



February 21, 2014

**ENGROSSED
SENATE BILL No. 255**

DIGEST OF SB 255 (Updated February 20, 2014 6:37 am - DI 84)

Citations Affected: IC 10-11; IC 16-18; IC 16-21; IC 34-30.

Synopsis: Implied consent for forensic examination. Repeals and relocates certain definitions relating to the provision of forensic medical examinations. Defines "sexual assault examination kit", and requires: (1) the state police department to develop and distribute a standard sexual assault examination kit; and (2) health care providers conducting forensic medical examinations of suspected victims of sex crimes to use the sexual assault examination kit if practicable. Provides that a health care provider may conduct a forensic medical examination of an unconscious person who is suspected to be the victim of a sex crime without the consent of the victim or other authorized individuals under certain circumstances. Provides the health care provider with immunity in conducting the examination.

Effective: July 1, 2014.

**Lanane, Miller Patricia,
Charbonneau, Randolph**
(HOUSE SPONSORS — CLERE, LAWSON L, AUSTIN)

January 9, 2014, read first time and referred to Committee on Health and Provider Services.

January 30, 2014, amended, reported favorably — Do Pass.

February 3, 2014, read second time, amended, ordered engrossed.

February 4, 2014, engrossed. Read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 10, 2014, read first time and referred to Committee on Public Health.

February 20, 2014, reported — Do Pass.

ES 255—LS 6841/DI 106



February 21, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 255

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-11-2-33 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]: **Sec. 33. (a) The superintendent shall adopt guidelines to**
4 **establish a standard medical forensic examination kit for victims**
5 **of a sex crime.**

6 **(b) The superintendent shall distribute the standard medical**
7 **forensic examination kits to hospitals and other health care**
8 **providers who may provide forensic medical examinations to the**
9 **victims of a sex crime. The superintendent may adopt guidelines to**
10 **carry out this subsection.**

11 SECTION 2. IC 16-18-2-97, AS AMENDED BY P.L.3-2008,
12 SECTION 104, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2014]: Sec. 97. "Division" means the following:

- 14 (1) For purposes of IC 16-21-8, the meaning set forth in
15 ~~IC 16-21-8-0.1.~~ **IC 16-21-8-0.2.**
16 (2) For purposes of IC 16-22-8, the meaning set forth in

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- 1 IC 16-22-8-3.
- 2 (3) For purposes of IC 16-27, a group of individuals under the
- 3 supervision of the director within the state department assigned
- 4 the responsibility of implementing IC 16-27.
- 5 (4) For purposes of IC 16-28, a group of individuals under the
- 6 supervision of the director within the state department assigned
- 7 the responsibility of implementing IC 16-28.
- 8 (5) For purposes of IC 16-41-40, the division of family resources
- 9 established by IC 12-13-1-1.
- 10 SECTION 3. IC 16-18-2-117.5 IS ADDED TO THE INDIANA
- 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 12 [EFFECTIVE JULY 1, 2014]: **Sec. 117.5. "Evidence", for purposes**
- 13 **of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.2.**
- 14 SECTION 4. IC 16-18-2-295, AS AMENDED BY P.L.141-2012,
- 15 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 16 JULY 1, 2014]: Sec. 295. (a) "Provider", for purposes of IC 16-21-8,
- 17 has the meaning set forth in ~~IC 16-21-8-0.5~~: **IC 16-21-8-0.2.**
- 18 (b) "Provider", for purposes of IC 16-38-5, IC 16-39 (except for
- 19 IC 16-39-7), and IC 16-41-1 through IC 16-41-9, means any of the
- 20 following:
- 21 (1) An individual (other than an individual who is an employee or
- 22 a contractor of a hospital, a facility, or an agency described in
- 23 subdivision (2) or (3)) who is licensed, registered, or certified as
- 24 a health care professional, including the following:
- 25 (A) A physician.
- 26 (B) A psychotherapist.
- 27 (C) A dentist.
- 28 (D) A registered nurse.
- 29 (E) A licensed practical nurse.
- 30 (F) An optometrist.
- 31 (G) A podiatrist.
- 32 (H) A chiropractor.
- 33 (I) A physical therapist.
- 34 (J) A psychologist.
- 35 (K) An audiologist.
- 36 (L) A speech-language pathologist.
- 37 (M) A dietitian.
- 38 (N) An occupational therapist.
- 39 (O) A respiratory therapist.
- 40 (P) A pharmacist.
- 41 (Q) A sexual assault nurse examiner.
- 42 (2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or



1 described in IC 12-24-1 or IC 12-29.

2 (3) A health facility licensed under IC 16-28-2.

3 (4) A home health agency licensed under IC 16-27-1.

4 (5) An employer of a certified emergency medical technician, a
5 certified advanced emergency medical technician, or a licensed
6 paramedic.

7 (6) The state department or a local health department or an
8 employee, agent, designee, or contractor of the state department
9 or local health department.

10 (c) "Provider", for purposes of IC 16-39-7-1, has the meaning set
11 forth in IC 16-39-7-1(a).

12 (d) "Provider", for purposes of IC 16-48-1, has the meaning set forth
13 in IC 16-48-1-3.

14 SECTION 5. IC 16-18-2-321.5 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2014]: **Sec. 321.5. "Sample", for purposes of**
17 **IC 16-21-8, has the meaning set forth in IC 16-21-8-0.2.**

18 SECTION 6. IC 16-18-2-326.5 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2014]: **Sec. 326.5. "Secured storage", for**
21 **purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.2.**

22 SECTION 7. IC 16-18-2-328.3 IS ADDED TO THE INDIANA
23 CODE AS A NEW SECTION TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2014]: **Sec. 328.3. "Sexual assault**
25 **examination kit", for purposes of IC 16-21-8, has the meaning set**
26 **forth in IC 16-21-8-0.2.**

27 SECTION 8. IC 16-18-2-328.4 IS ADDED TO THE INDIANA
28 CODE AS A NEW SECTION TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2014]: **Sec. 328.4. "Sexual assault nurse**
30 **examiner", for purposes of IC 16-21-8, has the meaning set forth**
31 **in IC 16-21-8-0.2.**

32 SECTION 9. IC 16-18-2-365.5 IS REPEALED [EFFECTIVE JULY
33 1, 2014]. **Sec. 365.5. "Victim", for purposes of IC 16-21-8, has the**
34 **meaning set forth in IC 16-21-8-0.9.**

35 SECTION 10. IC 16-21-8-0.1 IS REPEALED [EFFECTIVE JULY
36 1, 2014]. **Sec. 0.1. As used in this chapter, "division" refers to the**
37 **victim services division of the Indiana criminal justice institute**
38 **established by IC 5-2-6-8(a).**

39 SECTION 11. IC 16-21-8-0.2 IS ADDED TO THE INDIANA
40 CODE AS A NEW SECTION TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2014]: **Sec. 0.2. The following definitions**
42 **apply throughout this chapter:**



- 1 (1) "Division" refers to the victim services division of the
 2 Indiana criminal justice institute established by IC 5-2-6-8(a).
 3 (2) "Evidence" means the results collected from a forensic
 4 medical examination of a victim by a provider after the victim
 5 has reported the sex crime to law enforcement.
 6 (3) "Provider" means a hospital or licensed medical services
 7 provider that provides forensic medical exams and additional
 8 forensic services to a victim.
 9 (4) "Sample" means the result collected from a forensic
 10 medical examination of the victim by a provider, when the
 11 victim has not yet reported the sex crime to law enforcement.
 12 (5) "Secured storage" means a method of storing a sample
 13 that will adequately safeguard the integrity and viability of
 14 the sample.
 15 (6) "Sexual assault examination kit" means the standard
 16 medical forensic examination kit for victims of sexual assault
 17 developed by the state police department under IC 10-11-2-33.
 18 (7) "Sexual assault nurse examiner" means a registered nurse
 19 who:
 20 (A) has received training to provide comprehensive care to
 21 sexual assault survivors; and
 22 (B) can:
 23 (i) conduct a forensic medical examination; and
 24 (ii) collect evidence from a sexual assault victim.
 25 SECTION 12. IC 16-21-8-0.3 IS REPEALED [EFFECTIVE JULY
 26 1, 2014]. Sec. 0:3: As used in this chapter, "evidence" means the results
 27 collected from a forensic medical exam of a victim by a provider when
 28 the victim has reported the sex crime to law enforcement.
 29 SECTION 13. IC 16-21-8-0.5 IS REPEALED [EFFECTIVE JULY
 30 1, 2014]. Sec. 0:5: As used in this chapter, "provider" means a hospital
 31 or licensed medical services provider that provides forensic medical
 32 exams and additional forensic services to a victim.
 33 SECTION 14. IC 16-21-8-0.6 IS REPEALED [EFFECTIVE JULY
 34 1, 2014]. Sec. 0:6: As used in this chapter, "sample" means the result
 35 collected from a forensic medical exam of the victim by a provider;
 36 when the victim has not yet reported the sex crime to law enforcement.
 37 SECTION 15. IC 16-21-8-0.7 IS REPEALED [EFFECTIVE JULY
 38 1, 2014]. Sec. 0:7: As used in this chapter, "secured storage" means a
 39 method of storing a sample that will adequately safeguard the integrity
 40 and viability of the sample.
 41 SECTION 16. IC 16-21-8-0.8 IS REPEALED [EFFECTIVE JULY
 42 1, 2014]. Sec. 0:8: As used in this chapter, "sexual assault nurse



1 examiner" means a registered nurse who:

2 (1) has received training to provide comprehensive care to sexual
3 assault survivors; and

4 (2) can:

5 (A) conduct a forensic medical examination; and

6 (B) collect evidence from a sexual assault victim.

7 SECTION 17. IC 16-21-8-0.9 IS REPEALED [EFFECTIVE JULY
8 1, 2014]. Sec. 0.9: As used in this chapter, "victim" means an alleged
9 sex crime victim.

10 SECTION 18. IC 16-21-8-1, AS AMENDED BY P.L.214-2013,
11 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2014]: Sec. 1.(a) A hospital licensed under IC 16-21-2 that
13 provides general medical and surgical hospital services shall provide
14 forensic medical exams and additional forensic services to all alleged
15 sex crime victims who apply for forensic medical exams and additional
16 forensic services in relation to injuries or trauma resulting from the
17 alleged sex crime. **To the extent practicable, the hospital shall use
18 a sexual assault examination kit to conduct forensic exams and
19 provide forensic services.** The provision of services may not be
20 dependent on a victim's reporting to, or cooperating with, law
21 enforcement.

22 (b) For the purposes of this chapter, the following crimes are
23 considered sex crimes:

24 (1) Rape (IC 35-42-4-1).

25 (2) Criminal deviate conduct (IC 35-42-4-2) (repealed).

26 (3) Child molesting (IC 35-42-4-3).

27 (4) Vicarious sexual gratification (IC 35-42-4-5).

28 (5) Sexual battery (IC 35-42-4-8).

29 (6) Sexual misconduct with a minor (IC 35-42-4-9).

30 (7) Child solicitation (IC 35-42-4-6).

31 (8) Child seduction (IC 35-42-4-7).

32 (9) Incest (IC 35-46-1-3).

33 (c) Payment for services under this section shall be processed in
34 accordance with rules adopted by the victim services division of the
35 Indiana criminal justice institute.

36 SECTION 19. IC 16-21-8-1.1 IS ADDED TO THE INDIANA
37 CODE AS A NEW SECTION TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2014]: **Sec. 1.1. (a) A provider may conduct
39 a forensic medical examination without the consent of the person
40 who is the subject of the examination, or the consent of another
41 person authorized to give consent under IC 16-36-1-5, if the
42 following conditions are met:**



- 1 **(1) The person:**
2 **(A) does not have the capacity to provide informed consent**
3 **under IC 16-36-1; and**
4 **(B) is, based on the medical opinion of the health care**
5 **provider, incapable of providing consent within the time**
6 **for evidence to be collected through a forensic medical**
7 **examination.**
8 **(2) The provider has a reasonable suspicion that the person**
9 **may be the victim of a sex crime.**
10 **(3) A person authorized to give consent under IC 16-36-1-5 is:**
11 **(A) not reasonably available; or**
12 **(B) the suspected perpetrator of the sex crime.**
13 **(b) A provider is immune from civil liability for conducting a**
14 **forensic medical examination without consent in accordance with**
15 **this section unless performance of the forensic medical**
16 **examination constitutes gross negligence or willful or wanton**
17 **misconduct.**
18 SECTION 20. IC 34-30-2-66.3 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2014]: **Sec. 66.3. IC 16-21-8-1.1 (Concerning**
21 **a provider conducting a forensic medical examination).**



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 255, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 6, line 2, after "(2)" insert "**The person is at least eighteen (18) years of age.**

(3)".

Page 6, line 4, delete "(3)" and insert "**(4)**".

Page 6, delete lines 7 through 9, begin a new paragraph and insert:

"(b) A provider is immune from civil liability for conducting a forensic medical examination without consent in accordance with this section unless performance of the forensic medical examination constitutes gross negligence or willful or wanton misconduct.

SECTION 20. IC 34-30-2-66.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 66.3. IC 16-21-8-1.1 (Concerning a provider conducting a forensic medical examination).**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 255 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 10, Nays 0.



SENATE MOTION

Madam President: I move that Senate Bill 255 be amended to read as follows:

Page 6, line 1, delete "person is unconscious." and insert "**person: (A) does not have the capacity to provide informed consent under IC 16-36-1; and (B) is, based on the medical opinion of the health care provider, incapable of providing consent within the time for evidence to be collected through a forensic medical examination.**".

Page 6, delete line 2.

Page 6, line 3, delete "(3)" and insert "**(2)**".

Page 6, line 5, delete "(4)" and insert "**(3)**".

(Reference is to SB 255 as printed January 31, 2014.)

BREAUX

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 255, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 255 as printed February 4, 2014.)

Committee Vote: Yeas 9, Nays 0

Representative Clere

