

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2259
99TH GENERAL ASSEMBLY

6010H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 595.220, RSMo, and to enact in lieu thereof one new section relating to evidentiary collection kits.

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Section A. Section 595.220, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 595.220, to read as follows: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

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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 attorney general, with the advice of the department of public safety, shall develop the forms and procedures for gathering evidence during 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 to refer to while providing

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 medical treatment to victims of a sexual offense, including those specific to victims who are minors.

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

28 5. In reviewing claims submitted under this section, the department shall first determine
29 if the claim was submitted within ninety days of the examination. If the claim is submitted
30 within ninety days, the department shall, at a minimum, use the following criteria in reviewing
31 the claim: examination charges submitted shall be itemized and fall within the definition of
32 forensic examination as defined in subdivision (3) of subsection 8 of this section.

33 6. All appropriate medical provider charges for eligible forensic examinations shall be
34 billed to and paid by the department of public safety. No appropriate medical provider
35 conducting forensic examinations and providing medical treatment to victims of sexual offenses
36 shall charge the victim for the forensic examination. For appropriate medical provider charges
37 related to the medical treatment of victims of sexual offenses, if the victim is an eligible claimant
38 under the crime victims' compensation fund, the victim shall seek compensation under sections
39 595.010 to 595.075.

40 7. The department of public safety shall establish rules regarding the reimbursement of
41 the costs of forensic examinations for children under fourteen years of age, including establishing
42 conditions and definitions for emergency and nonemergency forensic examinations and may by
43 rule establish additional qualifications for appropriate medical providers performing
44 nonemergency forensic examinations for children under fourteen years of age. The department
45 shall provide reimbursement regardless of whether or not the findings indicate that the child was
46 abused.

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

48 (1) "Appropriate medical provider":

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

52 (b) For the purposes of any nonemergency forensic examination of a child under fourteen
53 years of age, the department of public safety may establish additional qualifications for any

54 provider listed in paragraph (a) of this subdivision under rules authorized under subsection 7 of
55 this section;

56 (2) **"Electronic tracking system", the electronic tracking system established by the**
57 **attorney general under subsection 10 of this section;**

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

61 ~~(3)~~ (4) "Evidentiary collection kit", a kit used during a forensic examination that
62 includes materials necessary for appropriate medical providers to gather evidence in accordance
63 with the forms and procedures developed by the attorney general for forensic examinations;

64 ~~(4)~~ (5) "Forensic examination", an examination performed by an appropriate medical
65 provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection
66 kit or using other collection procedures developed for victims who are minors;

67 ~~(5)~~ (6) "Medical treatment", the treatment of all injuries and health concerns resulting
68 directly from a patient's sexual assault or victimization;

69 ~~(6)~~ (7) "Nonemergency forensic examination", an examination of a person under
70 fourteen years of age that occurs more than five days after the alleged sexual offense. The
71 department of public safety may further define the term nonemergency forensic examination by
72 rule.

73 9. The department shall have authority to promulgate rules and regulations necessary to
74 implement the provisions of this section. Any rule or portion of a rule, as that term is defined
75 in section 536.010, that is created under the authority delegated in this section shall become
76 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
77 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
78 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
79 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
80 rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid
81 and void.

82 **10. The attorney general shall establish protocols and an electronic platform to**
83 **implement an electronic tracking system that:**

84 (1) **Identifies, documents, records, and tracks an evidentiary collection kit and its**
85 **components, including individual specimen containers, through its existence from forensic**
86 **examination, to possession by a law enforcement agency, to testing, to use as evidence in**
87 **criminal proceedings, and until disposition of such proceedings;**

88 (2) **Assigns a unique alphanumeric identifier to each person who may handle an**
89 **evidentiary test kit;**

90 **(3) Links the identifiers of an evidentiary collection kit and its components, which**
91 **may be machine-readable;**

92 **(4) Allows each person who may handle an evidentiary test kit to check the status**
93 **of an evidentiary test kit or its components and to save a portfolio of identifiers so that the**
94 **person may track, obtain reports, and receive updates of the status of evidentiary collection**
95 **kits or their components; and**

96 **(5) Victims may access to monitor the current status of their evidentiary test kit.**

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