

SECOND REGULAR SESSION

SENATE BILL NO. 569

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4010S.01I

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Section A. Section 595.220, RSMo, is repealed and one new section
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.

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

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

17 3. The department of public safety, with the advice of the attorney
18 general, shall develop the forms and procedures for gathering, transmitting, and
19 storing evidence during and after the forensic examination under the provisions
20 of this section. The department of health and senior services shall develop a

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

21 checklist, protocols, and procedures for appropriate medical providers to refer to
22 while providing medical treatment to victims of a sexual offense, including those
23 specific to victims who are minors. The procedures for transmitting and storing
24 examination evidence shall include the following requirements:

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

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

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

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

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

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

52 6. All appropriate medical provider charges for eligible forensic
53 examinations shall be billed to and paid by the department of public safety. No
54 appropriate medical provider conducting forensic examinations and providing
55 medical treatment to victims of sexual offenses shall charge the victim for the
56 forensic examination. For appropriate medical provider charges related to the

57 medical treatment of victims of sexual offenses, if the victim is an eligible
58 claimant under the crime victims' compensation fund, the victim shall seek
59 compensation under sections 595.010 to 595.075.

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

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

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

73 (2) "Appropriate medical provider":

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

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

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

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

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

92 (6) "Forensic examination", an examination performed by an appropriate

93 medical provider on a victim of an alleged sexual offense to gather evidence for
94 the evidentiary collection kit or using other collection procedures developed for
95 victims who are minors;

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

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

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

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

110 9. The attorney general shall establish protocols and an electronic
111 platform to implement an electronic evidence tracking system that:

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

117 (2) Assigns a unique alphanumeric identifier to each respective
118 evidentiary collection kit[, and all its respective components,] and to each
119 respective person, or his or her designees, who may handle an evidentiary test
120 kit;

121 (3) Links the identifiers of an evidentiary collection kit [and its
122 components], which shall be machine-readable indicia;

123 (4) Allows each person, or his or her designees, who is properly
124 credentialed to handle an evidentiary test kit to check the status of an
125 evidentiary test kit [or its components] and to save a portfolio of identifiers so
126 that the person, or his or her designees may track, obtain reports, and receive
127 updates [of] **on** the status of evidentiary collection kits [or their components];
128 and

129 (5) Allows sexual assault victims or their designees [access in order to
130 monitor the current status of their evidentiary test kit] **to track, obtain**
131 **reports, and receive updates on the status and location of their**
132 **evidentiary collection kits. This shall be a secured web-based or**
133 **similar electronic-based communications system, which shall also allow**
134 **sexual assault victims or their designees to register to be notified by**
135 **mail, phone, text message, email, or other similar electronic**
136 **communication, of any updates on the status and location of their**
137 **evidentiary collection kits.**

138 10. **Appropriate medical providers, law enforcement agencies,**
139 **laboratories, court personnel, persons or entities involved in the final**
140 **disposition or destruction of evidentiary collection kits, and all other**
141 **entities which and persons who have custody of evidentiary collection**
142 **kits shall participate in the electronic evidence tracking system.**

143 11. **The department of public safety, with the advice of the**
144 **attorney general and the assistance of the department of health and**
145 **senior services, shall develop and retain within the state a central**
146 **repository for unreported evidentiary collection kits, where such kits**
147 **can be kept in a temperature-controlled environment that preserves the**
148 **integrity of the evidence and diminishes degradation. Unreported**
149 **evidentiary collection kits shall be retained for a period of thirty years.**

150 12. **Records entered into the electronic evidence tracking system**
151 **shall be confidential and shall not be subject to disclosure under**
152 **chapter 610.**

153 13. **The department shall have authority to promulgate rules and**
154 **regulations necessary to implement the provisions of this section. Any rule or**
155 **portion of a rule, as that term is defined in section 536.010, that is created under**
156 **the authority delegated in this section shall become effective only if it complies**
157 **with and is subject to all of the provisions of chapter 536 and, if applicable,**
158 **section 536.028. This section and chapter 536 are nonseverable and if any of the**
159 **powers vested with the general assembly pursuant to chapter 536 to review, to**
160 **delay the effective date, or to disapprove and annul a rule are subsequently held**
161 **unconstitutional, then the grant of rulemaking authority and any rule proposed**
162 **or adopted after August 28, 2009, shall be invalid and void.**