

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 ENROLLED ACT No. 146

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

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

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

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

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

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

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

SECTION 3. IC 35-31.5-2-273.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 273.4. "Relative", for purposes of IC 35-40.5, has the meaning set forth in IC 35-40.5-1-1.**

SECTION 4. 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.**

SECTION 5. IC 35-31.5-2-348, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 348. (a) "Victim", for purposes of IC 35-38-1-9 and IC 35-38-1-17, means a person who has suffered harm as a result of a crime.

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

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

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

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

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

SECTION 6. IC 35-40.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:

**ARTICLE 40.5. RIGHTS OF SEXUAL ASSAULT VICTIMS**  
**Chapter 1. Definitions**

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



- (1) "Law enforcement officer" means any of the following:
- (A) A law enforcement officer (as defined in IC 35-31.5-2-185).
  - (B) A state educational institution police officer appointed under IC 21-39-4.
  - (C) A school corporation officer appointed under IC 20-26-16.
  - (D) A school resource officer (as defined in IC 20-26-18.2-1).
  - (E) A police officer of a private postsecondary educational institution whose governing board has appointed the police officer under IC 21-17-5-2.
- (2) "Provider" has the meaning set forth in IC 16-21-8-0.2.
- (3) "Relative" has the meaning set forth in IC 35-42-2-1(b).
- (4) "Sexual assault forensic evidence" means the results collected from a forensic medical examination of a victim by a provider.
- (5) "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.
- (6) "Victim" means an individual:
- (A) who is a victim of sexual assault (as defined in IC 5-26.5-1-8); or
  - (B) who:
    - (i) is a relative of or a person who has had a close personal relationship with the individual described under clause (A); and
    - (ii) is designated by the individual described under clause (A) as a representative.
- The term does not include an individual who is accused of committing an act of sexual assault (as defined in IC 5-26.5-1-8) against the individual described under clause (A).
- (7) "Victim advocate" has the meaning set forth in IC 35-37-6-3.5.
- (8) "Victim service provider" has the meaning set forth in IC 35-37-6-5.

## **Chapter 2. Attachment and Duration of Rights**

**Sec. 1. The rights provided to victims under this article attach whenever a victim is subject to:**

- (1) a forensic medical exam; or



(2) an interview by a law enforcement officer;  
in relation to injuries, trauma, or an investigation resulting from  
an alleged sexual assault.

**Sec. 2.** A victim continuously retains all the rights under this  
article regardless of whether the victim:

- (1) agrees to participate in any civil or criminal proceeding  
related to the alleged sexual assault; or
- (2) consents to a forensic medical exam to collect forensic  
evidence related to the alleged sexual assault.

**Chapter 3. Right to a Victim Advocate or Victim Service  
Provider**

**Sec. 1.** A victim has the right to:

- (1) speak with a victim advocate or victim service provider  
during any hospital visit for the purpose of receiving a sexual  
assault examination; and
- (2) speak with a victim advocate or victim service provider  
during the course of the investigation.

If a victim advocate or victim service provider is not available, a  
victim has the right to speak with victims assistance or a social  
worker. A victim retains these rights even if the victim has waived  
one (1) or more of these rights in a previous examination or  
interview.

**Sec. 2.** A victim's communications with a victim advocate, victim  
service provider, victims assistance, or a social worker are not  
admissible into evidence for any purpose except with consent of the  
victim.

**Chapter 4. Collection of Sexual Assault Forensic Evidence**

**Sec. 1.** As described in IC 16-21-8-6, a provider shall provide  
forensic medical exams and additional forensic services to a victim  
without charge.

**Sec. 2.** Before a provider commences a forensic medical  
examination, or as soon as possible, the provider shall inform the  
victim of the following:

- (1) The victim's rights under this article and other relevant  
law in a document to be developed by the state sexual assault  
response team as described in IC 16-21-8-2, which shall be  
signed by the victim to confirm receipt, unless the victim has  
already been provided with the document under  
IC 35-40.5-5-1.
- (2) The victim's right to speak with a victim advocate or  
victim service provider. If a victim advocate or victim service  
provider is not available, a victim has the right to speak with



victims assistance or a social worker.

**Sec. 3.** Before a provider commences a forensic medical examination, or as soon as possible, the provider shall notify a victim advocate or a victim service provider. If a victim advocate or victim service provider is not available, the provider shall notify victims assistance or a social worker.

**Chapter 5. Interview With a Law Enforcement Officer**

**Sec. 1.** Before a law enforcement officer commences an interview of a victim, the law enforcement officer shall inform the victim of the following:

(1) The victim's rights under this article and other relevant law in a document to be developed by the state sexual assault response team as described in IC 16-21-8-2, which shall be signed by the victim to confirm receipt, unless the victim has already been provided with the document under IC 35-40.5-4-2.

(2) The victim's right to speak with a victim advocate or victim service provider during the course of the investigation, and that the victim has the right to speak to victims assistance or a social worker if a victim advocate or victim service provider is not available.

**Chapter 6. Compliance**

**Sec. 1. (a)** A defendant or a person accused or convicted of a crime against a victim may not object to any failure in complying with this article.

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

**Chapter 7. Notice to Victims**

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

- (1) under this article and other relevant law;
- (2) in a format accessible to persons with visual disabilities;
- and
- (3) in English, Spanish, and German.

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

- (1) A clear statement that a victim is not required to receive a medical evidentiary or physical examination in order to retain the rights provided under this article or any other



relevant law.

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



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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