

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, 62706GEORGE H. RYAN
GOVERNOR

July 27, 2001

To the Honorable Members of the
Illinois House of Representatives
92nd General Assembly

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in People ex Rel. Klinger v. Howlett, 50 Ill. 2d 242 (1972), Continental Illinois National Bank and Trust Co. v. Zagel, 78 Ill. 2d 387 (1979), People ex Rel. City of Canton v. Crouch, 79 Ill. 2d 356 (1980), and County of Kane v. Carlson, 116 Ill. 2d 186 (1987), that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return House Bill 3172, entitled "AN ACT in relation to criminal law," with my specific recommendations for change.

House Bill 3172 allows a sexual assault nurse examiner to conduct an examination of a sexual assault victim using a State Police Evidence Collection Kit. A sexual assault nurse examiner is defined as a registered nurse who has completed a sexual assault nurse examiner training program which meets the guidelines of the International Association of Forensic Nurses.

I fully support the purpose of House Bill 3172 which is to expand the number of personnel trained to collect potential evidence for a sexual assault criminal trial. The bill, however, explicitly states that a "sexual assault nurse examiner is competent to conduct examinations using sexual assault evidence collections kits." While this particular language may not cause any problem, the word "competent" does carry with it a certain evidentiary meaning.

While I believe the possibility is remote, the provision listing only sexual assault nurse examiner as "competent" to collect sexual evidence could be argued by defense counsel to make only sexual assault nurse examiners competent from an evidentiary standpoint to collect this evidence and thereby exclude other personnel, such as doctors. It is my understanding that the intent of this provision was to clarify that a nurse examiner could conduct the examination without the necessity of a doctor being present or participating in the examination. I believe the provision should be made clear that this is the intent and thereby eliminate any other possible interpretation of the law.

Finally, to make sure that this necessary provision becomes law on January 1, 2002, as originally intended by the General Assembly, I also suggest adding a January 1, 2002 effective date so that my amendatory veto does not delay implementation of the law.

For these reasons, I return House Bill 3172 with the following recommendations for change:

On page 2, by replacing lines 15 through 17 with the following:

"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"; and

On page 2, by inserting after line 27 the following:

"Section 99. Effective date. This Act takes effect
January 1, 2002."

With these specific recommendations for change, House
Bill 3172 will have my approval. I respectfully request your
concurrence.

Sincerely,
s/GEORGE H. RYAN
Governor