

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Sexual Assault Survivors Emergency
5 Treatment Act is amended by changing Section 6.5 as follows:

6 (410 ILCS 70/6.5)

7 Sec. 6.5. Written consent to the release of sexual assault
8 evidence for testing.

9 (a) Upon the completion of hospital emergency services and
10 forensic services, the health care professional providing the
11 forensic services shall provide the patient the opportunity to
12 sign a written consent to allow law enforcement to submit the
13 sexual assault evidence for testing. The written consent shall
14 be on a form included in the sexual assault evidence collection
15 kit and shall include whether the survivor consents to the
16 release of information about the sexual assault to law
17 enforcement.

18 (1) A survivor 13 years of age or older may sign the
19 written consent to release the evidence for testing.

20 (2) If the survivor is a minor who is under 13 years of
21 age, the written consent to release the sexual assault
22 evidence for testing may be signed by the parent, guardian,
23 investigating law enforcement officer, or Department of

1 Children and Family Services.

2 (3) If the survivor is an adult who has a guardian of
3 the person, a health care surrogate, or an agent acting
4 under a health care power of attorney, the consent of the
5 guardian, surrogate, or agent is not required to release
6 evidence and information concerning the sexual assault or
7 sexual abuse. If the adult is unable to provide consent for
8 the release of evidence and information and a guardian,
9 surrogate, or agent under a health care power of attorney
10 is unavailable or unwilling to release the information,
11 then an investigating law enforcement officer may
12 authorize the release.

13 (4) Any health care professional, including any
14 physician, advanced practice registered nurse, physician
15 assistant, or nurse, sexual assault nurse examiner, and any
16 health care institution, including any hospital, who
17 provides evidence or information to a law enforcement
18 officer under a written consent as specified in this
19 Section is immune from any civil or professional liability
20 that might arise from those actions, with the exception of
21 willful or wanton misconduct. The immunity provision
22 applies only if all of the requirements of this Section are
23 met.

24 (b) The hospital shall keep a copy of a signed or unsigned
25 written consent form in the patient's medical record.

26 (c) If a written consent to allow law enforcement to test

1 the sexual assault evidence is not signed at the completion of
2 hospital emergency services and forensic services, the
3 hospital shall include the following information in its
4 discharge instructions:

5 (1) the sexual assault evidence will be stored for 10 ~~5~~
6 years from the completion of an Illinois State Police
7 Sexual Assault Evidence Collection Kit, or 10 ~~5~~ years from
8 the age of 18 years, whichever is longer;

9 (2) a person authorized to consent to the testing of
10 the sexual assault evidence may sign a written consent to
11 allow law enforcement to test the sexual assault evidence
12 at any time during that 10-year ~~5-year~~ period for an adult
13 victim, or until a minor victim turns 28 ~~23~~ years of age by
14 (A) contacting the law enforcement agency having
15 jurisdiction, or if unknown, the law enforcement agency
16 contacted by the hospital under Section 3.2 of the Criminal
17 Identification Act; or (B) by working with an advocate at a
18 rape crisis center;

19 (3) the name, address, and phone number of the law
20 enforcement agency having jurisdiction, or if unknown the
21 name, address, and phone number of the law enforcement
22 agency contacted by the hospital under Section 3.2 of the
23 Criminal Identification Act; and

24 (4) the name and phone number of a local rape crisis
25 center.

26 (Source: P.A. 99-801, eff. 1-1-17; 100-513, eff. 1-1-18.)

1 Section 10. The Sexual Assault Incident Procedure Act is
2 amended by changing Section 30 as follows:

3 (725 ILCS 203/30)

4 Sec. 30. Release and storage of sexual assault evidence.

5 (a) A law enforcement agency having jurisdiction that is
6 notified by a hospital or another law enforcement agency that a
7 victim of a sexual assault or sexual abuse has received a
8 medical forensic examination and has completed an Illinois
9 State Police Sexual Assault Evidence Collection Kit shall take
10 custody of the sexual assault evidence as soon as practicable,
11 but in no event more than 5 days after the completion of the
12 medical forensic examination.

13 (a-5) A State's Attorney who is notified under subsection
14 (d) of Section 6.6 of the Sexual Assault Survivors Emergency
15 Treatment Act that a hospital is in possession of sexual
16 assault evidence shall, within 72 hours, contact the
17 appropriate law enforcement agency to request that the law
18 enforcement agency take immediate physical custody of the
19 sexual assault evidence.

20 (b) The written report prepared under Section 20 of this
21 Act shall include the date and time the sexual assault evidence
22 was picked up from the hospital and the date and time the
23 sexual assault evidence was sent to the laboratory in
24 accordance with the Sexual Assault Evidence Submission Act.

1 (c) If the victim of a sexual assault or sexual abuse or a
2 person authorized under Section 6.5 of the Sexual Assault
3 Survivors Emergency Treatment Act has consented to allow law
4 enforcement to test the sexual assault evidence, the law
5 enforcement agency having jurisdiction shall submit the sexual
6 assault evidence for testing in accordance with the Sexual
7 Assault Evidence Submission Act. No law enforcement agency
8 having jurisdiction may refuse or fail to send sexual assault
9 evidence for testing that the victim has released for testing.

10 (d) A victim shall have 10 ~~5~~ years from the completion of
11 an Illinois State Police Sexual Assault Evidence Collection
12 Kit, or 10 ~~5~~ years from the age of 18 years, whichever is
13 longer, to sign a written consent to release the sexual assault
14 evidence to law enforcement for testing. If the victim or a
15 person authorized under Section 6.5 of the Sexual Assault
16 Survivors Emergency Treatment Act does not sign the written
17 consent at the completion of the medical forensic examination,
18 the victim or person authorized by Section 6.5 of the Sexual
19 Assault Survivors Emergency Treatment Act may sign the written
20 release at the law enforcement agency having jurisdiction, or
21 in the presence of a sexual assault advocate who may deliver
22 the written release to the law enforcement agency having
23 jurisdiction. The victim may also provide verbal consent to the
24 law enforcement agency having jurisdiction and shall verify the
25 verbal consent via email or fax. Upon receipt of written or
26 verbal consent, the law enforcement agency having jurisdiction

1 shall submit the sexual assault evidence for testing in
2 accordance with the Sexual Assault Evidence Submission Act. No
3 law enforcement agency having jurisdiction may refuse or fail
4 to send the sexual assault evidence for testing that the victim
5 has released for testing.

6 (e) The law enforcement agency having jurisdiction who
7 speaks to a victim who does not sign a written consent to
8 release the sexual assault evidence prior to discharge from the
9 hospital shall provide a written notice to the victim that
10 contains the following information:

11 (1) where the sexual assault evidence will be stored
12 for 10 ~~5~~ years;

13 (2) notice that the victim may sign a written release
14 to test the sexual assault evidence at any time during the
15 10-year ~~5-year~~ period by contacting the law enforcement
16 agency having jurisdiction or working with a sexual assault
17 advocate;

18 (3) the name, phone number, and email address of the
19 law enforcement agency having jurisdiction; and

20 (4) the name and phone number of a local rape crisis
21 center.

22 Each law enforcement agency shall develop a protocol for
23 providing this information to victims as part of the written
24 policies required in subsection (a) of Section 15 of this Act.

25 (f) A law enforcement agency must develop a protocol for
26 responding to victims who want to sign a written consent to

1 release the sexual assault evidence and to ensure that victims
2 who want to be notified or have a designee notified prior to
3 the end of the 10-year ~~5-year~~ period are provided notice.

4 (g) Nothing in this Section shall be construed as limiting
5 the storage period to 10 ~~5~~ years. A law enforcement agency
6 having jurisdiction may adopt a storage policy that provides
7 for a period of time exceeding 10 ~~5~~ years. If a longer period
8 of time is adopted, the law enforcement agency having
9 jurisdiction shall notify the victim or designee in writing of
10 the longer storage period.

11 (Source: P.A. 99-801, eff. 1-1-17.)