

FIRST REGULAR SESSION

HOUSE BILL NO. 723

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LeVOTA (Sponsor), KANDER AND GRILL (Co-sponsors).

1590L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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Section A. Sections 191.225 and 595.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 191.225 and 595.030, to read as follows:

191.225. 1. The department of health and senior services shall make payments to appropriate medical providers, out of appropriations made for that purpose, to cover the 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 **if the victim is not a minor**;

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

(3) The report of the examination is [filed with] , **upon request, made available to the** prosecuting attorney of the county in which the alleged incident occurred.

[The appropriate medical provider shall file the report of the examination within three business days of completion of 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.]

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 3. The attorney general, with the advice of the department of health and senior services,
19 shall develop the forms and procedures for gathering evidence during the forensic examination
20 under the provisions of this section. The department of health and senior services shall develop
21 a checklist for appropriate medical providers to refer to while providing medical treatment to
22 victims of a sexual offense.

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

32 5. All appropriate medical provider charges for eligible forensic examinations shall be
33 billed to and paid by the department of health and senior services. No appropriate medical
34 provider conducting forensic examinations and providing medical treatment to victims of sexual
35 offenses shall charge the victim for the forensic examination. For appropriate medical provider
36 charges related to the medical treatment of victims of sexual offenses, if the victim is an eligible
37 claimant under the crime victims' compensation fund, the appropriate medical provider shall seek
38 compensation under sections 595.010 to 595.075, RSMo. **For any medical provider charges**
39 **relating to forensic examinations and medical treatment of victims of sexual offenses for**
40 **which such medical provider does not receive compensation under this subsection, the**
41 **medical provider may seek reimbursement for such services from third-party payers.**

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

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

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

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

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

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 enforcement.
10 Compensation paid for an out-of-pocket loss under this subdivision shall be in an amount equal
11 to the loss sustained, but shall not exceed two hundred fifty dollars.

12 2. No compensation shall be paid unless the division of workers' compensation finds that
13 a crime was committed, that such crime directly resulted in personal physical injury to[,] or the
14 death of[,] the victim **for a victim eighteen years of age or older**, and that police records show
15 that such crime was promptly reported to the proper authorities. In no case may compensation
16 be paid if the police records show that such report was made more than forty-eight hours after
17 the occurrence of such crime, unless **the victim is under eighteen years of age or** the division
18 of workers' compensation finds that the report to the police was delayed for good cause. If the
19 victim is under eighteen years of age such report may be made by the victim's parent, guardian
20 or custodian; by a physician, a nurse, or hospital emergency room personnel; by the **children's**
21 division [of family services] personnel; or by any other member of the victim's family. In the
22 case of a sexual offense, filing a report of the offense to the proper authorities may include, but
23 not be limited to, the [filing of the] **making of a** report of the forensic examination by the
24 appropriate medical provider, as defined in section 191.225, RSMo, [with] **available to** the
25 prosecuting attorney of the county in which the alleged incident occurred.

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

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

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

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

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

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

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

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

50 7. The method and timing of the payment of any compensation pursuant to sections
51 595.010 to 595.075 shall be determined by the division.

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