

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 Sections 1a, 2, 2.1, 2.2, 3, 5, 6.1, 6.2, 6.4, and 7 as follows:

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

Sec. 1a. Definitions. In this Act:

"Ambulance provider" means an individual or entity that owns and operates a business or service using ambulances or emergency medical services vehicles to transport emergency 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.

"Emergency contraception" means medication as approved by the federal Food and Drug Administration (FDA) that can significantly reduce the risk of pregnancy if taken within 72 hours after sexual assault.

"Follow-up healthcare" means healthcare services related to a sexual assault, including laboratory services and pharmacy services, rendered within 90 days of the initial visit for hospital emergency services.

"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.

"Health care professional" means a physician, a physician assistant, or an advanced practice nurse.

"Hospital" has the meaning given to that term in the Hospital Licensing Act.

"Hospital emergency services" means healthcare delivered to outpatients within or under the care and supervision of personnel working in a designated emergency department of a hospital, including, but not limited to, care ordered by such personnel for a sexual assault survivor in the emergency department.

"Illinois State Police Sexual Assault Evidence Collection Kit" means a prepackaged set of materials and forms to be used for the collection of evidence relating to sexual assault. The standardized evidence collection kit for the State of Illinois shall be the Illinois State Police Sexual Assault Evidence Collection Kit.

"Nurse" means a nurse licensed under the Nursing and

Advanced Practice Nursing Act.

"Physician" means a person licensed to practice medicine in all its branches.

"Sexual assault" means an act of nonconsensual sexual conduct or sexual penetration, as defined in Section 12-12 of the Criminal Code of 1961, including, without limitation, acts prohibited under Sections 12-13 through 12-16 of the Criminal Code of 1961.

"Sexual assault survivor" means a person who presents for hospital emergency services in relation to injuries or trauma resulting from a sexual assault.

"Sexual assault transfer plan" means a written plan developed by a hospital and approved by the Department, which describes the hospital's procedures for transferring sexual assault survivors to another hospital in order to receive emergency treatment.

"Sexual assault treatment plan" means a written plan developed by a hospital that describes the hospital's procedures and protocols for providing hospital emergency services and forensic services to sexual assault survivors who present themselves for such services, either directly or through transfer from another hospital.

"Transfer services" means the appropriate medical screening examination and necessary stabilizing treatment prior to the transfer of a sexual assault survivor to a hospital that provides hospital emergency services and

forensic services to sexual assault survivors pursuant to a sexual assault treatment plan or areawide sexual assault treatment plan.

~~Sexual assault means an act of forced sexual penetration or sexual conduct, as defined in Section 12-12 of the Criminal Code, including acts prohibited under Sections 12-13 through 12-16 of the Criminal Code of 1961, as amended.~~

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

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

Sec. 2. Hospital requirements. ~~Hospitals to furnish emergency service.~~ Every hospital required to be licensed by the Department ~~of Public Health~~ pursuant to the Hospital Licensing Act, approved July 1, 1953, as now or hereafter amended, which provides general medical and surgical hospital services shall provide either (i) transfer services or (ii) hospital emergency services and forensic services ~~emergency hospital service~~, in accordance with rules and regulations adopted by the Department ~~of Public Health~~, to all ~~alleged~~ sexual assault survivors who apply for either (i) transfer services or (ii) hospital emergency services and forensic 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 not a request is made for reimbursement, ~~except hospitals participating in community or area wide plans in compliance~~

~~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

Department shall post on its Internet website the report required in this Section. The report shall include all of the following:

- (1) A list of all hospitals that have submitted a plan.
- (2) A list of hospitals whose plans have been found by the Department to be in compliance with this Act.
- (3) A list of hospitals that have failed to submit an acceptable Plan of Correction within the time required by Section 2.1 of this Act.
- (4) A list of hospitals at which the periodic site review required by this Act has been conducted.

When a hospital listed as noncompliant under item (3) of this Section submits and implements the required Plan of Correction, the Department shall immediately update the report on its Internet website to reflect that hospital's compliance.

(Source: P.A. 94-762, eff. 5-12-06.)

(410 ILCS 70/2.1) (from Ch. 111 1/2, par. 87-2.1)

Sec. 2.1. Plan of correction; penalties. ~~Plans of correction — Penalties for failure to implement such plans.~~ If the Department ~~of Public Health~~ surveyor determines that the hospital is not in compliance with its approved plan, the surveyor shall provide the hospital with a written list of the specific items of noncompliance within 10 working days after 2 weeks ~~of~~ the conclusion of the on site review. The hospital shall have 10 ~~14~~ working days to submit to the Department ~~of~~

~~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 unacceptable ~~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.)

(410 ILCS 70/2.2)

Sec. 2.2. Emergency contraception.

(a) The General Assembly finds:

(1) Crimes of sexual assault and sexual abuse ~~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 can 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

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 a physician assistant who has been delegated authority to prescribe emergency contraception. The Department shall 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.

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

(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

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. A hospital is authorized to participate, in conjunction with one or more other hospitals or health care facilities, in a community or areawide plan for the furnishing of hospital emergency service to alleged sexual assault survivors on a 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.~~

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

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

Sec. 5. Minimum requirements for hospitals providing hospital emergency services and forensic services ~~emergency service~~ 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

assault;

(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; ~~including HIV prophylaxis;~~

(5) an evaluation of the sexual assault survivor's risk of contracting human immunodeficiency virus (HIV) from the sexual assault ~~a blood test to determine the presence or absence of sexually transmitted disease;~~

(6) written and oral instructions indicating the need for follow-up examinations and laboratory tests ~~a second blood test 6 weeks~~ after the sexual assault to determine the presence or absence of sexually transmitted disease; ~~and~~

(7) referral by hospital personnel for 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 timely follow-up healthcare.

(b) Any minor who is a sexual assault survivor ~~an alleged survivor of sexual assault~~ who seeks emergency hospital services and forensic services or follow-up healthcare ~~emergency services~~ under this Act shall be provided such services without the consent of the parent, guardian or custodian of the minor.

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

(Source: P.A. 93-962, eff. 8-20-04; 94-434, eff. 1-1-06.)

(410 ILCS 70/5.5 new)

Sec. 5.5. Minimum reimbursement requirements for follow-up healthcare.

(a) Every hospital, health care professional, laboratory, or pharmacy that provides follow-up healthcare to a sexual assault survivor, with the consent of the sexual assault survivor and as ordered by the attending physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician, or physician assistant who has been delegated authority by a supervising physician shall be reimbursed for the follow-up healthcare services provided. Follow-up healthcare services include, but are not limited to, the following:

- (1) a physical examination;
- (2) laboratory tests to determine the presence or absence of sexually transmitted disease; and
- (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.

(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.

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

(410 ILCS 70/6.2) (from Ch. 111 1/2, par. 87-6.2)

Sec. 6.2. Assistance and grants. The Department shall ~~to~~ assist in the development and operation of programs which provide hospital emergency services and forensic services ~~emergency services~~ to ~~alleged~~ sexual assault survivors, and, where necessary, to provide grants to hospitals for this purpose.

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

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

Sec. 6.4. Sexual assault evidence collection program.

(a) There is created a statewide sexual assault evidence collection program to facilitate the prosecution of persons accused of sexual assault. This program shall be administered by the Illinois State Police. The program shall consist of the following: (1) distribution of sexual assault evidence collection kits which have been approved by the Illinois State Police to hospitals that request them, or arranging for such distribution by the manufacturer of the kits, (2) collection of the kits from hospitals after the kits have been used to collect evidence, (3) analysis of the collected evidence and conducting of laboratory tests, (4) maintaining the chain of custody and safekeeping of the evidence for use in a legal proceeding, and (5) the comparison of the collected evidence

with the genetic marker grouping analysis information maintained by the Department of State Police under Section 5-4-3 of the Unified Code of Corrections and with the information contained in the Federal Bureau of Investigation's National DNA database; provided the amount and quality of genetic marker grouping results obtained from the evidence in the sexual assault case meets the requirements of both the Department of State Police and the Federal Bureau of Investigation's Combined DNA Index System (CODIS) policies. The standardized evidence collection kit for the State of Illinois shall be the Illinois State Police Sexual Assault Evidence Kit ~~State Police Evidence Collection Kit, also known as "S.P.E.C.K."~~. A sexual assault evidence collection kit may not be released by a hospital without the written consent of the sexual assault survivor. In the case of a survivor who is a minor 13 years of age or older, evidence and information concerning the ~~alleged~~ sexual assault may be released at the written request of the minor. If the survivor is a minor who is under 13 years of age, evidence and information concerning the alleged sexual assault may be released at the written request of the parent, guardian, investigating law enforcement officer, or Department of Children and Family Services. Any health care professional, including any physician, advanced practice nurse, physician assistant, or nurse, sexual assault nurse examiner, and any health care institution, including any 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 January 1, 2005 (the effective date of Public Act 93-781) ~~this amendatory Act of the 93rd General Assembly~~ 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 January 1, 2005 (the effective date of Public Act 93-781) ~~this amendatory Act of the 93rd General Assembly~~ 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 presence or participation of a physician. The Department ~~of Public Health~~ shall cooperate with the Illinois State Police in this program as it pertains to medical aspects of the evidence collection.

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

(Source: P.A. 92-514, eff. 1-1-02; 93-781, eff. 1-1-05; 93-962, eff. 8-20-04; revised 10-14-04.)

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

Sec. 7. Charges ~~Hospital charges~~ and reimbursement.

(a) When any ambulance provider furnishes transportation, hospital provides hospital emergency services and forensic services, hospital or health care professional or laboratory provides follow-up healthcare, or pharmacy dispenses prescribed medications ~~hospital or ambulance provider furnishes emergency services~~ to any ~~alleged~~ sexual assault survivor, as defined by the Department of Healthcare and Family Services ~~Public Aid pursuant to Section 6.3 of this Act~~, who is neither eligible to receive such services under the Illinois Public Aid Code nor covered as to such services by a policy of insurance, the ~~hospital and ambulance provider,~~ hospital,

health care professional, or laboratory shall furnish such services to that person without charge and shall be entitled to be reimbursed for its billed charges in providing such services by the Illinois Sexual Assault Emergency Treatment Program under the Department of Healthcare and Family Services Public Aid. Pharmacies shall dispense prescribed medications without charge to the survivor and shall be reimbursed at the Department of Healthcare and Family Services' Medicaid allowable rates.

(b) The hospital is responsible for submitting the request for reimbursement for ambulance services, hospital emergency services, and forensic services to the Illinois Sexual Assault Emergency Treatment Program. Nothing in this Section precludes hospitals from providing follow-up healthcare and receiving reimbursement under this Section.

(c) The health care professional who provides follow-up healthcare and the pharmacy that dispenses prescribed medications to a sexual assault survivor are responsible for submitting the request for reimbursement for follow-up healthcare or pharmacy services to the Illinois Sexual Assault Emergency Treatment Program.

(d) The Department of Healthcare and Family Services shall establish standards, rules, and regulations to implement this Section.

(Source: P.A. 89-507, eff. 7-1-97; 90-587, eff. 7-1-98; revised 12-15-05.)

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(410 ILCS 70/4 rep.)

(410 ILCS 70/6 rep.)

(410 ILCS 70/6.3 rep.)

Section 10. The Sexual Assault Survivors Emergency Treatment Act is amended by repealing Sections 4, 6, and 6.3.

INDEX

Statutes amended in order of appearance

410 ILCS 70/1a	from Ch. 111 1/2, par. 87-1a
410 ILCS 70/2	from Ch. 111 1/2, par. 87-2
410 ILCS 70/2.1	from Ch. 111 1/2, par. 87-2.1
410 ILCS 70/2.2	
410 ILCS 70/3	from Ch. 111 1/2, par. 87-3
410 ILCS 70/5	from Ch. 111 1/2, par. 87-5
410 ILCS 70/5.5 new	
410 ILCS 70/6.1	from Ch. 111 1/2, par. 87-6.1
410 ILCS 70/6.2	from Ch. 111 1/2, par. 87-6.2
410 ILCS 70/6.4	from Ch. 111 1/2, par. 87-6.4
410 ILCS 70/7	from Ch. 111 1/2, par. 87-7
410 ILCS 70/4 rep.	
410 ILCS 70/6 rep.	
410 ILCS 70/6.3 rep.	