February 16, 2007

HOUSE BILL No. 1654

DIGEST OF HB 1654 (Updated February 13, 2007 3:31 pm - DI 107)

Citations Affected: IC 5-2; IC 16-18; IC 16-21; IC 35-37.

Synopsis: Sex crime victims and polygraph examinations. Prohibits a law enforcement officer from requiring an alleged victim of a sex crime to submit to a polygraph examination. Provides that a law enforcement officer may not refuse to investigate, charge, or prosecute a sex crime solely because the alleged victim of the sex crime has not submitted to a polygraph examination. Removes restrictions for when the victim services division of the criminal justice institute (institute) may reimburse a medical services provider for the costs in providing forensic services. Creates the secured storage fund to assist counties with paying for the secured storage of a sample (sample) from forensic medical examinations of a sex crime victim (victim). Requires a provider to label a sample. Requires a hospital to give notice to a victim of certain rights and to contact law enforcement. Requires law enforcement to transport the sample to secured storage. Requires the sample to remain in secured storage for specified periods of time. Requires the institute to provide notice to victims regarding the sample. Requires a prosecuting attorney to appoint a sexual assault response team (SART) if a SART is not established in a county. Requires a SART to develop a plan regarding evidence of sexual assaults.

Effective: July 1, 2007.

Dembowski, Elrod, Brown C

January 23, 2007, read first time and referred to Committee on Judiciary.
February 15, 2007, amended, reported — Do Pass.

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February 16, 2007

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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HOUSE BILL No. 1654

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 5-2-6.1-39, AS AMENDED BY P.L.121-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 39. (a) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital shall furnish the forensic medical exam described in IC 16-21-8-6 without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and shall adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter, despite delays in reimbursement from the victim services division of the Indiana criminal justice institute.

(b) When a hospital acting under IC 16-21-8 provides additional forensic services to an alleged sex crime victim who cooperates with law enforcement under IC 16-21-8-5(b), ~~or IC 16-21-8-5(c),~~ the hospital shall furnish the additional forensic services without charge. The victim services division of the Indiana criminal justice institute

shall reimburse a hospital for its costs in providing these services and may adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(c) When a hospital acting under IC 16-21-8 provides additional forensic services to an alleged sex crime victim who does not cooperate with law enforcement under IC 16-21-8-5(b), ~~or IC 16-21-8-5(c),~~ the hospital may, **with the victim's consent,** seek reimbursement directly from the victim or any third party payer for any additional forensic services rendered by the hospital.

(d) Costs incurred by a hospital or other emergency medical facility for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3), if the examination is performed for the purposes of gathering evidence for possible prosecution, may not be charged to the victim of the crime. ~~The costs shall be treated as local costs and charged to the appropriate local governmental agency as follows:~~

~~(1) If the treatment or services are provided at a county or city hospital, or hospital district facility, the county shall pay the expenses.~~

~~(2) If the treatment or services are provided at a private hospital, the expenses are paid by the county in whose jurisdiction the alleged crime was committed.~~

(e) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide a forensic medical exam to an alleged victim of one (1) or more of the sex crimes listed in IC 16-21-8-1(b), the medical service provider shall furnish the exam without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing forensic medical exams. A medical service provider may not charge the victim for a forensic medical exam required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(f) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide additional forensic services to an alleged sex crime victim who cooperates with law enforcement under IC 16-21-8-5(b), ~~or IC 16-21-8-5(c),~~ the medical service provider shall furnish the services without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing the additional forensic services. A

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medical service provider may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(g) When a medical service provider acting under IC 16-21-8 provides additional forensic services to an alleged sex crime victim who does not cooperate with law enforcement under IC 16-21-8-5(b), ~~or IC 16-21-8-5(c),~~ the medical service provider may, **with the victim's consent,** seek reimbursement directly from the victim or any third party payer for additional forensic services rendered by the medical service provider.

(h) The victim services division of the Indiana criminal justice institute ~~may~~ **is not required to** reimburse a medical service provider for costs in providing additional forensic services ~~if~~ **unless** the following conditions are met:

(1) ~~If~~ The victim is at least eighteen (18) years of age.

~~(A) the sex crime must be reported to a law enforcement officer within ninety-six (96) hours after the crime occurred; and~~

~~(B) the victim must cooperate to the fullest extent possible with law enforcement personnel to solve the crime.~~

(2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer. ~~The division may not deny an application for reimbursement under this subdivision solely because the victim reported the sex crime more than ninety-six (96) hours after the crime's occurrence.~~

(3) The sex crime occurred in Indiana.

If the division finds a compelling reason for failure to ~~report to or cooperate with law enforcement officials and justice requires,~~ **comply with the requirements of this section,** the division may suspend the requirements of this section.

(i) Costs incurred by a licensed medical service provider for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3) may not be charged to the victim of the crime if the examination is performed for the purposes of gathering evidence for possible prosecution. ~~The costs are local costs to be paid by the county in which the alleged crime was committed.~~

SECTION 2. IC 5-2-6.1-49 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 49. (a) The secured storage fund is established as a**

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dedicated fund to provide money to assist counties to pay expenses for the secured storage of samples from forensic medical examinations of alleged sex crime victims.

(b) The division shall administer the secured storage fund.

(c) The institute shall identify grants and other funds that can be used to fund the secured storage of samples from forensic medical examinations of alleged sex crime victims.

(d) Money in the secured storage fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 3. IC 16-18-2-97 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 97. "Division" means the following:

(1) For purposes of IC 16-21-8, the meaning set forth in ~~IC 16-21-8-0.5.~~ **IC 16-21-8-0.1.**

(2) For purposes of IC 16-22-8, the meaning set forth in IC 16-22-8-3.

(3) For purposes of IC 16-27, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-27.

(4) For purposes of IC 16-28, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-28.

(5) For purposes of IC 16-41-40, the meaning set forth in IC 16-41-40-1.

SECTION 4. IC 16-18-2-295 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 295. (a) "Provider", for purposes of IC 16-21-8, has the meaning set forth in ~~IC 16-21-8-0.6.~~ **IC 16-21-8-0.5.**

(b) "Provider", for purposes of IC 16-38-5, IC 16-39 (except for IC 16-39-7) and IC 16-41-1 through IC 16-41-9 and IC 16-41-37, means any of the following:

(1) An individual (other than an individual who is an employee or a contractor of a hospital, a facility, or an agency described in subdivision (2) or (3)) who is licensed, registered, or certified as a health care professional, including the following:

(A) A physician.

(B) A psychotherapist.

(C) A dentist.

(D) A registered nurse.

(E) A licensed practical nurse.

(F) An optometrist.

(G) A podiatrist.

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(H) A chiropractor.
(I) A physical therapist.
(J) A psychologist.
(K) An audiologist.
(L) A speech-language pathologist.
(M) A dietitian.
(N) An occupational therapist.
(O) A respiratory therapist.
(P) A pharmacist.
(Q) A sexual assault nurse examiner.

(2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or described in IC 12-24-1 or IC 12-29.
(3) A health facility licensed under IC 16-28-2.
(4) A home health agency licensed under IC 16-27-1.
(5) An employer of a certified emergency medical technician, a certified emergency medical technician-basic advanced, a certified emergency medical technician-intermediate, or a certified paramedic.
(6) The state department or a local health department or an employee, agent, designee, or contractor of the state department or local health department.

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

SECTION 5. IC 16-18-2-365.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 365.5. "Victim", for purposes of IC 16-21-8, has the meaning set forth in ~~IC 16-21-8-0.7.~~ **IC 16-21-8-0.9.**

SECTION 6. IC 16-21-8-0.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.1. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute established by IC 5-2-6-8(a).**

SECTION 7. IC 16-21-8-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.3. As used in this chapter, "evidence" means the results collected from a forensic medical exam of a victim by a provider when the victim has reported the sex crime to law enforcement.**

SECTION 8. IC 16-21-8-0.5, AS ADDED BY P.L.90-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 0.5. As used in this chapter, ~~"division" refers to the victim services division of the Indiana criminal justice institute~~

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~~established by IC 5-2-6-8(a).~~ **"provider" means a hospital or licensed medical services provider that provides forensic medical exams and additional forensic services to a victim.**

SECTION 9. IC 16-21-8-0.6, AS AMENDED BY P.L.121-2006, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 0.6. As used in this chapter, ~~"provider"~~ **"sample"** means ~~a hospital or licensed medical services provider that provides forensic medical exams and additional forensic services to a~~ **the result collected from a forensic medical exam of the** victim **by a provider, when the victim has not yet reported the sex crime to law enforcement.**

SECTION 10. IC 16-21-8-0.7, AS ADDED BY P.L.90-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 0.7. As used in this chapter, ~~"victim"~~ **"secured storage"** means ~~an alleged sex crime victim.~~ **a method of storing a sample that will adequately safeguard the integrity and viability of the sample.**

SECTION 11. IC 16-21-8-0.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.8. As used in this chapter, "sexual assault nurse examiner" means a registered nurse who:**

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

(2) can:

(A) conduct a forensic medical examination; and

(B) collect evidence from a sexual assault victim.

SECTION 12. IC 16-21-8-0.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.9. As used in this chapter, "victim" means an alleged sex crime victim.**

SECTION 13. IC 16-21-8-1, AS AMENDED BY P.L.121-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) A hospital licensed under IC 16-21-2 that provides general medical and surgical hospital services shall provide forensic medical exams and additional forensic services, in accordance with rules adopted by the victim services division of the Indiana criminal justice institute, to all alleged sex crime victims who apply for forensic medical exams and additional forensic services in relation to injuries or trauma resulting from the alleged sex crime. **The provision of services may not be dependent on a victim's reporting to, or cooperating with, law enforcement.**

(b) For the purposes of this chapter, the following crimes are

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considered sex crimes:

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

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

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

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

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

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

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

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

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

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

SECTION 14. IC 6-21-8-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. If a sexual assault response team has not been established in a county, the prosecuting attorney shall appoint a sexual assault response team to comply with duties assigned to sexual response teams under this chapter.**

SECTION 15. IC 16-21-8-2, AS AMENDED BY P.L.121-2006, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) ~~Community or areawide plans may be developed by the hospitals.~~ **Each county sexual assault response team shall develop a plan that establishes the protocol for sexual assault victim response and treatment, including the:**

(1) collection;

(2) preservation;

(3) secured storage; and

(4) destruction;

of samples.

(b) ~~A hospital may participate with at least one (1) other hospital in a community or an areawide plan to furnish forensic medical exams and additional forensic services to alleged sex crime victims. A hospital participating in the plan must furnish the forensic medical exams and additional forensic services that the plan designates to an alleged sex crime victim who applies for forensic medical exams and additional forensic services for injuries or trauma resulting from the alleged sex crime.~~ **The plan under subsection (a) shall address the following regarding an alleged sexual assault victim who is at least eighteen (18) years of age and who either reports a sexual assault or elects not to report a sexual assault to law enforcement:**

(1) The method of maintaining the confidentiality of the

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alleged sexual assault victim regarding the chain of custody and secured storage of a sample.

(2) The development of a victim notification form that notifies an alleged sexual assault victim of his or her rights under the law.

(3) How a victim will receive the victim notification form.

(4) Identification of law enforcement agencies that will be responsible to transport samples.

(5) Agreements between medical providers and law enforcement agencies to pick up and store samples.

(6) Maintaining samples in secured storage.

(7) Procedures to destroy a sample following applicable statute of limitations.

SECTION 16. IC 16-21-8-3, AS AMENDED BY P.L.121-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. A ~~hospital that~~ **physician or sexual assault nurse examiner who** provides forensic medical exams and additional forensic services shall provide the forensic medical exams and additional forensic services to an alleged sex crime victim under this chapter with the consent of the alleged sex crime victim. ~~and as ordered by the attending physician.~~

SECTION 17. IC 16-21-8-5, AS AMENDED BY P.L.121-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The division shall award compensation or reimbursement under this chapter for forensic medical exams.

(b) The division ~~shall~~ **is not required to** award compensation or reimbursement under this chapter for additional forensic services ~~if~~ **unless** the following conditions are met:

(1) ~~If~~ The victim is at least eighteen (18) years of age.

~~(A) the sex crime must be reported to a law enforcement officer within ninety-six (96) hours after the crime's occurrence; and~~

~~(B) the victim must cooperate to the fullest extent possible with law enforcement personnel to solve the crime.~~

(2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer. ~~The division may not deny an application for reimbursement under this subdivision based on the victim reporting the sex crime more than ninety-six (96) hours after the crime's occurrence.~~

(3) The sex crime occurred in Indiana.

~~(c)~~ If the division finds a compelling reason for failure to ~~report to or~~

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~~cooperate with law enforcement officials and justice requires,~~ **comply with the requirements of this section,** the division may suspend the requirements of this section.

~~(d)~~ **(c)** A claim filed for services provided at a time before the provision of the forensic medical exams and additional forensic services for which an application for reimbursement is filed is not covered under this chapter.

SECTION 18. IC 16-21-8-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. A provider shall label or otherwise identify samples and evidence in a manner that protects the confidentiality of the victim.**

SECTION 19. IC 16-21-8-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9. (a) Prior to the discharge of a victim from the hospital, a provider shall:**

(1) require the victim to sign a form that notifies the victim of his or her rights under this chapter;

(2) provide a copy of the signed form to the victim; and

(3) inform law enforcement that the signed form is available.

(b) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

(1) A date set by the director.

(2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify the prosecuting attorney of each county of the director's action and when funding become available to implement this section.

SECTION 20. IC 16-21-8-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10. (a) Law enforcement shall:**

(1) obtain the sample and the form signed under section 9 of this chapter within forty-eight (48) hours after receiving a provider's notification; and

(2) transport the sample to secured storage.

(b) Law enforcement shall keep the sample in secured storage until the earlier of the following:

(1) One (1) year after the date the sample is placed in secured storage.

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(2) The victim reports the sex crime to law enforcement and the sample is transported to the crime lab for investigation and use as evidence.

(c) The division shall notify the victim, as described in subsection (d), that the victim's sample will be removed from secured storage and destroyed if the victim does not report the sex crime to law enforcement on or before the date described in subsection (b)(1).

(d) The notice the division is required to provide a victim under subsection (c) shall be sent:

(1) by first class mail to the individual's last known address;

(2) by electronic mail to the individual's last known electronic mail address; and

(3) six (6) months and thirty (30) days before the date described in subsection (b)(1).

(e) Each county shall develop and implement a plan for the secured storage of samples.

(f) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

(1) A date set by the director.

(2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify the prosecuting attorney of each county of the director's action and when funding becomes available to implement this section.

SECTION 21. IC 35-37-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 4.5. Sex Crimes Victims and Polygraph Examinations

Sec. 1. As used in this chapter, "polygraph" means a device that permanently and simultaneously records, at a minimum, an individual's:

(1) cardiovascular and respiratory patterns; and

(2) galvanic skin responses;

in order to determine truthfulness.

Sec. 2. A law enforcement officer may not require an alleged victim of an offense described in IC 35-42-4 to submit to a polygraph examination.

Sec. 3. A law enforcement officer may not refuse to investigate,

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charge, or prosecute an offense under IC 35-42-4 solely because the alleged victim of the offense has not submitted to a polygraph examination.

Sec. 4. This chapter does not prohibit an alleged victim of an offense under IC 35-42-4 from voluntarily submitting to a polygraph examination.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1654, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-2-6.1-39, AS AMENDED BY P.L.121-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 39. (a) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital shall furnish the forensic medical exam described in IC 16-21-8-6 without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and shall adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter, despite delays in reimbursement from the victim services division of the Indiana criminal justice institute.

(b) When a hospital acting under IC 16-21-8 provides additional forensic services to an alleged sex crime victim who cooperates with law enforcement under IC 16-21-8-5(b), ~~or IC 16-21-8-5(c),~~ the hospital shall furnish the additional forensic services without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and may adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(c) When a hospital acting under IC 16-21-8 provides additional forensic services to an alleged sex crime victim who does not cooperate with law enforcement under IC 16-21-8-5(b), ~~or IC 16-21-8-5(c),~~ the hospital may, **with the victim's consent,** seek reimbursement directly from the victim or any third party payer for any additional forensic services rendered by the hospital.

(d) Costs incurred by a hospital or other emergency medical facility for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3), if the examination is performed for the purposes of gathering evidence for possible prosecution, may not be charged to the victim of the crime. ~~The costs shall be treated as local costs and charged to the appropriate~~

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~~local governmental agency as follows:~~

~~(1) If the treatment or services are provided at a county or city hospital, or hospital district facility, the county shall pay the expenses.~~

~~(2) If the treatment or services are provided at a private hospital, the expenses are paid by the county in whose jurisdiction the alleged crime was committed.~~

(e) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide a forensic medical exam to an alleged victim of one (1) or more of the sex crimes listed in IC 16-21-8-1(b), the medical service provider shall furnish the exam without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing forensic medical exams. A medical service provider may not charge the victim for a forensic medical exam required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

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(g) When a medical service provider acting under IC 16-21-8 provides additional forensic services to an alleged sex crime victim who does not cooperate with law enforcement under IC 16-21-8-5(b), ~~or IC 16-21-8-5(c),~~ the medical service provider may, **with the victim's consent,** seek reimbursement directly from the victim or any third party payer for additional forensic services rendered by the medical service provider.

(h) The victim services division of the Indiana criminal justice institute ~~may~~ **is not required to** reimburse a medical service provider for costs in providing additional forensic services ~~if~~ **unless** the following conditions are met:

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~~(A) the sex crime must be reported to a law enforcement officer within ninety-six (96) hours after the crime occurred;~~

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~~and~~

~~(B) the victim must cooperate to the fullest extent possible with law enforcement personnel to solve the crime.~~

(2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer. ~~The division may not deny an application for reimbursement under this subdivision solely because the victim reported the sex crime more than ninety-six (96) hours after the crime's occurrence.~~

(3) The sex crime occurred in Indiana.

If the division finds a compelling reason for failure to ~~report to or cooperate with law enforcement officials and justice requires,~~ **comply with the requirements of this section,** the division may suspend the requirements of this section.

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(b) The division shall administer the secured storage fund.

(c) The institute shall identify grants and other funds that can be used to fund the secured storage of samples from forensic medical examinations of alleged sex crime victims.

(d) Money in the secured storage fund at the end of a state fiscal year does not revert to the state general fund.

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(1) For purposes of IC 16-21-8, the meaning set forth in ~~IC 16-21-8-0.5.~~ **IC 16-21-8-0.1.**

(2) For purposes of IC 16-22-8, the meaning set forth in IC 16-22-8-3.

(3) For purposes of IC 16-27, a group of individuals under the supervision of the director within the state department assigned

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the responsibility of implementing IC 16-27.

(4) For purposes of IC 16-28, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-28.

(5) For purposes of IC 16-41-40, the meaning set forth in IC 16-41-40-1.

SECTION 4. IC 16-18-2-295 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 295. (a) "Provider", for purposes of IC 16-21-8, has the meaning set forth in ~~IC 16-21-8-0.6.~~ **IC 16-21-8-0.5.**

(b) "Provider", for purposes of IC 16-38-5, IC 16-39 (except for IC 16-39-7) and IC 16-41-1 through IC 16-41-9 and IC 16-41-37, means any of the following:

(1) An individual (other than an individual who is an employee or a contractor of a hospital, a facility, or an agency described in subdivision (2) or (3)) who is licensed, registered, or certified as a health care professional, including the following:

(A) A physician.

(B) A psychotherapist.

(C) A dentist.

(D) A registered nurse.

(E) A licensed practical nurse.

(F) An optometrist.

(G) A podiatrist.

(H) A chiropractor.

(I) A physical therapist.

(J) A psychologist.

(K) An audiologist.

(L) A speech-language pathologist.

(M) A dietitian.

(N) An occupational therapist.

(O) A respiratory therapist.

(P) A pharmacist.

(Q) A sexual assault nurse examiner.

(2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or described in IC 12-24-1 or IC 12-29.

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

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

(5) An employer of a certified emergency medical technician, a certified emergency medical technician-basic advanced, a certified emergency medical technician-intermediate, or a certified paramedic.

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

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

SECTION 5. IC 16-18-2-365.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 365.5. "Victim", for purposes of IC 16-21-8, has the meaning set forth in ~~IC 16-21-8-0.7.~~ **IC 16-21-8-0.9.**

SECTION 6. IC 16-21-8-0.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.1. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute established by IC 5-2-6-8(a).**

SECTION 7. IC 16-21-8-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.3. As used in this chapter, "evidence" means the results collected from a forensic medical exam of a victim by a provider when the victim has reported the sex crime to law enforcement.**

SECTION 8. IC 16-21-8-0.5, AS ADDED BY P.L.90-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 0.5. As used in this chapter, ~~"division" refers to the victim services division of the Indiana criminal justice institute established by IC 5-2-6-8(a).~~ **"provider" means a hospital or licensed medical services provider that provides forensic medical exams and additional forensic services to a victim.**

SECTION 9. IC 16-21-8-0.6, AS AMENDED BY P.L.121-2006, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 0.6. As used in this chapter, ~~"provider"~~ **"sample"** means ~~a hospital or licensed medical services provider that provides forensic medical exams and additional forensic services to a~~ **the result collected from a forensic medical exam of the** victim **by a provider, when the victim has not yet reported the sex crime to law enforcement.**

SECTION 10. IC 16-21-8-0.7, AS ADDED BY P.L.90-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 0.7. As used in this chapter, ~~"victim"~~ **"secured storage"** means ~~an alleged sex crime victim.~~ **a method of storing a sample that will adequately safeguard the integrity and viability of the sample.**

SECTION 11. IC 16-21-8-0.8 IS ADDED TO THE INDIANA

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CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.8. As used in this chapter, "sexual assault nurse examiner" means a registered nurse who:**

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

(2) can:

(A) conduct a forensic medical examination; and

(B) collect evidence from a sexual assault victim.

SECTION 12. IC 16-21-8-0.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.9. As used in this chapter, "victim" means an alleged sex crime victim.**

SECTION 13. IC 16-21-8-1, AS AMENDED BY P.L.121-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) A hospital licensed under IC 16-21-2 that provides general medical and surgical hospital services shall provide forensic medical exams and additional forensic services, in accordance with rules adopted by the victim services division of the Indiana criminal justice institute, to all alleged sex crime victims who apply for forensic medical exams and additional forensic services in relation to injuries or trauma resulting from the alleged sex crime. **The provision of services may not be dependent on a victim's reporting to, or cooperating with, law enforcement.**

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

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

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

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

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

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

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

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

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

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

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

SECTION 14. IC 6-21-8-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. If a sexual assault response team has not been established in a county, the prosecuting attorney shall appoint a sexual assault response team to comply with duties assigned to**

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sexual response teams under this chapter.

SECTION 15. IC 16-21-8-2, AS AMENDED BY P.L.121-2006, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) ~~Community or areawide plans may be developed by the hospitals.~~ **Each county sexual assault response team shall develop a plan that establishes the protocol for sexual assault victim response and treatment, including the:**

(1) collection;

(2) preservation;

(3) secured storage; and

(4) destruction;

of samples.

(b) ~~A hospital may participate with at least one (1) other hospital in a community or an areawide plan to furnish forensic medical exams and additional forensic services to alleged sex crime victims. A hospital participating in the plan must furnish the forensic medical exams and additional forensic services that the plan designates to an alleged sex crime victim who applies for forensic medical exams and additional forensic services for injuries or trauma resulting from the alleged sex crime.~~ **The plan under subsection (a) shall address the following regarding an alleged sexual assault victim who is at least eighteen (18) years of age and who either reports a sexual assault or elects not to report a sexual assault to law enforcement:**

(1) The method of maintaining the confidentiality of the alleged sexual assault victim regarding the chain of custody and secured storage of a sample.

(2) The development of a victim notification form that notifies an alleged sexual assault victim of his or her rights under the law.

(3) How a victim will receive the victim notification form.

(4) Identification of law enforcement agencies that will be responsible to transport samples.

(5) Agreements between medical providers and law enforcement agencies to pick up and store samples.

(6) Maintaining samples in secured storage.

(7) Procedures to destroy a sample following applicable statute of limitations.

SECTION 16. IC 16-21-8-3, AS AMENDED BY P.L.121-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. A ~~hospital that~~ **physician or sexual assault nurse examiner who** provides forensic medical exams and additional forensic services shall provide the forensic medical exams and

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additional forensic services to an alleged sex crime victim under this chapter with the consent of the alleged sex crime victim. ~~and as ordered by the attending physician.~~

SECTION 17. IC 16-21-8-5, AS AMENDED BY P.L.121-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The division shall award compensation or reimbursement under this chapter for forensic medical exams.

(b) The division ~~shall~~ **is not required to** award compensation or reimbursement under this chapter for additional forensic services ~~if~~ **unless** the following conditions are met:

(1) ~~If~~ The victim is at least eighteen (18) years of age.

~~(A) the sex crime must be reported to a law enforcement officer within ninety-six (96) hours after the crime's occurrence; and~~

~~(B) the victim must cooperate to the fullest extent possible with law enforcement personnel to solve the crime.~~

(2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer. ~~The division may not deny an application for reimbursement under this subdivision based on the victim reporting the sex crime more than ninety-six (96) hours after the crime's occurrence.~~

(3) The sex crime occurred in Indiana.

~~(c)~~ If the division finds a compelling reason for failure to ~~report to or cooperate with law enforcement officials and justice requires,~~ **comply with the requirements of this section,** the division may suspend the requirements of this section.

~~(d)~~ **(c)** A claim filed for services provided at a time before the provision of the forensic medical exams and additional forensic services for which an application for reimbursement is filed is not covered under this chapter.

SECTION 18. IC 16-21-8-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. A provider shall label or otherwise identify samples and evidence in a manner that protects the confidentiality of the victim.**

SECTION 19. IC 16-21-8-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9. (a) Prior to the discharge of a victim from the hospital, a provider shall:**

(1) require the victim to sign a form that notifies the victim of his or her rights under this chapter;

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(2) provide a copy of the signed form to the victim; and

(3) inform law enforcement that the signed form is available.

(b) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

(1) A date set by the director.

(2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify the prosecuting attorney of each county of the director's action and when funding become available to implement this section.

SECTION 20. IC 16-21-8-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10. (a) Law enforcement shall:**

(1) obtain the sample and the form signed under section 9 of this chapter within forty-eight (48) hours after receiving a provider's notification; and

(2) transport the sample to secured storage.

(b) Law enforcement shall keep the sample in secured storage until the earlier of the following:

(1) One (1) year after the date the sample is placed in secured storage.

(2) The victim reports the sex crime to law enforcement and the sample is transported to the crime lab for investigation and use as evidence.

(c) The division shall notify the victim, as described in subsection (d), that the victim's sample will be removed from secured storage and destroyed if the victim does not report the sex crime to law enforcement on or before the date described in subsection (b)(1).

(d) The notice the division is required to provide a victim under subsection (c) shall be sent:

(1) by first class mail to the individual's last known address;

(2) by electronic mail to the individual's last known electronic mail address; and

(3) six (6) months and thirty (30) days before the date described in subsection (b)(1).

(e) Each county shall develop and implement a plan for the secured storage of samples.

(f) The director of the Indiana criminal justice institute may

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delay the implementation of this section until the earlier of the following:

(1) A date set by the director.

(2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify the prosecuting attorney of each county of the director's action and when funding becomes available to implement this section.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1654 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 10, nays 0.

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