

Section A. Section 595.220, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 595.220, to read as follows:

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

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

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

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

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

3. The department of public safety, with the advice of the attorney general, shall develop the forms and procedures for gathering, transmitting, and storing evidence during and after the forensic examination under the provisions of this section. The department of health and senior services shall develop a checklist, protocols, and procedures for appropriate medical providers

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 to refer to while providing medical treatment to victims of a sexual offense, including those
19 specific to victims who are minors. The procedures for transmitting and storing examination
20 evidence shall include the following requirements:

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

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

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

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

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

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

44 6. All appropriate medical provider charges for eligible forensic examinations shall be
45 billed to and paid by the department of public safety. No appropriate medical provider
46 conducting forensic examinations and providing medical treatment to victims of sexual offenses
47 shall charge the victim for the forensic examination. For appropriate medical provider charges
48 related to the medical treatment of victims of sexual offenses, if the victim is an eligible claimant
49 under the crime victims' compensation fund, the victim shall seek compensation under sections
50 595.010 to 595.075.

51 **7. A victim under this section shall:**

52 **(1) Have any evidence obtained from an evidentiary collection kit preserved,**
53 **without charge, for the duration of the maximum applicable statute of limitations. If the**

54 state or any other entity intends on destroying or disposing sexual assault evidence
55 collected from an evidentiary collection kit, or its probative contents, before the expiration
56 of the maximum applicable statute of limitations, such person shall, upon written request:

57 (a) Receive written notification no later than sixty days before the date of the
58 intended destruction or disposal; and

59 (b) Be granted further preservation of the evidentiary collection kit or its probative
60 contents;

61 (2) Be informed of any results of an evidentiary collection kit, including a DNA
62 profile match, toxicology report, or other information collected as part of a medical
63 forensic examination if such disclosure would not impede or compromise an ongoing
64 investigation; and

65 (3) Be informed in writing of any policies governing the collection and preservation
66 of evidence from an evidentiary collection kit.

67 8. The department of public safety shall establish rules regarding the reimbursement of
68 the costs of forensic examinations for children under fourteen years of age, including establishing
69 conditions and definitions for emergency and nonemergency forensic examinations and may by
70 rule establish additional qualifications for appropriate medical providers performing
71 nonemergency forensic examinations for children under fourteen years of age. The department
72 shall provide reimbursement regardless of whether or not the findings indicate that the child was
73 abused.

74 [8.] 9. For purposes of this section, the following terms mean:

75 (1) "Anonymous evidentiary collection kit", an evidentiary collection kit collected from
76 a victim, or his or her designee, who has consented to the collection of the evidentiary collection
77 kit, and to participate in the criminal justice process, but who wishes to remain anonymous;

78 (2) "Appropriate medical provider":

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

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

86 (3) "Consent", the electronically documented authorization by the victim, or his or her
87 designee, to allow the evidentiary collection kit to be analyzed;

88 (4) "Emergency forensic examination", an examination of a person under fourteen years
89 of age that occurs within five days of the alleged sexual offense. The department of public safety
90 may further define the term emergency forensic examination by rule;

91 (5) "Evidentiary collection kit", a kit used during a forensic examination that includes
92 materials necessary for appropriate medical providers to gather evidence in accordance with the
93 forms and procedures developed by the department of public safety for forensic examinations;

94 (6) "Forensic examination", an examination performed by an appropriate medical
95 provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection
96 kit or using other collection procedures developed for victims who are minors;

97 (7) "Medical treatment", the treatment of all injuries and health concerns resulting
98 directly from a patient's sexual assault or victimization;

99 (8) "Nonemergency forensic examination", an examination of a person under fourteen
100 years of age that occurs more than five days after the alleged sexual offense. The department of
101 public safety may further define the term nonemergency forensic examination by rule;

102 (9) "Reported evidentiary collection kit", an evidentiary collection kit collected from a
103 victim, or his or her designee, who has consented to the collection of the evidentiary collection
104 kit and has consented to participate in the criminal justice process;

105 (10) "Unreported evidentiary collection kit", an evidentiary collection kit collected from
106 a victim, or his or her designee, who has consented to the collection of the evidentiary collection
107 kit but has not consented to participate in the criminal justice process.

108 [9.] **10.** The attorney general shall establish protocols and an electronic platform to
109 implement an electronic evidence tracking system that:

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

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

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

119 (4) Allows each person, or his or her designees, who is properly credentialed to handle
120 an evidentiary test kit to check the status of an evidentiary test kit or its components and to save
121 a portfolio of identifiers so that the person, or his or her designees may track, obtain reports, and
122 receive updates of the status of evidentiary collection kits or their components; and

123 (5) Allows sexual assault victims or their designees access in order to monitor the
124 current status of their evidentiary test kit.

125 ~~[10.]~~ **11.** The department shall have authority to promulgate rules and regulations
126 necessary to implement the provisions of this section. Any rule or portion of a rule, as that term
127 is defined in section 536.010, that is created under the authority delegated in this section shall
128 become effective only if it complies with and is subject to all of the provisions of chapter 536
129 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of
130 the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
131 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
132 grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be
133 invalid and void.

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