

SECOND REGULAR SESSION

SENATE BILL NO. 951

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHUPP.

Read 1st time January 30, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4447S.03I

AN ACT

To amend chapters 192 and 197, RSMo, by adding thereto two new sections relating to forensic examinations of victims of sexual offenses.

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

Section A. Chapters 192 and 197, RSMo, are amended by adding thereto two new sections, to be known as sections 192.2520 and 197.135, 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 examinations of victims of sexual offenses in order to provide access to sexual assault nurse examiners (SANE) or other similarly trained appropriate medical providers. A statewide coordinator for the telehealth network shall be selected by the director of the department of health and senior services and shall have oversight responsibilities and provide support for the training programs offered by the network, 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. Notwithstanding the provisions of section 33.080 to the
103 contrary, any moneys remaining in the fund at the end of the biennium
104 shall not revert to the credit of the general revenue fund. The state
105 treasurer shall invest moneys in the fund in the same manner as other
106 funds are invested. Any interest and moneys earned on such
107 investments shall be credited to the fund.

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

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

113 (2) The development of training for appropriate medical
114 providers conducting a forensic examination of a victim of a sexual
115 offense; and

116 (3) Maintenance of records and data privacy and security of
117 patient information.

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

197.135. 1. Beginning January 1, 2023, any hospital licensed
2 under this chapter shall perform a forensic examination using an
3 evidentiary collection kit upon the request and consent of the victim
4 of a sexual offense, or the victim's guardian, when the victim is at least

5 fourteen years of age. In the case of minor consent, the provisions of
6 subsection 2 of section 595.220 shall apply. Victims under fourteen
7 years of age shall be referred to a SAFE CARE provider, as such term
8 is defined in section 334.950, for medical or forensic evaluation and
9 case review. Nothing in this section shall be interpreted to preclude a
10 hospital from performing a forensic examination for a victim under
11 fourteen years of age upon the request and consent of the victim or
12 victim's guardian, subject to the provisions of section 595.220 and the
13 rules promulgated by the department of public safety.

14 2. An appropriate medical provider, as such term is defined in
15 section 595.220, shall perform the forensic examination of a victim of
16 a sexual offense. The hospital shall ensure that any provider
17 performing the examination has received training conducting such
18 examinations that is, at a minimum, equivalent to the training offered
19 by the statewide telehealth network under subsection 4 of section
20 192.2520. If the provider is not a sexual assault nurse examiner (SANE),
21 or another similarly trained physician or nurse, then the hospital shall
22 utilize telehealth services during the examination, such as those
23 provided by the statewide telehealth network, to provide guidance and
24 support through a SANE, or other similarly trained physician or nurse,
25 who may observe the live forensic examination and who shall
26 communicate with and support the onsite provider with the
27 examination, forensic evidence collection, and proper transmission and
28 storage of the examination evidence.

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

37 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.

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Bill

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