



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 02/04/04, by Lisa M. Dugan

**SYNOPSIS AS INTRODUCED:**

720 ILCS 5/12-18

from Ch. 38, par. 12-18

Amends the Criminal Code of 1961. Eliminates the 48 hour time requirement after the collection of the sample in which an alleged sexual assault survivor must return to the hospital performing the sample analysis of all controlled substances and alcohol ingested by the alleged victim a signed written authorization in order to have the sample analysis performed. Effective immediately.

LRB093 15982 RLC 41606 b

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 Criminal Code of 1961 is amended by changing  
5 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, 12-14,  
9 12-15 or 12-16 of this Code shall be presumed to be incapable  
10 of committing an offense prohibited by Sections 12-13, 12-14,  
11 12-14.1, 12-15 or 12-16 of this Code because of age, physical  
12 condition or relationship to the victim, except as otherwise  
13 provided in subsection (c) of this Section. Nothing in this  
14 Section shall be construed to modify or abrogate the  
15 affirmative defense of infancy under Section 6-1 of this Code  
16 or the provisions of Section 5-805 of the Juvenile Court Act of  
17 1987.

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

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

30 (d) In addition to the sentences provided for in Sections  
31 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the Criminal Code of  
32 1961 the Court may order any person who is convicted of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1     eff. 7-12-01.)

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