



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3848

by Rep. Michelle Mussman

#### SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.866 new	
410 ILCS 70/1a	from Ch. 111 1/2, par. 87-1a
410 ILCS 70/5	from Ch. 111 1/2, par. 87-5
410 ILCS 70/7	from Ch. 111 1/2, par. 87-7
410 ILCS 70/7.5 new	
410 ILCS 70/8	from Ch. 111 1/2, par. 87-8

Amends the Sexual Assault Survivors Emergency Treatment Act. Creates the Illinois Sexual Assault Emergency Treatment Program Fund. Prohibits a hospital, health care professional, ambulance provider, laboratory, or pharmacy furnishing hospital emergency services, forensic services, transportation, or medication to a sexual assault survivor from directly billing the survivor. Requires every hospital and health care professional to establish a billing protocol to ensure that no sexual assault survivor is billed for treatment. Contains penalty provisions. Makes other changes. Amends the State Finance Act. Creates the Illinois Sexual Assault Emergency Treatment Program Fund as a special fund in the State treasury.

LRB099 09083 JLK 29273 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 State Finance Act is amended by adding  
5 Section 5.866 as follows:

6 (30 ILCS 105/5.866 new)

7 Sec. 5.866. The Illinois Sexual Assault Emergency  
8 Treatment Program Fund.

9 Section 10. The Sexual Assault Survivors Emergency  
10 Treatment Act is amended by changing Sections 1a, 5, 7, and 8  
11 and by adding Section 7.5 as follows:

12 (410 ILCS 70/1a) (from Ch. 111 1/2, par. 87-1a)

13 Sec. 1a. Definitions. In this Act:

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

18 "Areawide sexual assault treatment plan" means a plan,  
19 developed by the hospitals in the community or area to be  
20 served, which provides for hospital emergency services to  
21 sexual assault survivors that shall be made available by each

1 of the participating hospitals.

2 "Department" means the Department of Public Health.

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

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

11 "Forensic services" means the collection of evidence  
12 pursuant to a statewide sexual assault evidence collection  
13 program administered by the Department of State Police, using  
14 the Illinois State Police Sexual Assault Evidence Collection  
15 Kit.

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

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

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

26 "Illinois State Police Sexual Assault Evidence Collection

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

6 "Nurse" means a nurse licensed under the Nurse Practice  
7 Act.

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

10 "Sexual assault" means an act of nonconsensual sexual  
11 conduct or sexual penetration, as defined in Section 11-0.1 of  
12 the Criminal Code of 2012, including, without limitation, acts  
13 prohibited under Sections 11-1.20 through 11-1.60 of the  
14 Criminal Code of 2012.

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

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

23 "Sexual assault treatment plan" means a written plan  
24 developed by a hospital that describes the hospital's  
25 procedures and protocols for providing hospital emergency  
26 services and forensic services to sexual assault survivors who

1 present themselves for such services, either directly or  
2 through transfer from another hospital.

3 "Transfer services" means the appropriate medical  
4 screening examination and necessary stabilizing treatment  
5 prior to the transfer of a sexual assault survivor to a  
6 hospital that provides hospital emergency services and  
7 forensic services to sexual assault survivors pursuant to a  
8 sexual assault treatment plan or areawide sexual assault  
9 treatment plan.

10 "Voucher" means a document generated by a hospital at the  
11 time the sexual assault survivor receives hospital emergency  
12 and forensic services that a sexual assault survivor may  
13 present to providers for follow-up healthcare.

14 (Source: P.A. 96-328, eff. 8-11-09; 96-1551, eff. 7-1-11;  
15 97-1150, eff. 1-25-13.)

16 (410 ILCS 70/5) (from Ch. 111 1/2, par. 87-5)

17 Sec. 5. Minimum requirements for hospitals providing  
18 hospital emergency services and forensic services to sexual  
19 assault survivors.

20 (a) Every hospital providing hospital emergency services  
21 and forensic services to sexual assault survivors under this  
22 Act shall, as minimum requirements for such services, provide,  
23 with the consent of the sexual assault survivor, and as ordered  
24 by the attending physician, an advanced practice nurse who has  
25 a written collaborative agreement with a collaborating

1 physician that authorizes provision of emergency services, or a  
2 physician assistant who has been delegated authority to provide  
3 hospital emergency services and forensic services, the  
4 following:

5 (1) appropriate medical examinations and laboratory  
6 tests required to ensure the health, safety, and welfare of  
7 a sexual assault survivor or which may be used as evidence  
8 in a criminal proceeding against a person accused of the  
9 sexual assault, or both; and records of the results of such  
10 examinations and tests shall be maintained by the hospital  
11 and made available to law enforcement officials upon the  
12 request of the sexual assault survivor;

13 (2) appropriate oral and written information  
14 concerning the possibility of infection, sexually  
15 transmitted disease and pregnancy resulting from sexual  
16 assault;

17 (3) appropriate oral and written information  
18 concerning accepted medical procedures, medication, and  
19 possible contraindications of such medication available  
20 for the prevention or treatment of infection or disease  
21 resulting from sexual assault;

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

1 (5) an evaluation of the sexual assault survivor's risk  
2 of contracting human immunodeficiency virus (HIV) from the  
3 sexual assault;

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

8 (7) referral by hospital personnel for appropriate  
9 counseling; and

10 (8) when HIV prophylaxis is deemed appropriate, an  
11 initial dose or doses of HIV prophylaxis, along with  
12 written and oral instructions indicating the importance of  
13 timely follow-up healthcare.

14 (b) Any person who is a sexual assault survivor who seeks  
15 emergency hospital services and forensic services or follow-up  
16 healthcare under this Act shall be provided such services  
17 without the consent of any parent, guardian, custodian,  
18 surrogate, or agent.

19 (b-5) Every hospital providing hospital emergency services  
20 and forensic services to sexual assault survivors under this  
21 Act must be registered with the Medical Electronic Data  
22 Interchange System, administered by the Department of  
23 Healthcare and Family Services, and shall issue a voucher to  
24 any sexual assault survivor who is eligible to receive one. The  
25 hospital shall make a copy of the voucher and place it in the  
26 medical record of the sexual assault survivor. The hospital

1 shall provide a copy of the voucher to the sexual assault  
2 survivor upon request.

3 Within 30 days after the effective date of this amendatory  
4 Act of the 99th General Assembly, every hospital providing  
5 services to sexual assault survivors in accordance with a plan  
6 approved under Section 2 of this Act shall provide proof of  
7 registration with the Medical Electronic Data Interchange  
8 System to the Department.

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

12 (Source: P.A. 95-432, eff. 1-1-08; 96-318, eff. 1-1-10.)

13 (410 ILCS 70/7) (from Ch. 111 1/2, par. 87-7)

14 Sec. 7. Reimbursement.

15 (a) A hospital or health care professional furnishing  
16 hospital emergency services or forensic services, an ambulance  
17 provider furnishing transportation to a sexual assault  
18 survivor, a hospital or health care professional or laboratory  
19 providing follow-up healthcare, or pharmacy dispensing  
20 prescribed medications to any sexual assault survivor shall  
21 furnish such services or medications to that person without  
22 charge and shall seek payment as follows:

23 (1) If a sexual assault survivor is eligible to receive  
24 benefits under the medical assistance program under  
25 Article V of the Illinois Public Aid Code, the ambulance

1 provider, hospital, health care professional, laboratory,  
2 or pharmacy must submit the bill to the Department of  
3 Healthcare and Family Services and accept the amount paid  
4 as full payment.

5 (2) If a sexual assault survivor is covered by one or  
6 more policies of insurance, the ambulance provider,  
7 hospital, health care professional, laboratory, or  
8 pharmacy shall bill the insurance company and accept the  
9 amount paid by the insurance company as full payment.

10 (3) If a sexual assault survivor is neither eligible to  
11 receive benefits under the medical assistance program  
12 under Article V of the Illinois Public Aid Code nor covered  
13 by a policy of insurance, the ambulance provider, hospital,  
14 health care professional, laboratory, or pharmacy shall  
15 submit the request for reimbursement to the Illinois Sexual  
16 Assault Emergency Treatment Program and accept the amount  
17 paid by the program as full payment. The hospital is  
18 responsible for submitting the request for reimbursement  
19 for ambulance services, hospital emergency services, and  
20 forensic services to the Illinois Sexual Assault Emergency  
21 Treatment Program.

22 (4) If a sexual assault survivor presents a voucher for  
23 follow-up healthcare, the health care professional and  
24 laboratory that provides follow-up healthcare and the  
25 pharmacy that dispenses prescribed medications to a sexual  
26 assault survivor shall submit the request for

1 reimbursement for follow-up healthcare or pharmacy  
2 services to the Illinois Sexual Assault Emergency  
3 Treatment Program and shall accept the amount paid as full  
4 payment. Nothing in this Section precludes hospitals from  
5 providing follow-up healthcare and receiving reimbursement  
6 under this Section. ~~When any ambulance provider furnishes~~  
7 ~~transportation, hospital provides hospital emergency~~  
8 ~~services and forensic services, hospital or health care~~  
9 ~~professional or laboratory provides follow up healthcare,~~  
10 ~~or pharmacy dispenses prescribed medications to any sexual~~  
11 ~~assault survivor, as defined by the Department of~~  
12 ~~Healthcare and Family Services, who is neither eligible to~~  
13 ~~receive such services under the Illinois Public Aid Code~~  
14 ~~nor covered as to such services by a policy of insurance,~~  
15 ~~the ambulance provider, hospital, health care~~  
16 ~~professional, pharmacy, or laboratory shall furnish such~~  
17 ~~services to that person without charge and shall be~~  
18 ~~entitled to be reimbursed for providing such services by~~  
19 ~~the Illinois Sexual Assault Emergency Treatment Program~~  
20 ~~under the Department of Healthcare and Family Services and~~  
21 ~~at the Department of Healthcare and Family Services'~~  
22 ~~allowable rates under the Illinois Public Aid Code.~~

23 (b) (Blank) ~~The hospital is responsible for submitting the~~  
24 ~~request for reimbursement for ambulance services, hospital~~  
25 ~~emergency services, and forensic services to the Illinois~~  
26 ~~Sexual Assault Emergency Treatment Program. Nothing in this~~

1 ~~Section precludes hospitals from providing follow-up~~  
2 ~~healthcare and receiving reimbursement under this Section.~~

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

9 (d) On and after July 1, 2012, the Department shall reduce  
10 any rate of reimbursement for services or other payments or  
11 alter any methodologies authorized by this Act or the Illinois  
12 Public Aid Code to reduce any rate of reimbursement for  
13 services or other payments in accordance with Section 5-5e of  
14 the Illinois Public Aid Code.

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

18 (Source: P.A. 97-689, eff. 6-14-12; 98-463, eff. 8-16-13.)

19 (410 ILCS 70/7.5 new)

20 Sec. 7.5. Prohibition of billing sexual assault survivors  
21 directly; billing protocol.

22 (a) A hospital, health care professional, ambulance  
23 provider, laboratory, or pharmacy furnishing hospital  
24 emergency services, forensic services, transportation,  
25 follow-up healthcare, or medication to a sexual assault

1 survivor shall not:

2 (1) charge or submit a bill for any portion of the  
3 costs of the services, transportation, or medications to  
4 the sexual assault survivor, including any insurance  
5 deductible , co-pay, co-insurance, denial of claim by an  
6 insurer, spenddown, or any other out-of-pocket expense;

7 (2) communicate with, harass, or intimidate the sexual  
8 assault survivor for payment of services, including, but  
9 not limited to, repeatedly calling or writing to the sexual  
10 assault survivor and threatening to refer the matter to a  
11 debt collection agency or to an attorney for collection,  
12 enforcement, or filing of other process;

13 (3) refer a bill to a collection agency or attorney for  
14 collection action against the sexual assault survivor;

15 (4) contact or distribute information to affect the  
16 sexual assault survivor's credit rating; or

17 (5) take any other action adverse to the sexual assault  
18 survivor or his or her family on account of providing  
19 services to the sexual assault survivor.

20 (b) Within 60 days after the effective date of this  
21 amendatory Act of the 99th General Assembly, every hospital  
22 providing services to sexual assault survivors in accordance  
23 with a plan approved under Section 2 of this Act and every  
24 health care professional who bills separately for hospital  
25 emergency services or forensic services must develop a billing  
26 protocol that ensures that no survivor of sexual assault will

1 be sent a bill for any hospital emergency services or forensic  
2 services and submit the billing protocol to the Crime Victim  
3 Services Division of the Office of the Attorney General for  
4 approval. Health care professionals who bill as a legal entity  
5 may submit a single billing protocol for the billing entity.  
6 The billing protocol must include at a minimum:

7 (1) training for persons who prepare bills for hospital  
8 emergency services and forensic services;

9 (2) a written acknowledgement signed by a person who  
10 has completed the training attesting that he or she will  
11 not bill survivors of sexual assault;

12 (3) prohibitions on submitting any bill for any portion  
13 of hospital emergency services or forensic services  
14 provided to a survivor of sexual assault to a collection  
15 agency;

16 (4) prohibitions on taking any action that would  
17 adversely affect the credit of the survivor of sexual  
18 assault;

19 (5) the termination of all collection activities if the  
20 protocol is violated; and

21 (6) the actions to be taken if a bill is sent to a  
22 collection agency or information is sent to any agency that  
23 generates credit reports to ensure that credit of the  
24 survivor of sexual assault is not adversely affected.

25 The Office of the Attorney General shall approve a proposed  
26 protocol if it finds that the result of the implementation of

1 the protocol is that a survivor of sexual assault would not be  
2 billed for hospital emergency services or forensic services.

3 If the Office of the Attorney General determines that  
4 implementation of the protocol would result in the billing of a  
5 survivor of sexual assault for hospital emergency services or  
6 forensic services, the Office of the Attorney General shall  
7 provide the hospital or health care professional with a written  
8 statement of the deficiencies in the protocol. The hospital or  
9 health care professional shall have 10 days to submit a revised  
10 billing protocol addressing the deficiencies to the Office of  
11 the Attorney General.

12 (c) The hospital or health care professional shall  
13 implement the protocol upon approval by the Crime Victim  
14 Services Division of the Office of the Attorney General. The  
15 Crime Victim Services Division of the Office of the Attorney  
16 may provide a sample acceptable billing protocol upon request.

17 (d) The hospital or health care professional shall submit  
18 any proposed revision to or modification of an approved billing  
19 protocol to the Crime Victim Services Division of the Office of  
20 the Attorney General for approval. The hospital or health care  
21 professional shall implement the revised or modified billing  
22 protocol upon approval by the Crime Victim Services Division of  
23 the Office of the Illinois Attorney General.

24 (e) The Office of the Attorney General may provide posters  
25 or other materials to display in hospital and health care  
26 billing departments and pharmacies regarding the billing of

1 sexual assault survivors.

2 (f) A hospital or health care professional who fails to  
3 submit an acceptable billing protocol within the time frame  
4 required by subsection (b) of this Section may be fined by the  
5 Department. The Department, upon the request of the Office of  
6 the Attorney General, may impose a fine of up to \$500 per day  
7 until a hospital or health care professional complies with the  
8 requirements of subsections (b) through (d) of this Section.  
9 Before imposing a fine, the Department shall provide the  
10 hospital by certified mail with written notice and an  
11 opportunity for an administrative hearing. Such hearing must be  
12 requested within 10 working days after receipt of the  
13 Department's notice. All hearings shall be conducted in  
14 accordance with the Department's rules on administrative  
15 hearings. All fines shall be deposited in the Illinois Sexual  
16 Assault Emergency Treatment Program Fund, a special fund  
17 created in the State treasury, and, subject to appropriation  
18 and any grant funds, shall be used by the Department of  
19 Healthcare and Family Services for reimbursement purposes  
20 under Section 7 of this Act.

21 (g) A hospital that furnishes emergency services to sexual  
22 assault survivors shall coordinate with the Illinois Criminal  
23 Justice Information Authority, the Office of the Attorney  
24 General, and local rape crisis centers to notify sexual assault  
25 survivors of the availability of hospital emergency services  
26 and forensic services at no cost to victims.

1 (410 ILCS 70/8) (from Ch. 111 1/2, par. 87-8)

2 Sec. 8. Penalties.

3 (a) Any hospital, health care professional, or ambulance  
4 provider violating subsection (a) of Section 7.5 of this Act  
5 shall be subject to a fine by the Department. The Department  
6 shall impose a fine of \$500 for the first violation. For each  
7 subsequent violation, the Department shall impose a fine of  
8 \$500 multiplied by the total number of past violations. The  
9 Department may impose a fine of up to \$500 per day for each day  
10 a bill is with a collection agency. Before imposing a fine  
11 pursuant to this subsection (a), the Department shall provide  
12 the hospital, health care professional, or ambulance provider  
13 by certified mail with written notice and an opportunity for an  
14 administrative hearing. Such a hearing must be requested within  
15 10 working days after receipt of the Department's notice. All  
16 hearings shall be conducted in accordance with the Department's  
17 rules on administrative hearings. All fines shall be deposited  
18 in the Illinois Sexual Assault Emergency Treatment Program  
19 Fund.

20 (b) Any hospital violating any provisions of this Act other  
21 than subsection (a) of Section 7.5 shall be guilty of a petty  
22 offense for each violation, and any fine imposed shall be paid  
23 into the general corporate funds of the city, incorporated town  
24 or village in which the hospital is located, or of the county,  
25 in case such hospital is outside the limits of any incorporated

1 municipality.

2 (Source: P.A. 79-564.)