



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4765

Introduced 1/11/2010, by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

410 ILCS 70/6.4

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

Amends the Sexual Assault Survivors Emergency Treatment Act. Requires that all sexual assault evidence collected using the State Police Evidence Collection Kits shall be analyzed and tested by the Department of State Police within 6 months after receipt of all necessary evidence and standards into the State Police Laboratory (was, within one year and if sufficient staffing and resources are available). Effective immediately.

LRB096 16634 ASK 31910 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Section 6.4 as follows:

6 (410 ILCS 70/6.4) (from Ch. 111 1/2, par. 87-6.4)

7 Sec. 6.4. Sexual assault evidence collection program.

8 (a) There is created a statewide sexual assault evidence
9 collection program to facilitate the prosecution of persons
10 accused of sexual assault. This program shall be administered
11 by the Illinois State Police. The program shall consist of the
12 following: (1) distribution of sexual assault evidence
13 collection kits which have been approved by the Illinois State
14 Police to hospitals that request them, or arranging for such
15 distribution by the manufacturer of the kits, (2) collection of
16 the kits from hospitals after the kits have been used to
17 collect evidence, (3) analysis of the collected evidence and
18 conducting of laboratory tests, (4) maintaining the chain of
19 custody and safekeeping of the evidence for use in a legal
20 proceeding, and (5) the comparison of the collected evidence
21 with the genetic marker grouping analysis information
22 maintained by the Department of State Police under Section
23 5-4-3 of the Unified Code of Corrections and with the

1 information contained in the Federal Bureau of Investigation's
2 National DNA database; provided the amount and quality of
3 genetic marker grouping results obtained from the evidence in
4 the sexual assault case meets the requirements of both the
5 Department of State Police and the Federal Bureau of
6 Investigation's Combined DNA Index System (CODIS) policies.
7 The standardized evidence collection kit for the State of
8 Illinois shall be the Illinois State Police Sexual Assault
9 Evidence Kit. A sexual assault evidence collection kit may not
10 be released by a hospital without the written consent of the
11 sexual assault survivor. In the case of a survivor who is a
12 minor 13 years of age or older, evidence and information
13 concerning the sexual assault may be released at the written
14 request of the minor. If the survivor is a minor who is under
15 13 years of age, evidence and information concerning the
16 alleged sexual assault may be released at the written request
17 of the parent, guardian, investigating law enforcement
18 officer, or Department of Children and Family Services. If the
19 survivor is an adult who has a guardian of the person, a health
20 care surrogate, or an agent acting under a health care power of
21 attorney, then consent of the guardian, surrogate, or agent is
22 not required to release evidence and information concerning the
23 sexual assault. If the adult is unable to provide consent for
24 the release of evidence and information and a guardian,
25 surrogate, or agent under a health care power of attorney is
26 unavailable or unwilling to release the information, then an

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

12 ~~(a-5) All sexual assault evidence collected using the State~~
13 ~~Police Evidence Collection Kits before January 1, 2005 (the~~
14 ~~effective date of Public Act 93-781) that have not been~~
15 ~~previously analyzed and tested by the Department of State~~
16 ~~Police shall be analyzed and tested within 2 years after~~
17 ~~receipt of all necessary evidence and standards into the State~~
18 ~~Police Laboratory if sufficient staffing and resources are~~
19 ~~available.~~ All sexual assault evidence collected using the
20 State Police Evidence Collection Kits ~~on or after January 1,~~
21 ~~2005 (the effective date of Public Act 93-781)~~ shall be
22 analyzed and tested by the Department of State Police within 6
23 months ~~one year~~ after receipt of all necessary evidence and
24 standards into the State Police Laboratory ~~if sufficient~~
25 ~~staffing and resources are available.~~

26 (b) The Illinois State Police shall administer a program to

1 train hospitals and hospital personnel participating in the
2 sexual assault evidence collection program, in the correct use
3 and application of the sexual assault evidence collection kits.
4 A sexual assault nurse examiner may conduct examinations using
5 the sexual assault evidence collection kits, without the
6 presence or participation of a physician. The Department shall
7 cooperate with the Illinois State Police in this program as it
8 pertains to medical aspects of the evidence collection.

9 (c) In this Section, "sexual assault nurse examiner" means
10 a registered nurse who has completed a sexual assault nurse
11 examiner (SANE) training program that meets the Forensic Sexual
12 Assault Nurse Examiner Education Guidelines established by the
13 International Association of Forensic Nurses.

14 (Source: P.A. 95-331, eff. 8-21-07; 95-432, eff. 1-1-08;
15 96-318, eff. 1-1-10.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.