



Victims of Sexual Assault

Legislative and Regulatory Webinar
September 2, 2020

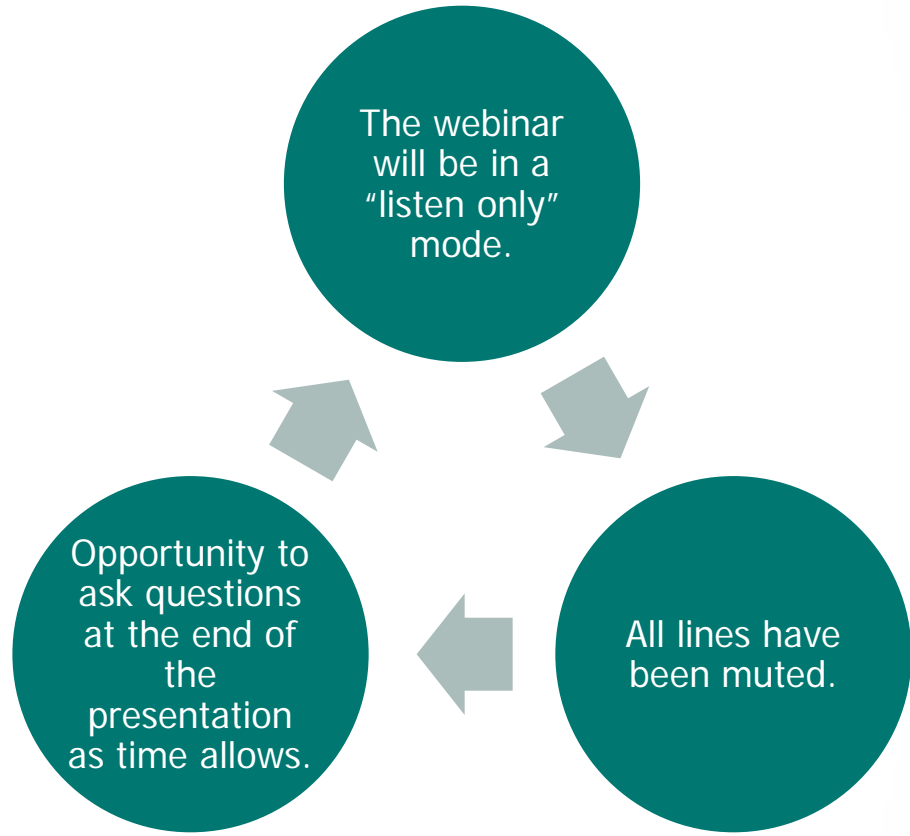
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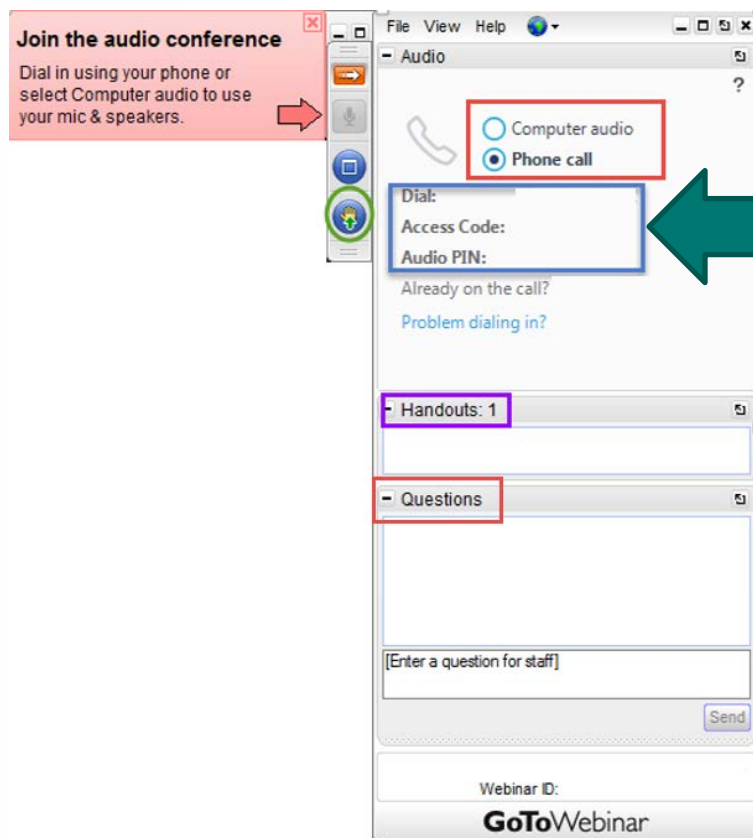
You have the option to listen
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A screenshot of the GoToWebinar control panel. At the top left, a pink box contains the text "Join the audio conference" and "Dial in using your phone or select Computer audio to use your mic & speakers." with a red arrow pointing to the audio options. The main interface has a menu bar with "File View Help". Below it, the "Audio" section has two radio buttons: "Computer audio" (unselected) and "Phone call" (selected), both enclosed in a red box. Below the audio options are fields for "Dial:", "Access Code:", and "Audio PIN:", all enclosed in a blue box. There are also links for "Already on the call?" and "Problem dialing in?". Below this is a "Handouts: 1" section, enclosed in a purple box. The "Questions" section is highlighted with a red box and contains a text input field with the placeholder "[Enter a question for staff]" and a "Send" button. At the bottom, there is a "Webinar ID:" field and the "GoToWebinar" logo.

Objective is for you...

- To have an increased understanding of the provisions of SB569
- To be informed of the potential changes to hospital operations resulting from the passage of SB569
- To know where to access resources for your hospital and victims of sexual violence



Background

Legal

- Federal
 - OVW Regulations
 - Violence Against Women Reauthorization Act of 2019-Not yet passed
 - Violence Against Women Reauthorization Act of 2013 (VAWA 2013)
 - Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005)
 - Victims of Trafficking and Violence Protection Act of 2000 (VAWA 2000)
 - Violent Crime Control and Law Enforcement Act of 1994 (VAWA)
 - Sec. 904 Analysis and Research on Violence Against Indian Women
- State
 - 595.220



Background

Social

- National attention
- State attention
 - Backlog of untested kits
 - Electronic tracking system for Sexual Assault Kits
 - Access to forensic evidence collection



Pending Lawsuit

- Alleges
 - 595.201 violates freedom of speech, right to fair trial, effective assistance of counsel, confront a witness against them and separation of powers
 - 569 conflicts Missouri Supreme Court rulings related to sole subject and is unconstitutional
- Possible outcomes
 - Nothing changes
 - 595.201 is thrown out
 - 569 in its entirety is thrown out

Hold



SB569

- I. Justice for Survivors Act-Creates telehealth network for forensic examination of victims of sexual offenses
 - § 192.2520 and 197.135, RSMo
- I. Sexual Assault Survivors Bill of Rights-Creates various rights for alleged victims of sexual assault in the gathering of evidence, and the investigation and prosecution of the crime
 - I. Missouri Rights of Victims of Sexual Assault Task Force-Creates the task force to study best practices and produce a report on its findings by December 31, 2021
- II. Provisions for electronic tracking system



SB569

Definitions (found in §192.2520 RSMo)

- Appropriate medical provider-
 - (a) Any licensed nurse, physician, or physician assistant, and any institution employing licensed nurses, physicians, or physician assistants, provided that such licensed professionals are the only persons at such institution to perform tasks under the provisions of this section; or
 - (b) For the purposes of any nonemergency forensic examination of a child under fourteen years of age, the department of public safety may establish additional qualifications for any provider listed in paragraph (a) of this subdivision under rules authorized under subsection 7 of this section;
- Evidentiary Collection Kit-
 - a kit used during a forensic examination that includes materials necessary for appropriate medical providers to gather evidence in accordance with the forms and procedures developed by the department of public safety for forensic examinations;

SB569

Definitions (found in §192.2520 RSMo)

- Forensic Examination
 - an examination performed by an appropriate medical provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection kit or using other collection procedures developed for victims who are minors
- Telehealth (same meaning as used in §191.1145)
 - the delivery of health care services by means of information and communication technologies which facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while such patient is at the originating site and the health care provider is at the distant site. Telehealth or telemedicine shall also include the use of asynchronous store-and-forward technology.



Justice for Survivors Act



Justice for Survivors Act

§ 192.2520

- Directs DHSS to establish a statewide telehealth network
 - Coordinator
 - Provide mentoring, consultation, guidance, technical assistance, training on a continuous basis-24/7
 - Access to advisors for forensic examinations to collect evidence of sexual assault, including live examination
 - July 2022 deadline, may contract the service
 - Funding of the state telehealth network is subject to appropriations



Justice for Survivors Act

§ 192.2520

- Directs all hospitals licensed under chapter 197 to annually submit data on

Beginning
October 1,
2021

- a) their delivery of sexual assault forensic examinations
- b) the number of evidence collection kits submitted to law enforcement and
- c) the number of exams requested to be performed by a victim that the hospital did not perform and the reason why

After
July 1,
2022

- d) **The number of appropriate medical providers who utilized the training and telehealth services provided by the network**

- Beginning January 1, 2022, department must make an annual report of the above

Justice for Survivors Act

§ 197.135

- Provides for waivers of the telehealth aspects of sexual assault forensic examinations based on lack of access to broadband services or cessation of state telehealth network operations
- The department shall waive the requirements of §197.135 if the telehealth network ceases operation until such time the network is re-established, or the hospital can provide the services without the support of the network

Sexual Assault Survivors Bill of Rights



Sexual Assault Survivors Bill of Rights

§ 595.201

- Right to:
 - Consult with employee of rape crisis center during forensic examination-attempt notification before examination unless would take unreasonably long
 - Support person of victims choosing
 - Reasonable costs-all appropriate medical provider charges billed to and paid by department of public safety
 - Document developed by DPS that explains rights-all major languages of the state
 - Survivors rights, other rules and regulations developed by DPS
 - Right to a shower at no cost unless facilities not available



Sexual Assault Survivors Bill of Rights

§ 595.201 cont'd

- Right to:
 - Counsel during interview by LE
 - Prompt analysis of SAFE and to be informed of the results-through secure and confidential message from crime lab
 - Not be charged with misdemeanor crimes
 - Certain LE protections, reports, etc.
 - Free from intimidation, harassment, abuse
- Effective August 28, 2020



Sexual Assault Survivors Bill of Rights

§ 595.201 cont'd

- The Sexual Assault Survivors' Bill of Rights requires the Department of Public Safety to develop documents to be provided by law enforcement officers and medical providers to survivors upon their initial interaction
- There are three versions:
 - A Brief Guide to Missouri Sexual Assault Survivors' Rights – for printing in double-sided booklet form (print on short side)
 - A Brief Guide to Missouri Sexual Assault Survivors' Rights – for printing in single-sided booklet form
 - A Brief Guide to Missouri Sexual Assault Survivors' Rights – large print edition
- These documents are available at <https://dps.mo.gov/dir/programs/cvsu/victim-rights.php#cvsu-sexual-assault-guide>. Please send your comments to cvc@dps.mo.gov.
- Requirement for signed receipt of document



Missouri Rights of Victims of Sexual Assault Task Force

§ 595.202

- Four members of General Assembly
- Director DHSS
- Private citizen appointed by Governor
- Representative of statewide coalition appointed by Governor
- Rape crisis center appointed by Governor
- Superintendent of MSHP
- LE officer appointed by Governor
- Director MSHP Crime Lab
- Attorney appointed by Governor
- Representative of MHA



Missouri Rights of Victims of Sexual Assault Task Force

- Task force has a laundry list of things to study and make recommendations on
- Task force expires on December 31, 2021



Crime Victims



CRIME VICTIMS

§ 595.220

Evidentiary Collection Kits

- Revises standards for state government's electronic system to track kits
- Makes it a requirement for hospitals to participate in the electronic tracking system
- Alleged victims will register to use the system, and all providers, law enforcement, laboratories, courts and others with custody of the kits will participate in the system
- Directs DPS to develop a central repository for storing unreported evidence collection kits, most of which will be retained for five years

SB 569 Timeline

August 28, 2020

Effective-
electronic tracking
provisions, Bill of
Rights, Sexual
Assault Task Force

December 31,
2021

Sexual Assault
Task Force expires

July 2022

Telehealth
Network to be
established -DHSS

October 2021

Hospitals begin
submitting data for
previous 12
months

January 2022

DHSS to make
hospital data
publicly available

January 2023

Any licensed
hospital to perform
SAFE collection



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