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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.

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

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

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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 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;

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

(6) written and oral instructions indicating the need for follow-up examinations and laboratory tests after the sexual assault to determine the presence or absence of sexually transmitted disease; HB4081 Engrossed

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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 <u>person</u> 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 <u>any the parent</u>, guardian<u>, or</u> 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.

(a) There is created a statewide sexual assault evidence 18 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 collection kits which have been approved by the Illinois State 23 24 Police to hospitals that request them, or arranging for such 25 distribution by the manufacturer of the kits, (2) collection of

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the kits from hospitals after the kits have been used to 1 2 collect evidence, (3) analysis of the collected evidence and 3 conducting of laboratory tests, (4) maintaining the chain of custody and safekeeping of the evidence for use in a legal 4 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 5-4-3 of the Unified Code of Corrections and with the 8 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. The standardized evidence collection kit for the State of 15 16 Illinois shall be the Illinois State Police Sexual Assault 17 Evidence Kit. A sexual assault evidence collection kit may not be released by a hospital without the written consent of the 18 sexual assault survivor. In the case of a survivor who is a 19 20 minor 13 years of age or older, evidence and information concerning the sexual assault may be released at the written 21 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 parent, guardian, investigating law of the enforcement 26 officer, or Department of Children and Family Services. If the HB4081 Engrossed - 5 - LRB096 11796 RPM 22608 b

survivor is an adult who has a guardian of the person, a health 1 2 care surrogate, or an agent acting under a health care power of 3 attorney, then consent of the guardian, surrogate, or agent is not required to release evidence and information concerning the 4 5 sexual assault. If the adult is unable to provide consent for the release of evidence and information and a quardian, 6 surrogate, or agent under a health care power of attorney is 7 unavailable or unwilling to release the information, then an 8 9 investigating law enforcement officer may authorize the 10 release. Anv health care professional, including anv 11 physician, advanced practice nurse, physician assistant, or 12 nurse, sexual assault nurse examiner, and any health care institution, including any hospital, who provides evidence or 13 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 immunity provision applies only if all of the requirements of 18 this Section are met. 19

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 HB4081 Engrossed - 6 - LRB096 11796 RPM 22608 b

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) 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.

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.

(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.

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 January24 1, 2010.