1 AN ACT concerning public health.

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

- Section 5. The Sexual Assault Survivors Emergency

 Treatment Act is amended by adding Section 5.5 and by changing
- 6 Sections 1a, 2, 2.1, 2.2, 3, 5, 6.1, 6.2, 6.4, and 7 as
- 7 follows:
- 8 (410 ILCS 70/1a) (from Ch. 111 1/2, par. 87-1a)
- 9 Sec. 1a. <u>Definitions</u>. In this Act:
- 10 <u>"Ambulance provider" means an individual or entity that</u>
- 11 <u>owns and operates a business or service using ambulances or</u>
- 12 <u>emergency medical services vehicles to transport emergency</u>
- patients.
- "Areawide sexual assault treatment plan" means a plan,
- developed by the hospitals in the community or area to be
- served, which provides for hospital emergency services to
- sexual assault survivors that shall be made available by each
- of the participating hospitals.
- "Department" means the Department of Public Health.
- 20 "Emergency contraception" means medication as approved by
- 21 the federal Food and Drug Administration (FDA) that can
- significantly reduce the risk of pregnancy if taken within 72
- 23 hours after sexual assault.

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- "Follow-up healthcare" means healthcare services related 1 2 to a sexual assault, including laboratory services and pharmacy 3 services, rendered within 90 days of the initial visit for 4 hospital emergency services. 5
 - "Forensic services" means the collection of evidence pursuant to a statewide sexual assault evidence collection program administered by the Department of State Police, using the Illinois State Police Sexual Assault Evidence Collection Kit.
- 10 "Health care professional" means a physician, a physician 11 assistant, or an advanced practice nurse.
- 12 "Hospital" has the meaning given to that term in the Hospital Licensing Act. 13
- 14 "Hospital emergency services" means healthcare delivered to outpatients within or under the care and supervision of 15 16 personnel working in a designated emergency department of a 17 hospital, including, but not limited to, care ordered by such personnel for a sexual assault survivor in the emergency 18 19 department.
- 20 "Illinois State Police Sexual Assault Evidence Collection Kit" means a prepackaged set of materials and forms to be used 21 22 for the collection of evidence relating to sexual assault. The 23 standardized evidence collection kit for the State of Illinois 24 shall be the Illinois State Police Sexual Assault Evidence 25 Collection Kit.
- "Nurse" means a nurse licensed under the Nursing and 26

- 1 Advanced Practice Nursing Act.
- 2 "Physician" means a person licensed to practice medicine in
- 3 all its branches.
- 4 "Sexual assault" means an act of nonconsensual sexual
- conduct or sexual penetration, as defined in Section 12-12 of 5
- the Criminal Code of 1961, including, without limitation, acts 6
- 7 prohibited under Sections 12-13 through 12-16 of the Criminal
- 8 Code of 1961.
- 9 "Sexual assault survivor" means a person who presents for
- 10 hospital emergency services in relation to injuries or trauma
- 11 resulting from a sexual assault.
- 12 "Sexual assault transfer plan" means a written plan
- 13 developed by a hospital and approved by the Department, which
- 14 describes the hospital's procedures for transferring sexual
- assault survivors to another hospital in order to receive 15
- 16 emergency treatment.
- 17 "Sexual assault treatment plan" means a written plan
- developed by a hospital that describes the hospital's 18
- 19 procedures and protocols for providing hospital emergency
- 20 services and forensic services to sexual assault survivors who
- present themselves for such services, either directly or 21
- 22 through transfer from another hospital.
- 23 "Transfer services" means the appropriate medical
- 24 screening examination and necessary stabilizing treatment
- 25 prior to the transfer of a sexual assault survivor to a
- 26 hospital that provides hospital emergency services and

- 1 forensic services to sexual assault survivors pursuant to a
- 2 sexual assault treatment plan or areawide sexual assault
- 3 treatment plan.
- 4 Sexual assault means an act of forced sexual penetration or
- 5 sexual conduct, as defined in Section 12 12 of the Criminal
- 6 Code, including acts prohibited under Sections 12 13 through
- 7 12 16 of the Criminal Code of 1961, as amended.
- 8 (Source: P.A. 85-577.)
- 9 (410 ILCS 70/2) (from Ch. 111 1/2, par. 87-2)
- 10 Sec. 2. Hospital requirements. Hospitals to furnish
- 11 emergency service. Every hospital required to be licensed by
- 12 the Department of Public Health pursuant to the Hospital
- 13 Licensing Act, approved July 1, 1953, as now or hereafter
- 14 amended, which provides general medical and surgical hospital
- services shall provide either (i) transfer services or (ii)
- 16 hospital emergency services and forensic services emergency
- 17 hospital service, in accordance with rules and regulations
- 18 adopted by the Department of Public Health, to all alleged
- 19 sexual assault survivors who apply for either (i) transfer
- 20 services or (ii) hospital emergency services and forensic
- 21 services such hospital emergency services in relation to
- injuries or trauma resulting from the sexual assault.
- In addition, every such hospital, regardless of whether or
- 24 not a request is made for reimbursement, except hospitals
- 25 participating in community or area wide plans in compliance

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with Section 4 of this Act, shall submit to the Department of Public Health a plan to provide either (i) transfer services or (ii) hospital emergency services and forensic services hospital emergency services to alleged sexual assault survivors which shall be made available by such hospital. Such plan shall be submitted within 60 days after of receipt of the Department's request for this plan, to the Department of Public Health for approval prior to such plan becoming effective. The Department of Public Health shall approve such plan for either (i) transfer services or (ii) hospital emergency services and forensic services emergency service to alleged sexual assault survivors if it finds that the implementation of the proposed plan would provide adequate (i) transfer services or (ii) hospital emergency services and forensic services hospital emergency service for alleged sexual assault survivors and provide sufficient protections from the risk of pregnancy to by sexual assault survivors.

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

On January 1, 2007, and each January 1 thereafter, the Department shall submit a report to the General Assembly containing information on the hospitals in this State that have submitted a plan to provide either (i) transfer services or (ii) hospital emergency services and forensic services hospital emergency services to sexual assault survivors. The

- 1 Department shall post on its Internet website the report
- 2 required in this Section. The report shall include all of the
- 3 following:
- 4 (1) A list of all hospitals that have submitted a plan.
- 5 (2) A list of hospitals whose plans have been found by
- 6 the Department to be in compliance with this Act.
- 7 (3) A list of hospitals that have failed to submit an acceptable Plan of Correction within the time required by
- 9 Section 2.1 of this Act.
- 10 (4) A list of hospitals at which the periodic site
- 11 review required by this Act has been conducted.
- 12 When a hospital listed as noncompliant under item (3) of this
- 13 Section submits and implements the required Plan of Correction,
- 14 the Department shall immediately update the report on its
- 15 Internet website to reflect that hospital's compliance.
- 16 (Source: P.A. 94-762, eff. 5-12-06.)
- 17 (410 ILCS 70/2.1) (from Ch. 111 1/2, par. 87-2.1)
- 18 Sec. 2.1. <u>Plan of correction; penalties.</u> Plans of
- 19 correction Penalties for failure to implement such plans. If
- 20 the Department of Public Health surveyor determines that the
- 21 hospital is not in compliance with its approved plan, the
- 22 surveyor shall provide the hospital with a written list of the
- specific items of noncompliance within 10 working days after 2
- 24 weeks of the conclusion of the on site review. The hospital
- 25 shall have 10 14 working days to submit to the Department of

1 Public Health a plan of correction which contains the

hospital's specific proposals for correcting the items of

noncompliance. The Department of Public Health shall review the

plan of correction and notify the hospital in writing within 10

working days as to whether the plan is acceptable or

<u>unacceptable</u> nonacceptable.

If the Department of Public Health finds the Plan of Correction unacceptable nonacceptable, the hospital shall have 10 7 working days to resubmit an acceptable Plan of Correction. Upon notification that its Plan of Correction is acceptable, a hospital shall implement the Plan of Correction within 60 days.

The failure to submit an acceptable Plan of Correction or to implement the Plan of Correction, within the time frames required in this Section, will subject a hospital to the imposition of a fine by the Department of Public Health. The Department of Public Health may impose a fine of up to \$500 per day until a hospital complies with the requirements of this Section.

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

- (Source: P.A. 94-762, eff. 5-12-06.) 1
- (410 ILCS 70/2.2) 2

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- 3 Sec. 2.2. Emergency contraception.
- 4 (a) The General Assembly finds:
 - (1) Crimes of sexual <u>assault and sexual abuse</u> violence cause significant physical, emotional, and psychological trauma to the victims. This trauma is compounded by a victim's fear of becoming pregnant and bearing a child as a result of the sexual assault.
 - (2) Each year over 32,000 women become pregnant in the United States as the result of rape and approximately 50% of these pregnancies end in abortion.
 - (3) As approved for use by the Federal Food and Drug Administration (FDA), emergency contraception significantly reduce the risk of pregnancy if taken within 72 hours after the sexual assault.
 - (4) By providing emergency contraception to rape victims in a timely manner, the trauma of rape can be significantly reduced.
 - (b) Within 120 days after the effective date of this amendatory Act of the 92nd General Assembly, every hospital providing services to alleged sexual assault survivors in accordance with a plan approved under Section 2 must develop a protocol that ensures that each survivor of sexual assault will receive medically and factually accurate and written and oral

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information about emergency contraception; the indications and counter-indications and risks associated with the use of emergency contraception; and a description of how and when victims may be provided emergency contraception upon the written order of a physician licensed to practice medicine in all its branches, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes prescription of emergency contraception, or physician assistant who has been delegated authority to prescribe emergency contraception. The Department approve the protocol if it finds that the implementation of the protocol would provide sufficient protection for survivors of an alleged sexual assault.

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

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

- 22 (410 ILCS 70/3) (from Ch. 111 1/2, par. 87-3)
- Sec. 3. Areawide sexual assault treatment plans;

 submission. Hospitals in the area to be served may develop and

 participate in areawide plans that shall describe the hospital

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emergency services and forensic services to sexual assault survivors that each participating hospital has agreed to make available. Each hospital participating in such a plan shall provide such services as it is designated to provide in the plan agreed upon by the participants. Areawide plans may include hospital transfer plans. All areawide plans shall be submitted to the Department for approval, prior to becoming effective. The Department shall approve a proposed plan if it finds that the implementation of the plan would provide for appropriate hospital emergency services and forensic services for the people of the area to be served. Community or areawide plan for emergency services to sexual assault survivors. hospital is authorized to participate, in conjunction with or more other hospitals or health care facilities, community or areawide plan for the furnishing of hospital emergency service to alleged sexual assault survivors on community or areawide basis provided each hospital participating in such a plan shall furnish such hospital emergency services as it is designated to provide in the plan agreed upon by the participating hospitals to any alleged sexual assault survivor who applies for such hospital emergency services in relation to injuries or trauma resulting from the sexual assault.

25 (410 ILCS 70/5) (from Ch. 111 1/2, par. 87-5)

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

- Sec. 5. Minimum requirements for hospitals providing hospital emergency services and forensic services emergency services to sexual assault survivors.
 - (a) Every hospital providing hospital emergency services and forensic services emergency hospital services to an alleged sexual assault survivors survivor under this Act shall, as minimum requirements for such services, provide, with the consent of the alleged sexual assault survivor, and as ordered by the attending physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes provision of emergency services, or a physician assistant who has been delegated authority to provide hospital emergency services and forensic services emergency services, the following:
 - (1) appropriate medical examinations and laboratory tests required to ensure the health, safety, and welfare of a an alleged sexual assault survivor or which may be used as evidence in a criminal proceeding against a person accused of the sexual assault, or both; and records of the results of such examinations and tests shall be maintained by the hospital and made available to law enforcement officials upon the request of the alleged sexual assault survivor;
 - (2) appropriate oral and written information concerning the possibility of infection, sexually transmitted disease and pregnancy resulting from sexual

- (3) appropriate oral and written information concerning accepted medical procedures, medication, and possible contraindications of such medication available for the prevention or treatment of infection or disease resulting from sexual assault;
- (4) an amount of such medication for treatment at the hospital and after discharge as is deemed appropriate by the attending physician, an advanced practice nurse, or a physician assistant and consistent with the hospital's current approved protocol for sexual assault survivors; rincluding HIV prophylaxis;
- (5) <u>an evaluation of the sexual assault survivor's risk</u>
 of contracting human immunodeficiency virus (HIV) from the

 <u>sexual assault</u> a blood test to determine the presence or

 <u>absence of sexually transmitted disease;</u>
- (6) written and oral instructions indicating the need for <u>follow-up examinations and laboratory tests</u> a second blood test 6 weeks after the sexual assault to determine the presence or absence of sexually transmitted disease; and
- (7) <u>referral by hospital personnel for</u> appropriate counseling; and as determined by the hospital, by trained personnel designated by the hospital.
- (8) when HIV prophylaxis is deemed appropriate, an initial dose or doses of HIV prophylaxis, along with

- written and oral instructions indicating the importance of 1 2 timely follow-up healthcare.
- (b) Any minor who is a sexual assault survivor an alleged 3 survivor of sexual assault who seeks emergency hospital 4 services and forensic services or follow-up healthcare 5 emergency services under this Act shall be provided such 6 services without the consent of the parent, guardian or 7 8 custodian of the minor.
- 9 (c) Nothing in this Section creates a physician-patient 10 relationship that extends beyond discharge from the hospital 11 emergency department.
- 12 (Source: P.A. 93-962, eff. 8-20-04; 94-434, eff. 1-1-06.)
- (410 ILCS 70/5.5 new) 1.3

the following:

- Sec. 5.5. Minimum reimbursement requirements for follow-up 14 15 healthcare.
- 16 (a) Every hospital, health care professional, laboratory, or pharmacy that provides follow-up healthcare to a sexual 17 18 assault survivor, with the consent of the sexual assault survivor and as ordered by the attending physician, an advanced 19 20 practice nurse who has a written collaborative agreement with a 21 collaborating physician, or physician assistant who has been 22 delegated authority by a supervising physician shall be 23 reimbursed for the follow-up healthcare services provided. 24 Follow-up healthcare services include, but are not limited to,

	(1)	а	phys	sical	examination;
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- 2 (2) laboratory tests to determine the presence or absence of sexually transmitted disease; and
- 4 (3) appropriate medications, including HIV prophylaxis.
 - (b) Reimbursable follow-up healthcare is limited to office visits with a physician, advanced practice nurse, or physician assistant within 90 days after an initial visit for hospital emergency services.
- (c) Nothing in this Section requires a hospital, health
 care professional, laboratory, or pharmacy to provide
 follow-up healthcare to a sexual assault survivor.

13 (410 ILCS 70/6.1) (from Ch. 111 1/2, par. 87-6.1)

Sec. 6.1. Minimum standards. The Department shall To prescribe minimum standards, rules, and regulations necessary to implement this Act, which shall apply to every hospital required to be licensed by the Department that provides general medical and surgical hospital services of Public Health. Such standards shall include, but not be limited to, a uniform system for recording results of medical examinations and all diagnostic tests performed in connection therewith to determine the condition and necessary treatment of alleged sexual assault survivors, which results shall be preserved in a confidential manner as part of the hospital record of the sexual assault survivor patient.

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

- 2 (410 ILCS 70/6.2) (from Ch. 111 1/2, par. 87-6.2)
- 3 Sec. 6.2. Assistance and grants. The Department shall To
- 4 assist in the development and operation of programs which
- 5 provide hospital emergency services and forensic services
- 6 emergency services to alleged sexual assault survivors, and,
- 7 where necessary, to provide grants to hospitals for this
- 8 purpose.
- 9 (Source: P.A. 85-577.)
- 10 (410 ILCS 70/6.4) (from Ch. 111 1/2, par. 87-6.4)
- 11 Sec. 6.4. Sexual assault evidence collection program.
- 12 (a) There is created a statewide sexual assault evidence
- 13 collection program to facilitate the prosecution of persons
- 14 accused of sexual assault. This program shall be administered
- by the Illinois State Police. The program shall consist of the
- 16 following: (1) distribution of sexual assault evidence
- 17 collection kits which have been approved by the Illinois State
- 18 Police to hospitals that request them, or arranging for such
- distribution by the manufacturer of the kits, (2) collection of
- 20 the kits from hospitals after the kits have been used to
- 21 collect evidence, (3) analysis of the collected evidence and
- 22 conducting of laboratory tests, (4) maintaining the chain of
- 23 custody and safekeeping of the evidence for use in a legal
- 24 proceeding, and (5) the comparison of the collected evidence

marker grouping analysis information 1 with the genetic 2 maintained by the Department of State Police under Section 5-4-3 of the Unified Code of Corrections and with the 3 information contained in the Federal Bureau of Investigation's 5 National DNA database; provided the amount and quality of genetic marker grouping results obtained from the evidence in 6 the sexual assault case meets the requirements of both the 7 Department of State Police and the 8 Federal Bureau 9 Investigation's Combined DNA Index System (CODIS) policies. The standardized evidence collection kit for the State of 10 11 Illinois shall be the Illinois State Police Sexual Assault 12 Evidence Kit State Police Evidence Collection Kit, also known as "S.P.E.C.K.". A sexual assault evidence collection kit may 13 not be released by a hospital without the written consent of 14 15 the sexual assault survivor. In the case of a survivor who is a minor 13 years of age or older, evidence and information 16 17 concerning the alleged sexual assault may be released at the written request of the minor. If the survivor is a minor who is 18 under 13 years of age, evidence and information concerning the 19 alleged sexual assault may be released at the written request 20 parent, guardian, investigating law 21 enforcement 22 officer, or Department of Children and Family Services. Any 23 health care professional, including any physician, advanced practice nurse, physician assistant, or nurse, sexual assault 24 25 nurse examiner, and any health care institution, including any 26 hospital, who provides evidence or information to a law

enforcement officer pursuant to a written request as specified in this Section 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 this Section are met.

- (a-5) All sexual assault evidence collected using the State Police Evidence Collection Kits before <u>January 1, 2005</u> (the effective date of <u>Public Act 93-781</u>) this amendatory Act of the <u>93rd General Assembly</u> that have not been previously analyzed and tested by the Department of State Police shall be analyzed and tested within 2 years after receipt of all necessary evidence and standards into the State Police Laboratory if sufficient staffing and resources are available. All sexual assault evidence collected using the State Police Evidence Collection Kits on or after <u>January 1, 2005</u> (the effective date of <u>Public Act 93-781</u>) this amendatory Act of the <u>93rd General Assembly</u> shall be analyzed and tested by the Department of State Police within one year after receipt of all necessary evidence and standards into the State Police Laboratory if sufficient staffing and resources are available.
- (b) The Illinois State Police shall administer a program to train hospitals and hospital personnel participating in the sexual assault evidence collection program, in the correct use and application of the sexual assault evidence collection kits. A sexual assault nurse examiner may conduct examinations using

- the sexual assault evidence collection kits, without the 1
- 2 presence or participation of a physician. The Department of
- 3 Public Health shall cooperate with the Illinois State Police in
- this program as it pertains to medical aspects of the evidence 4
- 5 collection.
- 6 (c) In this Section, "sexual assault nurse examiner" means
- a registered nurse who has completed a sexual assault nurse 7
- 8 examiner (SANE) training program that meets the Forensic Sexual
- 9 Assault Nurse Examiner Education Guidelines established by the
- International Association of Forensic Nurses. 10
- 11 (Source: P.A. 92-514, eff. 1-1-02; 93-781, eff. 1-1-05; 93-962,
- 12 eff. 8-20-04; revised 10-14-04.)
- (410 ILCS 70/7) (from Ch. 111 1/2, par. 87-7) 1.3
- 14 Sec. 7. Charges Hospital charges and reimbursement.
- 15 (a) When any ambulance provider furnishes transportation,
- 16 hospital provides hospital emergency services and forensic
- services, hospital or health care professional or laboratory 17
- 18 provides follow-up healthcare, or pharmacy dispenses
- hospital or ambulance provider 19 prescribed medications
- 20 furnishes emergency services to any alleged sexual assault
- 21 survivor, as defined by the Department of Healthcare and Family
- 22 Services Public Aid pursuant to Section 6.3 of this Act, who is
- neither eligible to receive such services under the Illinois 23
- 24 Public Aid Code nor covered as to such services by a policy of
- 25 insurance, the hospital and ambulance provider, hospital,

- health care professional, or laboratory shall furnish such 1 2 services to that person without charge and shall be entitled to 3 be reimbursed for its billed charges in providing such services by the Illinois Sexual Assault Emergency Treatment Program 4 5 under the Department of Healthcare and Family Services Public Aid. Pharmacies shall dispense prescribed medications without 6 7 charge to the survivor and shall be reimbursed at the 8 Department of Healthcare and Family Services' Medicaid 9 allowable rates.
- 10 (b) The hospital is responsible for submitting the request 11 for reimbursement for ambulance services, hospital emergency 12 services, and forensic services to the Illinois Sexual Assault Emergency Treatment Program. Nothing in this Section precludes 13 14 hospitals from providing follow-up healthcare and receiving 15 reimbursement under this Section.
- 16 (c) The health care professional who provides follow-up 17 healthcare and the pharmacy that dispenses prescribed 18 medications to a sexual assault survivor are responsible for 19 submitting the request for reimbursement for follow-up 20 healthcare or pharmacy services to the Illinois Sexual Assault 21 Emergency Treatment Program.
- 22 (d) The Department of Healthcare and Family Services shall 23 establish standards, rules, and regulations to implement this 24 Section.
- 25 (Source: P.A. 89-507, eff. 7-1-97; 90-587, eff. 7-1-98; revised 26 12-15-05.)

- 1 (410 ILCS 70/4 rep.)
- (410 ILCS 70/6 rep.) 2
- (410 ILCS 70/6.3 rep.) 3
- Section 10. The Sexual Assault Survivors Emergency 4
- Treatment Act is amended by repealing Sections 4, 6, and 6.3. 5

410 ILCS 70/6 rep.

16 410 ILCS 70/6.3 rep.

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INDEX 1 Statutes amended in order of appearance 2

3	410 ILCS 70/1a	from Ch. 111 1/2, par. 87-1a
4	410 ILCS 70/2	from Ch. 111 1/2, par. 87-2
5	410 ILCS 70/2.1	from Ch. 111 1/2, par. 87-2.1
6	410 ILCS 70/2.2	
7	410 ILCS 70/3	from Ch. 111 1/2, par. 87-3
8	410 ILCS 70/5	from Ch. 111 1/2, par. 87-5
9	410 ILCS 70/5.5 new	
10	410 ILCS 70/6.1	from Ch. 111 1/2, par. 87-6.1
11	410 ILCS 70/6.2	from Ch. 111 1/2, par. 87-6.2
12	410 ILCS 70/6.4	from Ch. 111 1/2, par. 87-6.4
13	410 ILCS 70/7	from Ch. 111 1/2, par. 87-7
14	410 ILCS 70/4 rep.	