



January 31, 2020

SENATE BILL No. 146

DIGEST OF SB 146 (Updated January 28, 2020 3:24 pm - DI 106)

Citations Affected: IC 16-18; IC 16-21; IC 35-31.5; IC 35-40.5.

Synopsis: Sexual assault victims' rights. Provides rights to sexual assault victims, including the right to: (1) speak with a sexual assault counselor present before a forensic medical exam or during the course of an investigation; (2) the collection of sexual assault forensic evidence; (3) the analysis of the sexual assault forensic evidence; and (4) notice.

Effective: July 1, 2020.

**Doriot, Ruckelshaus, Merritt,
Sandlin, Young M**

January 6, 2020, read first time and referred to Committee on Corrections and Criminal Law.
January 30, 2020, amended, reported favorably — Do Pass.

SB 146—LS 6598/DI 106



January 31, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 146

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:

- 1 SECTION 1. IC 16-18-2-340.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2020]: **Sec. 340.5. "State sexual assault**
4 **response team", for purposes of IC 16-21-8-2, has the meaning set**
5 **forth in IC 35-40.5-1-1.**
6 SECTION 2. IC 16-21-8-2, AS AMENDED BY P.L.41-2007,
7 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2020]: Sec. 2. (a) Each county or regional sexual assault
9 response team shall develop a **trauma informed, victim focused** plan
10 that establishes the protocol for sexual assault victim response and
11 treatment, including the:
12 (1) collection;
13 (2) preservation;
14 (3) secured storage; and
15 (4) destruction;
16 of samples.
17 (b) The plan under subsection (a) shall address the following

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1 regarding an alleged sexual assault victim who is at least eighteen (18)
 2 years of age and who either reports a sexual assault or elects not to
 3 report a sexual assault to law enforcement:

4 ~~(1)~~ **(1)** The method of maintaining the confidentiality of the alleged
 5 sexual assault victim regarding the chain of custody and secured
 6 storage of a sample:

7 ~~(2)~~ **(2)** The development of a victim notification form that notifies an
 8 alleged sexual assault victim of his or her rights under the law;

9 ~~(3)~~ **(1)** How a victim will receive the victim notification form
 10 **described in subsection (d).**

11 ~~(4)~~ **(4)** Identification of law enforcement agencies that will be
 12 responsible to transport samples:

13 **(2) Requiring the law enforcement agency located in the**
 14 **jurisdiction in which the crime occurred to be responsible for**
 15 **the transport and storage of sexual assault examination kits.**

16 ~~(5)~~ **(3)** Agreements between medical providers and law
 17 enforcement agencies to pick up and store samples.

18 ~~(6)~~ **(4)** Maintaining samples in secured storage.

19 ~~(7)~~ **(5)** Procedures to destroy a sample following applicable
 20 statute of limitations.

21 **(c) The plan under subsection (a) shall require each agency**
 22 **having temporary or permanent custody of a sexual assault kit to**
 23 **designate at least one (1) person to receive victim inquiries**
 24 **concerning sexual assault kits and to serve as a liaison between the**
 25 **agency and the victim. The designated liaison must be trained in**
 26 **trauma and victim response.**

27 **(d) The state sexual assault response team shall develop a victim**
 28 **notification form that notifies an alleged sexual assault victim of his**
 29 **or her rights under the law, including the rights of a victim as**
 30 **described in IC 35-40.5. The victim notification form must include**
 31 **contact information for the designated liaison described in**
 32 **subsection (c).**

33 SECTION 3. IC 35-31.5-2-76.5 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2020]: **Sec. 76.5. "Crime laboratory", for**
 36 **purposes of IC 35-40.5, has the meaning set forth in IC 35-40.5-1-1.**

37 SECTION 4. IC 35-31.5-2-185, AS AMENDED BY P.L.238-2015,
 38 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2020]: Sec. 185. (a) "Law enforcement officer" means:

40 (1) a police officer (including a correctional police officer),
 41 sheriff, constable, marshal, prosecuting attorney, special
 42 prosecuting attorney, special deputy prosecuting attorney, the



- 1 securities commissioner, or the inspector general;
 2 (2) a deputy of any of those persons;
 3 (3) an investigator for a prosecuting attorney or for the inspector
 4 general;
 5 (4) a conservation officer;
 6 (5) an enforcement officer of the alcohol and tobacco
 7 commission;
 8 (6) an enforcement officer of the securities division of the office
 9 of the secretary of state; or
 10 (7) a gaming agent employed under IC 4-33-4.5 or a gaming
 11 control officer employed by the gaming control division under
 12 IC 4-33-20.

13 (b) "Law enforcement officer", for purposes of IC 35-42-2-1,
 14 includes an alcoholic beverage enforcement officer, as set forth in
 15 IC 35-42-2-1.

16 (c) "Law enforcement officer", for purposes of IC 35-45-15,
 17 includes a federal enforcement officer, as set forth in IC 35-45-15-3.

18 (d) "Law enforcement officer", for purposes of IC 35-44.1-3-1 and
 19 IC 35-44.1-3-2, includes a school resource officer (as defined in
 20 IC 20-26-18.2-1) and a school corporation police officer appointed
 21 under IC 20-26-16.

22 (e) "**Law enforcement officer**", for purposes of IC 35-40.5, has
 23 the meaning set forth in IC 35-40.5-1-1.

24 SECTION 5. IC 35-31.5-2-255.5 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2020]: **Sec. 255.5. "Provider", for purposes**
 27 **of IC 35-40.5, has the meaning set forth in IC 35-40.5-1-1.**

28 SECTION 6. IC 35-31.5-2-273.4 IS ADDED TO THE INDIANA
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2020]: **Sec. 273.4. "Relative", for purposes**
 31 **of IC 35-40.5, has the meaning set forth in IC 35-40.5-1-1.**

32 SECTION 7. IC 35-31.5-2-288.5 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2020]: **Sec. 288.5. "Secured storage", for**
 35 **purposes of IC 35-40.5, has the meaning set forth in IC 35-40.5-1-1.**

36 SECTION 8. IC 35-31.5-2-299.5 IS ADDED TO THE INDIANA
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2020]: **Sec. 299.5. "Sexual assault counselor",**
 39 **for purposes of IC 35-40.5, has the meaning set forth in**
 40 **IC 35-40.5-1-1.**

41 SECTION 9. IC 35-31.5-2-299.6 IS ADDED TO THE INDIANA
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2020]: **Sec. 299.6. "Sexual assault**
 2 **examination kit"**, for purposes of IC 35-40.5, has the meaning set
 3 **forth in IC 35-40.5-1-1.**

4 SECTION 10. IC 35-31.5-2-299.8 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2020]: **Sec. 299.8. "Sexual assault forensic**
 7 **evidence"**, for purposes of IC 35-40.5, has the meaning set forth in
 8 **IC 35-40.5-1-1.**

9 SECTION 11. IC 35-31.5-2-312.5 IS ADDED TO THE INDIANA
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2020]: **Sec. 312.5. "State sexual assault**
 12 **response team"**, for purposes of IC 35-40.5, has the meaning set
 13 **forth in IC 35-40.5-1-1.**

14 SECTION 12. IC 35-31.5-2-348, AS ADDED BY P.L.114-2012,
 15 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2020]: Sec. 348. (a) "Victim", for purposes of IC 35-38-1-9
 17 and IC 35-38-1-17, means a person who has suffered harm as a result
 18 of a crime.

19 (b) "Victim", for purposes of IC 35-37-6, has the meaning set forth
 20 in IC 35-37-6-3.

21 (c) "Victim", for purposes of IC 35-38-7, has the meaning set forth
 22 in IC 35-38-7-4.

23 (d) "Victim", for purposes of IC 35-40, has the meaning set forth in
 24 IC 35-40-4-8.

25 (e) "Victim", for purposes of IC 35-40.5 has the meaning set
 26 **forth in IC 35-40.5-1-1.**

27 ~~(e)~~ (f) "Victim", for purposes of IC 35-45-10, has the meaning set
 28 forth in IC 35-45-10-4.

29 SECTION 13. IC 35-40.5 IS ADDED TO THE INDIANA CODE
 30 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY
 31 1, 2020]:

32 **ARTICLE 40.5. RIGHTS OF SEXUAL ASSAULT VICTIMS**

33 **Chapter 1. Definitions**

34 **Sec. 1. The following definitions apply throughout this article:**

35 (1) "Crime laboratory" means a laboratory responsible for
 36 examining or testing a sexual assault examination kit.

37 (2) "Law enforcement officer" means any of the following:

38 (A) A law enforcement officer (as defined in
 39 IC 35-31.5-2-185).

40 (B) A state educational institution police officer appointed
 41 under IC 21-39-4.

42 (C) A school corporation officer appointed under



- 1 **IC 20-26-16.**
 2 **(D) A school resource officer (as defined in**
 3 **IC 20-26-18.2-1).**
 4 **(E) A police officer of a public or private postsecondary**
 5 **educational institution whose board of trustees has**
 6 **established a police department under IC 21-17-5-2 or**
 7 **IC 21-39-4-2.**
 8 **(3) "Provider" has the meaning set forth in IC 16-21-8-0.2.**
 9 **(4) "Relative" has the meaning set forth in IC 35-42-2-1(b).**
 10 **(5) "Secured storage" has the meaning set forth in**
 11 **IC 16-21-8-0.2.**
 12 **(6) "Sexual assault counselor" means a victim advocate (as**
 13 **defined in IC 35-37-6-3.5), a victim service provider (as**
 14 **defined in IC 35-37-6-5), victims assistance, or a social**
 15 **worker.**
 16 **(7) "Sexual assault examination kit" has the meaning set forth**
 17 **in IC 16-21-8-0.2.**
 18 **(8) "Sexual assault forensic evidence" means the results**
 19 **collected from a forensic medical examination of a victim by**
 20 **a provider.**
 21 **(9) "State sexual assault response team" means the statewide**
 22 **sexual assault response team coordinated by the Indiana**
 23 **prosecuting attorneys council and the Indiana criminal justice**
 24 **institute.**
 25 **(10) "Victim" means an individual:**
 26 **(A) who is a victim of sexual assault (as defined in**
 27 **IC 5-26.5-1-8); or**
 28 **(B) who:**
 29 **(i) is a relative of or a person who has had a close**
 30 **personal relationship with the individual described**
 31 **under clause (A); and**
 32 **(ii) is designated by the individual described under clause**
 33 **(A) as a representative.**
 34 **The term does not include an individual who is accused of**
 35 **committing an act of sexual assault (as defined in**
 36 **IC 5-26.5-1-8) against the individual described under**
 37 **clause (A).**
 38 **Chapter 2. Attachment and Duration of Rights**
 39 **Sec. 1. The rights provided to victims under this article attach**
 40 **whenever a victim is subject to:**
 41 **(1) a forensic medical exam; or**
 42 **(2) an interview by a law enforcement officer or a defense**



1 attorney;
 2 in relation to injuries, trauma, or an investigation resulting from
 3 an alleged sexual assault.
 4 Sec. 2. A victim continuously retains all the rights under this
 5 article regardless of whether the victim:
 6 (1) agrees to participate in any civil or criminal proceeding
 7 related to the alleged sexual assault; or
 8 (2) consents to a forensic medical exam to collect forensic
 9 evidence related to the alleged sexual assault.
 10 Chapter 3. Right to a Sexual Assault Counselor
 11 Sec. 1. A victim has the right to:
 12 (1) speak with a sexual assault counselor during any hospital
 13 visit for the purpose of receiving a sexual assault examination;
 14 and
 15 (2) speak with a sexual assault counselor during the course of
 16 the investigation.
 17 A victim retains these rights even if the victim has waived one (1)
 18 or more of these rights in a previous examination or interview.
 19 Sec. 2. A victim's communications with a sexual assault
 20 counselor are not admissible into evidence for any purpose except
 21 with consent of the victim.
 22 Chapter 4. Collection of Sexual Assault Forensic Evidence
 23 Sec. 1. As described in IC 16-21-8-6, a provider shall provide
 24 forensic medical exams and additional forensic services to a victim
 25 without charge.
 26 Sec. 2. Before a provider commences a forensic medical
 27 examination, the provider shall inform the victim of the following:
 28 (1) The victim's rights under this article and other relevant
 29 law in a document to be developed by the state sexual
 30 response team as described in IC 16-21-8-2, which shall be
 31 signed by the victim to confirm receipt, unless the victim has
 32 already been provided with the document under
 33 IC 35-40.5-5-1.
 34 (2) The victim's right to speak with a sexual assault counselor.
 35 Chapter 5. Interview With a Law Enforcement Official or
 36 Defense Attorney
 37 Sec. 1. Before a law enforcement officer or defense attorney
 38 commences an interview of a victim, the law enforcement officer or
 39 defense attorney shall inform the victim of the following:
 40 (1) The victim's rights under this article and other relevant
 41 law in a document to be developed by the state sexual
 42 response team as described in IC 16-21-8-2, which shall be



1 signed by the victim to confirm receipt, unless the victim has
 2 already been provided with the document under
 3 IC 35-40.5-4-2.

4 (2) The victim's right to speak with a sexual assault counselor
 5 during the course of the investigation.

6 **Chapter 6. Analysis of Sexual Assault Forensic Evidence**

7 **Sec. 1. A victim has the right to analysis of sexual assault**
 8 **forensic evidence collected from a forensic medical examination,**
 9 **conducted in a reasonable time period.**

10 **Sec. 2. The following applies to sexual assault forensic evidence:**

11 (1) The sexual assault forensic evidence shall be transported
 12 to the crime laboratory and analyzed within a reasonable time
 13 period, unless the victim waives this requirement in writing at
 14 any time prior to analysis of the evidence.

15 (2) The investigating law enforcement agency shall retain the
 16 sexual assault forensic evidence, except as provided in
 17 subdivision (3), until the later of:

18 (A) the statute of limitations bars prosecution to the
 19 offense as described under IC 35-41-4-2; or

20 (B) the victim reaches forty (40) years of age if the victim
 21 was a minor when the offense occurred;

22 before the evidence is destroyed.

23 (3) Not earlier than sixty (60) days before the evidence is
 24 scheduled to be destroyed under subdivision (1), or under this
 25 subdivision if the retention period has been extended, the
 26 investigating law enforcement agency shall attempt to notify
 27 the victim of the date of the scheduled destruction, both by
 28 telephone and in writing at the victim's last known address. If
 29 the victim objects in writing to the destruction, the
 30 investigating law enforcement agency shall retain the sexual
 31 assault forensic evidence for an additional five (5) years.

32 (4) If the victim elects to waive analysis under subdivision (1),
 33 the victim can still request that the sexual assault forensic
 34 evidence collected be tested before it is destroyed.

35 (5) The investigating law enforcement agency shall maintain
 36 all waivers and requests received under this article.

37 **Sec. 3. (a) A defendant or a person accused or convicted of a**
 38 **crime against a victim may not object to any failure in complying**
 39 **with this article.**

40 (b) The failure to provide a right or notice to a victim under this
 41 section may not be used by a defendant to seek to have the
 42 conviction or sentence set aside.



1 **Sec. 4. (a) The failure of a law enforcement agency to take**
2 **possession of any sexual assault forensic evidence or to submit the**
3 **evidence for analysis within the time prescribed in this chapter**
4 **does not:**

5 **(1) affect the authority of a law enforcement agency to take**
6 **possession of the evidence or to submit the evidence to the**
7 **crime laboratory; or**

8 **(2) affect the authority of the crime laboratory to accept and**
9 **analyze the evidence or to upload the DNA profile obtained**
10 **from that evidence into the Combined DNA Index System.**

11 **(b) The failure to comply with the requirements of this chapter**
12 **does not constitute grounds in any criminal or civil proceeding for**
13 **challenging the validity of a database match or of any database**
14 **information. Any evidence of the DNA record may not be excluded**
15 **by a court on these grounds.**

16 **Chapter 7. Notice to Victims**

17 **Sec. 1. (a) Upon initial interaction with a victim, a law**
18 **enforcement officer or provider shall provide the victim with a**
19 **document developed by a county or regional sexual response team,**
20 **as described in IC 16-21-8-2, that explains the rights of victims:**

21 **(1) under this article and other relevant law;**

22 **(2) in a format accessible to persons with visual disabilities;**
23 **and**

24 **(3) in English, Spanish, and German.**

25 **(b) The document described in subsection (a) shall include the**
26 **following:**

27 **(1) A clear statement that a victim is not required to receive**
28 **a medical evidentiary or physical examination in order to**
29 **retain the rights provided under this article or any other**
30 **relevant law.**

31 **(2) The instructions for requesting the results of the analysis**
32 **of the victim's sexual assault forensic evidence.**

33 **(3) Information concerning state and federal victim**
34 **compensation funds for medical and other costs associated**
35 **with the sexual assault.**



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 146, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-18-2-340.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 340.5. "State sexual assault response team", for purposes of IC 16-21-8-2, has the meaning set forth in IC 35-40.5-1-1.**"

Page 1, strike lines 16 through 17.

Page 2, strike lines 1 through 3.

Page 2, delete lines 4 through 6.

Page 2, line 7, strike "(3)" and insert "(1)".

Page 2, line 7, delete "form." and insert "form **described in subsection (d).**".

Page 2, strike lines 8 through 9, begin a new line block indented and insert:

"(2) Requiring the law enforcement agency located in the jurisdiction in which the crime occurred to be responsible for the transport and storage of sexual assault examination kits."

Page 2, line 10, strike "(5)" and insert "(3)".

Page 2, line 12, strike "(6)" and insert "(4)".

Page 2, line 13, strike "(7)" and insert "(5)".

Page 2, between lines 20 and 21, begin a new paragraph and insert:

"(d) The state sexual assault response team shall develop a victim notification form that notifies an alleged sexual assault victim of his or her rights under the law, including the rights of a victim as described in IC 35-40.5. The victim notification form must include contact information for the designated liaison described in subsection (c)."

Page 3, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 11. IC 35-31.5-2-312.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 312.5. "State sexual assault response team", for purposes of IC 35-40.5, has the meaning set forth in IC 35-40.5-1-1.**"

Page 4, line 38, delete "IC 35-37-6-3.5) or" and insert "IC



35-37-6-3.5)."

Page 4, line 39, delete "IC 35-37-6-5)." and insert "**IC 35-37-6-5), victims assistance, or a social worker.**".

Page 5, between lines 2 and 3, begin a new line block indented and insert:

"(9) "State sexual assault response team" means the statewide sexual assault response team coordinated by the Indiana prosecuting attorneys council and the Indiana criminal justice institute."

Page 5, line 3, delete "(9)" and insert "(10)".

Page 5, line 31, delete "(a)".

Page 5, line 32, delete "consult" and insert "**speak**".

Page 5, line 32, delete "before and".

Page 5, line 32, after "during" insert "**any hospital visit for the purpose of receiving a sexual assault examination; and**".

Page 5, delete lines 33 through 36, begin a new line block indented and insert:

"(2) speak with a sexual assault counselor during the course of the investigation."

Page 5, delete lines 39 through 42.

Page 6, delete lines 1 through 7.

Page 6, line 8, delete "(c)" and insert "**Sec. 2.**".

Page 6, line 18, delete "county or regional" and insert "**state**".

Page 6, line 20, delete "receipt." and insert "**receipt, unless the victim has already been provided with the document under IC 35-40.5-5-1.**".

Page 6, line 21, delete "consult" and insert "**speak**".

Page 6, line 29, delete "county or regional" and insert "**state**".

Page 6, line 31, delete "receipt." and insert "**receipt, unless the victim has already been provided with the document under IC 35-40.5-4-2.**".

Page 6, line 32, delete "consult" and insert "**speak**".

Page 6, line 33, delete "any interview by a law enforcement officer" and insert "**the course of the investigation.**".

Page 6, delete line 34.

Page 6, line 36, delete "prompt".

Page 6, delete line 38 and insert "**examination, conducted in a reasonable time period.**".

Page 6, line 41, delete "ninety (90) days," and insert "**a reasonable time period,**".

Page 7, line 2, delete "crime laboratory" and insert "**investigating law enforcement agency**".



Page 7, line 13, delete "crime laboratory" and insert "**investigating law enforcement agency**".

Page 7, line 13, after "shall" insert "**attempt to**".

Page 7, line 14, delete "destruction." and insert "**destruction, both by telephone and in writing at the victim's last known address.**".

Page 7, line 15, delete "crime laboratory" and insert "**investigating law enforcement agency**".

Page 7, between lines 19 and 20, begin a new line block indented and insert:

"(5) The investigating law enforcement agency shall maintain all waivers and requests received under this article."

Page 7, delete lines 20 through 42.

Page 8, delete line 1.

Page 8, line 2, delete "Sec. 5." and insert "**Sec. 3.**".

Page 8, line 8, delete "Sec. 6." and insert "**Sec. 4.**".

Page 8, line 34, delete "required:" and insert "**required to receive a medical evidentiary or physical examination in order to retain the rights provided under this article or any other relevant law.**".

Page 8, delete lines 35 through 39.

Page 9, delete lines 3 through 22.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 146 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 6, Nays 1.

