

SECOND REGULAR SESSION

# HOUSE BILL NO. 2259

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE LICHTENEGGER.

6010H.011

D. ADAM CRUMBLISS, 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Section A. Section 595.220, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 595.220, to read as follows: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 **and uploaded into an electronic tracking system.**

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 attorney general, with the advice of the department of public safety, shall develop the forms and procedures for gathering evidence during the forensic examination under the provisions of this section. The department of health and senior services shall develop a

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 checklist, protocols, and procedures for appropriate medical providers to refer to while providing  
19 medical treatment to victims of a sexual offense, including those specific to victims who are  
20 minors.

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

32 5. In reviewing claims submitted under this section, the department shall first determine  
33 if the claim was submitted within ninety days of the examination. If the claim is submitted  
34 within ninety days, the department shall, at a minimum, use the following criteria in reviewing  
35 the claim: examination charges submitted shall be itemized and fall within the definition of  
36 forensic examination as defined in subdivision (3) of subsection 8 of this section.

37 6. All appropriate medical provider charges for eligible forensic examinations shall be  
38 billed to and paid by the department of public safety. No appropriate medical provider  
39 conducting forensic examinations and providing medical treatment to victims of sexual offenses  
40 shall charge the victim for the forensic examination. For appropriate medical provider charges  
41 related to the medical treatment of victims of sexual offenses, if the victim is an eligible claimant  
42 under the crime victims' compensation fund, the victim shall seek compensation under sections  
43 595.010 to 595.075.

44 7. The department of public safety shall establish rules regarding the reimbursement of  
45 the costs of forensic examinations for children under fourteen years of age, including establishing  
46 conditions and definitions for emergency and nonemergency forensic examinations and may by  
47 rule establish additional qualifications for appropriate medical providers performing  
48 nonemergency forensic examinations for children under fourteen years of age. The department  
49 shall provide reimbursement regardless of whether or not the findings indicate that the child was  
50 abused.

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

52 (1) "Appropriate medical provider":

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

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

60 (2) **"Electronic tracking system", the electronic tracking system established by the**  
61 **attorney general under subsection 10 of this section;**

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

65 [~~(3)~~] (4) "Evidentiary collection kit", a kit used during a forensic examination that  
66 includes materials necessary for appropriate medical providers to gather evidence in accordance  
67 with the forms and procedures developed by the attorney general for forensic examinations;

68 [~~(4)~~] (5) "Forensic examination", an examination performed by an appropriate medical  
69 provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection  
70 kit or using other collection procedures developed for victims who are minors;

71 [~~(5)~~] (6) "Medical treatment", the treatment of all injuries and health concerns resulting  
72 directly from a patient's sexual assault or victimization;

73 [~~(6)~~] (7) "Nonemergency forensic examination", an examination of a person under  
74 fourteen years of age that occurs more than five days after the alleged sexual offense. The  
75 department of public safety may further define the term nonemergency forensic examination by  
76 rule.

77 9. The department shall have authority to promulgate rules and regulations necessary to  
78 implement the provisions of this section. Any rule or portion of a rule, as that term is defined  
79 in section 536.010, that is created under the authority delegated in this section shall become  
80 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if  
81 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the  
82 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
83 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
84 rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid  
85 and void.

86 **10. The attorney general shall establish protocols and an electronic platform to**  
87 **implement an electronic tracking system that:**

88           **(1) Identifies, documents, records, and tracks an evidentiary collection kit and its**  
89 **components, including individual specimen containers, through its existence from forensic**  
90 **examination, to possession by a law enforcement agency, to testing, to use as evidence in**  
91 **criminal proceedings, and until disposition of such proceedings;**

92           **(2) Assigns a unique alphanumeric identifier to each person who may handle an**  
93 **evidentiary test kit;**

94           **(3) Establishes a system that links the identifiers of an evidentiary collection kit and**  
95 **its components, which may be machine-readable; and**

96           **(4) Allows each person who may handle an evidentiary test kit to check the status**  
97 **of an evidentiary test kit or its components and to save a portfolio of identifiers so that the**  
98 **person may track, obtain reports, and receive updates of the status of evidentiary collection**  
99 **kits or their components.**

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