



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB4081

Introduced 2/27/2009, by Rep. Kathleen A. Ryg

#### SYNOPSIS AS INTRODUCED:

410 ILCS 70/5  
410 ILCS 70/6.4

from Ch. 111 1/2, par. 87-5  
from Ch. 111 1/2, par. 87-6.4

Amends the Sexual Assault Survivors Emergency Treatment Act. Provides that any person (instead of minor) who is a sexual assault survivor who seeks emergency hospital services and forensic services or follow-up healthcare under the Act shall be provided such services without the consent of any parent, guardian, custodian, surrogate, or agent. Provides that if the survivor is an adult who has a guardian of the person, a health care surrogate, or an agent acting under a health care power of attorney, then consent of the guardian, surrogate, or agent is not required to release evidence and information concerning the sexual assault. Provides that if the adult is unable to provide consent for the release of evidence and information and a guardian, surrogate, or agent under a health care power of attorney is unavailable or unwilling to release the information, then an investigating law enforcement officer may authorize the release. Effective January 1, 2010.

LRB096 11796 RPM 22608 b

1 AN ACT concerning public 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 5 and 6.4 as  
6 follows:

7 (410 ILCS 70/5) (from Ch. 111 1/2, par. 87-5)

8 Sec. 5. Minimum requirements for hospitals providing  
9 hospital emergency services and forensic services to sexual  
10 assault survivors.

11 (a) Every hospital providing hospital emergency services  
12 and forensic services to sexual assault survivors under this  
13 Act shall, as minimum requirements for such services, provide,  
14 with the consent of the sexual assault survivor, and as ordered  
15 by the attending physician, an advanced practice nurse who has  
16 a written collaborative agreement with a collaborating  
17 physician that authorizes provision of emergency services, or a  
18 physician assistant who has been delegated authority to provide  
19 hospital emergency services and forensic services, the  
20 following:

21 (1) appropriate medical examinations and laboratory  
22 tests required to ensure the health, safety, and welfare of  
23 a sexual assault survivor or which may be used as evidence

1 in a criminal proceeding against a person accused of the  
2 sexual assault, or both; and records of the results of such  
3 examinations and tests shall be maintained by the hospital  
4 and made available to law enforcement officials upon the  
5 request of the sexual assault survivor;

6 (2) appropriate oral and written information  
7 concerning the possibility of infection, sexually  
8 transmitted disease and pregnancy resulting from sexual  
9 assault;

10 (3) appropriate oral and written information  
11 concerning accepted medical procedures, medication, and  
12 possible contraindications of such medication available  
13 for the prevention or treatment of infection or disease  
14 resulting from sexual assault;

15 (4) an amount of medication for treatment at the  
16 hospital and after discharge as is deemed appropriate by  
17 the attending physician, an advanced practice nurse, or a  
18 physician assistant and consistent with the hospital's  
19 current approved protocol for sexual assault survivors;;

20 (5) an evaluation of the sexual assault survivor's risk  
21 of contracting human immunodeficiency virus (HIV) from the  
22 sexual assault;

23 (6) written and oral instructions indicating the need  
24 for follow-up examinations and laboratory tests after the  
25 sexual assault to determine the presence or absence of  
26 sexually transmitted disease;

1 (7) referral by hospital personnel for appropriate  
2 counseling; and

3 (8) when HIV prophylaxis is deemed appropriate, an  
4 initial dose or doses of HIV prophylaxis, along with  
5 written and oral instructions indicating the importance of  
6 timely follow-up healthcare.

7 (b) Any person ~~minor~~ who is a sexual assault survivor who  
8 seeks emergency hospital services and forensic services or  
9 follow-up healthcare under this Act shall be provided such  
10 services without the consent of any ~~the~~ parent, guardian, ~~or~~  
11 custodian, surrogate, or agent ~~of the minor~~.

12 (c) Nothing in this Section creates a physician-patient  
13 relationship that extends beyond discharge from the hospital  
14 emergency department.

15 (Source: P.A. 94-434, eff. 1-1-06; 95-432, eff. 1-1-08.)

16 (410 ILCS 70/6.4) (from Ch. 111 1/2, par. 87-6.4)

17 Sec. 6.4. Sexual assault evidence collection program.

18 (a) There is created a statewide sexual assault evidence  
19 collection program to facilitate the prosecution of persons  
20 accused of sexual assault. This program shall be administered  
21 by the Illinois State Police. The program shall consist of the  
22 following: (1) distribution of sexual assault evidence  
23 collection kits which have been approved by the Illinois State  
24 Police to hospitals that request them, or arranging for such  
25 distribution by the manufacturer of the kits, (2) collection of

1 the kits from hospitals after the kits have been used to  
2 collect evidence, (3) analysis of the collected evidence and  
3 conducting of laboratory tests, (4) maintaining the chain of  
4 custody and safekeeping of the evidence for use in a legal  
5 proceeding, and (5) the comparison of the collected evidence  
6 with the genetic marker grouping analysis information  
7 maintained by the Department of State Police under Section  
8 5-4-3 of the Unified Code of Corrections and with the  
9 information contained in the Federal Bureau of Investigation's  
10 National DNA database; provided the amount and quality of  
11 genetic marker grouping results obtained from the evidence in  
12 the sexual assault case meets the requirements of both the  
13 Department of State Police and the Federal Bureau of  
14 Investigation's Combined DNA Index System (CODIS) policies.  
15 The standardized evidence collection kit for the State of  
16 Illinois shall be the Illinois State Police Sexual Assault  
17 Evidence Kit. A sexual assault evidence collection kit may not  
18 be released by a hospital without the written consent of the  
19 sexual assault survivor. In the case of a survivor who is a  
20 minor 13 years of age or older, evidence and information  
21 concerning the sexual assault may be released at the written  
22 request of the minor. If the survivor is a minor who is under  
23 13 years of age, evidence and information concerning the  
24 alleged sexual assault may be released at the written request  
25 of the parent, guardian, investigating law enforcement  
26 officer, or Department of Children and Family Services. If the

1 survivor is an adult who has a guardian of the person, a health  
2 care surrogate, or an agent acting under a health care power of  
3 attorney, then consent of the guardian, surrogate, or agent is  
4 not required to release evidence and information concerning the  
5 sexual assault. If the adult is unable to provide consent for  
6 the release of evidence and information and a guardian,  
7 surrogate, or agent under a health care power of attorney is  
8 unavailable or unwilling to release the information, then an  
9 investigating law enforcement officer may authorize the  
10 release. Any health care professional, including any  
11 physician, advanced practice nurse, physician assistant, or  
12 nurse, sexual assault nurse examiner, and any health care  
13 institution, including any hospital, who provides evidence or  
14 information to a law enforcement officer pursuant to a written  
15 request as specified in this Section is immune from any civil  
16 or professional liability that might arise from those actions,  
17 with the exception of willful or wanton misconduct. The  
18 immunity provision applies only if all of the requirements of  
19 this Section are met.

20 (a-5) All sexual assault evidence collected using the State  
21 Police Evidence Collection Kits before January 1, 2005 (the  
22 effective date of Public Act 93-781) that have not been  
23 previously analyzed and tested by the Department of State  
24 Police shall be analyzed and tested within 2 years after  
25 receipt of all necessary evidence and standards into the State  
26 Police Laboratory if sufficient staffing and resources are

1 available. All sexual assault evidence collected using the  
2 State Police Evidence Collection Kits on or after January 1,  
3 2005 (the effective date of Public Act 93-781) shall be  
4 analyzed and tested by the Department of State Police within  
5 one year after receipt of all necessary evidence and standards  
6 into the State Police Laboratory if sufficient staffing and  
7 resources are available.

8 (b) The Illinois State Police shall administer a program to  
9 train hospitals and hospital personnel participating in the  
10 sexual assault evidence collection program, in the correct use  
11 and application of the sexual assault evidence collection kits.  
12 A sexual assault nurse examiner may conduct examinations using  
13 the sexual assault evidence collection kits, without the  
14 presence or participation of a physician. The Department shall  
15 cooperate with the Illinois State Police in this program as it  
16 pertains to medical aspects of the evidence collection.

17 (c) In this Section, "sexual assault nurse examiner" means  
18 a registered nurse who has completed a sexual assault nurse  
19 examiner (SANE) training program that meets the Forensic Sexual  
20 Assault Nurse Examiner Education Guidelines established by the  
21 International Association of Forensic Nurses.

22 (Source: P.A. 95-331, eff. 8-21-07; 95-432, eff. 1-1-08.)

23 Section 99. Effective date. This Act takes effect January  
24 1, 2010.