



Sen. Kwame Raoul

Filed: 4/17/2018

10000SB2342sam001

LRB100 17956 SLF 38437 a

1 AMENDMENT TO SENATE BILL 2342

2 AMENDMENT NO. _____. Amend Senate Bill 2342 by replacing
3 everything after the enacting clause with the following:

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

1 enforcement.

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

4 (2) If the survivor is a minor who is under 13 years of
5 age, the written consent to release the sexual assault
6 evidence for testing may be signed by the parent, guardian,
7 investigating law enforcement officer, or Department of
8 Children and Family Services.

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

20 (4) Any health care professional, including any
21 physician, advanced practice registered nurse, physician
22 assistant, or nurse, sexual assault nurse examiner, and any
23 health care institution, including any hospital, who
24 provides evidence or information to a law enforcement
25 officer under a written consent as specified in this
26 Section is immune from any civil or professional liability

1 that might arise from those actions, with the exception of
2 willful or wanton misconduct. The immunity provision
3 applies only if all of the requirements of this Section are
4 met.

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

7 (c) If a written consent to allow law enforcement to test
8 the sexual assault evidence is not signed at the completion of
9 hospital emergency services and forensic services, the
10 hospital shall include the following information in its
11 discharge instructions:

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

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

26 (3) the name, address, and phone number of the law

1 enforcement agency having jurisdiction, or if unknown the
2 name, address, and phone number of the law enforcement
3 agency contacted by the hospital under Section 3.2 of the
4 Criminal Identification Act; and

5 (4) the name and phone number of a local rape crisis
6 center.

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

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

10 (725 ILCS 203/30)

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

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

20 (a-5) A State's Attorney who is notified under subsection
21 (d) of Section 6.6 of the Sexual Assault Survivors Emergency
22 Treatment Act that a hospital is in possession of sexual
23 assault evidence shall, within 72 hours, contact the
24 appropriate law enforcement agency to request that the law

1 enforcement agency take immediate physical custody of the
2 sexual assault evidence.

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

8 (c) If the victim of a sexual assault or sexual abuse or a
9 person authorized under Section 6.5 of the Sexual Assault
10 Survivors Emergency Treatment Act has consented to allow law
11 enforcement to test the sexual assault evidence, the law
12 enforcement agency having jurisdiction shall submit the sexual
13 assault evidence for testing in accordance with the Sexual
14 Assault Evidence Submission Act. No law enforcement agency
15 having jurisdiction may refuse or fail to send sexual assault
16 evidence for testing that the victim has released for testing.

17 (d) A victim shall have 10 ~~5~~ years from the completion of
18 an Illinois State Police Sexual Assault Evidence Collection
19 Kit, or 10 ~~5~~ years from the age of 18 years, whichever is
20 longer, to sign a written consent to release the sexual assault
21 evidence to law enforcement for testing. If the victim or a
22 person authorized under Section 6.5 of the Sexual Assault
23 Survivors Emergency Treatment Act does not sign the written
24 consent at the completion of the medical forensic examination,
25 the victim or person authorized by Section 6.5 of the Sexual
26 Assault Survivors Emergency Treatment Act may sign the written

1 release at the law enforcement agency having jurisdiction, or
2 in the presence of a sexual assault advocate who may deliver
3 the written release to the law enforcement agency having
4 jurisdiction. The victim may also provide verbal consent to the
5 law enforcement agency having jurisdiction and shall verify the
6 verbal consent via email or fax. Upon receipt of written or
7 verbal consent, the law enforcement agency having jurisdiction
8 shall submit the sexual assault evidence for testing in
9 accordance with the Sexual Assault Evidence Submission Act. No
10 law enforcement agency having jurisdiction may refuse or fail
11 to send the sexual assault evidence for testing that the victim
12 has released for testing.

13 (e) The law enforcement agency having jurisdiction who
14 speaks to a victim who does not sign a written consent to
15 release the sexual assault evidence prior to discharge from the
16 hospital shall provide a written notice to the victim that
17 contains the following information:

18 (1) where the sexual assault evidence will be stored
19 for 5 years;

20 (2) notice that the victim may sign a written release
21 to test the sexual assault evidence at any time during the
22 5-year period by contacting the law enforcement agency
23 having jurisdiction or working with a sexual assault
24 advocate;

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

1 (4) the name and phone number of a local rape crisis
2 center.

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

6 (f) A law enforcement agency must develop a protocol for
7 responding to victims who want to sign a written consent to
8 release the sexual assault evidence and to ensure that victims
9 who want to be notified or have a designee notified prior to
10 the end of the 5-year period are provided notice.

11 (g) Nothing in this Section shall be construed as limiting
12 the storage period to 5 years. A law enforcement agency having
13 jurisdiction may adopt a storage policy that provides for a
14 period of time exceeding 5 years. If a longer period of time is
15 adopted, the law enforcement agency having jurisdiction shall
16 notify the victim or designee in writing of the longer storage
17 period.

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