

HB 2595 -- SEXUAL ASSAULT SURVIVORS

SPONSOR: Coleman (97)

This bill establishes the "Sexual Assault Survivors' Bill of Rights" and the "Missouri Rights of Victims of Sexual Assault Task Force".

SEXUAL ASSAULT SURVIVOR RIGHTS

Under this bill, certain rights are provided for survivors of sexual assault during any medical evidentiary or physical examination and during any interview by a law enforcement official, prosecuting attorney, or defense attorney. The following rights are afforded to survivors of sexual assault and witnesses of sexual assault crimes:

- (1) Survivors have the right to consult with a sexual assault counselor during any medical evidentiary or physical examination and also have a support person with them;
- (2) Survivors have the right to consult with a sexual assault counselor during any interview with a law enforcement official, prosecuting attorney, or defense attorney and also have a support person with them;
- (3) Communications between a survivor and a sexual assault counselor are confidential and privileged;
- (4) Survivors' waivers of the right to a sexual assault counselor is privileged and is not admissible into evidence unless the survivor consents;
- (5) Survivors shall not be charged directly or indirectly for the medical evidentiary examination portion of the examination - evidentiary collection kits shall be purchased, subject to appropriation, by the Department of Public Safety;
- (6) Medical providers must inform survivors of their rights before commencing a medical evidentiary or physical examination;
- (7) Law enforcement officials, prosecuting attorneys, or defense attorneys must inform survivors of their rights before commencing a medical evidentiary or physical examination;
- (8) Law enforcement officials, prosecuting attorneys, or defense attorneys cannot discourage a survivor from receiving a medical evidentiary or physical examination;

(9) Survivors retain the right to have counsel present during all stages of any medical examination, interview, investigation, or other interactions with the legal or criminal justice systems in the state;

(10) Survivors have the right to prompt analysis of sexual assault forensic evidence through a secure and confidential message in writing from the crime lab;

(11) A defendant has no standing to object to any failure to comply to provisions of this bill by a survivor;

(12) Failure of a law enforcement agency to take possession of any sexual assault forensic evidence or to submit evidence within the proscribed time period does not preclude the law enforcement agency from later submitting the evidence;

(13) No sexual assault forensic evidence shall be used to prosecute a survivor for any misdemeanor crime, however, sexual assault forensic evidence shall be admissible in any criminal or civil proceeding against the defendant;

(14) A law enforcement officer or medical provider must provide survivors with a document developed by the Department of Public Safety that explains the rights of survivors under this bill;

(15) A law enforcement official, upon request from a survivor, must furnish within 14 days an unaltered copy of all law enforcement reports concerning the sexual assault at no cost to the survivor;

(16) A prosecuting attorney, upon request from a survivor, must provide timely notices of any pretrial or final dispositions of the case, location of the convicted defendant, and the convicted defendant's information on a sex offender registry, if any;

(17) Survivors have the right to be reasonably protected from the defendant and persons acting on behalf of the defendant in either a civil or criminal case relating to the sexual assault;

(18) Survivors have the right to be free from intimidation, harassment, and abuse;

(19) Survivors shall not be required to submit to a polygraph examination as a prerequisite to filing a pleading or participating in proceedings; and

(20) Survivors have the right to be heard through survivor impact statements at any proceeding where a right of the survivor is at

issue (Section 595.201.2, RSMo).

RIGHT OF ACTION

Each person, corporation, agency, officer, or employee who has a responsibility to survivors under this bill must make reasonable efforts to be informed about these responsibilities. Any failure to make such efforts, or any intentional violation of the rights proscribed in this bill, shall be a tortious act.

The Attorney General shall bring an action against any person, corporation, agency, officer, or employee who has failed to make reasonable efforts or intentionally violated any of the provisions under this bill in the name and on behalf of an injured party. However, the Attorney General is required to provide notice, before bringing an action, to any person against whom such an action is sought. The person shall have 5 business days to reply in writing with an affirmative defense.

A person, agency, or organization providing services to survivors under this bill shall not be liable for civil damages if the person, agency, or organization in good faith cannot comply with the provisions of this bill because of lack of resources or funding.

The right of action authorized under this bill shall not supercede, alter, or repeal any other law under which the Attorney General is authorized to take any action or conduct any inquiry (Section 595.201, RSMo).

MISSOURI RIGHTS OF VICTIMS OF SEXUAL ASSAULT TASK FORCE

This bill creates the "Missouri Rights of Victims of Sexual Assault Task Force". The membership is specified in the bill and includes two members appointed by the Speaker of the House of Representatives and two members appointed by the President Pro Tem of the Senate.

The task force shall make certain recommendations as provided in the bill. The task force shall collect data regarding sexual assault reporting, arrest, prosecution rates, access to sexual assault victims services, and any other important data, as well as collect feedback from stakeholders, practitioners, and leadership throughout the state and local law enforcement, victim services, forensic science practitioners, and health care communities.

The task force shall submit a report on its findings no later than December 31, 2021. The task force shall expire on December 31, 2021 (Section 595.202).

This bill is similar to HB 2554 (2020) and similar to SB 812 (2020).