

HOUSE BILL NO. 2582

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE INGLE.

5580H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapters 192 and 197, RSMo, by adding thereto two new sections relating to forensic examinations of victims of sexual abuse.

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

Section A. Chapters 192 and 197, RSMo, are amended by adding thereto two new sections, to be known as sections 192.2520 and 197.135, to read as follows:

192.2520. 1. Sections 192.2520 and 197.135 shall be known and may be cited as the "Justice for Survivors Act".

2. As used in this section, the following terms shall mean:

(1) "Appropriate medical provider", the same meaning as used in section 595.220;

(2) "Department", the department of health and senior services;

(3) "Evidentiary collection kit", the same meaning as used in section 595.220;

(4) "Forensic examination", the same meaning as used in section 595.220;

(5) "Telehealth", the same meaning as used in section 191.1145.

3. No later than July 1, 2022, there shall be established within the department a statewide telehealth network for forensic examinations of victims of sexual offenses in order to provide access to sexual assault nurse examiners (SANE) or other similarly trained appropriate medical providers. A statewide coordinator for the telehealth network shall be selected by the director of the department of health and senior services and shall have oversight responsibilities and provide support for the training programs offered by the network, as well as the implementation and operation of the network.

4. The network shall provide mentoring and educational training services, including:

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 **(1) Conducting a forensic examination of a victim of a sexual offense, in accordance**
19 **with best practices, while utilizing an evidentiary collection kit;**
20 **(2) Proper documentation, transmission, and storage of the examination evidence;**
21 **(3) Utilizing trauma-informed care to address the needs of victims;**
22 **(4) Utilizing telehealth technology while conducting a live examination; and**
23 **(5) Providing ongoing case consultation and serving as an expert witness in event**
24 **of a trial.**

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26 **The network shall, in the mentoring and educational training services provided, emphasize**
27 **the importance of obtaining a victim's informed consent to evidence collection, including**
28 **issues involving minor consent, and the scope and limitations of confidentiality regarding**
29 **information gathered during the forensic examination.**

30 **5. The training offered may be made available both online or in person, including**
31 **the use of video conferencing technology to connect trained interdisciplinary experts with**
32 **providers in a case-based learning environment.**

33 **6. The network shall, through telehealth services available twenty-four hours a day,**
34 **seven days a week, by a SANE or another similarly trained appropriate medical provider,**
35 **provide mentoring, consultation services, guidance, and technical assistance to appropriate**
36 **medical providers during and outside of a forensic examination of a victim of a sexual**
37 **offense. The network shall ensure that the system through which the network provides**
38 **telehealth services meets national standards for interoperability to connect to telehealth**
39 **systems.**

40 **7. The department may consult and enter into any necessary contracts with any**
41 **other local, state, or federal agency, institution of higher education, or private entity to**
42 **carry out the provisions of this section, including, but not limited to, a contract to:**

43 **(1) Develop, implement, maintain, or operate the network;**

44 **(2) Train and provide technical assistance to appropriate medical providers on**
45 **conducting forensic examinations of victims of sexual offenses and the use of telehealth**
46 **services; and**

47 **(3) Provide consultation, guidance, or technical assistance to appropriate medical**
48 **providers using telehealth services during a forensic examination of a victim of a sexual**
49 **offense.**

50 **8. Beginning October 1, 2021, and each year thereafter, all hospitals licensed under**
51 **chapter 197 shall report to the department the following information for the previous year:**

52 **(1) The number of forensic examinations of victims of a sexual offense performed**
53 **at the hospital;**

54 (2) The number of forensic examinations of victims of a sexual offense requested
55 to be performed by a victim of a sexual offense that the hospital did not perform and the
56 reason why the examination was not performed;

57 (3) The number of evidentiary collection kits submitted to a law enforcement
58 agency for testing; and

59 (4) After July 1, 2022, the number of appropriate medical providers employed at
60 or contracted with the hospital who utilized the training and telehealth services provided
61 by the network.

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63 The information reported under this subsection and subsection 9 of this section shall not
64 include any personally identifiable information of any victim of a sexual offense or any
65 appropriate medical provider performing a forensic examination of such victim.

66 9. Beginning January 1, 2022, and each year thereafter, the department shall make
67 publicly available a report that shall include the information submitted under subsection
68 8 of this section. The report shall also include, in collaboration with the department of
69 public safety, information about the number of evidentiary collection kits submitted by a
70 person or entity outside of a hospital setting, as well as the number of appropriate medical
71 providers utilizing the training and telehealth services provided by the network outside of
72 a hospital setting.

73 10. (1) The funding for the network shall be subject to appropriations. In addition
74 to appropriations from the general assembly, the department shall apply for available
75 grants and shall be able to accept other gifts, grants, bequests, and donations to develop
76 and maintain the network and the training offered by the network.

77 (2) There is hereby created in the state treasury the "Justice for Survivors
78 Telehealth Network Fund", which shall consist of any gifts, grants, bequests, and donations
79 accepted under this subsection. The state treasurer shall be custodian of the fund. In
80 accordance with sections 30.170 and 30.180, the state treasurer may approve
81 disbursements. The fund shall be a dedicated fund and money in the fund shall be used
82 solely by the department for the purpose of developing and maintaining the network and
83 the training offered by the network. Notwithstanding the provisions of section 33.080 to
84 the contrary, any moneys remaining in the fund at the end of the biennium shall not revert
85 to the credit of the general revenue fund. The state treasurer shall invest moneys in the
86 fund in the same manner as other funds are invested. Any interest and moneys earned on
87 such investments shall be credited to the fund.

88 11. The department shall promulgate rules and regulations in order to implement
89 the provisions of this section, including, but not limited to, the following:

- 90 **(1) The operation of a statewide telehealth network for forensic examinations of**
91 **victims of sexual offenses;**
- 92 **(2) The development of training for appropriate medical providers conducting a**
93 **forensic examination of a victim of a sexual offense; and**
- 94 **(3) Maintenance of records and data privacy and security of patient information.**
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96 **Any rule or portion of a rule, as that term is defined in section 536.010, that is created**
97 **under the authority delegated in this section shall become effective only if it complies with**
98 **and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.**
99 **This section and chapter 536 are nonseverable and if any of the powers vested with the**
100 **general assembly pursuant to chapter 536 to review, to delay the effective date, or to**
101 **disapprove and annul a rule are subsequently held unconstitutional, then the grant of**
102 **rulemaking authority and any rule proposed or adopted after August 28, 2020, shall be**
103 **invalid and void.**

197.135. 1. Beginning January 1, 2023, any hospital licensed under this chapter
2 **shall perform a forensic examination using an evidentiary collection kit upon the request**
3 **and consent of the victim of a sexual offense, or the victim's guardian, when the victim is**
4 **at least fourteen years of age. In the case of minor consent, the provisions of subsection 2**
5 **of section 595.220 shall apply. Victims under fourteen years of age shall be referred to a**
6 **SAFE CARE provider, as such term is defined in section 334.950, for medical or forensic**
7 **evaluation and case review. Nothing in this section shall be interpreted to preclude a**
8 **hospital from performing a forensic examination for a victim under fourteen years of age**
9 **upon the request and consent of the victim or victim's guardian, subject to the provisions**
10 **of section 595.220 and the rules promulgated by the department of public safety.**

11 **2. An appropriate medical provider, as such term is defined in section 595.220, shall**
12 **perform the forensic examination of a victim of a sexual offense. The hospital shall ensure**
13 **that any provider performing the examination has received training conducting such**
14 **examinations that is, at a minimum, equivalent to the training offered by the statewide**
15 **telehealth network under subsection 4 of section 192.2520. If the provider is not a sexual**
16 **assault nurse examiner (SANE), or another similarly trained physician or nurse, then the**
17 **hospital shall utilize telehealth services during the examination, such as those provided by**
18 **the statewide telehealth network, to provide guidance and support through a SANE, or**
19 **other similarly trained physician or nurse, who may observe the live forensic examination**
20 **and who shall communicate with and support the onsite provider with the examination,**
21 **forensic evidence collection, and proper transmission and storage of the examination**
22 **evidence.**

23 **3. The department of health and senior services may issue a waiver of the telehealth**
24 **requirements of subsection 2 of this section if the hospital demonstrates to the department,**
25 **in writing, a technological hardship in accessing telehealth services or a lack of access to**
26 **adequate broadband services sufficient to access telehealth services. Such waivers shall be**
27 **granted sparingly and for no more than a year in length at a time, with the opportunity for**
28 **renewal at the department's discretion.**

29 **4. The department shall waive the requirements of this section if the statewide**
30 **telehealth network established under section 192.2520 ceases operation, the director of the**
31 **department of health and senior services has provided written notice to hospitals licensed**
32 **under this chapter that the network has ceased operation, and the hospital cannot, in good**
33 **faith, comply with the requirements of this section without assistance or resources of the**
34 **statewide telehealth network. Such waiver shall remain in effect until such time as the**
35 **statewide telehealth network resumes operation or until the hospital is able to demonstrate**
36 **compliance with the provisions of this section without the assistance or resources of the**
37 **statewide telehealth network.**

38 **5. The provisions of section 595.220 shall apply to the reimbursement of the**
39 **reasonable costs of the examinations and the provision of the evidentiary collection kits.**

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