

SECOND REGULAR SESSION

# SENATE BILL NO. 958

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDDLE.

Read 1st time January 24, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6112S.02I

## 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Section A. Section 595.220, RSMo, is repealed and one new section  
2 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  
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 **and**  
9 **uploaded into an electronic tracking system as described in subsection**  
10 **10 of this section.**

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

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

19 3. The attorney general, with the advice of the department of public  
20 safety, shall develop the forms and procedures for gathering evidence during the

21 forensic examination under the provisions of this section. The department of  
22 health and senior services shall develop a checklist, protocols, and procedures for  
23 appropriate medical providers to refer to while providing medical treatment to  
24 victims of a sexual offense, including those specific to victims who are minors.

25         4. Evidentiary collection kits shall be developed and made available,  
26 subject to appropriation, to appropriate medical providers by the highway patrol  
27 or its designees and eligible crime laboratories. Such kits shall be distributed  
28 with the forms and procedures for gathering evidence during forensic  
29 examinations of victims of a sexual offense to appropriate medical providers upon  
30 request of the provider, in the amount requested, and at no charge to the medical  
31 provider. All appropriate medical providers shall, with the written consent of the  
32 victim, perform a forensic examination using the evidentiary collection kit, or  
33 other collection procedures developed for victims who are minors, and forms and  
34 procedures for gathering evidence following the checklist for any person  
35 presenting as a victim of a sexual offense. **All appropriate medical providers**  
36 **shall have access to upload information into an electronic tracking**  
37 **system as described in subsection 10 of this section.**

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

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

52         7. The department of public safety shall establish rules regarding the  
53 reimbursement of the costs of forensic examinations for children under fourteen  
54 years of age, including establishing conditions and definitions for emergency and  
55 nonemergency forensic examinations and may by rule establish additional  
56 qualifications for appropriate medical providers performing nonemergency

57 forensic examinations for children under fourteen years of age. The department  
58 shall provide reimbursement regardless of whether or not the findings indicate  
59 that the child was abused.

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

61 (1) "Appropriate medical provider":

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

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

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

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

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

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

84 (6) "Nonemergency forensic examination", an examination of a person  
85 under fourteen years of age that occurs more than five days after the alleged  
86 sexual offense. The department of public safety may further define the term  
87 nonemergency forensic examination by rule.

88 9. The department shall have authority to promulgate rules and  
89 regulations necessary to implement the provisions of this section. Any rule or  
90 portion of a rule, as that term is defined in section 536.010, that is created under  
91 the authority delegated in this section shall become effective only if it complies  
92 with and is subject to all of the provisions of chapter 536 and, if applicable,

93 section 536.028. This section and chapter 536 are nonseverable and if any of the  
94 powers vested with the general assembly pursuant to chapter 536 to review, to  
95 delay the effective date, or to disapprove and annul a rule are subsequently held  
96 unconstitutional, then the grant of rulemaking authority and any rule proposed  
97 or adopted after August 28, 2009, shall be invalid and void.

98 **10. The attorney general shall establish protocols to implement**  
99 **an electronic tracking system that:**

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

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

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

109 **(4) Allows each person who may handle an evidentiary test kit**  
110 **to check the status of an evidentiary test kit or its components and to**  
111 **save a portfolio of identifiers so that the person may track, obtain**  
112 **reports, and receive updates of the status of evidentiary collection kits**  
113 **or their components.**

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