

HOUSE BILL NO. 3460

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WILLIAMS.

7478H.011

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Section A. Sections 197.135 and 595.220, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 191.713, 197.135, and 595.220, to read as follows: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

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

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

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

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

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

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

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

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

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

137 12. Records entered into the electronic evidence tracking system shall be confidential
138 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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