

AN ACT concerning criminal law.

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

Section 5. The Criminal Code of 1961 is amended by changing Section 12-18 as follows:

(720 ILCS 5/12-18) (from Ch. 38, par. 12-18)

Sec. 12-18. General Provisions.

(a) No person accused of violating Sections 12-13, 12-14, 12-15 or 12-16 of this Code shall be presumed to be incapable of committing an offense prohibited by Sections 12-13, 12-14, 12-14.1, 12-15 or 12-16 of this Code because of age, physical condition or relationship to the victim, except as otherwise provided in subsection (c) of this Section. Nothing in this Section shall be construed to modify or abrogate the affirmative defense of infancy under Section 6-1 of this Code or the provisions of Section 5-805 of the Juvenile Court Act of 1987.

(b) Any medical examination or procedure which is conducted by a physician, nurse, medical or hospital personnel, parent, or caretaker for purposes and in a manner consistent with reasonable medical standards is not an offense under Sections 12-13, 12-14, 12-14.1, 12-15 and 12-16 of this Code.

(c) ~~(Blank). Prosecution of a spouse of a victim under this subsection for any violation by the victim's spouse of Section 12-13, 12-14, 12-15 or 12-16 of this Code is barred unless the victim reported such offense to a law enforcement agency or the State's Attorney's office within 30 days after the offense was committed, except when the court finds good cause for the delay.~~

(d) In addition to the sentences provided for in Sections 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the Criminal Code of 1961 the Court may order any person who is convicted of

violating any of those Sections to meet all or any portion of the financial obligations of treatment, including but not limited to medical, psychiatric, rehabilitative or psychological treatment, prescribed for the victim or victims of the offense.

(e) After a finding at a preliminary hearing that there is probable cause to believe that an accused has committed a violation of Section 12-13, 12-14, or 12-14.1 of this Code, or after an indictment is returned charging an accused with a violation of Section 12-13, 12-14, or 12-14.1 of this Code, or after a finding that a defendant charged with a violation of Section 12-13, 12-14, or 12-14.1 of this Code is unfit to stand trial pursuant to Section 104-16 of the Code of Criminal Procedure of 1963 where the finding is made prior to preliminary hearing, at the request of the person who was the victim of the violation of Section 12-13, 12-14, or 12-14.1, the prosecuting State's attorney shall seek an order from the court to compel the accused to be tested for any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV). The medical tests shall be performed only by appropriately licensed medical practitioners. The test for infection with human immunodeficiency virus (HIV) shall consist of an enzyme-linked immunosorbent assay (ELISA) test, or such other test as may be approved by the Illinois Department of Public Health; in the event of a positive result, the Western Blot Assay or a more reliable confirmatory test shall be administered. The results of the tests shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the victim and to the judge who entered the order, for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the result of the testing may be revealed; however, in no case shall the identity of the victim be disclosed. The court shall order that the cost of the tests

shall be paid by the county, and may be taxed as costs against the accused if convicted.

(f) Whenever any law enforcement officer has reasonable cause to believe that a person has been delivered a controlled substance without his or her consent, the law enforcement officer shall advise the victim about seeking medical treatment and preserving evidence.

(g) Every hospital providing emergency hospital services to an alleged sexual assault survivor, when there is reasonable cause to believe that a person has been delivered a controlled substance without his or her consent, shall designate personnel to provide:

(1) An explanation to the victim about the nature and effects of commonly used controlled substances and how such controlled substances are administered.

(2) An offer to the victim of testing for the presence of such controlled substances.

(3) A disclosure to the victim that all controlled substances or alcohol ingested by the victim will be disclosed by the test.

(4) A statement that the test is completely voluntary.

(5) A form for written authorization for sample analysis of all controlled substances and alcohol ingested by the victim.

A physician licensed to practice medicine in all its branches may agree to be a designated person under this subsection.

No sample analysis may be performed unless the victim returns a signed written authorization within 30 days ~~48 hours~~ after the sample was collected.

Any medical treatment or care under this subsection shall be only in accordance with the order of a physician licensed to practice medicine in all of its branches. Any testing under this subsection shall be only in accordance with the order of a licensed individual authorized to order the testing.

(Source: P.A. 91-271, eff. 1-1-00; 91-357, eff. 7-29-99; 92-81,

Public Act 093-0958

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eff. 7-12-01.)

Section 99. Effective date. This Act takes effect upon becoming law.