

SECOND REGULAR SESSION

HOUSE BILL NO. 2462

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WALKER (74).

6363H.011

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Section A. Section 595.220, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 595.220, to read as follows: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

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

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

34 6. All appropriate medical provider charges for eligible forensic examinations shall be
35 billed to and paid by the department of public safety. No appropriate medical provider
36 conducting forensic examinations and providing medical treatment to victims of sexual offenses
37 shall charge the victim for the forensic examination. For appropriate medical provider charges
38 related to the medical treatment of victims of sexual offenses, if the victim is an eligible claimant
39 under the crime victims' compensation fund, the victim shall seek compensation under sections
40 595.010 to 595.075.

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

42 **(1) Have any evidence obtained from an evidentiary collection kit preserved,**
43 **without charge, for the duration of the maximum applicable statute of limitations. If the**
44 **state or any other entity intends on destroying or disposing sexual assault evidence**
45 **collected from an evidentiary collection kit, or its probative contents, before the expiration**
46 **of the maximum applicable statute of limitations, such person shall, upon written request:**

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

49 **(b) Be granted further preservation of the evidentiary collection kit or its probative**
50 **contents;**

51 **(2) Be informed of any results of an evidentiary collection kit, including a DNA**
52 **profile match, toxicology report, or other information collected as part of a medical**

53 **forensic examination if such disclosure would not impede or compromise an ongoing**
54 **investigation; and**

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

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

64 ~~[8-]~~ **9.** For purposes of this section, the following terms mean:

65 (1) "Appropriate medical provider":

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

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

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

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

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

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

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

87 ~~[9-]~~ **10.** The department shall have authority to promulgate rules and regulations
88 necessary to implement the provisions of this section. Any rule or portion of a rule, as that term

89 is defined in section 536.010, that is created under the authority delegated in this section shall
90 become effective only if it complies with and is subject to all of the provisions of chapter 536
91 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of
92 the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
93 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
94 grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be
95 invalid and void.

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