

# Missouri Sexual Assault Forensic Examination Evidence Guidelines



This form and procedures have been developed by the Missouri Department of Public Safety, pursuant to section 595.220, RSMo.

For additional information, visit <http://www.dps.mo.gov>.

## **Section 1**

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## **Section 2**

### **Purpose**

These guidelines provide patients, medical providers, law enforcement professionals, laboratory employees, attorneys, and advocates with consistent information on the collection and processing of sexual assault kits in Missouri.

Missouri supports a victim-centered and trauma-informed approach to combatting sexual offenses. Any patient who reports to a medical provider and is a victim of a sexual offense chooses whether to consent to a forensic examination to collect evidence, and how evidence collected will be used. Proper evidence collection is an important piece in the criminal justice response. It is essential that all steps are conducted in a manner that ensures any evidence collected may be used in an investigation and possible prosecution in accordance with the patient's choices.

Sexual assault kits for evidence collection are provided free of charge to medical providers and contain the minimum items necessary for collection of evidence associated with a sexual offense. These kits may be obtained from the Missouri State Highway Patrol or any crime laboratory in Missouri.

For additional information on these forms and procedures, please visit <http://www.dps.mo.gov>.

## **Section 3**

### **Patient Options for Evidence Collection and Reporting to Law Enforcement**

Under Missouri law, patients who report being victims of sexual offenses have choices about how evidence is collected and used. The following is a summary of your options:

- 1) **You may choose whether or not to participate in a forensic examination.** If you consent, a forensic examination will be performed today by a medical provider. **This examination is at no charge to you, as it is paid for by the Missouri Department of Public Safety.**

If you do not consent, a forensic examination **will not** be performed at this time. However, evidence may be lost over time, and choosing not to complete a forensic examination as soon as possible after the alleged offense may have an adverse effect on any investigation or possible prosecution.

If you are a minor, either you or your parent or guardian may choose whether to participate in a forensic examination to collect evidence regarding potential sexual offenses, and how any evidence collected will be used. *A parent or guardian's consent is not required for a minor to consent for a forensic examination.*

- 2) **If you choose to participate in a forensic examination, you may choose one of three options for how this evidence is used:**

- a. Report to Law Enforcement. You choose to report the sexual offense to law enforcement, including your name and contact information, and agree to participate in any investigation or potential prosecution. Law enforcement will be notified, and your kit will be sent to a crime laboratory for analysis.
- b. Anonymous Report to Law Enforcement. You choose to report the sexual offense to law enforcement, including your contact information, and agree to participate in any investigation or potential prosecution. Law enforcement will be notified, and your kit will be sent to a crime laboratory for analysis under a unique identifier other than your name.
- c. Unreported Collection. You **do not** wish to report the sexual offense to law enforcement or participate in any investigation or potential prosecution at this time. The kit will be stored and secured until you chose to report the sexual offense to law enforcement, or for five years, whichever occurs first. After five years, your kit may be destroyed without further notice.

- 3) **You may change your reporting options at any time, and may withdraw consent from an examination at any time.** If you choose to change your reporting options, contact the law enforcement agency on the Missouri Sexual Assault Forensic Examination Consent and Information Form. Actions will be taken immediately regarding evidence collected from your forensic examination. Withdrawal of consent may not apply to any actions already taken.

- 4) **You are encouraged to contact victim services providers.** A directory of services is available at <https://dps.mo.gov/dir/programs/cvsu/victimservices/>.

## **Section 4**

### **Medical Provider Guidelines for Gathering, Transmitting, and Storing Evidence**

As a medical provider, you have specific responsibilities under Missouri law regarding forensic examinations for the collection of evidence from patients who report being victims of sexual offenses.

Any patient who may have been a victim of a sexual offense and presents to a medical provider should be offered the opportunity for a forensic examination. This examination is at no charge to the patient, as such examinations are paid for by the Missouri Department of Public Safety. The medical provider must be familiar with the options that are available to patients.

The following are the required steps for medical providers administering forensic examinations:

- 1) Provide the patient with a “Patient Options for Evidence Collection and Reporting to Law Enforcement” document.
- 2) Discuss options with the patient using the below explanations:
  - a. **A patient must be offered the opportunity to consent to a forensic examination.**
    - i. The patient may consent to a forensic examination or choose not to consent.
    - ii. If the patient chooses not to consent, then the forensic examination is not performed. A patient choosing not to consent shall be informed that evidence may be lost over time, and that choosing not to complete a forensic examination as soon as possible after the alleged offense may have an adverse effect on any investigation or possible prosecution.
    - iii. A patient may withdraw consent at any time during the examination or may choose not to participate in all aspects of the examination.
    - iv. If the patient is a minor, the offense triggers additional requirements detailed in (4) below.
  - b. **If the patient consents, the provider shall work with the patient to complete the Missouri Sexual Assault Forensic Examination Consent and Information Form.** This form is contained at the end of these forms and procedures. It provides an overview of the patient’s options for how the kit is processed and how law enforcement is notified, and will guide the medical provider’s follow-up actions:
    - i. If the patient consents, the “Medical Forensic Examination Consent” box shall be initialed by the patient.
    - ii. The patient shall initial one of the options in the “Reporting Decision” section:
      1. **“I am choosing to make a report to law enforcement.”**
        - a. If the patient chooses this option, the patient agrees to participate in the law enforcement process, including investigation and potential prosecution.
        - b. Law enforcement will be notified, and provided with the patient’s name and contact information.
      2. **“I am choosing to make an anonymous report to law enforcement.”**
        - a. If the patient chooses this option, the patient agrees to participate in the law enforcement process, including investigation and potential prosecution.

- b. Law enforcement will be notified and provided with the patient's contact information but the patient's name will not be provided to law enforcement.
      - c. A unique identifier shall be used in place of the patient's name on the Missouri Sexual Assault Forensic Examination Consent and Information Form.
    - 3. **"I am choosing NOT TO REPORT TO LAW ENFORCEMENT OR PARTICIPATE in any investigation."**
      - a. If the patient chooses this option, the patient will not participate in the law enforcement process at this time.
      - b. The patient's sexual assault kit will be sent to the Missouri State Highway Patrol Crime Laboratory where it will be stored, but not tested. After five years, the kit may be destroyed without further notice.
  - iii. The patient shall be informed that the patient may withdraw consent for evidence analysis or change the method of reporting at any time by contacting the law enforcement agency listed on the form. The patient shall initial in the "Acknowledgement of Ability to Withdraw Consent following Sexual Assault Kit Collection" box.
  - iv. The provider shall complete the law enforcement information section of the Missouri Sexual Assault Forensic Examination Consent and Information Form as follows, with assistance from the appropriate law enforcement agency:
    - 1. Reported or anonymous examination: Complete all information in the law enforcement section.
    - 2. Unreported examination: Fill in the law enforcement agency with jurisdiction, if known, and use that agency's phone number.
  - v. The Missouri Sexual Assault Forensic Examination Consent and Information Form shall be distributed as follows:
    - 1. The original Missouri Sexual Forensic Examination Assault Consent and Information Form shall be kept in the medical facility's records;
    - 2. A copy shall be provided to the patient; and
    - 3. Reported or anonymous examinations: A copy shall be provided to law enforcement; Unreported examinations: A copy shall be placed within the sexual assault kit.
- 3) If a patient consents to a forensic examination, law enforcement shall be notified as follows:
- a. Reported or anonymous examination:
    - i. The police department or sheriff's office with jurisdiction over the location where the sexual offense took place shall be notified immediately; and
    - ii. On the Missouri Sexual Assault Forensic Examination Consent and Information Form, the patient shall be provided with the name of the appropriate law enforcement agency and a phone number for the agency. If available, the patient should also be provided with the name of the investigating officer and the agency's case number.

- b. Unreported examination:
  - i. The provider shall not notify law enforcement (unless the patient is a minor, as discussed in (4) below), but the patient shall be provided with the name and phone number of the appropriate law enforcement agency on the Missouri Sexual Assault Forensic Examination Consent and Information Form.
  - ii. The provider shall send the kit to the Missouri State Highway Patrol Crime Laboratory for storage. A copy of the Missouri Sexual Assault Forensic Examination Consent and Information Form shall be placed inside the kit for transmission with the kit.
  
- 4) Special procedures for minor patients:
  - a. Providers are required to immediately report to the Missouri Department of Social Services — Children’s Division whenever they reasonably believe a child has been abused. This mandatory reporting is in addition to any other reporting to law enforcement agencies that may be appropriate.
  - b. A minor may consent to a forensic examination *with or without* the consent of a parent or guardian.
  - c. Following conclusion of the examination, pursuant to section 595.220.2, RSMo, the medical provider shall give written notice to the parent or guardian of a minor that such an examination has occurred.
  
- 5) If the patient consents, an examination shall be performed pursuant to the patient’s choices. The Missouri Sexual Assault Kit shall be used to collect evidence. The Sexual Assault Examination Report inside the kit shall be completed for every forensic examination regardless of the type of reporting chosen by the patient.
  
- 6) Following the conclusion of the examination, the patient should be offered information on resources available to victims of sexual offenses.
  
- 7) Following collection of a kit, the following steps shall be taken:
  - a. The kit shall be entered into the statewide Missouri sexual assault kit evidence tracking system when it becomes operational.
  - b. If the kit is reported or anonymous, the provider shall electronically notify the appropriate law enforcement agency with jurisdiction over the location where the alleged offense took place.
  - c. The provider shall store the kit in a secure location until law enforcement takes possession of the kit:
    - i. Reported or anonymous kits: Within 14 days of notification, the law enforcement agency shall take possession of the kit.
    - ii. Unreported evidentiary kits: The kit shall be sent to the Missouri State Highway Patrol Crime Laboratory for storage.

## **Section 5**

### **Law Enforcement Response to Sexual Assault Forensic Examination**

There are many points where law enforcement may become involved in an investigation of sexual offenses. Consistent and correct collection, transmission, and storage of evidence obtained from forensic examinations may be essential to ensuring that offenders are brought to justice.

These procedures detail your responsibilities for gathering, transmitting, and storing evidence during and after a sexual assault forensic examination.

- 1) If you have not already been notified of a potential sexual offense, a medical provider may notify you.
- 2) You should be aware of the options for patients who report that they may have been victims of sexual offenses as they pertain to forensic examinations:
  - a. A patient may choose to consent to a forensic examination, or the patient may decline to participate in a forensic examination.
  - b. If a patient consents to participate in a forensic examination, the patient may choose one of three options for how the sexual assault kit is processed: Reported, anonymous, and unreported. Additional explanation of each of these responses, and your responsibilities, are as follows:
    - i. **Reported examination:**
      1. **What this means:** A patient who opts to make a report to law enforcement consents to an examination to collect evidence and to have the patient's name and contact information released to law enforcement. This option also means the patient is willing to participate in the criminal justice process, including any law enforcement investigation and prosecution. Additionally, the patient consents to the sexual assault kit being submitted to a forensic laboratory for analysis.
      2. **Your responsibility:** You will be provided with the name and contact information for the patient. The patient will be provided with your agency name, your agency's case identification number, the name of an officer handling the case, and a phone number for your agency. You will be responsible for taking possession of the evidentiary collection kit within 14 days of notification and providing the evidentiary collection kit to a laboratory within 14 days of taking possession. Provide a copy of the completed Missouri Sexual Assault Forensic Examination Consent and Information Form with the kit to the laboratory. The investigation should proceed using a victim-centered and trauma-informed approach when engaging with the patient. Resources regarding such an approach may be found on the Missouri Department of Public Safety's website: <https://www.dps.mo.gov>.
    - ii. **Anonymous examination:**
      1. **What this means:** A patient who opts to make an anonymous report to law enforcement consents to evidence collection and having the evidence and patient's contact information released to law

enforcement. The patient's name will not be released to law enforcement and the evidence will be logged under a unique identifier. This option also means the patient is willing to participate in the criminal justice process, including any law enforcement investigation and prosecution. Additionally, the patient consents to the sexual assault kit being submitted to a forensic laboratory for analysis.

2. **Your responsibility:** You will be provided with the contact information for the patient; however, the patient's actual name will not be released and should not be placed on any documents within the case record. The patient will be provided with your agency name, your agency's case identification number, the name of an officer handling the case, and a phone number for your agency. You will be responsible for taking possession of the evidentiary collection kit within 14 days of notification and providing the evidentiary collection kit to a laboratory within 14 days of taking possession. Provide a copy of the completed Missouri Sexual Assault Forensic Examination Consent and Information Form with the kit to the laboratory. The investigation should proceed using a victim-centered and trauma-informed approach when engaging with the patient. Resources regarding such an approach may be found on the Missouri Department of Public Safety's website:  
<https://www.dps.mo.gov>.

**iii. Unreported examination:**

1. **What this means:** A patient who opts for the collection of forensic evidence has chosen not to participate in the law enforcement process. This means the evidence will be collected and transferred to the Missouri State Highway Patrol Crime Laboratory storage facility where it will be stored, but not tested. After five years, the kit may be destroyed without further notice.
  2. **Your responsibility:** The patient will be provided with your agency name and a phone number for your agency. If contacted by a patient who originally opted for an unreported examination and now wants to convert to a reported or anonymous reported examination, you must contact the Missouri State Highway Patrol Crime Laboratory. The name of the patient shall be placed on the outside of the unreported kit.
- 3) A Missouri Sexual Assault Forensic Examination Consent and Information Form will be completed for every patient who consents to a forensic examination. The medical provider will retain the original of this form and a copy will be provided to the patient. A copy of this form shall be maintained with the kit.
- 4) Your agency shall take possession and transmit reported and anonymous kits as follows:
- a. Within 14 days of notification from a medical provider that a reported or anonymous sexual assault kit has been collected the law enforcement agency shall take possession of the sexual assault kit.



- b. The law enforcement agency shall submit the sexual assault kit to a forensic laboratory within 14 days of taking possession of the sexual assault kit.
- 5) **Storage of reported and anonymous kits:** Reported and anonymous kits are to be stored by a law enforcement agency for 30 years if the offense has not been adjudicated.
- 6) **Victim Advocates:** Victim advocates should be utilized throughout the response. Advocates may be present during the initial forensic examination and during any interviews with law enforcement. The patient should decide the involvement of the advocate.

# Missouri Sexual Assault Forensic Examination Consent and Information Form

Case Identification Number

Kit Barcode Number

If Reported/Anonymous: Agency Case Number

If Unreported: Medical facility number

Law Enforcement Agency

Officer Name

Phone Number

## Medical Forensic Examination Consent (initial if selected)

\_\_\_\_\_ I consent to a medical forensic examination. I understand I can stop the examination at any time and decline any portion of the examination or collection of any sample, though this may have an adverse effect on any investigation or prosecution.

IF REPORTED: Printed Patient Name

Patient Signature

Date

IF ANONYMOUS: Unique Identifier

Patient Initials

IF UNREPORTED: Printed Patient Name

Patient Signature

## Reporting Decision (initial only one)

\_\_\_\_\_ I choose to make a report to law enforcement ("reported"). I give permission for evidence collection and information gathered during my forensic examination to be released to law enforcement for use in investigation(s) and potential prosecution(s). I understand the investigating law enforcement agency will be given my name and contact information. I understand the collected evidence will be submitted to a forensic lab for analysis.

\_\_\_\_\_ I choose to make an anonymous report to law enforcement ("anonymous"). I give permission for evidence collection and information gathered during my forensic examination to be released to law enforcement for use in investigation(s) and potential prosecution(s). I understand the investigating law enforcement agency will **NOT** be given my name but will be given my contact information. I understand the collected evidence will be submitted to a forensic lab for analysis.

\_\_\_\_\_ At this time, I choose **NOT TO REPORT TO LAW ENFORCEMENT OR PARTICIPATE in any investigation ("unreported")**. I understand I can change my mind and later report to law enforcement. I understand that evidence gathered during my forensic examination will be transmitted to the Missouri State Highway Patrol Crime Laboratory for storage, but will not be examined. I understand if I do not report to law enforcement within five years, my sexual assault forensic kit may be destroyed without further notice.

## Acknowledgement of Ability to Withdraw Consent following Sexual Assault Kit Collection (initial)

\_\_\_\_\_ I understand/acknowledge I may withdraw my consent for evidence analysis by contacting the law enforcement agency listed on this form. I understand the withdrawal of consent becomes effective when law enforcement verifies my identity. I understand withdrawal of consent will not apply to any actions already taken. I understand that once evidence examination has begun, consent cannot be withdrawn.

Printed Witness Name/Title

Witness Signature

Date

ORIGINAL: Keep in medical provider records.

COPIES PROVIDED (Reported/Anonymous Reported): One to patient; one to law enforcement with kit.

COPIES PROVIDED (Unreported): One to patient; one inside the kit.

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