

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Criminal Code of 2012 is amended by changing Section 11-1.10 as follows:

(720 ILCS 5/11-1.10) (was 720 ILCS 5/12-18)

Sec. 11-1.10. General provisions concerning offenses described in Sections 11-1.20 through 11-1.60.

(a) No person accused of violating Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code shall be presumed to be incapable of committing an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code because of age, physical condition or relationship to the victim. Nothing in this Section shall be construed to modify or abrogate the affirmative defense of infancy under Section 6-1 of this Code or the provisions of Section 5-805 of the Juvenile Court Act of 1987.

(b) Any medical examination or procedure which is conducted by a physician, nurse, medical or hospital personnel, parent, or caretaker for purposes and in a manner consistent with reasonable medical standards is not an offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code.

(c) (Blank).

(d) (Blank).

(e) The prosecuting State's Attorney shall seek an order from the court to compel the accused to be tested for any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV), within 48 hours:

(1) after ~~After~~ a finding at a preliminary hearing that there is probable cause to believe that an accused has committed a violation of Section 11-1.20, 11-1.30, or 11-1.40 of this Code, or

(2) after an indictment is returned charging an accused with a violation of Section 11-1.20, 11-1.30, or 11-1.40 of this Code, or

(3) after a finding that a defendant charged with a violation of Section 11-1.20, 11-1.30, or 11-1.40 of this Code is unfit to stand trial pursuant to Section 104-16 of the Code of Criminal Procedure of 1963 where the finding is made prior to the preliminary hearing, or

(4) after ~~at~~ the request of the ~~person who was the~~ victim of the violation of Section 11-1.20, 11-1.30, or 11-1.40. τ

~~the prosecuting State's attorney shall seek an order from the court to compel the accused to be tested within 48 hours for any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV).~~ The medical tests shall be performed only by appropriately licensed medical practitioners. The ~~Such~~ testing shall consist of a test

approved by the Illinois Department of Public Health to determine the presence of HIV infection, based upon recommendations of the United States Centers for Disease Control and Prevention; in the event of a positive result, a reliable supplemental test based upon recommendations of the United States Centers for Disease Control and Prevention shall be administered. The results of the tests and any follow-up tests shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the victim, to the defendant, to the State's Attorney, and to the judge who entered the order, for the judge's inspection in camera. The judge shall provide to the victim a referral to the Illinois Department of Public Health HIV/AIDS toll-free hotline for counseling and information in connection with the test result. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the result of the testing may be revealed; however, in no case shall the identity of the victim be disclosed. The court shall order that the cost of the tests shall be paid by the county, and shall be taxed as costs against the accused if convicted.

(f) Whenever any law enforcement officer has reasonable cause to believe that a person has been delivered a controlled substance without his or her consent, the law enforcement officer shall advise the victim about seeking medical treatment

and preserving evidence.

(g) Every hospital providing emergency hospital services to an alleged sexual assault survivor, when there is reasonable cause to believe that a person has been delivered a controlled substance without his or her consent, shall designate personnel to provide:

(1) An explanation to the victim about the nature and effects of commonly used controlled substances and how such controlled substances are administered.

(2) An offer to the victim of testing for the presence of such controlled substances.

(3) A disclosure to the victim that all controlled substances or alcohol ingested by the victim will be disclosed by the test.

(4) A statement that the test is completely voluntary.

(5) A form for written authorization for sample analysis of all controlled substances and alcohol ingested by the victim.

A physician licensed to practice medicine in all its branches may agree to be a designated person under this subsection.

No sample analysis may be performed unless the victim returns a signed written authorization within 30 days after the sample was collected.

Any medical treatment or care under this subsection shall be only in accordance with the order of a physician licensed to

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practice medicine in all of its branches. Any testing under this subsection shall be only in accordance with the order of a licensed individual authorized to order the testing.

(Source: P.A. 96-1551, eff. 7-1-11; incorporates 97-244, eff. 8-4-11; 97-1109, eff. 1-1-13.)

Section 99. Effective date. This Act takes effect upon becoming law.