



Sen. A. J. Wilhelmi

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09500SB2355sam001

LRB095 18741 RLC 49326 a

1 AMENDMENT TO SENATE BILL 2355

2 AMENDMENT NO. _____. Amend Senate Bill 2355 by replacing
3 everything after the enacting clause with the following:

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, 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

1 1987.

2 (b) Any medical examination or procedure which is conducted
3 by a physician, nurse, medical or hospital personnel, parent,
4 or caretaker for purposes and in a manner consistent with
5 reasonable medical standards is not an offense under Sections
6 12-13, 12-14, 12-14.1, 12-15 and 12-16 of this Code.

7 (c) (Blank).

8 (d) (Blank).

9 (e) After a finding at a preliminary hearing that there is
10 probable cause to believe that an accused has committed a
11 violation of Section 12-13, 12-14, or 12-14.1 of this Code, or
12 after an indictment is returned charging an accused with a
13 violation of Section 12-13, 12-14, or 12-14.1 of this Code, or
14 after a finding that a defendant charged with a violation of
15 Section 12-13, 12-14, or 12-14.1 of this Code is unfit to stand
16 trial pursuant to Section 104-16 of the Code of Criminal
17 Procedure of 1963 where the finding is made prior to
18 preliminary hearing, at the request of the person who was the
19 victim of the violation of Section 12-13, 12-14, or 12-14.1,
20 the prosecuting State's attorney shall seek an order from the
21 court to compel the accused to be tested within 48 hours for
22 any sexually transmissible disease, including a test for
23 infection with human immunodeficiency virus (HIV). The medical
24 tests shall be performed only by appropriately licensed medical
25 practitioners. The test for infection with human
26 immunodeficiency virus (HIV) shall consist of an enzyme-linked

1 immunosorbent assay (ELISA) test, or such other test as may be
2 approved by the Illinois Department of Public Health; in the
3 event of a positive result, the Western Blot Assay or a more
4 reliable confirmatory test shall be administered. The results
5 of the tests and any follow-up tests shall be kept strictly
6 confidential by all medical personnel involved in the testing
7 and must be personally delivered in a sealed envelope to the
8 victim, to the defendant, to the State's Attorney, and to the
9 judge who entered the order, for the judge's inspection in
10 camera. The judge shall provide to the victim a referral to the
11 Illinois Department of Public Health HIV/AIDS toll-free
12 hotline for counseling and information in connection with the
13 test result. Acting in accordance with the best interests of
14 the victim and the public, the judge shall have the discretion
15 to determine to whom, if anyone, the result of the testing may
16 be revealed; however, in no case shall the identity of the
17 victim be disclosed. The court shall order that the cost of the
18 tests shall be paid by the county, and shall ~~may~~ be taxed as
19 costs against the accused if convicted.

20 (f) Whenever any law enforcement officer has reasonable
21 cause to believe that a person has been delivered a controlled
22 substance without his or her consent, the law enforcement
23 officer shall advise the victim about seeking medical treatment
24 and preserving evidence.

25 (g) Every hospital providing emergency hospital services
26 to an alleged sexual assault survivor, when there is reasonable

1 cause to believe that a person has been delivered a controlled
2 substance without his or her consent, shall designate personnel
3 to provide:

4 (1) An explanation to the victim about the nature and
5 effects of commonly used controlled substances and how such
6 controlled substances are administered.

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

9 (3) A disclosure to the victim that all controlled
10 substances or alcohol ingested by the victim will be
11 disclosed by the test.

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

13 (5) A form for written authorization for sample
14 analysis of all controlled substances and alcohol ingested
15 by the victim.

16 A physician licensed to practice medicine in all its
17 branches may agree to be a designated person under this
18 subsection.

19 No sample analysis may be performed unless the victim
20 returns a signed written authorization within 30 days after the
21 sample was collected.

22 Any medical treatment or care under this subsection shall
23 be only in accordance with the order of a physician licensed to
24 practice medicine in all of its branches. Any testing under
25 this subsection shall be only in accordance with the order of a
26 licensed individual authorized to order the testing.

1 (Source: P.A. 93-958, eff. 8-20-04; 94-397, eff. 1-1-06.)

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