



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2850

Introduced 1/20/2006, by Sen. Jeffrey M. Schoenberg

SYNOPSIS AS INTRODUCED:

410 ILCS 70/1a	from Ch. 111 1/2, par. 87-1a
410 ILCS 70/2	from Ch. 111 1/2, par. 87-2
410 ILCS 70/2.1	from Ch. 111 1/2, par. 87-2.1
410 ILCS 70/2.2	
410 ILCS 70/5	from Ch. 111 1/2, par. 87-5
410 ILCS 70/5.1 new	
410 ILCS 70/5.2 new	
410 ILCS 70/6	from Ch. 111 1/2, par. 87-6
410 ILCS 70/6.1	from Ch. 111 1/2, par. 87-6.1
410 ILCS 70/6.2	from Ch. 111 1/2, par. 87-6.2
410 ILCS 70/6.3	from Ch. 111 1/2, par. 87-6.3
410 ILCS 70/6.4	from Ch. 111 1/2, par. 87-6.4
410 ILCS 70/7	from Ch. 111 1/2, par. 87-7
410 ILCS 70/3 rep.	
410 ILCS 70/4 rep.	

Amends the Sexual Assault Survivors Emergency Treatment Act. Changes references from "emergency hospital service" to "forensic and emergency medical services". Changes certain references from "alleged sexual assault survivor" to "sexual assault survivor". Sets forth minimum requirements for health care facilities providing follow-up care to sexual assault survivors. Provides that a minor who is a survivor of sexual assault shall be provided certain services without the consent of a parent, guardian, or custodian. Provides that a sexual assault survivor may have an advocate or other support person present when receiving services. Repeals provisions relating to community or areawide plans for forensic and medical services to sexual assault survivors and submission of plans to the Department of Public Health. Makes other changes.

LRB094 18640 LJB 53993 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning health.

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

4 Section 5. The Sexual Assault Survivors Emergency
5 Treatment Act is amended by changing Sections 1a, 2, 2.1, 2.2,
6 5, 6, 6.1, 6.2, 6.3, 6.4, and 7 and by adding Sections 5.1 and
7 5.2 as follows:

8 (410 ILCS 70/1a) (from Ch. 111 1/2, par. 87-1a)

9 Sec. 1a. "Sexual assault" means an act of ~~forced~~ sexual
10 penetration or sexual conduct, as defined in Section 12-12 of
11 the Criminal Code, including acts prohibited under Sections
12 12-13 through 12-16 of the Criminal Code of 1961, as amended.

13 (Source: P.A. 85-577.)

14 (410 ILCS 70/2) (from Ch. 111 1/2, par. 87-2)

15 Sec. 2. Hospitals to furnish emergency service. Every
16 hospital required to be licensed by the Department of Public
17 Health pursuant to the Hospital Licensing Act, approved July 1,
18 1953, as now or hereafter amended, which provides general
19 medical and surgical hospital services shall provide forensic
20 and emergency medical services ~~emergency hospital service~~, in
21 accordance with rules and regulations adopted by the Department
22 of Public Health, to all ~~alleged~~ sexual assault survivors who
23 apply for such forensic and emergency medical ~~hospital~~
24 ~~emergency~~ services in relation to injuries or trauma resulting
25 from the alleged sexual assault.

26 In addition every such hospital, regardless of whether or
27 not a request is made for reimbursement, ~~except hospitals~~
28 ~~participating in community or area wide plans in compliance~~
29 ~~with Section 4 of this Act,~~ shall submit to the Department of
30 Public Health a plan to provide forensic and emergency medical
31 ~~hospital emergency~~ services to ~~alleged~~ sexual assault

1 survivors which shall be made available by such hospital. Such
2 plan shall be submitted within 60 days of receipt of the
3 Department's request for this plan, to the Department of Public
4 Health for approval prior to such plan becoming effective. The
5 Department of Public Health shall approve such plan for
6 forensic and emergency medical services ~~emergency service~~ to
7 ~~alleged~~ sexual assault survivors if it finds that the
8 implementation of the proposed plan would provide adequate
9 forensic and emergency medical services ~~hospital emergency~~
10 ~~service~~ for ~~alleged~~ sexual assault survivors and provide
11 sufficient protections from the risk of pregnancy by sexual
12 assault survivors.

13 The Department of Public Health shall periodically conduct
14 on site reviews of such approved plans with hospital personnel
15 to insure that the established procedures are being followed.

16 (Source: P.A. 92-156, eff. 1-1-02.)

17 (410 ILCS 70/2.1) (from Ch. 111 1/2, par. 87-2.1)

18 Sec. 2.1. Plans of correction - Penalties for failure to
19 implement such plans. If the Department of Public Health
20 surveyor determines that the hospital is not in compliance with
21 its approved plan, the surveyor shall provide the hospital with
22 a written list of the specific items of noncompliance within 2
23 weeks of the conclusion of the on site review. The hospital
24 shall have 14 working days to submit to the Department of
25 Public Health a plan of correction which contains the
26 hospital's specific proposals for correcting the items of
27 noncompliance. The Department of Public Health shall review the
28 plan of correction and notify the hospital in writing as to
29 whether the plan is acceptable or nonacceptable.

30 If the Department of Public Health finds the Plan of
31 Correction nonacceptable, the hospital shall have 7 working
32 days to resubmit an acceptable Plan of Correction. Upon
33 notification that its Plan of Correction is acceptable, a
34 hospital shall implement the Plan of Correction within 60 days.

35 The failure to submit an acceptable Plan of Correction or

1 to implement the Plan of Correction, within the time frames
2 required in this Section, will subject a hospital to the
3 imposition of a fine by the Department of Public Health. The
4 Department of Public Health may impose a fine of up to \$500
5 ~~\$100.00~~ per day until a hospital complies with the requirements
6 of this Section.

7 Before imposing a fine pursuant to this Section, the
8 Department of Public Health shall provide the hospital via
9 certified mail with written notice and an opportunity for an
10 administrative hearing. Such hearing must be requested within
11 10 working days of receipt of the Department of Public Health's
12 Notice. All hearings shall be conducted in accordance with the
13 Department of Public Health's rules in administrative
14 hearings.

15 (Source: P.A. 90-587, eff. 7-1-98.)

16 (410 ILCS 70/2.2)

17 Sec. 2.2. Emergency contraception.

18 (a) The General Assembly finds:

19 (1) Crimes of sexual assault and abuse ~~violence~~ cause
20 significant physical, emotional, and psychological trauma
21 to the victims. This trauma is compounded by a victim's
22 fear of becoming pregnant and bearing a child as a result
23 of the sexual assault.

24 (2) Each year over 32,000 women become pregnant in the
25 United States as the result of rape and approximately 50%
26 of these pregnancies end in abortion.

27 (3) As approved for use by the Federal Food and Drug
28 Administration (FDA), emergency contraception can
29 significantly reduce the risk of pregnancy if taken within
30 96 ~~72~~ hours after the sexual assault.

31 (4) By providing emergency contraception to rape
32 victims in a timely manner, the trauma of rape can be
33 significantly reduced.

34 (b) Within 120 days after the effective date of this
35 amendatory Act of the 92nd General Assembly, every hospital

1 providing services to ~~alleged~~ sexual assault survivors in
2 accordance with a plan approved under Section 2 must develop a
3 protocol that ensures that each survivor of sexual assault will
4 receive medically and factually accurate ~~and~~ written and oral
5 information about emergency contraception; the indications and
6 counter-indications and risks associated with the use of
7 emergency contraception; and a description of how and when
8 victims may be provided emergency contraception upon the
9 written order of a physician licensed to practice medicine in
10 all its branches, an advanced practice nurse who has a written
11 collaborative agreement with a collaborating physician that
12 authorizes prescription of emergency contraception, or a
13 physician assistant who has been delegated authority to
14 prescribe emergency contraception. The Department shall
15 approve the protocol if it finds that the implementation of the
16 protocol would provide sufficient protection for survivors of a
17 ~~an-alleged~~ sexual assault.

18 The hospital shall implement the protocol upon approval by
19 the Department. The Department shall adopt rules and
20 regulations establishing one or more safe harbor protocols and
21 setting minimum acceptable protocol standards that hospitals
22 may develop and implement. The Department shall approve any
23 protocol that meets those standards. The Department may provide
24 a sample acceptable protocol upon request.

25 (Source: P.A. 92-156, eff. 1-1-02; 93-962, eff. 8-20-04.)

26 (410 ILCS 70/5) (from Ch. 111 1/2, par. 87-5)

27 Sec. 5. Minimum requirements for hospitals providing
28 forensic and emergency medical services ~~emergency service~~ to
29 sexual assault survivors.

30 (a) Every hospital providing forensic and emergency
31 medical ~~emergency hospital~~ services to a ~~an-alleged~~ sexual
32 assault survivor under this Act shall, as minimum requirements
33 for such services, provide, with the consent of the ~~alleged~~
34 sexual assault survivor, and as ordered by the attending
35 physician, an advanced practice nurse who has a written

1 collaborative agreement with a collaborating physician that
2 authorizes provision of forensic and emergency medical
3 ~~emergency~~ services, or a physician assistant who has been
4 delegated authority to provide forensic and emergency medical
5 ~~emergency~~ services, the following:

6 (1) appropriate medical examinations and laboratory
7 tests required to ensure the health, safety, and welfare of
8 ~~a an-alleged~~ sexual assault survivor or which may be used
9 as evidence in a criminal proceeding against a person
10 accused of the sexual assault, or both; and records of the
11 results of such examinations and tests shall be maintained
12 by the hospital and made available to law enforcement
13 officials upon the request of the ~~alleged~~ sexual assault
14 survivor;

15 (2) appropriate oral and written information
16 concerning the possibility of infection, sexually
17 transmitted disease and pregnancy resulting from sexual
18 assault;

19 (3) appropriate oral and written information
20 concerning accepted medical procedures, medication, and
21 possible contraindications of such medication available
22 for the prevention or treatment of infection or disease
23 resulting from sexual assault;

24 (4) such medication, dispensed at the time of service
25 for immediate and future treatment related to the sexual
26 assault, as is deemed appropriate by the attending
27 physician, an advanced practice nurse, or a physician
28 assistant, including HIV prophylaxis;

29 (5) (blank) ~~a blood test to determine the presence or~~
30 ~~absence of sexually transmitted disease;~~

31 (6) written and oral instructions indicating the need
32 for a second examination and subsequent blood tests ~~test 6~~
33 ~~weeks~~ after the sexual assault to determine the presence or
34 absence of sexually transmitted disease; and

35 (7) referral for appropriate counseling ~~as determined~~
36 ~~by the hospital, by trained personnel designated by the~~

1 ~~hospital.~~

2 (b) ~~(Blank) Any minor who is an alleged survivor of sexual~~
3 ~~assault who seeks emergency services under this Act shall be~~
4 ~~provided such services without the consent of the parent,~~
5 ~~guardian or custodian of the minor.~~

6 (Source: P.A. 93-962, eff. 8-20-04; 94-434, eff. 1-1-06.)

7 (410 ILCS 70/5.1 new)

8 Sec. 5.1. Minimum requirements for health care facilities
9 providing follow-up care to sexual assault survivors. Each
10 health care facility that provides follow-up care to a sexual
11 assault survivor shall, as minimum requirements for the
12 service, provide, with the consent of the alleged sexual
13 assault survivor and as ordered by an attending physician, an
14 advance practice nurse who has a written collaborative
15 agreement with a collaborating physician, or a physician
16 assistant who has been delegated authority to provide follow-up
17 services, the following:

18 (1) a physical examination; and
19 (2) blood tests to determine the presence or absence of
20 sexually transmitted diseases.

21 (410 ILCS 70/5.2 new)

22 Sec. 5.2. Survivor's rights.

23 (a) Any minor who is a survivor of sexual assault and who
24 seeks forensic and emergency medical services under this Act
25 shall be provided the services without the consent of the
26 minor's parents, guardian, or custodian.

27 (b) A sexual assault survivor has the right to have present
28 during forensic and emergency medical services and follow-up
29 care an advocate or other support person of the survivor's
30 choosing.

31 (410 ILCS 70/6) (from Ch. 111 1/2, par. 87-6)

32 Sec. 6. Powers and duties of Departments of Public Health
33 and Healthcare and Family Services ~~Public Aid.~~

1 (a) The Department of Public Health shall have the duties
2 and responsibilities required by Sections 2, 6.1, 6.2, and 6.4.

3 (b) The Department of Healthcare and Family Services ~~Public~~
4 ~~Aid~~ shall have the duties and responsibilities required by
5 Sections 6.3 and 7.

6 (Source: P.A. 89-507, eff. 7-1-97; 90-587, eff. 7-1-98; revised
7 12-15-05.)

8 (410 ILCS 70/6.1) (from Ch. 111 1/2, par. 87-6.1)

9 Sec. 6.1. To prescribe minimum standards, rules and
10 regulations necessary to implement this Act, which shall apply
11 to every hospital required to be licensed by the Department of
12 Public Health. Such standards shall include, but not be limited
13 to, a uniform system for recording results of medical
14 examinations and all diagnostic tests performed in connection
15 therewith to determine the condition and necessary treatment of
16 ~~alleged~~ sexual assault survivors, which results shall be
17 preserved in a confidential manner as part of the hospital
18 record of the patient.

19 (Source: P.A. 89-507, eff. 7-1-97.)

20 (410 ILCS 70/6.2) (from Ch. 111 1/2, par. 87-6.2)

21 Sec. 6.2. To assist in the development and operation of
22 programs which provide forensic and emergency medical
23 ~~emergency~~ services to alleged sexual assault survivors, and,
24 where necessary, to provide grants to hospitals for this
25 purpose.

26 (Source: P.A. 85-577.)

27 (410 ILCS 70/6.3) (from Ch. 111 1/2, par. 87-6.3)

28 Sec. 6.3. To establish standards, rules and regulations,
29 for the reimbursement to hospitals, health care facilities, and
30 ambulance providers of billed charges of providing services to
31 ~~alleged~~ sexual assault survivors, pursuant to Section 7 of this
32 Act.

33 (Source: P.A. 85-577.)

1 (410 ILCS 70/6.4) (from Ch. 111 1/2, par. 87-6.4)

2 Sec. 6.4. Sexual assault evidence collection program.

3 (a) There is created a statewide sexual assault evidence
4 collection program to facilitate the prosecution of persons
5 accused of sexual assault. This program shall be administered
6 by the Illinois State Police. The program shall consist of the
7 following: (1) distribution of sexual assault evidence
8 collection kits which have been approved by the Illinois State
9 Police to hospitals that request them, or arranging for such
10 distribution by the manufacturer of the kits, (2) collection of
11 the kits from hospitals after the kits have been used to
12 collect evidence, (3) analysis of the collected evidence and
13 conducting of laboratory tests, (4) maintaining the chain of
14 custody and safekeeping of the evidence for use in a legal
15 proceeding, and (5) the comparison of the collected evidence
16 with the genetic marker grouping analysis information
17 maintained by the Department of State Police under Section
18 5-4-3 of the Unified Code of Corrections and with the
19 information contained in the Federal Bureau of Investigation's
20 National DNA database; provided the amount and quality of
21 genetic marker grouping results obtained from the evidence in
22 the sexual assault case meets the requirements of both the
23 Department of State Police and the Federal Bureau of
24 Investigation's Combined DNA Index System (CODIS) policies.
25 The standardized evidence collection kit for the State of
26 Illinois shall be the Illinois State Police Sexual Assault
27 Evidence Collection Kit ~~State Police Evidence Collection Kit,~~
28 ~~also known as "S.P.E.C.K."~~. A sexual assault evidence
29 collection kit may not be released by a hospital without the
30 written consent of the sexual assault survivor. In the case of
31 a survivor who is a minor 13 years of age or older, evidence
32 and information concerning the alleged sexual assault may be
33 released at the written request of the minor. If the survivor
34 is a minor who is under 13 years of age, evidence and
35 information concerning the alleged sexual assault may be

1 released at the written request of the parent, guardian,
2 investigating law enforcement officer, or Department of
3 Children and Family Services. Any health care professional,
4 including any physician, advanced practice nurse, physician
5 assistant, or nurse, sexual assault nurse examiner, and any
6 health care institution, including any hospital, who provides
7 evidence or information to a law enforcement officer pursuant
8 to a written request as specified in this Section is immune
9 from any civil or professional liability that might arise from
10 those actions, with the exception of willful or wanton
11 misconduct. The immunity provision applies only if all of the
12 requirements of this Section are met.

13 (a-5) All sexual assault evidence collected using the State
14 Police Evidence Collection Kits before January 1, 2005 (the
15 effective date of Public Act 93-781) ~~this amendatory Act of the~~
16 ~~93rd General Assembly~~ that have not been previously analyzed
17 and tested by the Department of State Police shall be analyzed
18 and tested within 2 years after receipt of all necessary
19 evidence and standards into the State Police Laboratory if
20 sufficient staffing and resources are available. All sexual
21 assault evidence collected using the State Police Evidence
22 Collection Kits on or after January 1, 2005 (the effective date
23 of Public Act 93-781) ~~this amendatory Act of the 93rd General~~
24 ~~Assembly~~ shall be analyzed and tested by the Department of
25 State Police within one year after receipt of all necessary
26 evidence and standards into the State Police Laboratory if
27 sufficient staffing and resources are available.

28 (b) The Illinois State Police shall administer a program to
29 train hospitals and hospital personnel participating in the
30 sexual assault evidence collection program, in the correct use
31 and application of the sexual assault evidence collection kits.
32 A sexual assault nurse examiner may conduct examinations using
33 the sexual assault evidence collection kits, without the
34 presence or participation of a physician. The Department of
35 Public Health shall cooperate with the Illinois State Police in
36 this program as it pertains to medical aspects of the evidence

1 collection.

2 (c) In this Section, "sexual assault nurse examiner" means
3 a registered nurse who has completed a sexual assault nurse
4 examiner (SANE) training program that meets the Forensic Sexual
5 Assault Nurse Examiner Education Guidelines established by the
6 International Association of Forensic Nurses.

7 (Source: P.A. 92-514, eff. 1-1-02; 93-781, eff. 1-1-05; 93-962,
8 eff. 8-20-04; revised 10-14-04.)

9 (410 ILCS 70/7) (from Ch. 111 1/2, par. 87-7)

10 Sec. 7. Hospital charges and reimbursement. When any
11 hospital, health care facility, or ambulance provider
12 furnishes forensic and emergency medical services, follow-up
13 care, or ambulance emergency services to any ~~alleged~~ sexual
14 assault survivor, as defined by the Department of Healthcare
15 and Family Services ~~Public Aid~~ pursuant to Section 6.3 of this
16 Act, who is neither eligible to receive such services under the
17 Illinois Public Aid Code nor covered as to such services by a
18 policy of insurance, the hospital, health care facility, and
19 ambulance provider shall furnish such services to that person
20 without charge and shall be ~~entitled to be~~ reimbursed for its
21 appropriate billed charges in providing such services by the
22 Department of Healthcare and Family Services ~~Public Aid~~.

23 (Source: P.A. 89-507, eff. 7-1-97; 90-587, eff. 7-1-98; revised
24 12-15-05.)

25 (410 ILCS 70/3 rep.)

26 (410 ILCS 70/4 rep.)

27 Section 10. The Sexual Assault Survivors Emergency
28 Treatment Act is amended by repealing Sections 3 and 4.