



Access to Health Care and Evidence Collection for Sexual Assault Victims with Disabilities

Current Law

Consent of a guardian, health care surrogate or health care power of attorney is not required in order for a victim with a disability to receive health care or release forensic evidence following a sexual assault.

If a victim with a disability is unable to consent to the release of evidence, and the victim's guardian, health care surrogate or health care power of attorney is unavailable or unwilling to release the information, an investigating law enforcement officer may release the evidence.

Decisional Capacity

A physician (not a team of professionals) decides whether the victim with a disability has "decisional capacity," or the ability to make decisions about her own health care and releasing evidence. The physician makes a decision after having a conversation with the victim and exercising professional judgment.

Background

Prior to January 1, 2010, when an adult with a disability who had a guardian over his/her health care went to a hospital after a sexual assault, only the victim's guardian could consent to the health care and release the forensic evidence collected at the hospital.

Sometimes a victim with a disability had a guardian who was unavailable or unwilling to consent to health care or release forensic evidence.

To remedy this problem, the Sexual Assault Survivors Emergency Treatment Act (SASETA) was amended to protect the personal autonomy and choice of a sexual assault victim with a disability in receiving emergency health care services and releasing forensic evidence. [410 ILCS 70/5\(b\)](#).

The change to the law is the outcome of the Illinois Imagines Project, a collaborative among the Illinois Department of Human Services, the Illinois Coalition Against Sexual Assault, and self-advocates for people with disabilities.

Questions?

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