

SECOND REGULAR SESSION

HOUSE BILL NO. 2554

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RUTH.

5429H.021

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 595, RSMo, by adding thereto two new sections relating to victims of sexual assault.

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

Section A. Chapter 595, RSMo, is amended by adding thereto two new sections, to be
2 known as sections 595.201 and 595.202, to read as follows:

**595.201. 1. This section shall be known and will be cited as the "Sexual Assault
2 Survivors' Bill of Rights".**

**3 2. The rights provided to survivors in this section attach when a survivor is subject
4 to a medical evidentiary or physical examination, as provided in section 595.220; and when
5 a survivor is subject to an interview by a law enforcement official, prosecuting attorney,
6 or defense attorney. A survivor retains all the rights of this section at all times regardless
7 of whether the survivor agrees to participate in the criminal justice system or in family
8 court; and regardless of whether the survivor consents to a medical evidentiary or physical
9 examination to collect sexual assault forensic evidence. The following rights shall be
10 afforded to survivors of sexual assault and witnesses of sexual assault crimes:**

**11 (1) A survivor has the right to consult with an employee or volunteer of a rape crisis
12 center during any medical evidentiary or physical examination which is subject to
13 confidentiality requirements pursuant to section 455.003, as well as the right to have a
14 support person of the survivor's choosing present and during any interview by a law
15 enforcement official, prosecuting attorney, or defense attorney. A survivor retains this
16 right even if the survivor has waived the right in a previous examination or interview;**

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.

17 **(2) No costs incurred by a medical provider for the medical evidentiary**
18 **examination portion of the examination of a survivor shall be charged directly or indirectly**
19 **to the survivor, as provided under section 595.220. Evidentiary collection kits shall be**
20 **developed and made available, subject to appropriation, to appropriate medical providers**
21 **by the highway patrol or its designees and eligible crime laboratories. All appropriate**
22 **medical provider charges for eligible forensic examinations shall be billed to and paid by**
23 **the department of public safety;**

24 **(3) Before a medical provider commences a medical evidentiary or physical**
25 **examination of a survivor, the medical provider shall inform the survivor of the following:**

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

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

34 **(c) If an employee or volunteer of a rape crisis center or support person cannot be**
35 **summoned in a timely manner, the ramifications of delaying the medical evidentiary or**
36 **physical examination; and**

37 **(d) After the medical evidentiary or physical examination, the survivor's right to**
38 **shower at no cost, unless showering facilities are not available;**

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

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

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

49 **(c) The survivor's right to have a support person of the survivor's choosing present**
50 **during any interview by a law enforcement official, prosecuting attorney, or defense**
51 **attorney, unless the law enforcement official, prosecuting attorney, or defense attorney**

52 determines in his or her good faith professional judgment that the presence of that
53 individual would be detrimental to the purpose of the interview; and

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

58 (5) A law enforcement official, prosecuting attorney, or defense attorney shall not,
59 for any reason, discourage a survivor from receiving a medical evidentiary or physical
60 examination;

61 (6) A survivor retains the right to have counsel present during all stages of any
62 medical examination, interview, investigation, or other interaction with representatives
63 from the legal or criminal justice systems within the state. Treatment of the survivor
64 should not be affected or altered in any way as a result of the survivor's decision to exercise
65 this right to have counsel present during any interaction with the legal or criminal justice
66 systems within the state;

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

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

75 (9) A defendant or person accused or convicted of a crime against a survivor shall
76 have no standing to object to any failure to comply with this section, and the failure to
77 provide a right or notice to a survivor under this section shall not be used by a defendant
78 to seek to have the conviction or sentence set aside;

79 (10) The failure of a law enforcement agency to take possession of any sexual
80 assault forensic evidence or to submit that evidence for analysis within the time prescribed
81 under section 595.220 does not alter the authority of a law enforcement agency to take
82 possession of that evidence or to submit that evidence to the crime laboratory and does not
83 alter the authority of the crime laboratory to accept and analyze the evidence or to upload
84 the DNA profile obtained from that evidence into CODIS. The failure to comply with the
85 requirements of this section does not constitute grounds in any criminal or civil proceeding
86 for challenging the validity of a database match or of any database information, and any
87 evidence of that DNA record shall not be excluded by a court on those grounds;

88 **(11) No sexual assault forensic evidence shall be used to prosecute a survivor for**
89 **any misdemeanor crimes or any misdemeanor crime pursuant to sections 579.015 to**
90 **579.185; or as a basis to search for further evidence of any unrelated misdemeanor crimes**
91 **or any misdemeanor crime pursuant to sections 579.015 to 579.185, that have been**
92 **committed by the survivor, except that sexual assault forensic evidence shall be admissible**
93 **as evidence in any criminal or civil proceeding against the defendant or person accused;**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

137 **3. (1) Each person, corporation, agency, officer, or employee who has a**
138 **responsibility or responsibilities to survivors under this section shall make reasonable**
139 **efforts to become informed about these responsibilities and to ensure that survivors and**
140 **witnesses receive such information and services to which they may be entitled under law.**

141 **(2) Any failure to make such efforts, or any intentional violation of the enumerated**
142 **rights or provisions described in this section, shall be considered a tortious act causing**
143 **injury to person or property within the state.**

144 **(3) A person, agency, or organization providing services to a survivor under the**
145 **provisions of this section shall not be liable for civil damages if the person, agency, or**
146 **organization, in good faith, cannot comply with provisions of this section because of lack**
147 **of resources or funding. This limitation of civil liability shall not apply if the person,**
148 **agency, or organization acted with gross negligence or in bad faith.**

149 **4. For purposes of this section, the following terms mean:**

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

154 **(2) "Crime", an act committed in this state which, regardless of whether it is**
155 **adjudicated, involves the application of force or violence or the threat of force or violence**
156 **by the offender upon the victim but shall include the crime of driving while intoxicated,**
157 **vehicular manslaughter, and hit and run; and provided, further, that no act involving the**
158 **operation of a motor vehicle except driving while intoxicated, vehicular manslaughter, and**
159 **hit and run that results in injury to another shall constitute a crime for the purpose of this**

160 section unless such injury was intentionally inflicted through the use of a motor vehicle.
161 A crime shall also include an act of terrorism, as defined in 18 U.S.C. Section 2331, that has
162 been committed outside of the United States against a resident of Missouri;

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

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

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

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

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

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

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

184 (10) "Sexual assault survivor", any person who is a victim of a crime under sections
185 566.010 to 566.223 and, if the survivor is incompetent, deceased, or a minor who is unable
186 to consent to counseling services, the parent, guardian, spouse, or any other lawful
187 representative of the survivor, unless such person is the alleged assailant;

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

192 (12) "Witness", any person who has been or is expected to be summoned to testify
193 for the prosecution whether or not any action or proceeding has yet been commenced. The
194 term "witness" shall include persons employed in the administration of criminal justice

195 who are testifying in the course of their employment, except that such persons shall not be
196 entitled to any witness fees.

2 **595.202. 1. There is hereby created the "Missouri Rights of Victims of Sexual
Assault Task Force" to consist of the following members:**

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

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

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

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

12 **(3) A private citizen appointed by the governor;**

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

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

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

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

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

20 **(9) An attorney appointed by the governor.**

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

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

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

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

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

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

- 35 **(a) Identify the scope and nature of the need; and**
- 36 **(b) Make recommendations on how best to fill that need, whether legislatively or**
- 37 **otherwise;**
- 38 **(4) Whether a need exists to provide for ongoing evaluation of the implementation**
- 39 **of these rights, and if such a need does exist, the task force shall:**
- 40 **(a) Identify the scope and nature of the need; and**
- 41 **(b) Make recommendations on how best to fill that need, whether legislatively or**
- 42 **otherwise.**
- 43 **3. The task force shall:**
- 44 **(1) Collect data regarding sexual assault reporting, arrest, prosecution rates, access**
- 45 **to sexual assault victims services, and any other data important for its deliberations and**
- 46 **recommendations; and**
- 47 **(2) Collect feedback from stakeholders, practitioners, and leadership throughout**
- 48 **the state and local law enforcement, victim services, forensic science practitioners, and**
- 49 **health care communities to inform development of future best practices or clinical**
- 50 **guidelines regarding the care and treatment of survivors.**
- 51 **4. The department of public safety shall provide administrative support to the task**
- 52 **force.**
- 53 **5. On or before December 31, 2021, the task force shall submit a report on its**
- 54 **findings to the governor and general assembly. The report shall include any dissenting**
- 55 **opinions in addition to any majority opinions.**
- 56 **6. The task force shall expire on December 31, 2021.**

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