

1 AN ACT concerning sexual assault evidence.

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

4 Section 1. Short title. This Act may be cited as the Sexual
5 Assault Evidence Submission Act.

6 Section 5. Definitions. In this Act:

7 "Department" means the Department of State Police or
8 Illinois State Police.

9 "Law enforcement agencies" means local, county, State or
10 federal law enforcement agencies involved in the investigation
11 of sexual assault cases in Illinois.

12 "Sexual assault evidence" means evidence collected in
13 connection with a sexual assault investigation, including, but
14 not limited to, evidence collected using the State Police
15 Evidence Collection Kits.

16 Section 10. Submission of evidence. Law enforcement
17 agencies that receive sexual assault evidence in connection
18 with the investigation of a criminal case on or after the
19 effective date of this Act must submit evidence from the case
20 within 10 business days of receipt to a Department of State
21 Police forensic laboratory or a laboratory approved and
22 designated by the Director of State Police. Sexual assault

1 evidence received by a law enforcement agency within 30 days
2 prior to the effective date of this Act shall be submitted
3 pursuant to this Section.

4 Section 15. Analysis of evidence. All sexual assault
5 evidence submitted pursuant to Section 10 of this Act on or
6 after the effective date of this Act shall be analyzed within 6
7 months after receipt of all necessary evidence and standards by
8 the State Police Laboratory or other designated laboratory if
9 sufficient staffing and resources are available.

10 Section 20. Inventory of evidence. By October 15, 2010,
11 each Illinois law enforcement agency shall provide written
12 notice to the Department of State Police, in a form and manner
13 prescribed by the Department, stating the number of sexual
14 assault cases in the custody of the law enforcement agency that
15 have not been previously submitted to a laboratory for
16 analysis. Within 180 days after the effective date of this Act,
17 appropriate arrangements shall be made between the law
18 enforcement agency and the Department of State Police, or a
19 laboratory approved and designated by the Director of State
20 Police, to ensure that all cases that were collected prior to
21 the effective date of this Act and are, or were at the time of
22 collection, the subject of a criminal investigation, are
23 submitted to the Department of State Police, or a laboratory
24 approved and designated by the Director of State Police. By

1 February 15, 2011, the Department of State Police shall submit
2 to the Governor, the Attorney General, and both houses of the
3 General Assembly a plan for analyzing cases submitted pursuant
4 to this Section. The plan shall include but not be limited to a
5 timeline for completion of analysis and a summary of the
6 inventory received, as well as requests for funding and
7 resources necessary to meet the established timeline. Should
8 the Department determine it is necessary to outsource the
9 forensic testing of the cases submitted in accordance with this
10 Section, all such cases will be exempt from the provisions of
11 subsection (n) of Section 5-4-3 of the Unified Code of
12 Corrections.

13 Section 25. Failure of a law enforcement agency to submit
14 the sexual assault evidence. The failure of a law enforcement
15 agency to submit the sexual assault evidence collected on or
16 after the effective date of this Act within 10 business days
17 after receipt shall in no way alter the authority of the law
18 enforcement agency to submit the evidence or the authority of
19 the Department of State Police forensic laboratory or
20 designated laboratory to accept and analyze the evidence or
21 specimen or to maintain or upload the results of genetic marker
22 grouping analysis information into a local, State, or national
23 database in accordance with established protocol.

24 Section 30. Required certification. Each submission of

1 sexual assault evidence submitted for analysis pursuant to this
2 Act shall be accompanied by the following signed certification:

3 "This evidence is being submitted by (name of investigating
4 law enforcement agency) in connection with a prior or current
5 criminal investigation."

6 Section 35. Expungement. If the Department receives
7 written confirmation from the investigating law enforcement
8 agency or State's Attorney's office that a DNA record that has
9 been uploaded pursuant to this Act into a local, State or
10 national DNA database was not connected to a criminal
11 investigation, the DNA record shall be expunged from the DNA
12 database and the Department shall, by rule, prescribe
13 procedures to ensure that written confirmation is sent to the
14 submitting law enforcement agency verifying the expungement.

15 Section 40. Failure to expunge. The failure to expunge a
16 DNA record or strictly comply with the provisions of Section 35
17 of this Act shall not be grounds for challenging the validity
18 of a database match or database information, and evidence based
19 upon or derived from the DNA record may not be excluded by a
20 court.

21 Section 45. Rules. The Department of State Police shall
22 promulgate rules that prescribe the procedures for the
23 operation of this Act, including expunging a DNA record.

1 Section 90. The Sexual Assault Survivors Emergency
2 Treatment Act is amended by changing Section 6.4 as follows:

3 (410 ILCS 70/6.4) (from Ch. 111 1/2, par. 87-6.4)

4 Sec. 6.4. Sexual assault evidence collection program.

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

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

1 institution, including any hospital, who provides evidence or
2 information to a law enforcement officer pursuant to a written
3 request as specified in this Section is immune from any civil
4 or professional liability that might arise from those actions,
5 with the exception of willful or wanton misconduct. The
6 immunity provision applies only if all of the requirements of
7 this Section are met.

8 (a-5) (Blank). ~~All sexual assault evidence collected using
9 the State Police Evidence Collection Kits before January 1,
10 2005 (the effective date of Public Act 93-781) that have not
11 been previously analyzed and tested by the Department of State
12 Police shall be analyzed and tested within 2 years after
13 receipt of all necessary evidence and standards into the State
14 Police Laboratory if sufficient staffing and resources are
15 available. All sexual assault evidence collected using the
16 State Police Evidence Collection Kits on or after January 1,
17 2005 (the effective date of Public Act 93-781) shall be
18 analyzed and tested by the Department of State Police within
19 one year after receipt of all necessary evidence and standards
20 into the State Police Laboratory if sufficient staffing and
21 resources are available.~~

22 (b) The Illinois State Police shall administer a program to
23 train hospitals and hospital personnel participating in the
24 sexual assault evidence collection program, in the correct use
25 and application of the sexual assault evidence collection kits.
26 A sexual assault nurse examiner may conduct examinations using

1 the sexual assault evidence collection kits, without the
2 presence or participation of a physician. The Department shall
3 cooperate with the Illinois State Police in this program as it
4 pertains to medical aspects of the evidence collection.

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

10 (Source: P.A. 95-331, eff. 8-21-07; 95-432, eff. 1-1-08;
11 96-318, eff. 1-1-10.)

12 Section 99. Effective date. This Act takes effect September
13 1, 2010.