



January 29, 2019

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## SENATE BILL No. 424

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DIGEST OF SB 424 (Updated January 24, 2019 1:40 pm - DI 133)

**Citations Affected:** IC 16-8; IC 16-21.

**Synopsis:** Privacy and tracking of rape kits. Provides that a hospital or licensed medical services provider that provides forensic medical exams and additional forensic services to a victim (provider) is entitled to reimbursement from the victim services division of the Indiana criminal justice institute (division) if the provider initiates a claim for reimbursement through the sexual assault web based claims reimbursement and tracking system. Provides that personal information: (1) concerning a sexual assault victim; and (2) entered into the division's web based claims reimbursement and sexual assault examination kit tracking system; is confidential in certain instances. Provides that notification of a forensic sample's destruction may be provided by the division through the sexual assault web based claims reimbursement and tracking system. Requires law enforcement agencies and prosecuting attorneys to cooperate with the division by providing storage updates to the division via the sexual assault web based claims reimbursement and tracking system. Allows a victim to register for notifications concerning a sexual assault examination kit through the sexual assault web based claims reimbursement and tracking system. Defines certain terms. Makes conforming amendments.

**Effective:** July 1, 2019.

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### Crider

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January 14, 2019, read first time and referred to Committee on Homeland Security and Transportation.

January 15, 2019, reported favorably — Do Pass; reassigned to Committee on Appropriations.

January 28, 2019, reported favorably — Do Pass.

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SB 424—LS 7206/DI 123





January 29, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## SENATE BILL No. 424

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 16-8-2-277.9 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2019]: **Sec. 277.9. "Personal information",**  
4 **for purposes of IC 16-21-8-11, has the meaning set forth in**  
5 **IC 16-21-8-0.2(3).**

6 SECTION 2. IC 16-21-8-0.2, AS ADDED BY P.L.161-2014,  
7 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2019]: Sec. 0.2. The following definitions apply throughout  
9 this chapter:

10 (1) "Division" refers to the victim services division of the Indiana  
11 criminal justice institute established by IC 5-2-6-8(a).

12 (2) "Evidence" means the results collected from a forensic  
13 medical examination of a victim by a provider.

14 (3) **"Personal information" has the meaning set forth in**  
15 **IC 9-14-6-6.**

16 (3) (4) "Provider" means a hospital or licensed medical services  
17 provider that provides forensic medical exams and additional

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1 forensic services to a victim.

2 ~~(4)~~ (5) "Sample" means the result collected from a forensic  
3 medical examination of the victim by a provider, when the victim  
4 has not yet reported the sex crime to law enforcement.

5 ~~(5)~~ (6) "Secured storage" means a method of storing a sample that  
6 will adequately safeguard the integrity and viability of the sample.

7 ~~(6)~~ (7) "Sexual assault examination kit" means the standard  
8 medical forensic examination kit for victims of sexual assault  
9 developed by the state police department under IC 10-11-2-33.

10 ~~(7)~~ (8) "Sexual assault nurse examiner" means a registered nurse  
11 who:

12 (A) has received training to provide comprehensive care to  
13 sexual assault survivors; and

14 (B) can:

15 (i) conduct a forensic medical examination; and

16 (ii) collect evidence from a sexual assault victim.

17 SECTION 3. IC 16-21-8-5, AS AMENDED BY P.L.41-2007,  
18 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 2019]: Sec. 5. (a) The division shall award compensation or  
20 reimbursement under this chapter for forensic medical exams.

21 (b) The division is not required to award compensation or  
22 reimbursement under this chapter for additional forensic services  
23 unless the following conditions are met:

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

25 (2) If the victim is less than eighteen (18) years of age, a report of  
26 the sex crime must be made to child protective services or a law  
27 enforcement officer.

28 (3) The sex crime occurred in Indiana.

29 **(4) The provider has initiated the claim for reimbursement in**  
30 **the division's designated web based claims reimbursement**  
31 **and sexual assault examination kit tracking system.**

32 If the division finds a compelling reason for failure to comply with the  
33 requirements of this section, the division may suspend the requirements  
34 of this section.

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

39 SECTION 4. IC 16-21-8-10, AS ADDED BY P.L.41-2007,  
40 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
41 JULY 1, 2019]: Sec. 10. (a) Law enforcement shall:

42 (1) obtain the sample within forty-eight (48) hours after receiving



- 1 a provider's notification; and  
 2 (2) transport the sample to secured storage.  
 3 (b) Law enforcement shall keep the sample in secured storage until  
 4 the earlier of the following:  
 5 (1) At least one (1) year after the date the sample is placed in  
 6 secured storage.  
 7 (2) The victim reports the sex crime to law enforcement and the  
 8 sample is transported to ~~the a~~ crime lab. ~~for investigation and use~~  
 9 ~~as evidence.~~  
 10 (c) ~~The division shall notify the victim; as described in subsection~~  
 11 ~~(d); that the victim's sample will be removed from secured storage and~~  
 12 ~~may be destroyed if the victim does not report the sex crime to law~~  
 13 ~~enforcement on or before the date described in subsection (b)(1).~~  
 14 (d) The notice the division is required to provide a victim under  
 15 subsection (c) shall be sent:  
 16 (1) by first class mail to the individual's last known address;  
 17 (2) by electronic mail to the individual's last known electronic  
 18 mail address; and  
 19 (3) six (6) months and thirty (30) days before the date described  
 20 in subsection (b)(1).  
 21 **(c) Notification of sample destruction may be provided by the**  
 22 **division through the web based claims reimbursement and sexual**  
 23 **assault examination kit tracking system. Law enforcement agencies**  
 24 **and prosecuting attorneys shall cooperate with the division by**  
 25 **providing storage updates to the division via the web based sexual**  
 26 **assault examination kit tracking system.**  
 27 **(d) A victim may register for notification through the web based**  
 28 **claims reimbursement and sexual assault examination kit tracking**  
 29 **system.**  
 30 (e) Each county shall develop and implement a plan for the secured  
 31 storage **and destruction** of samples.  
 32 (f) The director of the Indiana criminal justice institute may delay  
 33 the implementation of this section until the earlier of the following:  
 34 (1) A date set by the director.  
 35 (2) The date funding becomes available by a grant through the  
 36 criminal justice institute or by an appropriation from the general  
 37 assembly.  
 38 If the director of the criminal justice institute delays implementation of  
 39 this section, the director shall notify the prosecuting attorney of each  
 40 county of the director's action and when funding becomes available to  
 41 implement this section.  
 42 (g) The failure to comply with:



1 (1) this chapter;  
 2 (2) a plan adopted by a county; or  
 3 (3) a protocol adopted by a sexual assault response team;  
 4 does not, standing alone, affect the admissibility of a sample as  
 5 evidence in a criminal or civil proceeding.

6 SECTION 5. IC 16-21-8-11 IS ADDED TO THE INDIANA CODE  
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 8 1, 2019]: **Sec. 11. (a) Information entered into the web based claims  
 9 reimbursement and sexual assault examination kit tracking system  
 10 for the purposes of reimbursement to a provider for a forensic  
 11 medical exam or the location of a sexual assault examination kit is  
 12 confidential until the later of the following:**

- 13 (1) the sexual assault examination kit is destroyed in  
 14 accordance with section 10 of this chapter; or  
 15 (2) the conclusion of a case filed by a prosecuting attorney  
 16 with appropriate jurisdiction.

17 (b) A victim's:

- 18 (1) personal information; and  
 19 (2) medical records;

20 are confidential.

21 SECTION 6. IC 16-21-8-12 IS ADDED TO THE INDIANA CODE  
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 23 1, 2019]: **Sec. 12. The following persons or entities shall provide  
 24 status and storage updates, as applicable, to the division's web  
 25 based claims reimbursement and sexual assault examination kit  
 26 tracking system as necessary:**

- 27 (1) A crime lab responsible for examining or testing a sexual  
 28 assault examination kit.  
 29 (2) A law enforcement agency responsible for the collection or  
 30 storage of a sexual assault examination kit.  
 31 (3) A prosecuting attorney responsible for a criminal  
 32 prosecution that involves the examination, use, or testing of a  
 33 sexual assault examination kit.  
 34 (4) A provider.



COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security and Transportation, to which was referred Senate Bill No. 424, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 424 as introduced.)

CRIDER, Chairperson

Committee Vote: Yeas 9, Nays 0

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 424, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 424 as printed January 16, 2019.)

MISHLER, Chairperson

Committee Vote: Yeas 11, Nays 0

