



2020 Illinois Legislative and Legal Update

Illinois Coalition Against Sexual Assault

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Legislative Information

www.ilga.gov

- Consolidated Statutes
- Read and Track Bills
- Legislator Information
- Committee Schedules

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- Sexual Assault Related Bills
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LEGISLATION

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2020 Illinois Legislative Session: Key Bills

Sexual Assault Survivors Emergency Treatment Act (SASETA) Updates

- SASETA Emergency Amendment
- SASETA Administrative Rule Amendments - Sexual Assault Survivor Emergency Treatment Code

SASETA Emergency Amendment

- **SB 557**
- Public Act 101-0634
- Effective Date: June 5, 2020
- Repeal Date: June 30, 2021
- Primary Sponsors: Sen. Melinda Bush (D-31)
Rep. Kelly Cassidy (D-14)

SB 557

- Temporary amendment to SASETA
- Approved Federally Qualified Health Centers (AFQHCs) may provide medical forensic services
- Allowed during and 90 days after a statewide public health emergency declaration

What is an AFQHC?

- Approved by Illinois Department of Public Health (IDPH)
- An AFQHC can provide medical forensic services, including evidence collection using Illinois State Police kits
- Must meet all SASETA requirements

Who provides medical forensic services at an AFQHC?

- Qualified Medical Provider
- Physician
- Physician Assistant
- Advanced Practice Registered Nurse
- Who received a minimum of 10 hours of sexual assault training

What is the required training?

The training must be provided by a qualified medical provider and address:

- current Illinois legislation
- how to perform medical forensic exams
- evidence collection
- drug/alcohol facilitated sexual assault
- forensic photography

What centers have been approved?

- According to IDPH, only one center with two locations has applied.
- Howard Brown Health in Chicago
 - Resilience
 - Mujeres Latinas en Acción

SASETA Rules Amendment

- Sexual Assault Survivors Emergency Treatment Code: 77 Ill. Adm. Code 545
- 2020 Illinois Register Vol. 44, Issue 17,
April 24, 2020, pages 6238-6376
- Effective April 10, 2020

Why was it amended?

- PA 100-755: added approved pediatric health care facilities (APHCF) and other requirements
- PA 100-1087: amended to require survivor access to a shower at the hospital at no cost, if available
- PA 101-73: clarified that adults can be transferred to a treatment hospital with approved pediatric transfer, if it is closer than the treatment hospital

When will a Transfer Plan be approved?

- IDPH will approve a Plan only if:
 - a treatment hospital has agreed to accept survivors from the proposed transfer hospital
 - AND a transfer to the treatment hospital would not unduly burden the sexual assault survivor

What if the transfer hospital collects evidence?

- Place each piece in a separate paper bag (allow to dry first, if possible)
- Put bags in a larger paper bag
- Seal and label the outer bag
- With written consent of survivor, release bag to law enforcement
- Or if transferred by ambulance, send with EMS personnel with chain of custody form

**Can a
transfer
hospital
issue a
voucher?**

- No
- Nor may it submit a bill to the Department of Health and Family Services Sexual Assault Emergency Treatment Program, unless it is for follow-up healthcare with a voucher issued by a treatment facility

What if the survivor presents after seven days?

- Nothing prevents the hospital or APHCF from offering to complete the Sexual Assault Evidence Collection Kit for a survivor who presents more than seven days after the assault

**What
advocate
information
goes in the
medical
record?**

- “If a medical advocate from a rape crisis center is present, the medical advocate may be listed by first name only, so long as the full name of the rape crisis center is listed in the record.”

What medical advocacy must be offered by an out-of-state hospital?

- Only two out-of-state treatment hospitals have been approved
- They must have an MOU with an *Illinois* rape crisis center for medical advocacy services

What Guidelines were updated?

- CDC Federal Guidelines
- American College of Emergency Physicians Standards

Other Relevant Bills

- **HB 2174:** Delays effective date of the Hotel and Casino Employee Safety Act
- **SB 1569:** Amends the School Code adding requirement to report pending criminal charge against license holder
- **SB 1857:** Amends various deadlines and repeal dates

HB 2174

- Public Act 101-0639
- New Effective Date for the Hotel and Casino Employee Safety Act:
March 1, 2021 (was July 1, 2020)

What Is the Hotel and Casino Employee Safety Act?

- Requires hotels and casinos provide portable “safety”/“panic button” devices
- Employees who work in guest rooms, restrooms, or casino floors where no other employees are present
- Full-time and part-time employees
- Applies to all Illinois hotels and casinos

SB 1569

- Public Act 101-0643
- Effective Date: June 18, 2020
- Superintendent, regional office of education, or background check entity must notify State Superintendent of Education within 10 days after receiving information of pending criminal charge against a license holder for certain offenses, including sex offenses.

SB 1857: Extended Reporting Deadline

- Public Act 101-0645
- Reporting deadline for the Protection of Individuals with Disabilities in the Criminal Justice System Task Force extended to September 30, 2021

SB 1857: Repeal Dates Extended

- Criminal Traffic and Assessment Act, which sets the fines for the Sexual Assault Services Fund
- Clerks of Courts Act's sections regarding fees and assessment reports
- Repeal dates extended from January 1, 2021, to January 1, 2022.



Key Legal Cases in 2020

People v. DeLeon

- Illinois Supreme Court (from Cook County)
- Constitutionality of 725 ILCS 5/112A-11.5
- ICASA Amicus Brief Filed: Sept. 12, 2019
- Oral Argument: May 12, 2020
- Opinion Filed: Sept. 24, 2020

Supreme Court Opinion: Due Process

- The law is constitutional!
- Allowing the State to make a prima facie case for a protective order by producing an indictment without requiring the victim to testify and be cross-examined does not violate due process

Supreme Court Opinion: Other Issues

- Statute does not compel testimony or evidence in violation of protections against self-incrimination
- No impermissible burden-shifting
- No untenable conflict between the statute and the Civil No Contact Order Act

Ongoing Illinois Cases

- *People v. Gomez-Ramirez*
- *Stolleis Forbes v. Board of Educ. of New Berlin Community Unit School Dist. 15*
- *Sommerville v. Hobby Lobby*

***People
v.
Gomez-
Ramirez***

- Illinois Court of Appeals, 3rd Judicial Dist. (from Will County)
- Victim's right to privacy in medical records
- Amicus Brief Filed: July 9, 2020
- Amici: ICASA, NCVLI & CAASE

***Stolleis Forbes
v.
Board of Educ.
of New Berlin
Community
Unit School
Dist. 15***

- Illinois Court of Appeals, 4th Judicial Dist. (from Sangamon County)
- Tort immunity and statute of limitations for child sexual abuse
- Amicus Brief Filed: April 20, 2020
- Primary Amicus: Legal Aid Chicago

Sommerville
v.
Hobby
Lobby

- Illinois Court of Appeals, 2nd Judicial Dist. (from Human Rights Commission)
- Equal rights of a transgender employee
- Amicus Brief Filed: *Pending*
- Primary Amicus: ACLU Illinois



Title IX Final Rule & Cases

Title IX Final Rule Resources

- Effective Date: August 14, 2020
- **National Women's Law Center**
- **Chicago Alliance Against Sexual Exploitation**
- **Know Your IX**

Summary of Final Rule



DeVos's New Title IX Sexual Harassment Rule, Explained

CAASE Title IX Webinar for ICASA

Title IX Update: August 2020



Educational Advocacy
for Survivors of
Gender-Based Violence

Advocacy Resources



- Organizing Toolkit

Title IX Lawsuits

- *Pennsylvania v. DeVos* - Ongoing
- *Victim Rights Law Center v. DeVos* - Ongoing
- *New York v. U.S. Department of Education* – Stipulated to Voluntary Dismissal Without Prejudice
- *Know Your IX v. DeVos* – Dismissed for lack of standing

***Commonwealth
of Pennsylvania
v.
DeVos***

- U.S. District Court, District of Columbia
- State of Illinois is a plaintiff with 16 other states and D.C.
- Motion for Preliminary Injunction or Stay of Effective Date denied Aug. 12
- ICASA Joined Amicus Brief filed by California Women's Law Center (CWLC)

***Victim Rights
Law Center
v.
DeVos***

- U.S. District Court, District of Massachusetts
- Victims Rights Law Center, Equal Rights Advocates, Legal Voice, CAASE, and five student survivors are plaintiffs
- ICASA joined an Amicus Brief filed by CWLC in support of a motion to enjoin or stay the effective date of the Title IX Final Rule
- Motion not granted; bench trial held Nov. 18, 2020; Court took matter under advisement

Biden/Harris Administration

- ICASA joined a letter to the Transition Team
- Options:
 - Refuse to enforce
 - Regulatory process
 - Congressional Review Act
 - Pass new law



Questions & Comments

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