

# SENATE BILL NO. 640

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHUPP.

3562S.01H

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal section 595.201, RSMo, and to enact in lieu thereof one new section relating to rights of sexual assault survivors.

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

Section A. Section 595.201, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 595.201,  
3 to read as follows:

595.201. 1. This section shall be known and may be  
2 cited as the "Sexual Assault Survivors' Bill of Rights".  
3 **These rights shall be in addition to other rights as**  
4 **designated by law and no person shall discourage a person**  
5 **from exercising these rights. For the purposes of this**  
6 **section, "sexual assault survivor" means any person who is**  
7 **fourteen years of age or older and who may be a victim of a**  
8 **sexual offense who presents themselves to an appropriate**  
9 **medical provider, law enforcement officer, prosecuting**  
10 **attorney, or court.**

11 2. [The rights provided to survivors in this section  
12 attach whenever a survivor is subject to a forensic  
13 examination, as provided in section 595.220; and whenever a  
14 survivor is subject to an interview by a law enforcement  
15 official, prosecuting attorney, or defense attorney.] A  
16 **sexual assault** survivor retains all the rights of this  
17 section [at all times] regardless of whether [the survivor  
18 agrees to participate in the criminal justice system or in

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

19 family court; and regardless of whether the survivor  
20 consents to a forensic examination to collect sexual assault  
21 forensic evidence. The following rights shall be afforded  
22 to sexual assault survivors] **a criminal investigation or**  
23 **prosecution results or if the survivor has previously waived**  
24 **any of these rights. A sexual assault survivor has the**  
25 **right to:**

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

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

47 (3) Before a medical provider commences a forensic  
48 examination of a survivor, the medical provider shall  
49 provide the survivor with a document to be developed by the  
50 department of public safety that explains the rights of

51 survivors, pursuant to this section, in clear language that  
52 is comprehensible to a person proficient in English at the  
53 fifth-grade level, accessible to persons with visual  
54 disabilities, and available in all major languages of the  
55 state. This document shall include, but is not limited to:

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

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

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

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

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

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

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

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

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

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

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

110 (7) A survivor has the right to prompt analysis of  
111 sexual assault forensic evidence, as provided under section  
112 595.220;

113 (8) A survivor has the right to be informed, upon the  
114 survivor's request, of the results of the analysis of the

115 survivor's sexual assault forensic evidence, whether the  
116 analysis yielded a DNA profile, and whether the analysis  
117 yielded a DNA match, either to the named perpetrator or to a  
118 suspect already in CODIS. The survivor has the right to  
119 receive this information through a secure and confidential  
120 message in writing from the crime laboratory so that the  
121 survivor can call regarding the results;

122 (9) A defendant or person accused or convicted of a  
123 crime against a survivor shall have no standing to object to  
124 any failure to comply with this section, and the failure to  
125 provide a right or notice to a survivor under this section  
126 may not be used by a defendant to seek to have the  
127 conviction or sentence set aside;

128 (10) The failure of a law enforcement agency to take  
129 possession of any sexual assault forensic evidence or to  
130 submit that evidence for analysis within the time prescribed  
131 under section 595.220 does not alter the authority of a law  
132 enforcement agency to take possession of that evidence or to  
133 submit that evidence to the crime laboratory, and does not  
134 alter the authority of the crime laboratory to accept and  
135 analyze the evidence or to upload the DNA profile obtained  
136 from that evidence into CODIS. The failure to comply with  
137 the requirements of this section does not constitute grounds  
138 in any criminal or civil proceeding for challenging the  
139 validity of a database match or of any database information,  
140 and any evidence of that DNA record shall not be excluded by  
141 a court on those grounds;

142 (11) No sexual assault forensic evidence shall be used  
143 to prosecute a survivor for any misdemeanor crimes or any  
144 misdemeanor crime pursuant to sections 579.015 to 579.185;  
145 or as a basis to search for further evidence of any  
146 unrelated misdemeanor crimes or any misdemeanor crime

147 pursuant to sections 579.015 to 579.185, that shall have  
148 been committed by the survivor, except that sexual assault  
149 forensic evidence shall be admissible as evidence in any  
150 criminal or civil proceeding against the defendant or person  
151 accused;

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

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

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

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

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

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

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

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

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

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

191 (c) Timely notice of a convicted defendant's location,  
192 including whenever the defendant receives a temporary,  
193 provisional, or final release from custody, escapes from  
194 custody, is moved from a secure facility to a less secure  
195 facility, or reenters custody; and

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

198 (15) In either a civil or criminal case relating to  
199 the sexual assault, a survivor has the right to be  
200 reasonably protected from the defendant and persons acting  
201 on behalf of the defendant, as provided under section  
202 595.209 and Article I, Section 32 of the Missouri  
203 Constitution;

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

208 (17) A survivor shall not be required to submit to a  
209 polygraph examination as a prerequisite to filing an

210 accusatory pleading, as provided under 595.223, or to  
211 participating in any part of the criminal justice system;

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

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

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

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

240 (3) "Crime laboratory", a laboratory operated or  
241 supported financially by the state, or any unit of city,



242 county, or other local Missouri government that employs at  
243 least one scientist who examines physical evidence in  
244 criminal matters and provides expert or opinion testimony  
245 with respect to such physical evidence in a state court of  
246 law;

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

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

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

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

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

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

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

279 (11) "Survivor", a natural person who suffers direct  
280 or threatened physical, emotional, or financial harm as the  
281 result of the commission or attempted commission of a  
282 crime. The term "victim" also includes the family members  
283 of a minor, incompetent or homicide victim.] **as defined in**  
284 **section 455.003;**

285 (2) **A sexual assault forensic examination as provided**  
286 **in section 595.220, or when a telehealth network is**  
287 **established, a forensic examination as provided in section**  
288 **192.2520 and section 197.135;**

289 (3) **A shower and a change of clothing, as reasonably**  
290 **available, at no cost to the sexual assault survivor;**

291 (4) **Request to be examined by an appropriate medical**  
292 **provider or interviewed by a law enforcement officer of the**  
293 **gender of the sexual assault survivor's choosing, when there**  
294 **is an available appropriate medical provider or law**  
295 **enforcement official of the gender of the sexual assault**  
296 **survivor's choosing;**

297 (5) **An interpreter who can communicate in the language**  
298 **of the sexual assault survivor's choice, as is reasonably**  
299 **available, in a timely manner;**

300 (6) **Notification and basic overview of the options of**  
301 **choosing a reported evidentiary collection kit, unreported**  
302 **evidentiary collection kit, or anonymous evidentiary**  
303 **collection kit as defined in section 595.220;**

304 (7) **Notification about the evidence tracking system as**  
305 **defined in subsection 9 of section 595.220;**

306 (8) Notification about the right to information  
307 pursuant to subsection 4 of section 610.100;

308 (9) Be free from intimidation, harassment, and abuse  
309 in any related criminal or civil proceeding and the right to  
310 reasonable protection from the offender or any person acting  
311 on behalf of the offender from harm and threats of harm  
312 arising out of the survivor's disclosure of the sexual  
313 assault.

314 3. An appropriate medical provider, law enforcement  
315 officer, and prosecuting attorney shall provide the sexual  
316 assault survivor with notification of the rights of  
317 survivors pursuant to subsection 2 of this section in a  
318 timely manner. Each appropriate medical provider, law  
319 enforcement officer, and prosecuting attorney shall ensure  
320 that the sexual assault survivor has been notified of these  
321 rights.

322 4. The department of public safety shall develop a  
323 document in collaboration with Missouri-based stakeholders.  
324 Missouri-based stakeholders shall include, but not be  
325 limited to, the following:

326 (1) Prosecuting attorneys;

327 (2) Chief law enforcement officers or their designees;

328 (3) Appropriate medical providers, as defined in  
329 section 595.220;

330 (4) Representatives of the statewide coalition against  
331 domestic and sexual violence;

332 (5) Representatives of rape crisis centers;

333 (6) Representatives of the Missouri Hospital  
334 Association;

335 (7) The director of the Missouri highway patrol crime  
336 lab or their designee; and

337           (8) The director of the department of health and  
338 senior services or their designee.

339           5. The document shall include the following:

340           (1) A description of the rights of the sexual assault  
341 survivor pursuant to this section; and

342           (2) Telephone and internet means for contacting the  
343 local rape crisis center, as defined in 455.003.

344 The department of public safety shall provide this document  
345 in clear language that is comprehensible to a person  
346 proficient in English and shall provide this document in any  
347 other foreign language spoken by at least five percent of  
348 the population in any county or city not within a county in  
349 Missouri.

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