

FIRST REGULAR SESSION

HOUSE BILL NO. 860

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BAKER (25) (Sponsor), BURNETT, OXFORD, WALSH,
LeVOTA, TALBOY, LAMPE AND WRIGHT-JONES (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

2115L.011

AN ACT

To repeal sections 191.225, 565.072, 595.030, and 595.209, RSMo, and to enact in lieu thereof seven new sections relating to crime victims, with penalty provisions.

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

Section A. Sections 191.225, 565.072, 595.030, and 595.209, RSMo, are repealed and
2 seven new sections enacted in lieu thereof, to be known as sections 191.225, 455.003, 565.072,
3 566.224, 566.226, 595.030, and 595.209, to read as follows:

191.225. 1. The department of health and senior services shall make payments to
2 [hospitals and physicians] **appropriate medical providers**, out of appropriations made for that
3 purpose, to cover the [cost] **charges** of the [medical] **forensic** examination [not covered by
4 insurance, Medicare or Medicaid] of persons who may be a victim of [the crime of rape as
5 defined in section 566.030, RSMo, or a victim of a crime as defined in chapter 566, RSMo, or
6 sections 568.020, 568.050, 568.060, 568.080, 568.090, 568.110, and 568.175, RSMo,] **a sexual
7 offense** if:

8 (1) The victim or the victim's guardian consents in writing to the examination;

9 (2) The report of the examination is made on a form approved by the attorney general
10 with the advice of the department of health and senior services; and

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.

11 (3) The report of the examination is filed [by the victim] with the prosecuting attorney
12 of the county in which the alleged incident occurred.

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14 **The appropriate medical provider shall file the report of the examination within seventy-**
15 **two hours of completion of the forensic exam.**

16 2. A minor may consent to examination under this section. Such consent is not subject
17 to disaffirmance because of minority, and consent of parent or guardian of the minor is not
18 required for such examination. The [hospital or physician] **appropriate medical provider**
19 making the examination shall give written notice to the parent or guardian of a minor that such
20 an examination has taken place.

21 3. The attorney general, with the advice of the department of health and senior services,
22 shall develop the forms and procedures for gathering evidence **during the forensic examination**
23 under the provisions of this section [and shall furnish every hospital and physician in this state
24 with copies of such forms and procedures.

25 4. Reasonable hospital and physicians]. **The department of health and senior services**
26 **shall develop a checklist for appropriate medical providers to refer to while providing**
27 **medical treatment to victims of a sexual offense.**

28 **4. Evidentiary collection kits shall be developed and made available, subject to**
29 **appropriation, to appropriate medical providers by the highway patrol or its designees and**
30 **eligible crime laboratories. Such kits shall be distributed with the forms and procedures**
31 **for gathering evidence during forensic examinations of victims of a sexual offense to**
32 **appropriate medical providers upon request of the provider, in the amount requested, and**
33 **at no charge to the medical provider. All appropriate medical providers shall, with the**
34 **consent of the victim, perform a forensic examination using the evidentiary collection kit**
35 **and forms and procedures for gathering evidence and administer medical treatment**
36 **following the checklist for any person presenting as a victim of a sexual offense.**

37 **5. All appropriate medical provider charges for eligible forensic examinations shall**
38 **be billed to and paid by the department of health and senior services. No appropriate medical**
39 **provider conducting forensic examinations and providing medical treatment to victims of**
40 **sexual offenses shall charge the victim for the forensic examination. For appropriate**
41 **medical provider charges related to the medical treatment of victims of sexual offenses, if**
42 **the victim is an eligible claimant under the crime victims' compensation fund, the**
43 **appropriate medical provider shall seek compensation under sections 595.010 to 595.075,**
44 **RSMo.**

45 **6. For purposes of this section, the following terms mean:**

46 **(1) "Appropriate medical provider", any licensed nurse, physician, or physician**
47 **assistant, and any institution employing licensed nurses, physicians, or physician**
48 **assistants; provided that such licensed professionals are the only persons at such institution**
49 **to perform tasks under the provisions of this section;**

50 **(2) "Evidentiary collection kit", a kit used during a forensic examination that**
51 **includes materials necessary for appropriate medical providers to gather evidence in**
52 **accordance with the forms and procedures developed by the attorney general for forensic**
53 **examinations;**

54 **(3) "Forensic examination", an examination performed by an appropriate medical**
55 **provider on a victim of an alleged sexual offense to gather evidence for the evidentiary**
56 **collection kit;**

57 **(4) "Medical treatment", the treatment of all injuries and health concerns resulting**
58 **directly from a patient's sexual assault or victimization.**

455.003. 1. In order to qualify to receive state funds, a rape crisis center shall:

2 **(1) Require persons employed by or volunteering services to the rape crisis center**
3 **to maintain confidentiality of any information that would identify individuals served by**
4 **the center and any information or records that are directly related to the advocacy services**
5 **provided to such individuals; and**

6 **(2) Prior to providing any advocacy services, inform individuals served by the rape**
7 **crisis of the nature and scope of the confidentiality requirements of subdivision 1 of this**
8 **subsection.**

9 **2. Any person employed by or volunteering services to a rape crisis center for**
10 **victims of sexual assault, as defined in section 455.010, shall be incompetent to testify**
11 **concerning any confidential information in subsection 1 of this section, unless the**
12 **confidentiality requirements is waived in writing by the individual served by the center.**

13 **3. As used in this section, the term "rape crisis center" shall mean any public or**
14 **private agency that offers assistance to victims of sexual assault, as the term "sexual**
15 **assault" is defined in section 455.010.**

565.072. 1. A person commits the crime of domestic assault in the first degree if he or
2 **she attempts to kill or knowingly causes or attempts to cause serious physical injury to a family**
3 **or household member or an adult who is or has been in a continuing social relationship of a**
4 **romantic or intimate nature with the actor, as defined in section 455.010, RSMo.**

5 2. Domestic assault in the first degree is a class B felony unless in the course thereof the
6 actor inflicts serious physical injury on the victim **or has previously pleaded guilty to or been**
7 **found guilty of committing this crime**, in which case it is a class A felony.

566.224. No prosecuting or circuit attorney, peace officer, or employee of a law
2 **enforcement agency shall request or require a victim of sexual assault under section**
3 **566.040, RSMo, or forcible rape under section 566.030, RSMo, to submit to any polygraph**
4 **test or psychological stress evaluator exam.**

566.226. 1. After August 28, 2007, any information contained in any court record
2 **that could be used to identify or locate any victim of sexual assault or forcible rape shall**
3 **be closed and redacted from such record prior to disclosure to the public. Identifying**
4 **information shall include the name, address, telephone number, social security number,**
5 **physical characteristics, or any other information the court reasonably believes could be**
6 **used in identifying or locating such victim.**

7 **2. If the court determines that a person or entity who is requesting identifying**
8 **information of a victim has a legitimate interest in obtaining such information, the court**
9 **may allow access to the information, but only if the court determines that disclosure to the**
10 **person or entity would not compromise the welfare or safety of such victim.**

 595.030. 1. No compensation shall be paid unless the claimant has incurred an
2 out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support
3 from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or unreimbursable
4 expenses or indebtedness reasonably incurred:

5 **(1) For medical care or other services, including psychiatric, psychological or counseling**
6 **expenses, necessary as a result of the crime upon which the claim is based, except that the**
7 **amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not**
8 **exceed two thousand five hundred dollars; or**

9 **(2) As a result of personal property being seized in an investigation by law**
10 **enforcement.**

11 2. No compensation shall be paid unless the division of workers' compensation finds that
12 a crime was committed, that such crime directly resulted in personal physical injury to, or the
13 death of, the victim, and that police records show that such crime was promptly reported to the
14 proper authorities. In no case may compensation be paid if the police records show that such
15 report was made more than forty-eight hours after the occurrence of such crime, unless the
16 division of workers' compensation finds that the report to the police was delayed for good cause.
17 If the victim is under eighteen years of age such report may be made by the victim's parent,

18 guardian or custodian; by a physician, a nurse, or hospital emergency room personnel; by the
19 division of family services personnel; or by any other member of the victim's family. **In the case
20 of a sexual offense, filing a report of the offense to the proper authorities shall include, but
21 not be limited to, the filing of the report of the forensic examination by the appropriate
22 medical provider, as defined in section 191.225, RSMo, with the prosecuting attorney of
23 the county in which the alleged incident occurred.**

24 3. No compensation shall be paid for medical care if the service provider is not a medical
25 provider as that term is defined in section 595.027, and the individual providing the medical care
26 is not licensed by the state of Missouri or the state in which the medical care is provided.

27 4. No compensation shall be paid for psychiatric treatment or other counseling services,
28 including psychotherapy, unless the service provider is a:

29 (1) Physician licensed pursuant to chapter 334, RSMo, or licensed to practice medicine
30 in the state in which the service is provided;

31 (2) Psychologist licensed pursuant to chapter 337, RSMo, or licensed to practice
32 psychology in the state in which the service is provided;

33 (3) Clinical social worker licensed pursuant to chapter 337, RSMo; or

34 (4) Professional counselor licensed pursuant to chapter 337, RSMo.

35 5. Any compensation paid pursuant to sections 595.010 to 595.075 for death or personal
36 injury shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or
37 support from gainful employment, not to exceed two hundred dollars per week, resulting from
38 such injury or death. In the event of death of the victim, an award may be made for reasonable
39 and necessary expenses actually incurred for preparation and burial not to exceed five thousand
40 dollars.

41 6. Any compensation for loss of earnings or support from gainful employment shall be
42 in an amount equal to the actual loss sustained not to exceed two hundred dollars per week;
43 provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed
44 twenty-five thousand dollars. If two or more persons are entitled to compensation as a result of
45 the death of a person which is the direct result of a crime or in the case of a sexual assault, the
46 compensation shall be apportioned by the division of workers' compensation among the
47 claimants in proportion to their loss.

48 7. The method and timing of the payment of any compensation pursuant to sections
49 595.010 to 595.075 shall be determined by the division.

500 595.209. 1. The following rights shall automatically be afforded to victims of dangerous
2 felonies, as defined in section 556.061, RSMo, victims of murder in the first degree, as defined

3 in section 565.020, RSMo, victims of voluntary manslaughter, as defined in section 565.023,
4 RSMo, and victims of an attempt to commit one of the preceding crimes, as defined in section
5 564.011, RSMo; and, upon written request, the following rights shall be afforded to victims of
6 all other crimes and witnesses of crimes:

7 (1) For victims, the right to be present at all criminal justice proceedings at which the
8 defendant has such right, including juvenile proceedings where the offense would have been a
9 felony if committed by an adult, even if the victim is called to testify or may be called to testify
10 as a witness in the case;

11 (2) For victims, the right to information about the crime, as provided for in subdivision
12 (5) of this subsection;

13 (3) For victims and witnesses, to be informed, in a timely manner, by the prosecutor's
14 office of the filing of charges, preliminary hearing dates, trial dates, continuances and the final
15 disposition of the case. Final disposition information shall be provided within five days;

16 (4) For victims, the right to confer with and to be informed by the prosecutor regarding
17 bail hearings, guilty pleas, pleas under chapter 552, RSMo, or its successors, hearings, sentencing
18 and probation revocation hearings and the right to be heard at such hearings, including juvenile
19 proceedings, unless in the determination of the court the interests of justice require otherwise;

20 (5) The right to be informed by local law enforcement agencies, the appropriate juvenile
21 authorities or the custodial authority of the following:

22 (a) The status of any case concerning a crime against the victim, including juvenile
23 offenses;

24 (b) The right to be informed by local law enforcement agencies or the appropriate
25 juvenile authorities of the availability of victim compensation assistance, assistance in obtaining
26 documentation of the victim's losses, including, but not limited to and subject to existing law
27 concerning protected information or closed records, access to copies of complete, unaltered,
28 unedited investigation reports of motor vehicle, pedestrian, and other similar accidents upon
29 request to the appropriate law enforcement agency by the victim or the victim's representative,
30 and emergency crisis intervention services available in the community;

31 (c) Any release of such person on bond or for any other reason;

32 (d) Within twenty-four hours, any escape by such person from a municipal detention
33 facility, county jail, a correctional facility operated by the department of corrections, mental
34 health facility, or the division of youth services or any agency thereof, and any subsequent
35 recapture of such person;

36 (6) For victims, the right to be informed by appropriate juvenile authorities of probation
37 revocation hearings initiated by the juvenile authority and the right to be heard at such hearings
38 or to offer a written statement, video or audio tape, **or a statement by counsel or a**
39 **representative designated by the victim** in lieu of a personal appearance, the right to be
40 informed by the board of probation and parole of probation revocation hearings initiated by the
41 board and of parole hearings, the right to be present at each and every phase of parole hearings
42 [and] , the right to be heard at probation revocation and parole hearings or to offer a written
43 statement, video or audio tape in lieu of a personal appearance, **and the right to have, upon**
44 **written request of the victim, a partition set up in the probation or parole hearing room in**
45 **such a way that the victim is shielded from the view of the probationer or parolee**, and the
46 right to be informed by the custodial mental health facility or agency thereof of any hearings for
47 the release of a person committed pursuant to the provisions of chapter 552, RSMo, the right to
48 be present at such hearings, the right to be heard at such hearings or to offer a written statement,
49 video or audio tape, **or a statement by counsel or a representative designated by the victim**
50 in lieu of personal appearance;

51 (7) For victims and witnesses, upon their written request, the right to be informed by the
52 appropriate custodial authority, including any municipal detention facility, juvenile detention
53 facility, county jail, correctional facility operated by the department of corrections, mental health
54 facility, division of youth services or agency thereof if the offense would have been a felony if
55 committed by an adult, postconviction or commitment pursuant to the provisions of chapter 552,
56 RSMo, of the following:

57 (a) The projected date of such person's release from confinement;

58 (b) Any release of such person on bond;

59 (c) Any release of such person on furlough, work release, trial release, electronic
60 monitoring program, or to a community correctional facility or program or release for any other
61 reason, in advance of such release;

62 (d) Any scheduled parole or release hearings, including hearings under section 217.362,
63 RSMo, regarding such person and any changes in the scheduling of such hearings. No such
64 hearing shall be conducted without thirty days' advance notice;

65 (e) Within twenty-four hours, any escape by such person from a municipal detention
66 facility, county jail, a correctional facility operated by the department of corrections, mental
67 health facility, or the division of youth services or any agency thereof, and any subsequent
68 recapture of such person;

69 (f) Any decision by a parole board, by a juvenile releasing authority or by a circuit court
70 presiding over releases pursuant to the provisions of chapter 552, RSMo, or by a circuit court
71 presiding over releases under section 217.362, RSMo, to release such person or any decision by
72 the governor to commute the sentence of such person or pardon such person;

73 (g) Notification within thirty days of the death of such person;

74 (8) For witnesses who have been summoned by the prosecuting attorney and for victims,
75 to be notified by the prosecuting attorney in a timely manner when a court proceeding will not
76 go on as scheduled;

77 (9) For victims and witnesses, the right to reasonable protection from the defendant or
78 any person acting on behalf of the defendant from harm and threats of harm arising out of their
79 cooperation with law enforcement and prosecution efforts;

80 (10) For victims and witnesses, on charged cases or submitted cases where no charge
81 decision has yet been made, to be informed by the prosecuting attorney of the status of the case
82 and of the availability of victim compensation assistance and of financial assistance and
83 emergency and crisis intervention services available within the community and information
84 relative to applying for such assistance or services, and of any final decision by the prosecuting
85 attorney not to file charges;

86 (11) For victims, to be informed by the prosecuting attorney of the right to restitution
87 which shall be enforceable in the same manner as any other cause of action as otherwise
88 provided by law;

89 (12) For victims and witnesses, to be informed by the court and the prosecuting attorney
90 of procedures to be followed in order to apply for and receive any witness fee to which they are
91 entitled;

92 (13) When a victim's property is no longer needed for evidentiary reasons or needs to be
93 retained pending an appeal, the prosecuting attorney or any law enforcement agency having
94 possession of the property shall, upon request of the victim, return such property to the victim
95 within five working days unless the property is contraband or subject to forfeiture proceedings,
96 or provide written explanation of the reason why such property shall not be returned;

97 (14) An employer may not discharge or discipline any witness, victim or member of a
98 victim's immediate family for honoring a subpoena to testify in a criminal proceeding, **attending**
99 **a criminal proceeding**, or for participating in the preparation of a criminal proceeding, **or**
100 **require any witness, victim, or member of a victim's immediate family to use vacation time,**
101 **personal time, or sick leave for honoring a subpoena to testify in a criminal proceeding,**

102 **attending a criminal proceeding, or participating in the preparation of a criminal**
103 **proceeding;**

104 (15) For victims, to be provided with creditor intercession services by the prosecuting
105 attorney if the victim is unable, as a result of the crime, temporarily to meet financial obligations;

106 (16) For victims and witnesses, the right to speedy disposition of their cases, and for
107 victims, the right to speedy appellate review of their cases, provided that nothing in this
108 subdivision shall prevent the defendant from having sufficient time to prepare such defendant's
109 defense. The attorney general shall provide victims, upon their written request, case status
110 information throughout the appellate process of their cases. The provisions of this subdivision
111 shall apply only to proceedings involving the particular case to which the person is a victim or
112 witness;

113 (17) For victims and witnesses, to be provided by the court, a secure waiting area during
114 court proceedings and to receive notification of the date, time and location of any hearing
115 conducted by the court for reconsideration of any sentence imposed, modification of such
116 sentence or recall and release of any defendant from incarceration.

117 2. The provisions of subsection 1 of this section shall not be construed to imply any
118 victim who is incarcerated by the department of corrections or any local law enforcement agency
119 has a right to be released to attend any hearing or that the department of corrections or the local
120 law enforcement agency has any duty to transport such incarcerated victim to any hearing.

121 3. Those persons entitled to notice of events pursuant to the provisions of subsection 1
122 of this section shall provide the appropriate person or agency with their current addresses and
123 telephone numbers or the addresses or telephone numbers at which they wish notification to be
124 given.

125 4. Notification by the appropriate person or agency utilizing the statewide automated
126 crime victim notification system as established in section 650.310, RSMo, shall constitute
127 compliance with the victim notification requirement of this section. If notification utilizing the
128 statewide automated crime victim notification system cannot be used, then written notification
129 shall be sent by certified mail to the most current address provided by the victim.

130 5. Victims' rights as established in section 32 of article I of the Missouri Constitution or
131 the laws of this state pertaining to the rights of victims of crime shall be granted and enforced
132 regardless of the desires of a defendant and no privileges of confidentiality shall exist in favor
133 of the defendant to exclude victims or prevent their full participation in each and every phase of
134 parole hearings or probation revocation hearings. The rights of the victims granted in this section
135 are absolute and the policy of this state is that the victim's rights are paramount to the defendant's

136 rights. The victim has an absolute right to be present at any hearing in which the defendant is
137 present before a probation and parole hearing officer.

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