

FIRST REGULAR SESSION

HOUSE BILL NO. 797

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BAKER (25) (Sponsor), LAMPE, ROORDA, OXFORD,
WALTON, WALSH, LIESE, LOWE (44), CORCORAN, BLAND, MEINERS, PARKER,
WRIGHT-JONES, FRASER, DONNELLY, LOW (39), JONES, PARSON,
HOBBS AND STORCH (Co-sponsors).

Read 1st time March 15, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1997L.011

AN ACT

To repeal sections 191.225 and 595.030, RSMo, and to enact in lieu thereof four new sections relating to victims of sexual offenses.

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

Section A. Sections 191.225 and 595.030, RSMo, are repealed and four new sections
2 enacted in lieu thereof, to be known as sections 43.257, 191.225, 197.062, and 595.030, to read
3 as follows:

43.257. 1. The highway patrol shall:

2 **(1) Develop evidentiary collection kits used to gather evidence during forensic**
3 **examinations of victims of sexual offenses and crimes as required under section 191.225,**
4 **RSMo; and**

5 **(2) Distribute the evidentiary collection kits, forms for gathering evidence, and the**
6 **checklist for providing treatment to victims of sexual offenses and crimes to all appropriate**
7 **medical providers in accordance with the provisions of section 191.225, RSMo.**

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

9 **(1) "Appropriate medical provider", any licensed nurse or physician, and any**
10 **institution employing licensed nurses and/or physicians; provided that such licensed**
11 **professionals are the only persons at such institution to perform tasks under the provisions**
12 **of this section;**

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.

13 (2) **"Evidentiary collection kits", a kit used during a forensic examination that**
14 **includes all materials necessary for appropriate medical providers to gather evidence in**
15 **accordance with the forms and procedures developed by the attorney general for forensic**
16 **examinations.**

 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 of the [medical] **forensic** examination [not covered by insurance,
4 Medicare or Medicaid] of persons who may be a victim of [the crime of rape as defined in
5 section 566.030, RSMo, or a victim of a crime as defined in chapter 566, RSMo, or sections
6 568.020, 568.050, 568.060, 568.080, 568.090, 568.110, and 568.175, RSMo,] **a sexual offense**
7 **or crime** 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

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.

13

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

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.] **copies of such forms and procedures to the**
25 **highway patrol and eligible crime laboratories for inclusion with evidentiary collection kits**
26 **to all appropriate medical providers. The department of health and senior services shall**
27 **develop a checklist for appropriate medical providers to refer to while providing medical**
28 **treatment to victims of a sexual offense or crime. The checklist shall be in compliance with**
29 **the most current national guidelines set forth by the American College of Emergency**
30 **Physicians, and the department shall furnish copies of the checklist to the highway patrol**
31 **and eligible crime laboratories for inclusion with evidentiary collection kits.**

32 4. Evidentiary collection kits shall be developed and distributed by the highway

33 patrol and eligible crime laboratories. Such kits shall be distributed with the forms and
34 procedures for gathering evidence during forensic examinations and the checklist for the
35 medical treatment of victims of a sexual offense or crime to appropriate medical providers
36 upon request of the provider, in the amount requested, and at no charge to the medical
37 provider. All appropriate medical providers shall, with the consent of the victim, perform
38 a forensic examination using the evidentiary collection kit and forms and procedures for
39 gathering evidence and administer medical treatment following the checklist for any
40 person presenting as a victim of a sexual offense. No institution qualified as an appropriate
41 medical provider shall have less than one evidentiary collection kit in the provider's
42 possession at any time.

43 [4. Reasonable hospital and physician]

44 **5. All appropriate medical provider** charges for eligible forensic examinations shall
45 be billed to and paid by the department of health and senior services. **No appropriate medical**
46 **provider conducting forensic examinations and providing medical treatment to victims of**
47 **sexual offenses shall charge the victim for the forensic examination. For appropriate**
48 **medical provider charges related to the medical treatment of victims of sexual offenses:**

49 (1) **If the victim is an eligible claimant under the crime victims' compensation fund,**
50 **the appropriate medical provider shall seek compensation under sections 595.010 to**
51 **595.075, RSMo; or**

52 (2) **If the victim is not an eligible claimant under the crime victims' compensation**
53 **fund or the victim's claim for compensation under the crime victims' compensation fund**
54 **is denied, the appropriate medical provider may bill the victim for such medical treatment.**

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

56 (1) **"Appropriate medical provider", any licensed nurse or physician, and any**
57 **institution employing licensed nurses and/or physicians; provided that such licensed**
58 **professionals are the only persons at such institution to perform tasks under the provisions**
59 **of this section;**

60 (2) **"Eligible crime laboratory", any crime laboratory registered with the**
61 **department of health and senior services and performing tasks under the provisions of this**
62 **section;**

63 (3) **"Evidentiary collection kit", a kit used during a forensic examination that**
64 **includes all materials necessary for appropriate medical providers to gather evidence in**
65 **accordance with the forms and procedures developed by the attorney general for forensic**
66 **examinations;**

67 (4) **"Forensic examination", an examination performed by an appropriate medical**
68 **provider on a victim of an alleged sexual offense or crime to gather evidence for the**

69 **evidentiary collection kit;**

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

197.062. The department of health and senior services shall ensure, at the time of
2 **inspection, that a hospital has a protocol for sexual assault medical forensic examinations**
3 **which is in substantial compliance with the protocols set forth by the American College of**
4 **Emergency Physicians.**

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

8 2. No compensation shall be paid unless the division of workers' compensation finds that
9 a crime was committed, that such crime directly resulted in personal physical injury to, or the
10 death of, the victim, and that police records show that such crime was promptly reported to the
11 proper authorities. In no case may compensation be paid if the police records show that such
12 report was made more than [forty-eight] **seventy-two** hours after the occurrence of such crime,
13 unless the division of workers' compensation finds that the report to the police was delayed for
14 good cause. If the victim is under eighteen years of age such report may be made by the victim's
15 parent, guardian or custodian; by a physician, a nurse, or hospital emergency room personnel;
16 by the division of family services personnel; or by any other member of the victim's family. **In**
17 **the case of a sexual offense or crime, filing a report of the offense or crime to the proper**
18 **authorities shall include, but not be limited to, the filing of the report of the forensic**
19 **examination by the appropriate medical provider with the prosecuting attorney of the**
20 **county in which the alleged incident occurred. For purposes of this section, "appropriate**
21 **medical provider" means any licensed nurse or physician, and any institution employing**
22 **licensed nurses and/or physicians; provided that such licensed professionals are the only**
23 **persons at such institution to perform tasks under the provisions of this section.**

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.