

SECOND REGULAR SESSION

# HOUSE BILL NO. 2628

## 103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ZIMMERMANN.

6311H.01I

JOSEPH ENGLER, Chief Clerk

### AN ACT

To repeal sections 197.135 and 595.220, RSMo, and to enact in lieu thereof three new sections relating to victims of sexual assault.

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

Section A. Sections 197.135 and 595.220, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 191.713, 197.135, and 595.220, to read as follows:

**191.713. 1. This section shall be known and may be cited as the "Compassionate Assistance for Rape Emergencies (CARE) Act".**

**2. As used in this section, unless the context clearly indicates otherwise, the following terms mean:**

**(1) "Emergency care to sexual assault victims", medical examinations, procedures, or services provided at a hospital or health care facility to a sexual assault victim following an alleged sexual assault;**

**(2) "Emergency contraception", any drug or device approved by the U.S. Food and Drug Administration that prevents pregnancy after sexual intercourse;**

**(3) "Health care facility", any urgent care center or facility that offers treatment for patients during normal business, after business, or weekend hours and that is affiliated with a licensed hospital;**

**(4) "Sexual assault", includes rape in the first degree, as described in section 566.030; rape in the second degree, as described in section 566.031; statutory rape in the first degree and attempt to commit statutory rape in the first degree, as described in section 566.032; statutory rape in the second degree, as described in section 566.034;**

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 sodomy in the first degree, as described in section 566.060; sodomy in the second degree,  
18 as described in section 566.061; statutory sodomy in the first degree and attempt to  
19 commit statutory sodomy in the first degree, as described in section 566.062; and  
20 statutory sodomy in the second degree, as described in section 566.064;

21 (5) "Sexual assault victim", a person who is alleged to have been sexually  
22 assaulted and is presented as a patient.

23 3. It shall be the standard of care for any hospital or any health care facility that  
24 provides emergency care to sexual assault victims to:

25 (1) Orally inform each sexual assault victim of the option to be provided  
26 emergency contraception at the hospital or health care facility;

27 (2) Provide the complete regimen of emergency contraception immediately at the  
28 hospital or health care facility to each sexual assault victim who requests it; and

29 (3) Provide sexually transmitted infection screening and treatment to the sexual  
30 assault victim.

31 4. The department of health and senior services shall promulgate all rules and  
32 regulations 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, 2026, shall be invalid and void.

197.135. 1. Beginning January 1, 2023, or no later than six months after the  
2 establishment of the statewide telehealth network under section 192.2520, whichever is later,  
3 any hospital licensed under this chapter shall perform a forensic examination using an  
4 evidentiary collection kit upon the request and consent of the victim of a sexual offense, or  
5 the victim's guardian, when the victim is at least fourteen years of age. In the case of minor  
6 consent, the provisions of subsection 2 of section 595.220 shall apply. Victims under fourteen  
7 years of age shall be referred, and victims fourteen years of age or older but less than eighteen  
8 years of age may be referred, to a SAFE CARE provider, as such term is defined in section  
9 334.950, for medical or forensic evaluation and case review. Nothing in this section shall be  
10 interpreted to preclude a hospital from performing a forensic examination for a victim under  
11 fourteen years of age upon the request and consent of the victim or victim's guardian, subject  
12 to the provisions of section 595.220 and the rules promulgated by the department of public  
13 safety.

14           2. (1) An appropriate medical provider, as such term is defined in section 595.220,  
15 shall perform the forensic examination of a victim of a sexual offense. The hospital shall  
16 ensure that any provider performing the examination has received training conducting such  
17 examinations that is, at a minimum, equivalent to the training offered by the statewide  
18 telehealth network under subsection 4 of section 192.2520. Nothing in this section shall  
19 require providers to utilize the training offered by the statewide telehealth network, as long as  
20 the training utilized is, at a minimum, equivalent to the training offered by the statewide  
21 telehealth network.

22           (2) If the provider is not a sexual assault nurse examiner (SANE), or another similarly  
23 trained physician or nurse, then the hospital shall utilize telehealth services during the  
24 examination, such as those provided by the statewide telehealth network, to provide guidance  
25 and support through a SANE, or other similarly trained physician or nurse, who may observe  
26 the live forensic examination and who shall communicate with and support the onsite  
27 provider with the examination, forensic evidence collection, and proper transmission and  
28 storage of the examination evidence.

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

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

44           5. The provisions of section 595.220 shall apply to:

45           (1) The reimbursement of the reasonable costs of the examinations **and medical**  
46 **treatment including, but not limited to, emergency contraception;** and

47           (2) The provision of the evidentiary collection kits.

48           6. No individual hospital shall be required to comply with the provisions of this  
49 section and section 192.2520 unless and until the department provides such hospital with

50 access to the statewide telehealth network for the purposes of mentoring and training services  
51 required under section 192.2520 without charge to the hospital.

52 7. A specialty hospital shall be considered exempt from the provisions of this section  
53 and section 192.2520 if such hospital has a policy for the transfer of a victim of a sexual  
54 offense to an appropriate hospital with an emergency department. As used in this section,  
55 "specialty hospital" shall mean a hospital licensed under this chapter and designated by the  
56 department as something other than a general acute care hospital.

595.220. 1. The department of public safety shall make payments to appropriate  
2 medical providers, out of appropriations made for that purpose, to cover the reasonable  
3 charges of the forensic examination **and medical treatment** of persons who may be a victim  
4 of a sexual offense if:

5 (1) The victim or the victim's guardian consents in writing to the examination **and**  
6 **medical treatment**; and

7 (2) The report of the examination **and medical treatment** is made on a form  
8 approved by the attorney general with the advice of the department of public safety.

9  
10 The department shall establish maximum reimbursement rates for charges submitted under  
11 this section, which shall reflect the reasonable cost of providing the forensic exam **and**  
12 **medical treatment**.

13 2. A minor may consent to examination under this section. Such consent is not  
14 subject to disaffirmance because of minority, and consent of parent or guardian of the minor is  
15 not required for such examination. The appropriate medical provider making the examination  
16 shall give written notice to the parent or guardian of a minor that such an examination has  
17 taken place.

18 3. The department of public safety, with the advice of the attorney general, shall  
19 develop the forms and procedures for gathering, transmitting, and storing evidence during and  
20 after the forensic examination under the provisions of this section. The department of health  
21 and senior services shall develop a checklist, protocols, and procedures for appropriate  
22 medical providers to refer to while providing medical treatment to victims of a sexual offense,  
23 including those specific to victims who are minors. The procedures for transmitting and  
24 storing examination evidence shall include the following requirements:

25 (1) An appropriate medical provider shall provide electronic notification to the  
26 appropriate law enforcement agency when the provider has a reported or anonymous  
27 evidentiary collection kit;

28 (2) Within fourteen days of notification from the appropriate medical provider, the  
29 law enforcement agency shall take possession of the evidentiary collection kit;

30 (3) Within fourteen days of taking possession, the law enforcement agency shall  
31 provide the evidentiary collection kit to a laboratory;

32 (4) A law enforcement agency shall secure an evidentiary collection kit for a period  
33 of thirty years if the offense has not been adjudicated.

34 4. Evidentiary collection kits shall be developed and made available, subject to  
35 appropriation, to appropriate medical providers by the highway patrol or its designees and  
36 eligible crime laboratories. Such kits shall be distributed with the forms and procedures for  
37 gathering evidence during forensic examinations of victims of a sexual offense to appropriate  
38 medical providers upon request of the provider, in the amount requested, and at no charge to  
39 the medical provider. All appropriate medical providers shall, with the written consent of the  
40 victim, perform a forensic examination using the evidentiary collection kit, or other collection  
41 procedures developed for victims who are minors, and forms and procedures for gathering  
42 evidence following the checklist for any person presenting as a victim of a sexual offense.

43 5. In reviewing claims submitted under this section, the department shall first  
44 determine if the claim was submitted within ninety days of the examination **and medical**  
45 **treatment.** ~~[If the claim is submitted within ninety days, the department shall, at a minimum,~~  
46 ~~use the following criteria in reviewing the claim: examination charges submitted shall be~~  
47 ~~itemized and fall within the definition of forensic examination as defined in subdivision (7) of~~  
48 ~~subsection 8 of this section.]~~

49 6. All appropriate medical provider charges for eligible forensic examinations **and**  
50 **reasonable costs of medical treatment, including, but not limited to, emergency**  
51 **contraception,** shall be billed to and paid by the department of public safety. No appropriate  
52 medical provider conducting forensic examinations and providing medical treatment to  
53 victims of sexual offenses shall charge the victim for the forensic examination. For  
54 appropriate medical provider charges related to the medical treatment of victims of sexual  
55 offenses **not covered in this section,** if the victim is an eligible claimant under the crime  
56 victims' compensation fund, the victim shall seek compensation under sections 595.010 to  
57 595.075.

58 7. The department of public safety shall establish rules regarding the reimbursement  
59 of the costs of forensic examinations for children under fourteen years of age, including  
60 establishing conditions and definitions for emergency and nonemergency forensic  
61 examinations and may by rule establish additional qualifications for appropriate medical  
62 providers performing nonemergency forensic examinations for children under fourteen years  
63 of age. The department shall provide reimbursement regardless of whether or not the findings  
64 indicate that the child was abused.

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

66 (1) "Anonymous evidentiary collection kit", an evidentiary collection kit collected  
67 from a victim who wishes to remain anonymous, but who has consented, or his or her  
68 designee has consented on his or her behalf, to the collection of the evidentiary collection kit  
69 and to participate in the criminal justice process;

70 (2) "Appropriate medical provider":

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

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

79 (3) "Component", any piece of evidence that contains, or may contain, DNA related  
80 to the sexual offense for which the forensic examination was performed and that is not stored  
81 or maintained within the evidentiary collection kit;

82 (4) "Consent", the electronically documented authorization by the victim, or his or  
83 her designee, to allow the evidentiary collection kit to be analyzed;

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

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

91 (7) "Forensic examination", an examination performed by an appropriate medical  
92 provider on a victim of an alleged sexual offense to gather evidence for the evidentiary  
93 collection kit or using other collection procedures developed for victims who are minors;

94 (8) "Medical treatment", the treatment of all injuries and health concerns resulting  
95 directly from a patient's sexual assault or victimization;

96 (9) "Nonemergency forensic examination", an examination of a person under fourteen  
97 years of age that occurs more than five days after the alleged sexual offense. The department  
98 of public safety may further define the term nonemergency forensic examination by rule;

99 (10) "Reported evidentiary collection kit", an evidentiary collection kit collected from  
100 a victim, or his or her designee, who has consented to the collection of the evidentiary  
101 collection kit and has consented to participate in the criminal justice process;

(11) "Unreported evidentiary collection kit", an evidentiary collection kit collected from a victim, or his or her designee, who has consented to the collection of the evidentiary collection kit but has not consented to participate in the criminal justice process.

9. The attorney general shall establish protocols and an electronic platform to implement an electronic evidence tracking system that:

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

(2) Assigns a unique alphanumeric identifier to each respective evidentiary collection kit, and all its respective components, and to each respective person, or his or her designees, who may handle an evidentiary test kit;

(3) Links the identifiers of an evidentiary collection kit and its components, which shall be machine-readable indicia;

(4) Allows each person, or his or her designees, who is properly credentialed to handle an evidentiary test kit to check the status of an evidentiary test kit or its components and to save a portfolio of identifiers so that the person, or his or her designees, may track, obtain reports, and receive updates on the status of evidentiary collection kits or their components; and

(5) Allows sexual assault victims, or their designees, to track and obtain reports on the status and location of their evidentiary collection kits. This shall be a secured web-based or similar electronic-based communications system that shall require sexual assault victims, or their designees, to register to access tracking and reports of their evidentiary collection kits.

10. Appropriate medical providers, law enforcement agencies, laboratories, court personnel, persons or entities involved in the final disposition or destruction of evidentiary collection kits, and all other entities which and persons who have custody of evidentiary collection kits shall participate in the electronic evidence tracking system.

11. The department of public safety, with the advice of the attorney general and the assistance of the department of health and senior services, shall develop and retain within the state a central repository for unreported evidentiary collection kits, where such kits can be kept in a temperature-controlled environment that preserves the integrity of the evidence and diminishes degradation. Unreported evidentiary collection kits shall be retained for a period of five years. In the case of a minor under the age of eighteen when the unreported kit was collected, the unreported evidentiary kit shall be retained for a period of five years after the victim attains the age of eighteen.

12. Records entered into the electronic evidence tracking system shall be confidential and shall not be subject to disclosure under chapter 610.

139           13. The department shall have authority to promulgate rules and regulations  
140 necessary to implement the provisions of this section. Any rule or portion of a rule, as that  
141 term is defined in section 536.010, that is created under the authority delegated in this section  
142 shall become effective only if it complies with and is subject to all of the provisions of  
143 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
144 nonseverable and if any of the powers vested with the general assembly pursuant to chapter  
145 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
146 held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
147 adopted after August 28, 2009, shall be invalid and void.

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