

1 AN ACT in relation to criminal law.

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

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

6 (720 ILCS 5/12-18) (from Ch. 38, par. 12-18)

7 Sec. 12-18. General Provisions.

8 (a) No person accused of violating Sections 12-13,  
9 12-14, 12-15 or 12-16 of this Code shall be presumed to be  
10 incapable of committing an offense prohibited by Sections  
11 12-13, 12-14, 12-14.1, 12-15 or 12-16 of this Code because of  
12 age, physical condition or relationship to the victim, except  
13 as otherwise provided in subsection (c) of this Section.  
14 Nothing in this Section shall be construed to modify or  
15 abrogate the affirmative defense of infancy under Section 6-1  
16 of this Code or the provisions of Section 5-805 of the  
17 Juvenile Court Act of 1987.

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

24 (c) Prosecution of a spouse of a victim under this  
25 subsection for any violation by the victim's spouse of  
26 Section 12-13, 12-14, 12-15 or 12-16 of this Code is barred  
27 unless the victim reported such offense to a law enforcement  
28 agency or the State's Attorney's office within 6 months 30  
29 days after the offense was committed, except when the court  
30 finds good cause for the delay.

31 (d) In addition to the sentences provided for in

1 Sections 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the  
2 Criminal Code of 1961 the Court may order any person who is  
3 convicted of violating any of those Sections to meet all or  
4 any portion of the financial obligations of treatment,  
5 including but not limited to medical, psychiatric,  
6 rehabilitative or psychological treatment, prescribed for the  
7 victim or victims of the offense.

8 (e) After a finding at a preliminary hearing that there  
9 is probable cause to believe that an accused has committed a  
10 violation of Section 12-13, 12-14, or 12-14.1 of this Code,  
11 or after an indictment is returned charging an accused with a  
12 violation of Section 12-13, 12-14, or 12-14.1 of this Code,  
13 or after a finding that a defendant charged with a violation  
14 of Section 12-13, 12-14, or 12-14.1 of this Code is unfit to  
15 stand trial pursuant to Section 104-16 of the Code of  
16 Criminal Procedure of 1963 where the finding is made prior to  
17 preliminary hearing, at the request of the person who was the  
18 victim of the violation of Section 12-13, 12-14, or 12-14.1,  
19 the prosecuting State's attorney shall seek an order from the  
20 court to compel the accused to be tested for any sexually  
21 transmissible disease, including a test for infection with  
22 human immunodeficiency virus (HIV). The medical tests shall  
23 be performed only by appropriately licensed medical  
24 practitioners. The test for infection with human  
25 immunodeficiency virus (HIV) shall consist of an  
26 enzyme-linked immunosorbent assay (ELISA) test, or such other  
27 test as may be approved by the Illinois Department of Public  
28 Health; in the event of a positive result, the Western Blot  
29 Assay or a more reliable confirmatory test shall be  
30 administered. The results of the tests shall be kept  
31 strictly confidential by all medical personnel involved in  
32 the testing and must be personally delivered in a sealed  
33 envelope to the victim and to the judge who entered the  
34 order, for the judge's inspection in camera. Acting in

1 accordance with the best interests of the victim and the  
2 public, the judge shall have the discretion to determine to  
3 whom, if anyone, the result of the testing may be revealed;  
4 however, in no case shall the identity of the victim be  
5 disclosed. The court shall order that the cost of the tests  
6 shall be paid by the county, and may be taxed as costs  
7 against the accused if convicted.

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

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

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

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

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

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

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

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

34 No sample analysis may be performed unless the victim

1 returns a signed written authorization within 48 hours after  
2 the sample was collected.

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

9 (Source: P.A. 91-271, eff. 1-1-00; 91-357, eff. 7-29-99;  
10 92-81, eff. 7-12-01.)