**Section 545.61 Submitting Sexual Assault Evidence to Law Enforcement**

a) The Sexual Assault Evidence Collection Kit shall be used in the manner prescribed by the information contained in that kit.

1) With the survivor's consent, as prescribed by subsection (c), the kit shall be completed if the survivor presents themself for medical forensic services within *seven days* after the sexual assault, *has disclosed past sexual assault by a specific individual and was in the care of that individual within the last seven days*, or has a clinical indication for medical forensic services beyond seven days. (Section 1a of the Act)

2) If the Evidence Collection Kit is not collected by law enforcement upon completion, the hospital or approved pediatric health care facility shall comply with subsection (d).

b) *A treatment hospital, a treatment hospital with approved pediatric transfer, an out-of-state hospital as defined in Section 5.4* of the Act and Section 545.64*, or an approved pediatric health care facility shall comply with Section 50 of the Sexual Assault Evidence Submission Act* and register with the Illinois State Police to utilize the CheckPoint sexual assault evidence tracking system*.* (Section 5(a-5)(10) of the Act)

c) *Written Consent to the Release of Sexual Assault Evidence for Testing*

1) *Upon the completion of medical forensic services, the health care professional providing the medical forensic services shall provide the patient the opportunity to sign a written consent to allow law enforcement to submit the sexual assault evidence for testing, if collected. The written consent shall be on a form included in the sexual assault evidence collection kit and posted on the Illinois State Police website. The consent form shall include whether the survivor consents to the release of information about the sexual assault to law enforcement.*

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

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

C) *If the survivor is an adult who has a guardian of the person, a health care surrogate, or an agent acting under a health care power of attorney, the consent of the guardian, surrogate, or agent is not required to release evidence and information concerning the sexual assault or sexual abuse. If the adult is unable to provide consent for the release of evidence and information and a guardian, surrogate, or agent under a health care power of attorney is unavailable or unwilling to release the information, then an investigating law enforcement officer may authorize the release*.

D) *Any health care professional or health care institution, including any hospital or approved pediatric health care facility, who provides evidence or information to a law enforcement officer under a written consent, as specified in this* subsection (c), *is immune from any civil or professional liability that might arise from those actions, with the exception of willful or wanton misconduct. The immunity provision applies only if all of the requirements of the Act* and this Section *are met*.

2) *The hospital or approved pediatric health care facility shall keep a copy of a signed or unsigned written consent form in the patient's medical record* pursuant to 77 Ill. Adm. Code 250.1510 (Hospital Licensing Requirements).

3) *If a written consent to allow law enforcement to hold the sexual assault evidence is signed at the completion of medical forensic services, the hospital or approved pediatric health care facility shall include the following information in its discharge instructions*:

A) *The sexual assault evidence will be stored for 10 years from the completion of a Sexual Assault Evidence Collection Kit, or 10 years from the age of 18 years, whichever is longer*;

B) *A person authorized to consent to the testing of the sexual assault evidence may sign a written consent to allow law enforcement to test the sexual assault evidence at any time during that 10-year period for an adult victim, or until a minor victim turns 28 years of age by*:

i) *Contacting the law enforcement agency having jurisdiction, or, if unknown, the law enforcement agency contacted by the hospital or approved pediatric health care facility under Section 3.2 of the Criminal Identification Act; or*

ii) *By working with an advocate at a rape crisis center*;

C) *The name, address, and phone number of the law enforcement agency having jurisdiction, or, if unknown, the name, address, and phone number of the law enforcement agency contacted by the hospital under Section 3.2 of the Criminal Identification Act; and*

D) *The name and phone number of a local rape crisis center.* (Section 6.5 of the Act)

d) *Submission of Sexual Assault Evidence*

1) *As soon as practicable, but in no event more than four hours after the completion of medical forensic services, the hospital or approved pediatric health care facility shall make reasonable efforts to determine the law enforcement agency having jurisdiction where the sexual assault occurred, if sexual assault evidence was collected. The hospital or approved pediatric health care facility may obtain the name of the law enforcement agency with jurisdiction from the local law enforcement agency*.

2) *Within four hours after the completion of medical forensic services, the hospital or approved pediatric health care facility shall notify the law enforcement agency having jurisdiction that the hospital or approved pediatric health care facility is in possession of sexual assault evidence and the date and time the collection of evidence was completed. The hospital or approved pediatric health care facility shall document the notification in the patient's medical records and shall include the agency notified, the date and time of the notification, and the name of the person who received the notification. This notification to the law enforcement agency having jurisdiction satisfies the hospital's or approved pediatric health care facility's requirement to contact its local law enforcement agency under Section 3.2 of the Criminal Identification Act*.

3) *If the law enforcement agency having jurisdiction has not taken physical custody of sexual assault evidence within five days after the first contact by the hospital or approved pediatric health care facility, the hospital or approved pediatric health care facility shall renotify the law enforcement agency having jurisdiction that the hospital or approved pediatric health care facility is in possession of sexual assault evidence and the date the sexual assault evidence was collected. The hospital or approved pediatric health care facility shall document the renotification in the patient's medical records and shall include the agency notified, the date and time of the notification, and the name of the person who received the notification*.

4) *If the law enforcement agency having jurisdiction has not taken physical custody of the sexual assault evidence within 10 days after the first contact by the hospital or approved pediatric health care facility and the hospital or approved pediatric health care facility has provided renotification under subsection* (d)(3)*, the hospital or approved pediatric health care facility shall contact the State's Attorney of the county where the law enforcement agency having jurisdiction is located. The hospital or approved pediatric health care facility shall inform the State's Attorney that the hospital or approved pediatric health care facility is in possession of sexual assault evidence, the date the sexual assault evidence was collected, the law enforcement agency having jurisdiction,* and *the dates, times and names of persons notified under subsections* (d)(2) *and* (d)(3)*. The notification shall be made within 14 days* after *the collection of the sexual assault evidence*. (Section 6.6 of the Act)

(Source: Amended at 47 Ill. Reg. 18705, effective January 1, 2024)