

FIRST REGULAR SESSION

HOUSE BILL NO. 1179

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KELLY (141).

2417H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 192.2520 and 197.135, RSMo, and to enact in lieu thereof two new sections relating to victims of sexual offenses, with a contingent effective date for a certain section.

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

Section A. Sections 192.2520 and 197.135, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 192.2520 and 197.136, to read as follows:

192.2520. 1. ~~[Sections 192.2520 and 197.135]~~ **This section** 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. **The statewide coordinator shall regularly consult with Missouri-based clinicians actively engaged in the collection of forensic evidence about the**

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 **training programs offered by the network and the implementation and operation of the**
18 **network.**

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

20 (1) Conducting a forensic examination of a victim of a sexual offense, in accordance
21 with best practices, while utilizing an evidentiary collection kit;

22 (2) Proper documentation, transmission, and storage of the examination evidence;

23 (3) Utilizing trauma-informed care to address the needs of victims;

24 (4) Utilizing telehealth technology while conducting a live examination; and

25 (5) Providing ongoing case consultation and serving as an expert witness in event of a
26 trial.

27

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

32 5. The training offered ~~[may]~~ **shall** be made available ~~[both]~~ online ~~[or in person]~~,
33 including **through** the use of video conferencing technology to connect trained interdisciplinary
34 experts with providers in a case-based learning environment. **The training may also be made**
35 **available in person.**

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

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

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

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

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

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

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

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

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

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

63

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

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

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

77 (2) There is hereby created in the state treasury the "Justice for Survivors Telehealth
78 Network Fund", which shall consist of any gifts, grants, bequests, and donations accepted under
79 this subsection. The state treasurer shall be custodian of the fund. In accordance with sections
80 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated
81 fund and money in the fund shall be used solely by the department for the purpose of developing
82 and maintaining the network and the training offered by the network. The state treasurer shall
83 invest moneys in the fund in the same manner as other funds are invested. Any interest and
84 moneys earned on such investments shall be credited to the fund.

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

87 (1) The operation of a statewide telehealth network for forensic examinations of victims
88 of sexual offenses;

89 (2) The development of training for appropriate medical providers conducting a forensic
90 examination of a victim of a sexual offense; **provided that, any rules on training shall not**
91 **become effective before the effective date of section 197.136;** and

92 (3) Maintenance of records and data privacy and security of patient information.

93
94 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the
95 authority delegated in this section shall become effective only if it complies with and is subject
96 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
97 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant
98 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
99 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
100 or adopted after August 28, 2020, shall be invalid and void.

197.136. 1. Any hospital licensed under this chapter shall perform a forensic
2 **examination using an evidentiary collection kit upon the request and consent of the victim**
3 **of a sexual offense, or the victim's guardian, if the victim is fourteen years of age or older.**
4 **In the case of minor consent, the provisions of subsection 2 of section 595.220 shall apply.**
5 **Victims under fourteen years of age shall be referred to a SAFE CARE provider, as such**
6 **term is defined in section 334.950, for medical or forensic evaluation and case review.**
7 **Nothing in this section shall be interpreted to preclude a hospital from performing a**
8 **forensic examination for a victim under fourteen years of age upon the request and consent**
9 **of the victim or victim's guardian, subject to the provisions of section 595.220 and the rules**
10 **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. Nothing in this section shall**
16 **require providers to utilize the training offered by the statewide telehealth network as long**
17 **as the training utilized by providers is, at a minimum, equivalent to the training offered**
18 **by the statewide telehealth network. If the provider is not a sexual assault nurse examiner**
19 **(SANE) or another similarly trained physician or nurse, the hospital shall utilize telehealth**
20 **services during the examination, such as those provided by the statewide telehealth**
21 **network, to provide guidance and support through a SANE or other similarly trained**
22 **physician or nurse who may observe the live forensic examination and who shall**
23 **communicate with and support the onsite provider with the examination, forensic evidence**
24 **collection, and proper transmission and storage of the examination evidence.**

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

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

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

42 **6. No hospital shall be required to comply with the provisions of this section unless**
43 **and until the department of health and senior services provides the hospital with access to**
44 **the statewide telehealth network as well as the mentoring and training services required**
45 **by section 192.2520 without charge to the hospital.**

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

~~2. An appropriate medical provider, as such term is defined in section
595.220, shall perform the forensic examination of a victim of a sexual offense.
The hospital shall ensure that any provider performing the examination has
received training conducting such examinations that is, at a minimum, equivalent
to the training offered by the statewide telehealth network under subsection 4 of
section 192.2520. If the provider is not a sexual assault nurse examiner (SANE),~~

19 ~~or another similarly trained physician or nurse, then the hospital shall utilize~~
20 ~~telehealth services during the examination, such as those provided by the~~
21 ~~statewide telehealth network, to provide guidance and support through a SANE,~~
22 ~~or other similarly trained physician or nurse, who may observe the live forensic~~
23 ~~examination and who shall communicate with and support the onsite provider~~
24 ~~with the examination, forensic evidence collection, and proper transmission and~~
25 ~~storage of the examination evidence.~~

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

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

43 ~~5. The provisions of section 595.220 shall apply to the reimbursement of~~
44 ~~the reasonable costs of the examinations and the provision of the evidentiary~~
45 ~~collection kits.]~~

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Section B. The enactment of section 197.136 shall be effective January first of the
2 second calendar year following the notice to the revisor of statutes from the department of health
3 and senior services that a statewide telehealth network has been established, a statewide
4 telehealth coordinator has been selected in accordance with section 192.2520 of this act, and the
5 training and mentoring services required by section 192.2520 of this act are being provided to
6 hospitals without charge.

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