SECOND REGULAR SESSION

[PERFECTION]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 569

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Offered March 10, 2020.
Senate Substitute adopted March 10, 2020.
Taken up for Perfection March 10, 2020.  Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal section 595.220, RSMo, and to enact in lieu thereof five new sections relating to victims of sexual offenses.

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

Section A. Section 595.220, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 192.2520, 197.135, 595.201, 595.202, and 595.220, to read as follows: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

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

4. The network shall provide mentoring and educational training
services, including:

(1) Conducting a forensic examination of a victim of a sexual
offense, in accordance with best practices, while utilizing an
evidentiary collection kit;

(2) Proper documentation, transmission, and storage of the
examination evidence;

(3) Utilizing trauma-informed care to address the needs of
victims;

(4) Utilizing telehealth technology while conducting a live
examination; and

(5) Providing ongoing case consultation and serving as an expert
witness in event of a trial.

The network shall, in the mentoring and educational training services
provided, emphasize the importance of obtaining a victim's informed
consent to evidence collection, including issues involving minor
consent, and the scope and limitations of confidentiality regarding
information gathered during the forensic examination.

5. The training offered may be made available both online or in
person, including the use of video conferencing technology to connect
trained interdisciplinary experts with providers in a case-based
learning environment.

6. The network shall, through telehealth services available
twenty-four hours a day, seven days a week, by a SANE or another
similarly trained appropriate medical provider, provide mentoring,
consultation services, guidance, and technical assistance to appropriate
medical providers during and outside of a forensic examination of a
victim of a sexual offense. The network shall ensure that the system
through which the network provides telehealth services meets national
standards for interoperability to connect to telehealth systems.
7. The department may consult and enter into any necessary contracts with any other local, state, or federal agency, institution of higher education, or private entity to carry out the provisions of this section, including, but not limited to, a contract to:

(1) Develop, implement, maintain, or operate the network;
(2) Train and provide technical assistance to appropriate medical providers on conducting forensic examinations of victims of sexual offenses and the use of telehealth services; and
(3) Provide consultation, guidance, or technical assistance to appropriate medical providers using telehealth services during a forensic examination of a victim of a sexual offense.

8. Beginning October 1, 2021, and each year thereafter, all hospitals licensed under chapter 197 shall report to the department the following information for the previous year:

(1) The number of forensic examinations of victims of a sexual offense performed at the hospital;
(2) The number of forensic examinations of victims of a sexual offense requested to be performed by a victim of a sexual offense that the hospital did not perform and the reason why the examination was not performed;
(3) The number of evidentiary collection kits submitted to a law enforcement agency for testing; and
(4) After July 1, 2022, the number of appropriate medical providers employed at or contracted with the hospital who utilized the training and telehealth services provided by the network.

The information reported under this subsection and subsection 9 of this section shall not include any personally identifiable information of any victim of a sexual offense or any appropriate medical provider performing a forensic examination of such victim.

9. Beginning January 1, 2022, and each year thereafter, the department shall make publicly available a report that shall include the information submitted under subsection 8 of this section. The report shall also include, in collaboration with the department of public safety, information about the number of evidentiary collection kits submitted by a person or entity outside of a hospital setting, as well as the number of appropriate medical providers utilizing the training and telehealth services provided by the network outside of a hospital.
10. (1) The funding for the network shall be subject to appropriations. In addition to appropriations from the general assembly, the department shall apply for available grants and shall be able to accept other gifts, grants, bequests, and donations to develop and maintain the network and the training offered by the network.

(2) There is hereby created in the state treasury the "Justice for Survivors Telehealth Network Fund", which shall consist of any gifts, grants, bequests, and donations accepted under this subsection. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and money in the fund shall be used solely by the department for the purpose of developing and maintaining the network and the training offered by the network. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

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

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

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

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

Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2020, shall be invalid and void.
197.135. 1. Beginning January 1, 2023, any hospital licensed under this chapter shall perform a forensic examination using an evidentiary collection kit upon the request and consent of the victim of a sexual offense, or the victim's guardian, when the victim is at least fourteen years of age. In the case of minor consent, the provisions of subsection 2 of section 595.220 shall apply. Victims under fourteen years of age shall be referred to a SAFE CARE provider, as such term is defined in section 334.950, for medical or forensic evaluation and case review. Nothing in this section shall be interpreted to preclude a hospital from performing a forensic examination for a victim under fourteen years of age upon the request and consent of the victim or victim's guardian, subject to the provisions of section 595.220 and the rules promulgated by the department of public safety.

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

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

4. The department shall waive the requirements of this section
if the statewide telehealth network established under section 192.2520 ceases operation, the director of the department of health and senior services has provided written notice to hospitals licensed under this chapter that the network has ceased operation, and the hospital cannot, in good faith, comply with the requirements of this section without assistance or resources of the statewide telehealth network. Such waiver shall remain in effect until such time as the statewide telehealth network resumes operation or until the hospital is able to demonstrate compliance with the provisions of this section without the assistance or resources of the statewide telehealth network.

5. The provisions of section 595.220 shall apply to the reimbursement of the reasonable costs of the examinations and the provision of the evidentiary collection kits.

595.201. 1. This section shall be known and may be cited as the "Sexual Assault Survivors' Bill of Rights".
2. The rights provided to survivors in this section attach whenever a survivor is subject to a forensic examination, as provided in section 595.220; and whenever a survivor is subject to an interview by a law enforcement official, prosecuting attorney, or defense attorney. A survivor retains all the rights of this section at all times regardless of whether the survivor agrees to participate in the criminal justice system or in family court; and regardless of whether the survivor consents to a forensic examination to collect sexual assault forensic evidence. The following rights shall be afforded to sexual assault survivors:

(1) A survivor has the right to consult with an employee or volunteer of a rape crisis center during any forensic examination that are subject to confidentiality requirements pursuant to section 455.003, as well as the right to have a support person of the survivor's choosing present, subject to federal regulations as provided in 42 CFR 482; and during any interview by a law enforcement official, prosecuting attorney, or defense attorney. A survivor retains this right even if the survivor has waived the right in a previous examination or interview;

(2) Reasonable costs incurred by a medical provider for the forensic examination portion of the examination of a survivor shall be paid by the department of public safety, out of appropriations made for that purpose, as provided under section 595.220. Evidentiary collection
kits shall be developed and made available, subject to appropriations, to appropriate medical providers by the highway patrol or its designees and eligible crime laboratories. All appropriate medical provider charges for eligible forensic examinations shall be billed to and paid by the department of public safety;

(3) Before a medical provider commences a forensic examination of a survivor, the medical provider shall provide the survivor with a document to be developed by the department of public safety that explains the rights of survivors, pursuant to this section, in clear language that is comprehensible to a person proficient in English at the fifth grade level, accessible to persons with visual disabilities, and available in all major languages of the state. This document shall include, but is not limited to:

(a) The survivor's rights pursuant to this section and other rules and regulations by the department of public safety and the department of health and senior services, which shall be signed by the survivor of sexual assault to confirm receipt;

(b) The survivor's right to consult with an employee or volunteer of a rape crisis center, to be summoned by the medical provider before the commencement of the forensic examination, unless no employee or volunteer of a rape crisis center can be summoned in a reasonably timely manner, and to have present at least one support person of the victim's choosing;

(c) If an employee or volunteer of a rape crisis center or a support person cannot be summoned in a timely manner, the ramifications of delaying the forensic examination; and

(d) After the forensic examination, the survivor's right to shower at no cost, unless showering facilities are not reasonably available;

(4) Before commencing an interview of a survivor, a law enforcement officer, prosecuting attorney, or defense attorney shall inform the survivor of the following:

(a) The survivor's rights pursuant to this section and other rules and regulations by the department of public safety and the department of health and senior services, which shall be signed by the survivor of sexual assault to confirm receipt;

(b) The survivor's right to consult with an employee or volunteer of a rape crisis center during any interview by a law enforcement
official, prosecuting attorney, or defense attorney, to be summoned by
the interviewer before the commencement of the interview, unless no
employee or volunteer of a rape crisis center can be summoned in a
reasonably timely manner;

(c) The survivor's right to have a support person of the
survivor's choosing present during any interview by a law enforcement
officer, prosecuting attorney, or defense attorney, unless the law
enforcement officer, prosecuting attorney, or defense attorney
determines in his or her good faith professional judgment that the
presence of that individual would be detrimental to the purpose of the
interview; and

(d) For interviews by a law enforcement officer, the survivor's
right to be interviewed by a law enforcement official of the gender of
the survivor's choosing. If no law enforcement official of that gender
is reasonably available, the survivor shall be interviewed by an
available law enforcement official only upon the survivor's consent;

(5) The right to counsel during an interview by a law
enforcement officer or during any interaction with the legal or criminal
justice systems within the state;

(6) A law enforcement official, prosecuting attorney, or defense
attorney shall not, for any reason, discourage a survivor from receiving
a forensic examination;

(7) A survivor has the right to prompt analysis of sexual assault
forensic evidence, as provided under section 595.220;

(8) A survivor has the right to be informed, upon the survivor's
request, of the results of the analysis of the survivor's sexual assault
forensic evidence, whether the analysis yielded a DNA profile, and
whether the analysis yielded a DNA match, either to the named
perpetrator or to a suspect already in CODIS. The survivor has the
right to receive this information through a secure and confidential
message in writing from the crime laboratory so that the survivor can
call regarding the results;

(9) A defendant or person accused or convicted of a crime
against a survivor shall have no standing to object to any failure to
comply with this section, and the failure to provide a right or notice to
a survivor under this section may not be used by a defendant to seek
to have the conviction or sentence set aside;
The failure of a law enforcement agency to take possession of any sexual assault forensic evidence or to submit that evidence for analysis within the time prescribed under section 595.220 does not alter the authority of a law enforcement agency to take possession of that evidence or to submit that evidence to the crime laboratory, and does not alter the authority of the crime laboratory to accept and analyze the evidence or to upload the DNA profile obtained from that evidence into CODIS. The failure to comply with the requirements of this section does not constitute grounds in any criminal or civil proceeding for challenging the validity of a database match or of any database information, and any evidence of that DNA record shall not be excluded by a court on those grounds;

(11) No sexual assault forensic evidence shall be used to prosecute a survivor for any misdemeanor crimes or any misdemeanor crime pursuant to sections 579.015 to 579.185; or as a basis to search for further evidence of any unrelated misdemeanor crimes or any misdemeanor crime pursuant to sections 579.015 to 579.185, that shall have been committed by the survivor, except that sexual assault forensic evidence shall be admissible as evidence in any criminal or civil proceeding against the defendant or person accused;

(12) Upon initial interaction with a survivor, a law enforcement officer shall provide the survivor with a document to be developed by the department of public safety that explains the rights of survivors, pursuant to this section, in clear language that is comprehensible to a person proficient in English at the fifth grade level, accessible to persons with visual disabilities, and available in all major languages of the state. This document shall include, but is not limited to:

(a) A clear statement that a survivor is not required to participate in the criminal justice system or to receive a forensic examination in order to retain the rights provided by this section and other relevant law;

(b) Telephone and internet means of contacting nearby rape crisis centers and employees or volunteers of a rape crisis center;

(c) Forms of law enforcement protection available to the survivor, including temporary protection orders, and the process to obtain such protection;

(d) Instructions for requesting the results of the analysis of the
survivor's sexual assault forensic evidence; and

(e) State and federal compensation funds for medical and other costs associated with the sexual assault and any municipal, state, or federal right to restitution for survivors in the event of a criminal trial;

(13) A law enforcement official shall, upon written request by a survivor, furnish within fourteen days of receiving such request a free, complete, and unaltered copy of all law enforcement reports concerning the sexual assault, regardless of whether the report has been closed by the law enforcement agency;

(14) A prosecuting attorney shall, upon written request by a survivor, provide:

(a) Timely notice of any pretrial disposition of the case;

(b) Timely notice of the final disposition of the case, including the conviction, sentence, and place and time of incarceration;

(c) Timely notice of a convicted defendant's location, including whenever the defendant receives a temporary, provisional, or final release from custody, escapes from custody, is moved from a secure facility to a less secure facility, or re-enters custody; and

(d) A convicted defendant's information on a sex offender registry, if any;

(15) In either a civil or criminal case relating to the sexual assault, a survivor has the right to be reasonably protected from the defendant and persons acting on behalf of the defendant, as provided under section 595.209 and Article I, Section 32 of the Missouri Constitution;

(16) A survivor has the right to be free from intimidation, harassment, and abuse, as provided under section 595.209 and Article I, Section 32 of the Missouri Constitution;

(17) A survivor shall not be required to submit to a polygraph examination as a prerequisite to filing an accusatory pleading, as provided under 595.223, or to participating in any part of the criminal justice system;

(18) A survivor has the right to be heard through a survivor impact statement at any proceeding involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any other proceeding where a right of the survivor is at issue, as provided under section 595.229 and Article I, Section 32 of the Missouri Constitution;
Constitution.

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

   (1) "CODIS", the Federal Bureau of Investigation's Combined DNA Index System that allows the storage and exchange of DNA records submitted by federal, state, and local DNA crime laboratories. The term "CODIS" includes the National DNA Index System administered and operated by the Federal Bureau of Investigation;

   (2) "Crime", an act committed in this state which, regardless of whether it is adjudicated, involves the application of force or violence or the threat of force or violence by the offender upon the victim and shall include the crime of driving while intoxicated, vehicular manslaughter and hit and run; and provided, further, that no act involving the operation of a motor vehicle, except driving while intoxicated, vehicular manslaughter and hit and run, which results in injury to another shall constitute a crime for the purpose of this section, unless such injury was intentionally inflicted through the use of a motor vehicle. A crime shall also include an act of terrorism, as defined in 18 U.S.C. Section 2331, which has been committed outside of the United States against a resident of Missouri;

   (3) "Crime laboratory", a laboratory operated or supported financially by the state, or any unit of city, county, or other local Missouri government that employs at least one scientist who examines physical evidence in criminal matters and provides expert or opinion testimony with respect to such physical evidence in a state court of law;

   (4) "Disposition", the sentencing or determination of a penalty or punishment to be imposed upon a person convicted of a crime or found delinquent or against who a finding of sufficient facts for conviction or finding of delinquency is made;

   (5) "Law enforcement official", a sheriff and his regular deputies, municipal police officer, or member of the Missouri state highway patrol and such other persons as may be designated by law as peace officers;

   (6) "Medical provider", any qualified health care professional, hospital, other emergency medical facility, or other facility conducting a forensic examination of the survivor;

   (7) "Rape crisis center", any public or private agency that offers
assistance to victims of sexual assault, as the term sexual assault is defined in section 455.010, who are adults, as defined by section 455.010, or qualified minors, as defined by section 431.056;

(8) "Restitution", money or services which a court orders a defendant to pay or render to a survivor as part of the disposition;

(9) "Sexual assault survivor", any person who is a victim of an alleged sexual offense under sections 566.010 to 566.223 and, if the survivor is incompetent, deceased, or a minor who is unable to consent to counseling services, the parent, guardian, spouse, or any other lawful representative of the survivor, unless such person is the alleged assailant;

(10) "Sexual assault forensic evidence", any human biological specimen collected by a medical provider during a forensic medical examination from an alleged survivor, as provided for in section 595.220, including, but not limited to, a toxicology kit;

(11) "Survivor", a natural person who suffers direct or threatened physical, emotional, or financial harm as the result of the commission or attempted commission of a crime. The term "victim" also includes the family members of a minor, incompetent or homicide victim.

595.202. 1. There is hereby created the "Missouri Rights of Victims of Sexual Assault Task Force" to consist of the following members:

(1) The following four members of the general assembly:

(a) Two members of the senate, with no more than one member from the same political party and each member to be appointed by the president pro tempore of the senate; and

(b) Two members of the house of representatives, with no more than one member from the same political party and each member to be appointed by the speaker of the house of representatives;

(2) The director of the department of health and senior services or his or her designee;

(3) A private citizen appointed by the governor;

(4) A representative of a statewide coalition against domestic and sexual violence appointed by the governor;

(5) A representative of rape crisis centers appointed by the governor;

(6) The superintendent of the Missouri highway patrol or his or
her designee;

(7) A law enforcement officer appointed by the governor;

(8) The director of the Missouri highway patrol crime lab or his
or her designee;

(9) An attorney appointed by the governor; and

(10) A representative of the Missouri Hospital Association.

2. The task force shall study nationally recognized best practices
and make recommendations regarding:

(1) The development and implementation of an effective
mechanism for submitting, tracking, and investigating complaints
regarding the handling of, or response to, a sexual assault report or
investigation by any agency or organization involved in the response;

(2) The development of documentation for medical providers and
law enforcement officers, in conjunction with the department of public
safety, to provide to survivors informing them of their rights pursuant
to section 595.201;

(3) Whether a need exists for additional employees or volunteers
of a rape crisis center for victims of sexual assault, and if such a need
does exist, the task force shall:

(a) Create a plan for how the state can provide, in conjunction
with rape crisis centers, victims' advocates organizations, and the
department of health and senior services, additional employees or
volunteers of a rape crisis center to meet the needs identified; and

(b) Determine the cost of funding such a plan;

(4) Whether a need exists to expand the right to an employee or
volunteer of a rape crisis center beyond the medical examination and
law enforcement interview settings, and if such a need does exist, the
task force shall:

(a) Identify the scope and nature of the need; and

(b) Make recommendations on how best to fill that need, whether
legislatively or otherwise;

(5) Whether a need exists to provide for ongoing evaluation of
the implementation of these rights, and if such a need does exist, the
task force shall:

(a) Identify the scope and nature of the need; and

(b) Make recommendations on how best to fill that need, whether
legislatively or otherwise.
3. The task force shall:

   (1) Collect data regarding sexual assault reporting, arrests, prosecution rates, access to sexual assault victims services, and any other data important for its deliberations and recommendations; and

   (2) Collect feedback from stakeholders, practitioners, and leadership throughout the state and local law enforcement, victim services, forensic science practitioners, and health care communities to inform development of future best practices or clinical guidelines regarding the care and treatment of survivors.

4. The department of public safety shall provide administrative support to the task force.

5. On or before December 31, 2021, the task force shall submit a report on its findings to the governor and general assembly. The report shall include any dissenting opinions in addition to any majority opinions.

6. The task force shall expire on December 31, 2021.

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 department of public safety, with the advice of the attorney general, shall develop the forms and procedures for gathering, transmitting, and storing evidence during and after 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 medical treatment to victims of a sexual offense, including those specific to victims who are minors. The procedures for transmitting and storing examination evidence shall include the following requirements:

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

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

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

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

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

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

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

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

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

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

2. "Appropriate medical provider":
   (a) Any licensed nurse, physician, or physician assistant, and any institution employing licensed nurses, physicians, or physician assistants, provided that such licensed professionals are the only persons at such institution to perform tasks under the provisions of this section; or
   (b) For the purposes of any nonemergency forensic examination of a child under fourteen years of age, the department of public safety may establish additional qualifications for any provider listed in paragraph (a) of this subdivision under rules authorized under subsection 7 of this section;

3. "Component", any piece of evidence that contains, or may contain, DNA related to the sexual offense for which the forensic examination was performed and that is not stored or maintained within the evidentiary collection kit;

4. "Consent", the electronically documented authorization by the victim, or his or her designee, to allow the evidentiary collection kit to be analyzed;

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

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

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

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

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

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

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

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

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

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

(3) Links the identifiers of an evidentiary collection kit and its components, which shall be machine-readable indicia;
(4) Allows each person, or his or her designees, who is properly credentialed to handle an evidentiary test kit to check the status of an evidentiary test kit or its components and to save a portfolio of identifiers so that the person, or his or her designees, may track, obtain reports, and receive updates on the status of evidentiary collection kits or their components; and

(5) Allows sexual assault victims, or their designees, to monitor the current status of their evidentiary test kit to track and obtain reports on the status and location of their evidentiary collection kits. This shall be a secured web-based or similar electronic-based communications system that shall require sexual assault victims, or their designees, to register to access tracking and reports of their evidentiary collection kits.

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

11. The department of public safety, with the advice of the attorney general and the assistance of the department of health and senior services, shall develop and retain within the state a central repository for unreported evidentiary collection kits, where such kits can be kept in a temperature-controlled environment that preserves the integrity of the evidence and diminishes degradation. Unreported evidentiary collection kits shall be retained for a period of five years. In the case of a minor under the age of eighteen when the unreported kit was collected, the unreported evidentiary kit shall be retained for a period of five years after the victim attains the age of eighteen.

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

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

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