

FIRST REGULAR SESSION

HOUSE BILL NO. 826

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DOLL.

0446H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 578.350, RSMo, and to enact in lieu thereof four new sections relating to the collection of forensic evidence in emergency rooms, with penalty provisions.

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

Section A. Section 578.350, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 192.2525, 197.125, 578.350, and 595.222, to read as follows:

192.2525. 1. For purposes of this section, the following terms mean:

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

(2) "Forensic evidence", any material captured from a victim that could be useful in solving or investigating the commission of a crime including, but not limited to, any physical evidence, bullets or shrapnel, or anything that may contain DNA related to the commission of a crime.

2. No later than January 1, 2024, there shall be established within the department a statewide telehealth network for forensic examinations of persons with gunshot or nonaccidental stabbing wounds in order to provide access to medical providers trained on the collection of forensic evidence. 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 stakeholders and clinicians actively engaged in the collection of forensic evidence regarding the training programs offered by the network, as well as the implementation and operation of the network.

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 network shall provide mentoring and educational training services,**
19 **including:**

20 **(1) Conducting a forensic examination of a victim of a gunshot or nonaccidental**
21 **stabbing, in accordance with best practices, while using an evidentiary collection kit;**

22 **(2) Proper documentation, transmission, and storage of 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 the**
26 **event of a trial.**

27

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

32 **4. The training offered shall be made available online, including the use of video**
33 **conferencing technology to connect trained interdisciplinary experts with providers in a**
34 **case-based learning environment, and may also be made available in person.**

35 **5. The network shall, through telehealth services available twenty-four hours a**
36 **day, seven days a week, by an appropriate medical provider, provide mentoring,**
37 **consultation services, guidance, and technical assistance to health care providers during**
38 **and outside of a forensic examination of a victim of a gunshot or nonaccidental stabbing.**
39 **The network shall ensure that the system through which the network provides telehealth**
40 **services meets national standards for interoperability to connect to telehealth systems.**

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

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

45 **(2) Train and provide technical assistance to appropriate medical providers on**
46 **conducting forensic examinations of victims of gunshots or nonaccidental stabbings and**
47 **the use of telehealth services; and**

48 **(3) Provide consultation, guidance, or technical assistance to appropriate**
49 **medical providers using telehealth services during a forensic examination of victims of**
50 **gunshots or nonaccidental stabbings.**

51 **7. Beginning October 1, 2024, and each year thereafter, all hospitals licensed**
52 **under chapter 197 shall report to the department the following information for the**
53 **previous year:**

54 (1) The number of forensic examinations of victims of gunshots or nonaccidental
55 stabbings performed at the hospital;

56 (2) The number of forensic examinations of victims of gunshots or nonaccidental
57 stabbings requested to be performed by a victim that the hospital did not perform and
58 the reason why each examination was not performed;

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

61 (4) After July 1, 2025, the number of health care providers employed at or
62 contracted with the hospital who utilized the training and telehealth services provided
63 by the network.

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65 The information reported under this subsection and subsection 8 of this section shall not
66 include any personally identifiable information of any victim or any appropriate
67 medical provider performing a forensic examination of such victim.

68 8. Beginning January 1, 2026, and each year thereafter, the department shall
69 make publicly available a report that shall include the information submitted under
70 subsection 7 of this section. The report shall also include, in collaboration with the
71 department of public safety, information about the number of evidentiary collection kits
72 submitted by a person or entity outside of a hospital setting, as well as the number of
73 health care providers utilizing the training and telehealth services provided by the
74 network outside of a hospital setting.

75 9. (1) The funding for the network shall be subject to appropriations. In
76 addition to appropriations from the general assembly, the department shall apply for
77 available grants and shall be able to accept other gifts, grants, bequests, and donations
78 to develop and maintain the network and the training offered by the network.

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

88 10. The department shall promulgate rules and regulations in order to
89 implement 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 gunshots and nonaccidental stabbings;

92 (2) The development of training for appropriate medical providers conducting a
93 forensic examination of victims of gunshots and nonaccidental stabbings; 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
98 with and is subject to all of the provisions of chapter 536 and, if applicable, section
99 536.028. This section and chapter 536 are nonseverable and if any of the powers vested
100 with the general assembly pursuant to chapter 536 to review, to delay the effective date,
101 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant
102 of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall
103 be invalid and void.

197.125. 1. For purposes of this section, the following terms mean:

2 (1) "Appropriate medical provider", any licensed nurse, physician, or physician
3 assistant, and any entity employing licensed nurses, physicians, or physician assistants,
4 provided that such licensed professionals are the only persons at such entity to perform
5 forensic examinations under the provisions of this section;

6 (2) "Forensic evidence", any material captured from a victim that could be
7 useful in solving or investigating the commission of a crime including, but not limited to,
8 any physical evidence, bullets or shrapnel, or anything that may contain DNA related to
9 the commission of a crime;

10 (3) "Forensic examination", an examination performed by an appropriate
11 medical provider on a victim of a gunshot or nonaccidental stabbing to gather evidence
12 in accordance with the forms and procedures developed by the department of public
13 safety for forensic examinations under section 595.222;

14 (4) "Medical emergency", a condition that, on the basis of a treating health care
15 provider's good faith clinical judgment, necessitates immediate medical intervention to
16 avert death or for which a delay will cause a serious risk of substantial and irreversible
17 impairment of a major bodily function.

18 2. Any entity that operates an emergency room shall provide a minimum of
19 thirty minutes of annual training on the collection of forensic evidence to all personnel
20 employed in a capacity that requires them to assist in procedures involving the collection
21 of forensic evidence. Such training may be incorporated within continuing education
22 training or other employee training provided by the entity.

23 **3. An appropriate medical provider trained in forensic evidence collection shall**
24 **perform the forensic examination of any victim who presents at an emergency room**
25 **with a gunshot or a nonaccidental stabbing wound. The entity that operates the**
26 **emergency room shall ensure that any provider performing a forensic examination has**
27 **received training conducting such examinations that is, at a minimum, equivalent to the**
28 **training offered by the statewide telehealth network under subsection 3 of section**
29 **192.2525. Nothing in this section shall require providers to utilize the training offered**
30 **by the statewide telehealth network, as long as the training utilized is, at a minimum,**
31 **equivalent to the training offered by the statewide telehealth network.**

32 **4. If a person with a gunshot or nonaccidental stabbing wound presents at an**
33 **emergency room after January 1, 2024, and no appropriate medical provider trained in**
34 **forensic evidence collection is present, the treating health care provider shall utilize the**
35 **statewide telehealth service network established under section 192.2525; except that,**
36 **such requirement shall be waived in the case of medical emergency. The statewide**
37 **telehealth service network shall provide guidance and support through a licensed**
38 **physician or licensed nurse trained in forensic evidence collection, who may observe the**
39 **live forensic examination and who shall communicate with and support the on-site**
40 **provider with the examination, forensic evidence collection, and proper transmission**
41 **and storage of the examination evidence.**

42 **5. The department of health and senior services may issue a waiver of the**
43 **telehealth requirements of subsection 4 of this section if the entity operating the**
44 **emergency room demonstrates to the department, in writing, a technological hardship**
45 **in accessing telehealth services or a lack of access to adequate broadband services**
46 **sufficient to access telehealth services. Such waivers shall be granted sparingly and for**
47 **no more than a year in length at a time, with the opportunity for renewal at the**
48 **department's discretion.**

49 **6. The department shall waive the requirements of this section if the statewide**
50 **telehealth network established under section 192.2525 ceases operation, the director of**
51 **the department of health and senior services has provided written notice to emergency**
52 **rooms licensed under this chapter that the network has ceased operation, and the**
53 **emergency room cannot, in good faith, comply with the requirements of this section**
54 **without assistance or resources of the statewide telehealth network. Such waiver shall**
55 **remain in effect until such time as the statewide telehealth network resumes operation**
56 **or until the emergency room is able to demonstrate compliance with the provisions of**
57 **this section without the assistance or resources of the statewide telehealth network.**

58 **7. No individual emergency room shall be required to comply with the provisions**
59 **of this section or section 192.2525 unless and until the department provides such**

60 **emergency room with access to the statewide telehealth network for the purposes of**
61 **mentoring and training services required under section 192.2525 without charge to the**
62 **emergency room.**

578.350. 1. A person licensed under chapter 334 or 335 who treats a ~~[person]~~ **patient**
2 for a ~~[wound inflicted by]~~ **gunshot or nonaccidental stabbing wound** commits the infraction
3 of medical deception if he or she knowingly fails to immediately report to a local law
4 enforcement official the name and address of the ~~[person]~~ **patient**, if known, and if unknown,
5 a description of the ~~[person]~~ **patient**, together with an explanation of the nature of the wound
6 and the circumstances under which the treatment was rendered.

7 2. A person licensed under chapter 334 or 335 who, in good faith, makes a report
8 under this section shall have immunity from civil liability that otherwise might result from
9 such report and shall have the same immunity with respect to any good faith participation in
10 any judicial proceeding in which the reported **gunshot or nonaccidental stabbing** wound is
11 an issue. Notwithstanding the provisions of subdivision (5) of section 491.060, the existence
12 of a physician-patient relationship shall not prevent a physician from submitting the report
13 required in this section, or testifying regarding information acquired from a patient treated for
14 a **gunshot or nonaccidental stabbing** wound if such testimony is otherwise admissible.

595.222. 1. For purposes of this section, the following terms mean:

2 **(1) "Appropriate medical provider", any licensed nurse, physician, or physician**
3 **assistant, and any entity employing licensed nurses, physicians, or physician assistants,**
4 **provided that such licensed professionals are the only persons at such entity to perform**
5 **forensic examinations under the provisions of this section;**

6 **(2) "Evidentiary collection kit", a kit used during a forensic examination that**
7 **includes materials necessary for appropriate medical providers to gather evidence in**
8 **accordance with the forms and procedures developed by the department of public safety**
9 **for forensic examinations;**

10 **(3) "Forensic examination", an examination performed by an appropriate**
11 **medical provider on a victim of a gunshot or nonaccidental stabbing to gather evidence**
12 **in accordance with the forms and procedures developed by the department of public**
13 **safety for forensic examinations.**

14 2. The department of public safety, with the advice of the attorney general, shall
15 develop the forms and procedures for gathering, transmitting, and storing evidence
16 during and after any forensic examination conducted under section 197.125 involving a
17 **gunshot or a nonaccidental stabbing.**

18 3. Evidentiary collection kits shall be developed and made available, subject to
19 appropriation, to emergency rooms by the department of public safety. Such kits shall
20 be distributed along with forms and procedures developed by the department for

21 gathering evidence during the examination of a victim of a gunshot or a nonaccidental
22 stabbing.

23 4. All appropriate medical provider charges for eligible forensic examinations
24 shall be billed to and paid by the department of public safety. No appropriate medical
25 provider conducting forensic examinations and providing medical treatment as
26 provided under section 197.125 shall charge the victim for the forensic examination.
27 For appropriate medical provider charges related to the medical treatment of victims
28 treated under section 197.125, if the victim is an eligible claimant under the crime
29 victims' compensation fund, the victim shall seek compensation under sections 595.010
30 to 595.075.

31 5. The department of public safety may promulgate rules and regulations
32 necessary to implement the provisions of this section. Any rule or portion of a rule, as
33 that term is defined in section 536.010, that is created under the authority delegated in
34 this section shall become effective only if it complies with and is subject to all of the
35 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter
36 536 are nonseverable and if any of the powers vested with the general assembly
37 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
38 a rule are subsequently held unconstitutional, then the grant of rulemaking authority
39 and any rule proposed or adopted after August 28, 2023, shall be invalid and void.

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