

# HOUSE BILL NO. 1815

## 100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KELLY (141).

4412H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 595.220, RSMo, and to enact in lieu thereof one new section relating to evidentiary collection kits.

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

Section A. Section 595.220, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 595.220, to read as follows:

595.220. 1. The department of public safety shall make payments to 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

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.

18 to refer to while providing medical treatment to victims of a sexual offense, including those  
19 specific to victims who are minors. The procedures for transmitting and storing examination  
20 evidence shall include the following requirements:

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

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

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

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

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

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

44 6. All appropriate medical provider charges for eligible forensic examinations shall be  
45 billed to and paid by the department of public safety. No appropriate medical provider  
46 conducting forensic examinations and providing medical treatment to victims of sexual offenses  
47 shall charge the victim for the forensic examination. For appropriate medical provider charges  
48 related to the medical treatment of victims of sexual offenses, if the victim is an eligible claimant  
49 under the crime victims' compensation fund, the victim shall seek compensation under sections  
50 595.010 to 595.075.

51 7. The department of public safety shall establish rules regarding the reimbursement of  
52 the costs of forensic examinations for children under fourteen years of age, including establishing  
53 conditions and definitions for emergency and nonemergency forensic examinations and may by

54 rule establish additional qualifications for appropriate medical providers performing  
55 nonemergency forensic examinations for children under fourteen years of age. The department  
56 shall provide reimbursement regardless of whether or not the findings indicate that the child was  
57 abused.

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

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

62 (2) "Appropriate medical provider":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

107 (5) Allows sexual assault victims or their designees ~~[access in order to monitor the~~  
108 ~~current status of their evidentiary test kit]~~ **to track, obtain reports, and receive updates on the**  
109 **status and location of their evidentiary collection kits. This shall be a secured web-based**  
110 **or similar electronic-based communications system, which shall also allow sexual assault**  
111 **victims or their designees to register to be notified by mail, phone, text message, email, or**  
112 **other similar electronic communication of any updates on the status and location of their**  
113 **evidentiary collection kits.**

114 10. **Appropriate medical providers, law enforcement agencies, laboratories, court**  
115 **personnel, persons or entities involved in the final disposition or destruction of evidentiary**  
116 **collection kits, and all other entities and persons having custody of evidentiary collection**  
117 **kits shall participate in the electronic evidence tracking system.**

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

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

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

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