

SEXUAL ASSAULT RESPONSE TEAMS:

*Coordinating Our Response
to Sexual Assault*



Indiana Coalition to
End Sexual Assault

Engage. Educate. Empower.

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INTRODUCTION

A Sexual Assault Response Team (SART) is a multidisciplinary partnership to provide a consistent, coordinated, competent and compassionate response to sexual assault that makes victim needs a priority, promotes public safety, and holds offenders accountable. Core members include advocates, law enforcement, Sexual Assault Nurse Examiners (SANEs), and prosecutors. The team may also include crime labs and anyone from the community who provides services in response to sexual assault.

There are many online resources available. For an overview of SARTs, how to develop a SART, the importance of a victim-centered, trauma-informed approach, and innovative practices and tools, visit the Office of Justice Program's SART Toolkit: <https://ovc.ncjrs.gov/sartkit/>.

This guide has been prepared by the Indiana Coalition to End Sexual Assault (ICESA) with input from the Indiana Statewide SART Advisory Council and the Indiana Prosecuting Attorneys Council (IPAC) to create a useful reference for Indiana SARTs that will be updated annually.

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STATUTES AND DUTIES

In 2007, the Indiana General Assembly passed a law requiring all counties to have a SART or participate in a regional SART under Title 16 (Health), Article 21 (Hospitals), Chapter 8 (Emergency Services to Crime Victims). That SART statute (IC 16-21-8) is included in its entirety in Appendix B. Hospitals must provide forensic medical examinations and additional services to victims of sex crimes, regardless of whether the victim reports the crime to law enforcement or cooperates with law enforcement. IC 16-21-8-1(a). Hospitals (and other providers) must provide these examinations and services at no charge to victims. IC 16-21-8-6(a). Payment for services must be processed by the Victim Services Division of the Indiana Criminal Justice Institute (ICJI). IC 16-21-8-1(c).

The following crimes are considered sex crimes for purposes of the SART statute: Rape, Criminal deviate conduct (repealed), Child molesting, Vicarious sexual gratification, Sexual battery, Sexual misconduct with a minor, Child solicitation, Child seduction, and Incest. IC 16-21-8-1(b).

Duty of Prosecutor

If a SART has not been established in a county, the prosecuting attorney must appoint a SART in that county or join or create a regional SART team. IC 16-21-8-1.5.

Duty of Law Enforcement

Law enforcement must pick up evidence collected by a medical provider within 48 hours and transport it to secured storage. IC 16-21-8-10(a). Law enforcement must keep the evidence in secured storage for at least one year (IC 21-8-10(b)) or until the applicable statute of limitations has run (IC 16-21-8-2(b)(7)).

Duties of Medical Forensic Provider

Medical Forensic Examinations and additional forensic services require patient consent IC 16-21-8-3. If the patient is incapable of providing consent and the provider has a reasonable suspicion that the patient may be a victim of a sex crime, a provider may conduct a medical forensic examination without consent. IC 16-21-8-3.

To the extent practicable, providers are to use a sexual assault kit (SAK) to conduct forensic exams and provide forensic services. IC 16-21-8-1(a).

Prior to discharging the patient, providers must require the patient to sign a notification of victim rights form, provide a copy of the signed form to the patient, and inform law enforcement that the evidence is available. IC 16-21-8-9.

Duties of Sexual Assault Response Teams (SART)

Each SART must develop a plan that establishes the protocol for victim response and treatment, including the collection, preservation, secured storage and destruction of the evidence collected from medical forensic examinations. IC 16-21-8-2(a). This plan must include a plan for adult victims who choose NOT to report the crime to law enforcement (anonymous or “Jane Doe” cases), including a method of maintaining the confidentiality of the nonreporting victim and developing victim rights and victim notification forms. IC 16-21-8-2(b).

Exactly how long an anonymous SAK should be maintained is unclear. IC 16-21-8-2(b)(7) suggests the evidence for nonreporting victims cannot be destroyed until after the applicable statute of limitations has run. IC 6-21-8-10 says evidence must be maintained in secured storage for at least one (1) year or until the victim reports the crime to law enforcement and the SAK is sent to the crime lab for testing. There is no statute of limitations for level 1 or 2 felony sex crimes. IC 35-41-4-2(c). The applicable statute of limitations for level 3, 4, 5, or 6 felony sex crimes is five (5) years. IC 35-41-4-2(a). BUT...charges may be filed within one (1) year after the state discovers or should have discovered

evidence through DNA analysis. IC 35-41-4-2(b). Also, a prosecution for rape as a level 3 felony may be commenced within five (5) years after the discovery of DNA evidence or recorded evidence or a confession. IC 35-41-4-2(n).

Indiana Criminal Justice Institute Duties

The Indiana Criminal Justice Institute (ICJI) must adopt rules for payment of medical forensic examinations and additional forensic services. IC 16-21-8-1(c). ICJI is to assist in the development and operation of programs that provide medical forensic exams and additional forensic services and to provide grants for this purpose as needed. IC 16-21-8-4.

ICJI must award compensation and reimbursement for all reported sex crimes occurring in Indiana and for unreported sex crimes occurring in Indiana where the victim is at least eighteen (18) years of age.

Six (6) months and thirty (30) days before evidence may be removed from secure storage and destroyed, ICJI victim services division must notify anonymous victims by first class mail and electronic mail. IC 16-21-8-10(c).

Indiana State Police Duties

The Indiana State Police must establish and distribute a standard sexual assault kit (SAK) to hospitals and other health care providers who provide medical forensic examinations. IC 10-11-2-33.

Indiana currently relies upon the four (4) Indiana State Police labs in Lowell, Fort Wayne, Evansville, and Indianapolis to test SAKs from 91 counties. Marion County SAKs are tested by the Indianapolis-Marion County Forensic Services Agency.

Testing and Tracking Sexual Assault Kits (SAKs)

Nationwide, there is a movement to test all SAKs. Large numbers of old untested SAKs have been discovered and federal funding obtained to test all of them. The benefit of testing all kits is to identify serial offenders and to honor victims who report and submit to the collection of forensic evidence from their person. In January 2017, the U.S. Department of Justice/ Office on Violence against Women (DOJ/OVW) issued a white paper entitled "Sexual Assault Kit Testing Initiatives and Non-Investigative Kits" which is available online at <https://www.justice.gov/ovw/page/file/928236/download>. OVW encourages SARTs to make decisions about testing SAKs in a way that honors victims' rights, needs, and preferences. OVW's position is that non-investigative SAKS (also known as anonymous, unreported or "Jane Doe" SAKs) should not be tested without the victim's consent.

In August 2017, the U.S. Department of Justice / Office of Justice Programs (DOJ/OJP) National Institute of Justice published the "National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach" with research-based recommendations for collecting and processing DNA evidence in sexual assault cases. That document is also available online at <https://www.ncjrs.gov/pdffiles1/nij/250384.pdf>. The DOJ/OJP recommends a collaborative, multidisciplinary approach to sexual assault using victim-centered and trauma-informed practices that involve victim advocates early in the process and intentionally include voices from underserved or vulnerable populations.

Other states are beginning to pass laws requiring that all SAKs (except non-investigative SAKS) be submitted for testing and that all SAKs (including non-investigative SAKS) be tracked to ensure compliance. Indiana currently has no laws requiring any SAKs be tested or tracked. In the absence of any laws, ICESA urges SARTs to refrain from testing all anonymous SAKs without the victim's consent. All SAKs where reporting victims cannot identify the suspect should be immediately submitted for testing and any suspect profiles obtained should be immediately entered into CODIS. All other SAKS where the victim has identified the suspect and reported the case to law enforcement should be reviewed by the prosecuting attorney and the SAKs should be tested prior to the investigation being closed and/or charges declined. Prosecutors should have the discretion to test or not test SAKs in all cases where felony charges are filed.

BENEFITS OF A COORDINATED RESPONSE TO SEXUAL ASSAULT

A multidisciplinary sexual assault response team is greater than the sum of its parts on any given day. A team of professionals will include individuals with varying levels of experience. It is unlikely that everyone on the team will be brand new or having a bad day. The team approach is the only way to ensure a more consistent response to sexual assault throughout the state of Indiana regardless of the time and place the crime occurs.

Sexual assault is a crime that deeply affects a victim psychologically and emotionally. Whether or not there are any physical injuries, victims may experience long-term health consequences. In 2013, the American Psychiatric Association added actual or threatened sexual violence to the criteria for Post-Traumatic Stress Disorder (PTSD) in its Diagnostic and Statistical Manual of Mental Disorders, 5th Edition: DSM-5. Sexual assault often produces trauma comparable to death, threatened death, and actual or threatened serious bodily injury. Victims may be unable to recall important details of the traumatic event, may blame themselves, or respond in very different and unexpected ways to the trauma. It takes a team of competent and compassionate professionals to investigate the reported crime and minimize additional trauma to the victims.

Sexual predators choose their targets carefully and also get to choose the time, place, and circumstances of the assault. The vast majority choose someone they know and can manipulate, making the use of significant physical force the exception rather than the rule. Historically, sexual assault by serial offenders unknown to the victim have been the most likely to be thoroughly investigated and successfully prosecuted, especially with the development of DNA analysis and the CODIS system for identifying unknown perpetrators. This has created the false impression in communities that “real rapes” are those by strangers who use physical force and/or threat of deadly force to perpetrate their crimes. On the contrary, most sexual assaults are perpetrated by someone the victim knows and does not initially perceive to be a threat. SARTs can educate communities and juries, helping them understand the realities of sexual assault and move beyond the myths.

The trauma to victims who know their assailant is frequently compounded by the relationship itself. Sexual assault overlaps significantly with domestic and interpersonal violence, prostitution, and human trafficking. In the same way a child who is groomed by a trusted adult has difficulty knowing when to shout “STOP!” and run for help, an adult who is sexually assaulted by someone they initially trusted may delay reporting, questioning themselves and their perception of the abuse. A victim who is assaulted by a stranger immediately has the support of friends, family, and professionals. Victims who are assaulted by someone they know risk dividing their friends and family when they report and may also face what feels like impossible questioning from professionals who must establish force or threat of force for the assault to be a crime whenever the victim is legally capable of consent.

A coordinated response to sexual assault increases public safety and holds more offenders accountable. Neither of these positive aspects of a SART are enough to feel like justice for most victims of sexual assault. For victims, justice comes in the hours, days and weeks after the assault occurs through being treated with dignity by every professional they encounter and being connected to services designed to meet their physical, mental, and spiritual needs and help them move from victim to survivor.

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Survivors are more likely to show up for depositions and trials and better able to testify accurately and credibly to the facts of their assault.

CORE SEXUAL ASSAULT RESPONSE TEAM (SART) MEMBERS

Communities have different resources available, so teams and responses will vary. The most effective SARTs include those who regularly participate in the investigation of sexual assaults or provide services to victims of sexual assault. National research and standards require four core components in the initial team response to sexual assault: Law Enforcement, Medical, Advocates, and Prosecution.

Teams need a written memorandum of understanding (MOU), agreement, plan, or protocol to ensure that each component understands its role and works cooperatively with other team members. It is important that leaders from all four core components participate in the development of the document, commit to the implementation of policies, and sign the document. Documents that act as a guide and reflect actual practice are the most useful to promote professional discretion on a case-by-case basis and improve consistency as individual professionals come and go from the SART. The document should be reviewed annually to ensure that all team members understand and agree to the policy. If written policies no longer reflect actual practices, the team must decide whether to change policies to conform with current practices or change practices to conform to the agreed-upon policies.

In addition to professional training for each discipline, all SART members should be cross-trained regularly to ensure that each recognizes how the duties, best practices, and ethical obligations of other professionals on the team might differ from their own and to promote a more coordinated response to sexual assault in the community.

Communication is the key to coordination.

Communication is the key to coordination. Every SART needs a Coordinator to provide administrative leadership, schedule activities, and keep the team motivated and focused. The SART Coordinator acts as the contact person to coordinate meetings and trainings and to make sure all SART members have a copy of the written SART agreement. The Coordinator may also act as a contact point for community members

and agencies who would like to learn more about the SART.

Law Enforcement

Police officers provide emergency assistance, ensure public safety, and conduct criminal investigations. Anyone, anytime and anywhere in Indiana can pick up a phone, dial 911 and get an emergency response from the police. Law enforcement may be the first SART member to meet with the victim and is responsible for interviewing both victims and suspects, arranging necessary medical and forensic examinations, identifying, and arresting suspects, writing reports that accurately reflect the facts of the case, and testifying in court proceedings.

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Because our criminal code and statutes refer to those who have been sexually assaulted as victims, law enforcement refers to them as victims. Because our constitutions, both state and federal, presume a person is innocent until proven guilty in a court of law, law enforcement refers to these people as suspects. Terms like “alleged” and “accused” have historically been used pervasively in the investigation of sex crimes. These terms suggest that victims fabricate reports of sexual assault more often than any other crime (which is statistically untrue) and reverse the roles of victim and suspect by suggesting that the reported crime is based upon the victim’s action with the suspect’s role as passive. The terms “alleged” and “accused” for “reported” and “suspect” are to be avoided in all written reports to reflect the facts of a sexual assault investigation more accurately.

A victim of sexual assault who reports the crime within 120 hours (5 days) of the assault is both a witness to the crime and a living, breathing crime scene. A health care professional is required to document injuries and collect forensic evidence from the victim's body. Some counties use 72 hours or 96 hours (3 or 4 days). These time frames provide general guidance. The actual presence of forensic evidence will vary depending upon the facts of the case, the extent of injuries sustained, and the location of potential DNA evidence.

When the victim identifies the suspect, law enforcement may also arrange for the suspect's body to be examined for forensic evidence and any injuries consistent with the victim's account of the assault. If the suspect does not consent to a forensic examination or the collection of other evidence, then prosecution may be called to assist in obtaining a search warrant.

Detectives with special training in sexual assault should keep an updated curriculum vitae (CV) in case they are called upon to testify as an expert witness based on their knowledge, skill, experience, training and/or education under Indiana Rule of Evidence 702 or as a skilled witness pursuant to *Zanders v. State*, 73 N.E.2d 178, 188 (Ind. 2017). Detectives can assist juries in understanding how the investigation was conducted and why certain types of evidence may or may not be available in a specific case.

Medical

A victim of sexual assault who seeks medical evaluation and treatment is a patient first. However, when a patient presents within 120 hours of the assault, the medical provider can offer the patient evidence collection and work to meet the needs of the criminal justice system in a patient-centered, trauma-informed manner. A patient's immediate medical and forensic needs are best served by a specially trained Sexual Assault Forensic Examiner (SAFE). Nationally, the trend has been to train Registered Nurses (RNs) as Sexual Assault Nurse Examiners (SANEs). SANEs may be certified nationally or by their state to examine adults and adolescent patients, and/or pediatric patients. In Indiana, the International Association of Forensic Nurses (IAFN) certifies Sexual Assault Nurse examiners as either SANE-A for adults and adolescents or SANE-P for pediatric patients.

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SANEs may testify as both fact witnesses based upon their personal observations of the patient during the medical forensic examination and expert witnesses under Indiana Rule of Evidence 702 based upon their knowledge, skill, experience, training, and/or education. SANEs take a medical history to treat and diagnose their patients. Statements made for treatment or diagnosis are admissible in court under the Medical Hearsay Exception, Indiana Rule of Evidence 803(4). In every case involving injury to the female sex organ or penetration of the female sex organ or anus, it is helpful to have a SANE testify. It is also beneficial to have a SANE testify in cases where there is no physical injury observed. SANEs may educate the jury on the relevant anatomy and why no injuries are observed even in most cases of confirmed sexual assault where there is video or a confession. A SANE who takes the patient's medical history and examines the patient's body can testify in the form of an opinion whether or not the injuries observed (or lack of injuries observed) are consistent with the history given by the patient.

There are National Protocols for SANE-P (2016) and SANE-A (2013) medical forensic examinations. These are available online:

<https://www.justice.gov/ovw/file/846856/download>

<https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf>

The IAFN National Standards for becoming accredited as a SANE-A or SANE-P (2015) are also available online:

http://c.ymcdn.com/sites/www.forensicnurses.org/resource/resmgr/2015_SANE_ED_GUIDELINES.pdf

The Emergency Nurses Association – Indiana State Council (ENA-IN) hosts a Forensic Nursing webpage that provides valuable information to increase awareness related to SANE training, continuing education, and legislative issues:

<http://www.indianaena.org/forensic-home/>

Indiana currently has SANEs available 24/7 to provide medical forensic examinations in some counties, but not in most. The goal is to have SANEs available 24/7 for every county in Indiana so that victims of sexual assault receive the same quality medical response no matter where or when they are assaulted.

Advocates

Sexual assault victim advocates provide emotional support, information, and referrals to victims during the initial crisis and throughout the healing process and the criminal justice process when the crime is reported to law enforcement. Advocates seek to ensure the ongoing safety of victims, answer their questions, and serve as a liaison when needed. Advocates do not investigate or gather evidence. Instead, they are a reliable and compassionate source of information and support for victims, making sure they understand their rights and the process. Advocates help teams provide a more victim-centered and trauma-informed response. Advocates may be present during any portion of the investigation at the victim's request but should not provide opinions on the merits of the case or participate in conducting interviews or examinations. Advocates generally will not testify in court unless called upon to provide general expert or skilled witness testimony on relevant sexual assault issues.

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IC 35-37-6-9 creates a victim advocate privilege for confidential communications between the advocate and the victim. This privilege does not apply to victim assistance specialists or advocates employed by law enforcement or prosecution.

Indiana has no professional certification standards for sexual assault victim advocates. ICESA offers a week-long CORE-40 training course for advocates two times per year in various locations throughout the state. For more information on advocate training, visit ICESA's Trainings and Events page at www.IndianaCESA.org.

Indiana currently has sexual assault victim advocates available 24/7 to support victims of sexual assault in some counties, but not in most. The goal is to have trained sexual assault victim advocates available 24/7 in every county in Indiana so that victims receive the same competent, compassionate support no matter where or when they are assaulted.

Prosecution

Prosecutors work with law enforcement to obtain search warrants and ensure that evidence is collected in a manner that conforms with a suspect's constitutional rights. Prosecutors also have the responsibility of assuring and maintaining victim rights. Indiana Constitution Article 1, §13(b) gives all victims of crimes the right to be treated with fairness, dignity, and respect throughout the criminal justice process, to be informed of and

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present during public hearings and to confer with prosecution to the extent that exercising these rights does not infringe on the suspect's constitutional rights. IC 35-40 enumerates the specific rights that victims have in criminal proceedings.

Prosecutors assess the evidence and determine what formal criminal charges, if any, will be filed. Adult victims may choose whether to report their assault to law enforcement, but once a crime is reported, the prosecutor alone has the discretion to file charges, offer a plea recommendation, or take the case to trial. Clear communication with all SART members throughout the investigation improves the team's ability to respond to victims' rights and needs and to hold offenders accountable.

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If a county has no SART, IC 16-21-8-1.5 requires the prosecuting attorney to appoint a SART in that county or join a regional SART.

When criminal charges are filed, it is critical that the prosecutor trying the case meet with SART members who are witnesses and prepare them to testify in depositions and at trial.

VICTIM-CENTERED RESPONSE

Children

The legal definition of child does not correspond perfectly to the medical definition of child. Under Indiana law all minor children ages 0-17 who have not been emancipated are children. Any time a child is sexually assaulted, the crime must be reported to law enforcement and/or DCS. Any sexual contact (even “consensual”) involving a child age 13 or younger is Child Molesting (IC 35-42-4-3). Children ages 14-17 may be victims of Sexual Misconduct with a Minor (IC 35-42-4-9) or Child Seduction (IC 35-42-4-7). Any child age 0-17 may also be the victim of Rape (IC 35-42-4-1), Sexual Battery (IC 35-42-4-8), and Incest (IC 35-46-1-3). All these crimes must also be reported to law enforcement and/or DCS. Failure to report suspected child abuse is a B misdemeanor (IC 31-33-22-1).

Every SART should have a procedure in place to handle interviewing and providing medical forensic examinations for children.

Many counties now have Child Advocacy Centers to coordinate a multidisciplinary response to child sexual assault. The National Children's Alliance has developed minimum standards for accreditation of a child advocacy center (CAC) and a guide for implementing those standards. Both publications are available online at <http://www.nationalchildrensalliance.org/ncas-standards-accredited-members>. These standards are evidence-supported but are minimum standards and should not be viewed as best practice standards. All standards evolve over time and require revision as research progresses.

The core child multi-disciplinary team (MDT) is comprised of representatives from law enforcement, child protective services, prosecution, medical, mental health, and victim advocacy, together with CAC staff. Generally, a coordinated, MDT approach facilitates efficient interagency communication and information sharing, ongoing involvement of key individuals, and support for children and families. Each agency gains the benefit of a broadened knowledge base from which decisions are made, thorough and shared information, and improved and timely evidence gathering. Involvement of the prosecutor from the beginning stages of the case may also contribute to a more successful criminal justice outcome. MDT interventions in a neutral, child-focused CAC setting are associated with less anxiety, fewer interviews, and more appropriate and timely referrals for needed services. An MDT response fosters needed education, support, and treatment for children and families that may enhance their willingness to participate in the criminal justice system as effective witnesses. In addition, parents and other caregivers are empowered to protect and support their child throughout the investigation and prosecution and beyond.

Every SART should have a procedure in place to handle interviewing and providing medical forensic examinations for children.

Child Forensic Interviews

Forensic interviews are the foundation for multiple CAC/MDT functions including child abuse investigation, prosecution, child protection, and implementation of appropriate services, and may also be the beginning of the road toward healing for many children and families. The manner in which a child is treated during the initial forensic interview may significantly impact the child's understanding of, and ability to respond to, the intervention process and/or criminal justice system.

The purpose of a child forensic interview is to obtain information from a child about abuse allegations that will support accurate and fair decision making by the MDT within the criminal justice, child protection, and service delivery systems. Forensic interviews are conducted in a manner that is developmentally and culturally sensitive, unbiased, fact-finding, and legally sound. When a child is unable or unwilling to provide information regarding any concern about abuse, other interventions to assess the child's experience and safety are required.

The CAC/MDT must adhere to research-based forensic interview guidelines that create an interview environment that enhances free recall, minimizes interviewer influence, and gathers information needed by all the MDT members to avoid duplication of the interview process. MDT protocols and practices need to be congruent. The CAC/MDT must monitor these guidelines over time to ensure that they reflect current practice.

Pediatric Medical Forensic Examinations

The medical definition of child is based upon physical development rather than chronological age and may include infants and children through their teen years and young adulthood. Pediatricians treat children ages 0-21. When it comes to medical forensic examinations, prepubescent children must be examined and treated differently than pubescent children. Generally, in Indiana, based upon the child molesting statute applying to all children through age 13, examination by a SANE-P is preferred for children ages 0-13 and examination by a SANE-A is preferred for adolescents and adults ages 14 and older.

All children who are suspected victims of child sexual abuse are entitled to a medical evaluation by a provider with specialized training. The collection and documentation of possible forensically significant findings are vital. However, the referral of children for medical examinations should NOT be limited to those for which forensically significant information is anticipated. Medical evaluations should be prioritized as emergent, urgent, and non-urgent based on the specific screening criteria in the table below. Criteria must be developed by specially trained and skilled medical providers or by local multidisciplinary teams that include qualified medical representation. Some children also benefit from follow-up examinations to re-assess findings and conduct further testing.

Timing of Medical Examinations ¹		
	Timing of Exam	Medical Indications
Indications for emergency evaluation	Exam scheduled without delay	<ul style="list-style-type: none"> ▪ Medical, psychological or safety concerns such as acute pain or bleeding, suicidal ideation or suspected human trafficking ▪ Alleged assault that may have occurred within the previous 72 hours (or other state-mandated time interval) necessitating collection of trace evidence for later forensic analysis ▪ Need emergency contraception ▪ Need for post-exposure prophylaxis (PEP) for STIs including Human Immunodeficiency Virus (HIV)
Indications for urgent evaluation	Exam scheduled as soon as possible with qualified provider	<ul style="list-style-type: none"> ▪ Suspected or reported sexual contact occurring within the previous 2 weeks, without emergency medical, psychological or safety needs identified
Indications for non-urgent evaluation	Exam scheduled at convenience of family and provider but ideally within 1-2 weeks	<ul style="list-style-type: none"> ▪ Disclosure of abuse by child, sexualized behaviors, sexual abuse suspected by MDT, or family concern for sexual abuse, but contact occurred more than 2 weeks prior without emergency medical, psychological or safety needs identified
Indications for follow-up evaluation	As determined by qualified provider	<ul style="list-style-type: none"> ▪ Findings on the initial examination are unclear or questionable necessitating reevaluation ▪ Further testing for STIs not identified or treated during the initial examination ▪ Documentation of healing/resolution of acute findings ▪ Confirmation of initial examination findings, when initial examination was performed by an examiner who had conducted fewer than 100 such evaluations

¹Adams JA, Kellogg ND, Farst KJ, Harper NS, Palusci VJ, Frasier LD, Levitt CJ, Shapiro RA, Moles RL, Starling SP, Updated Guidelines for the Medical Assessment and Care of Children Who May Have Been Sexually Abused, Journal of Pediatric and Adolescent Gynecology (2015), doi:10.1016/j.jpag.2015.01.007.

Adolescents

No one under the age of 14 can legally consent to sexual activity. Adolescents ages 14-17 can legally engage in consensual sexual activity with each other. Absent a suspicion that the adolescent is being abused or neglected, consensual sexual activity among adolescents ages 14-17 should not be reported to law enforcement or DCS. The “Romeo Defense” protects 17-year-olds engaged in consensual sexual relations with 14 and 15-year-olds from prosecution if they turn 18 before their partner turns 16. (IC 35-42-4-9(e)). Adolescents who are 16 and 17 can consent to sexual activity with most adults, but not with people in a position of power or authority over them such as step-parents, school employees, counselors, and military recruiters (See IC 35-42-4-7 Child Seduction for a complete list). Anytime an adolescent age 14-17 is sexually assaulted, that crime must be reported to law enforcement and/or DCS. Failure to report suspected sexual assault of a minor is a B misdemeanor (IC 31-33-22-1).

No one under the age of 14 can legally consent to sexual activity.

Adolescents ages 14-17 are children whose cases of sexual assault must be investigated by DCS. The National Children's Alliance minimum CAC standards apply to adolescents. Practices vary from county to county on which adolescents receive a medical forensic examination in non-emergency cases and whether the victim interview is done by DCS, law enforcement or a child forensic interviewer.

Child Testimony and Hearsay

For information on Indiana's Protected Person Statute (IC 35-37-4-6) and updates on the admissibility of child hearsay statements to other witnesses, please contact ICESA's Statewide SART Coordinator or IPAC's DV/SA Resource Person.

Endangered Adults

Indiana defines endangered adults as persons 18 years or older who are incapable of managing their property or self-care due to mental illness, intellectual disability, dementia, or other incapacity. Indiana law requires everyone to report all cases of suspected abuse, neglect, or exploitation to either the nearest Adult Protective Services (APS) office or to law enforcement. (IC 12-10-3-9). Reports may also be made online (<https://ddrsprovider.fssa.in.gov/APSONlineReporting>) or by calling the state hotline (1-800-992-6978). Failure to report suspected sexual abuse of an endangered adult is a B misdemeanor (IC 35-46-1-13).

Trafficked Adults

Victims of human trafficking may not be treated as criminals. IC 35-42-3.5-4 states that victims may not be jailed, fined, detained in a facility that is inappropriate for victims or otherwise penalized. Law enforcement agencies have an affirmative duty to protect the victim's safety and also to protect the victim's family members from intimidation or reprisal by human trafficking offenders.

Victims of human trafficking may not be treated as criminals.

However, in practice, this often is not the case. According to Polaris, the leading national authority on human trafficking in the United States, law enforcement interactions with trafficking victims include, “victims being arrested and/or charged for crimes committed while being trafficked, apprehension by immigration officials, assistance after being victimized by another crime (such as theft or assault), or extraction from their trafficking situation” (<http://polarisproject.org/sites/default/files/2016-Statistics.pdf>). Criminalization of human trafficking victims should not be the outcome, but it often is. Connecting adult victims of trafficking with a specialized victim advocate or actual attorney is an imperative first step to ensure their victim status is acknowledged, respected, and protected throughout their interactions with system associated personnel.

Non-Reporting Adults

As a condition of certain grant funding, the Violence Against Women Act (VAWA) requires states to provide medical forensic examinations to adults at no charge regardless of whether the

victim reports the crime to law enforcement or cooperates with law enforcement. Absent any mandatory reporting laws, it is up to adult victims to decide whether to report and when to report, if they choose to do so.

Absent any mandatory reporting laws, it is up to adult victims to decide whether to report and when to report, if they choose to do so.

There are many reasons why victims, especially victims of intimate partner sexual assault, may need to delay reporting. Once the crime is reported to law enforcement, the suspect may be contacted, placing the victim and others at even greater risk of harm. Victims frequently need time to ensure they have important documents in order, sufficient access to funds, and someplace safe for themselves, their children, and their pets to stay.

IC 16-21-8-0.2 (4) refers to a sexual assault kit (SAK) of a victim who has not yet reported the sex crime to law enforcement as a “sample.” Nationwide, they are sometimes referred to as “anonymous” or “unreported” or “non-investigative” or “Jane Doe” kits. IC 16-21-8-10(b)(1) gives victims at least one year to report the crime to law enforcement and still have the SAK kept in secure storage and available for investigation and use as evidence.

Special Populations

Victim experiences during the crime and their post-assault needs, may be affected by multiple factors such as age, gender, disability, language barriers, cultural or religious beliefs and practices, and immigration status. Questions about such information should be limited to what is actually needed to respond effectively and provide appropriate care.

Beliefs about sexuality, sexual orientation, gender identity or expression, race, ethnicity, and religion may vary greatly among victims of different cultural backgrounds.

Do not assume the gender or sexual orientation of the victim or suspect... If unsure of what to call the person or what pronouns to use, ASK.

Do not assume the gender or sexual orientation of the victim or suspect. Avoid taking a binary approach to gender (male/female) by including transgender, nonbinary, and intersex options. Always refer to victims by their preferred name and pronoun, even when speaking to others. If unsure of what to call the person or what pronouns to use, ASK. Lesbian, gay, and transgender victims may be especially reluctant to report, fearing inappropriate questions and prejudice. Be especially careful about body language—a sigh or raised eyebrows may feel like judgment rather than acceptance.

Male victims may also be reluctant to report sexual assault and to seek and receive support from family members, friends, as well as from advocacy and counseling services. All victims' ability to seek support will vary based upon the stigma they may feel, the sensitivity of initial responders, and the appropriateness of referrals provided.

People with disabilities are at a much greater risk of sexual assault. They may have physical, sensory, cognitive, developmental, or mental health disabilities, or a combination of disabilities, some of which are apparent and other which are not. SARTs should make every effort to recognize issues that arise for victims with disabilities (both in general and in relation to their specific disability) and provide reasonable accommodations.

SARTs must be aware of the languages spoken in the community and make every attempt to provide same language service or professional interpreters. The victims' families or friends may know the suspect as well as the victim and may not fully appreciate the requirement of confidentiality and the need to refrain from passing judgment. It is also helpful to have forms and other materials translated in advance and available. A victim's language barriers are often exacerbated by the trauma of sexual assault.

SARTs cannot anticipate and meet every need of every victim, but teams should constantly be working to develop resources for these and other identifiable special needs within the community.

SPECIALIZED RESPONSE

Title IX and Campus SARTs

Title IX prohibits discrimination on the basis of sex in any federally funded education program or activity including elementary and secondary schools, colleges and universities. The principle objective of Title IX is to ensure that no federal money supports sex discrimination and to protect individuals from discriminatory practice based on sex or gender. Every educational institution that receives federal dollars is required to have a Title IX investigator and coordinator on campus. What originally began as “equality in athletics” has developed into equality in the fields of science, technology, engineering and mathematics and an effort to eliminate sexual violence on school campuses.

In 1990, Congress passed the Clery Act requiring colleges and universities that receive federal funding to publish an annual security report that includes statistics of campus crime (homicide, sex offenses, domestic violence, stalking, robbery, aggravated assault, burglary, motor vehicle theft, arson, hate crimes, and violations involving alcohol, drugs, firearms) and details about efforts taken to improve campus safety. The Clery Act was named for Jeanne Clery, a Lehigh University student who was raped and murdered in her college dorm. To coordinate services and meet state and federal requirements to prevent gender discrimination and report statistics, many college campuses are establishing their own Sexual Assault Response Teams (SARTs).

The following Indiana colleges and universities have established SARTs through ICESA's Campus Consortium: Butler University, DePauw University, Franklin College, Goshen College, IUPUC, IUPUI, and Saint Mary's College. More information on ICESA's Campus Consortium is available online at: <http://indianacesa.org/campus-consortium/>.

For additional information on Title IX, visit the Department of Education's Sex Discrimination page at <https://www2.ed.gov/policy/rights/guid/ocr/sex.html>. For more details on the Clery Act, visit the Clery Center at <https://clerycenter.org/>

The Prison Rape Elimination Act (PREA)

The Prison Rape Elimination Act (PREA) of 2003 is a Federal law established to address the elimination and prevention of sexual assault and rape in correctional systems. PREA applies to all federal, state, and local prisons, jails, police lockups, private facilities, and community settings such as residential facilities. The major provisions of PREA are to:

- Develop standards for detection, prevention, reduction, and punishment of prison rape;
- Collect and disseminate information on the incidence of prison rape; and
- Award grants and technical assistance to help state governments implement the Act.

PREA seeks to ensure that prisons, jails, and other correctional settings protect inmates from sexual assault, sexual harassment, “consensual sex” with employees, and inmate-inmate sexual assault.

Every county in Indiana has a jail, and 14 counties have correctional facilities operated by the Indiana Department of Corrections (DOC). A current list of Indiana's adult and juvenile correctional facilities with links to additional details for each facility, is available online at <http://www.in.gov/idoc/2328.htm>. In addition, Vigo County houses a federal penitentiary and correctional facility in Terre Haute.

Additional information on PREA is available online through the National PREA Resource Center: <https://www.prearesourcecenter.org/>

What originally began as “equality in athletics” has developed into equality in the fields of science, technology, engineering and mathematics and an effort to eliminate sexual violence on school campuses.

The VERA Institute of Justice has developed a guide for creating partnerships between corrections and SARTs which is also available online:

<http://www.preaguide.org/wp-content/uploads/2016/04/Partnering-Community-SART-Guide-FINAL.pdf>

Military Sexual Assault Response

Military bases in Indiana include Fort Wayne Air National Guard in Allen County, Heslar Naval Armory in Marion County, the Navy's Crane Division in Martin County, Grissom Joint Air Reserve Base Air Force in Miami County, and Hulman Field Air National Guard in Vigo County. Fort Benjamin Harrison in Marion County officially closed in 1996, but several Reserve and National Guard units are still located at that base as well.

The Department of Defense (DoD) has its own Sexual Assault Prevention and Response Office (SAPRO) that oversees the military's sexual assault policies. SAPRO works with all branches of the armed forces and the civilian community to develop and implement multidisciplinary prevention and response programs. More information on is available online at <http://www.sapr.mil/>

The Department of Defense (DoD) has its own Sexual Assault Prevention and Response Office (SAPRO) that oversees the military's sexual assault policies.

Under DoD's Sexual Assault Prevention and Response (SAPR) Policy, service members and their adult military dependents have two reporting options — Restricted Reporting and Unrestricted Reporting. Under Unrestricted Reporting, both the command and law enforcement are notified. With Restricted (Confidential) Reporting, the adult sexual assault victim can access healthcare, advocacy services, and legal services without notifying command or law enforcement. Military retirees, DoD civilians, and DoD contractors currently may use only Unrestricted Reporting.

Restricted Reports can only be made to: a Sexual Assault Response Coordinator (SARC); a SAPR Victim Advocate (VA); and/or a Healthcare Provider. Reports made to any other person are Unrestricted and the person receiving the report must notify command and law enforcement. While Special Victims' Counsel and chaplains have confidentiality/privilege, they CANNOT accept a Restricted Report.

The DoD has contracted with the Rape, Abuse & Incest National Network (RAINN) to provide an independent and anonymous hotline called Safe Helpline. Safe Helpline staff provide information on base military resources, like Sexual Assault Response Coordinators (SARCs) and Victim Advocates (VAs). Military personnel can talk to a trained SAFE Helpline staff member online (<https://www.safehelpline.org/online>) or by phone (1-877-995-5247) to access confidential crisis intervention and support services, including referrals to local resources, both civilian and military.

RESOURCES/APPENDICES

Appendix A: Definitions

Medical Forensic Examination — A comprehensive examination provided to a sexual assault victim by health care personnel trained to provide trauma-informed, patient-centered medical care and to gather evidence of sexual assault in a manner suitable for use in a court of law. The examination includes at a minimum*:

- Patient medical history
- History of present illness/assault for diagnosis and treatment
- Medical examination for physical trauma/injuries
- Collection of evidence
- Photographic documentation and body mapping
- Prophylaxis for exposure to STIs, including HIV, or possible pregnancy
- Safety planning and discharge planning

*Patients have the right to decline any portion of the Medical Forensic Examination.

Privileged Communication — The victim advocate provides the victim with information and options available to the victim throughout the medical, legal, and healing process. All verbal and written communication between victims, victim advocates and interpreters are considered confidential and not to be shared by any party. Privilege lies with the victim and may not be released without victim consent. This confidentiality is protected under statute IC 35-37-6-1, but the privilege does not extend to victim assistance or advocates employed by a prosecuting attorney's office or law enforcement.

SART members sharing information during meetings about specific cases are not covered by the privileged communication statute therefore careful consideration must be given to the manner in which a victim advocate discloses information. Law enforcement is compelled to divulge information or evidence discovered at any time that may impact a case.

Sexual Assault — Any type of sexual contact or behavior that occurs without mutual, uncoerced, freely given consent.

Sexual Assault Forensic Examiner (SAFE) — A registered nurse, nurse practitioner, physician or physician assistant who has specialty training to provide comprehensive care to sexual assault patients and conduct a medical forensic examination, collect evidence from sexual assault patients and testify as both a fact and expert witness.

Sexual Assault Nurse Examiner (SANE) — A SAFE that is a registered nurse. In Indiana, nearly all SAFEs are SANEs.

Sexual Assault Response Team (SART) — A multidisciplinary partnership to provide a consistent, coordinated, competent and compassionate response to sexual assault that makes victim needs a priority, promotes public safety, and holds offenders accountable. Core members include advocates, law enforcement, SANEs, and prosecutors. The team may also include crime labs and anyone from the community who provides services in response to sexual assault.

Sexual Assault Treatment Center (SATC) means a medical facility that provides evidence-based, trauma-informed, and victim-centered medical forensic services to a sexual assault victim and that uses sexual assault forensic examiners to perform medical forensic examinations.

Sexual Assault Victim Advocate — An employee or volunteer with specialty training to represent and support victims of sexual violence. IC 35-37-6-9 creates a victim advocate privilege for confidential communications between the advocate and the victim. This privilege does not apply to victim assistance specialists or advocates employed by law enforcement or prosecution. Sexual assault advocates in Indiana are recommended to have completed a 40-hour sexual assault training course provided by the Indiana Coalition to End Sexual Assault (ICESA).

Victims Assistance — A program that is based at a law enforcement agency, prosecutor's office or in the community that has a duty to respond on-scene or at the hospital to provide immediate crisis intervention services and advocacy for the victim. Victim assistance personnel serve as the liaison between the victim and law enforcement and prosecutors. A victim's communications with victims assistance are never privileged.

Appendix B: Indiana Statutes

Indiana SART Statute

IC 16-21 Chapter 8. Emergency Services to Sex Crime Victims

IC 16-21-8-0.1 Repealed

IC 16-21-8-0.2 Definitions

Sec. 0.2. The following definitions apply throughout this chapter:

- (1) "Division" refers to the victim services division of the Indiana criminal justice institute established by IC 5-2-6-8(a).
- (2) "Evidence" means the results collected from a forensic medical examination of a victim by a provider.
- (3) "Provider" means a hospital or licensed medical services provider that provides forensic medical exams and additional forensic services to a victim.
- (4) "Sample" means the result collected from a forensic medical examination of the victim by a provider, when the victim has not yet reported the sex crime to law enforcement.
- (5) "Secured storage" means a method of storing a sample that will adequately safeguard the integrity and viability of the sample.
- (6) "Sexual assault examination kit" means the standard medical forensic examination kit for victims of sexual assault developed by the state police department under IC 10-11-2-33.
- (7) "Sexual assault nurse examiner" means a registered nurse who:
 - (A) has received training to provide comprehensive care to sexual assault survivors; and
 - (B) can: (i) conduct a forensic medical examination; and (ii) collect evidence from a sexual assault victim.

As added by P.L.161-2014, SEC.11.

IC 16-21-8-0.3 Repealed

IC 16-21-8-0.5 Repealed

IC 16-21-8-0.6 Repealed

IC 16-21-8-0.7 Repealed

IC 16-21-8-0.8 Repealed

IC 16-21-8-0.9 Repealed

IC 16-21-8-1 Forensic Medical Exams and Additional Forensic Services; Rules; Enumeration of Sex Crimes

Sec.1. (a) A hospital licensed under IC 16-21-2 that provides general medical and surgical hospital services shall provide forensic medical exams and additional forensic services to all alleged sex crime victims who apply for forensic medical exams and additional forensic services in relation to injuries or trauma resulting from the alleged sex crime. To the extent practicable, the hospital shall use a sexual assault examination kit to conduct forensic exams and provide forensic services. The provision of services may not be dependent on a victim's reporting to, or cooperating with, law enforcement.

(b) For the purposes of this chapter, the following crimes are considered sex crimes:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (repealed).
- (3) Child molesting (IC 35-42-4-3).
- (4) Vicarious sexual gratification (IC 35-42-4-5).
- (5) Sexual battery (IC 35-42-4-8).
- (6) Sexual misconduct with a minor (IC 35-42-4-9).
- (7) Child solicitation (IC 35-42-4-6).
- (8) Child seduction (IC 35-42-4-7).
- (9) Incest (IC 35-46-1-3).

(c) Payment for services under this section shall be processed in accordance with rules adopted by the victim services division of the Indiana criminal justice institute.

As added by P.L.2-1993, SEC.4. Amended by P.L.47-1993, SEC.7; P.L.36-1997, SEC.7; P.L.121-2006, SEC.23; P.L.41-2007, SEC.13; P.L.158-2013, SEC.228; P.L.214-2013, SEC.15; P.L.161-2014, SEC.18.

IC 16-21-8-1.1 Forensic Medical Examinations Without Consent of the Examinee

Sec. 1.1. (a) A provider may conduct a forensic medical examination without the consent of the person who is the subject of the examination, or the consent of another person authorized to give consent under IC 16-36-1-5, if the following conditions are met:

- (1) The person:
 - (A) does not have the capacity to provide informed consent under IC 16-36-1; and
 - (B) is, based on the medical opinion of the health care provider, incapable of providing consent within the time for evidence to be collected through a forensic medical examination.
- (2) The provider has a reasonable suspicion that the person may be the victim of a sex crime.
- (3) A person authorized to give consent under IC 16-36-1-5 is:
 - (A) not reasonably available; or
 - (B) the suspected perpetrator of the sex crime.

(b) A provider is immune from civil liability for conducting a forensic medical examination without consent in accordance with this section unless performance of the forensic medical examination constitutes gross negligence or willful or wanton misconduct.

As added by P.L.161-2014, SEC.19.

IC 16-21-8-1.5 Appointment of a Sexual Assault Response Team

Sec. 1.5. If a sexual assault response team has not been established in a county, the prosecuting attorney shall appoint a sexual assault response team in that county, or the county shall join with one (1) or more other counties to create a regional team, to comply with duties assigned to sexual assault response teams under this chapter.

As added by P.L.41-2007, SEC.14.

IC 16-21-8-2 County or Regional Sexual Response Team; Duties

Sec. 2. (a) Each county or regional sexual assault response team shall develop a plan that establishes the protocol for sexual assault victim response and treatment, including the:

- (1) collection;
 - (2) preservation;
 - (3) secured storage; and
 - (4) destruction;
- of samples.

(b) The plan under subsection (a) shall address the following regarding an alleged sexual assault victim who is at least eighteen (18) years of age and who either reports a sexual assault or elects not to report a sexual assault to law enforcement:

- (1) The method of maintaining the confidentiality of the alleged sexual assault victim regarding the chain of custody and secured storage of a sample.
- (2) The development of a victim notification form that notifies an alleged sexual assault victim of his or her rights under the law.
- (3) How a victim will receive the victim notification form.
- (4) Identification of law enforcement agencies that will be responsible to transport samples.
- (5) Agreements between medical providers and law enforcement agencies to pick up and store samples.
- (6) Maintaining samples in secured storage.
- (7) Procedures to destroy a sample following applicable statute of limitations.

As added by P.L.2-1993, SEC.4. Amended by P.L.121-2006, SEC.24; P.L.41-2007, SEC.15.

IC 16-21-8-3 Forensic Medical Exams and Additional Forensic Services; Consent

Sec. 3. A physician or sexual assault nurse examiner who provides forensic medical exams and additional forensic services shall provide the forensic medical exams and additional forensic services to an alleged sex crime victim under this chapter with the consent of the alleged sex crime victim.

As added by P.L.2-1993, SEC.4. Amended by P.L.121-2006, SEC.25; P.L.41-2007, SEC.16.

IC 16-21-8-4 Assistance in Development and Operation of Forensic Medical Exams and Additional Forensic Services

Sec. 4. The victim services division of the Indiana criminal justice institute shall assist in the development and operation of programs that provide forensic medical exams and additional forensic services to alleged sex crime victims, and if necessary, provide grants to hospitals for this purpose.

As added by P.L.2-1993, SEC.4. Amended by P.L.47-1993, SEC.8; P.L.121-2006, SEC.26.

IC 16-21-8-5 Payment of Forensic Medical Exams; Requirements; Suspension

Sec. 5. (a) The division shall award compensation or reimbursement under this chapter for forensic medical exams.

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

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

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

(3) The sex crime occurred in Indiana.

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

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

As added by P.L.2-1993, SEC.4. Amended by P.L.47-1993, SEC.9; P.L.90-2005, SEC.7; P.L.121-2006, SEC.27; P.L.41-2007, SEC.17.

IC 16-21-8-6 Services without Charge; Reimbursement

Sec. 6. (a) When a provider provides forensic medical exams and additional forensic services under this chapter to a victim, the provider shall furnish the services without charge.

(b) When a provider provides additional forensic services under section 5(b) and 5(c) of this chapter, the provider shall furnish the services without charge.

(c) The division shall reimburse a provider for the cost for providing services and shall adopt rules and procedures to provide for reimbursement.

(d) The application for reimbursement must be filed not more than one hundred eighty (180) days after the date the service was provided.

(e) The division shall approve or deny an application for reimbursement filed under subsection (b) not more than one hundred twenty (120) days after receipt of the application for reimbursement.

(f) A provider may not charge the victim for services required under this chapter despite delays in reimbursement from the division.

As added by P.L.2-1993, SEC.4. Amended by P.L.47-1993, SEC.10; P.L.36-1997, SEC.8; P.L.90-2005, SEC.8; P.L.121-2006, SEC.28.

IC 16-21-8-7 Abortion Services not Required

Sec. 7. This chapter does not require a hospital to provide a service related to an abortion.

As added by P.L.2-1993, SEC.4.

IC 16-21-8-9 Duties of a Provider; Delayed Implementation

Sec. 9. (a) Prior to the discharge of a victim from the hospital, a provider shall:

(1) require the victim to sign a form that notifies the victim of his or her rights under this chapter;

(2) provide a copy of the signed form to the victim; and (3) inform law enforcement that the sample is available.

(b) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

(1) A date set by the director.

(2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify the prosecuting attorney of each county of the director's action and when funding become available to implement this section.

As added by P.L.41-2007, SEC.18.

IC 16-21-8-10 Law Enforcement Duty to Transport a Sample to Secured Storage; Victim Notification; County Plans

Sec. 10. (a) Law enforcement shall:

(1) obtain the sample within forty-eight (48) hours after receiving a provider's notification; and

(2) transport the sample to secured storage.

(b) Law enforcement shall keep the sample in secured storage until the earlier of the following:

(1) At least one (1) year after the date the sample is placed in secured storage.

(2) The victim reports the sex crime to law enforcement and the sample is transported to the crime lab for investigation and use as evidence.

(c) The division shall notify the victim, as described in subsection

(d), that the victim's sample will be removed from secured storage and may be destroyed if the victim does not report the sex crime to law enforcement on or before the date described in subsection (b)(1).

(d) The notice the division is required to provide a victim under subsection (c) shall be sent:

(1) by first class mail to the individual's last known address;

(2) by electronic mail to the individual's last known electronic mail address; and

(3) six (6) months and thirty (30) days before the date described in subsection (b)(1).

(e) Each county shall develop and implement a plan for the secured storage of samples.

(f) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

(1) A date set by the director.

(2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify the prosecuting attorney of each county of the director's action and when funding becomes available to implement this section.

(g) The failure to comply with:

(1) this chapter;

(2) a plan adopted by a county; or

(3) a protocol adopted by a sexual assault response team;

does not, standing alone, affect the admissibility of a sample as evidence in a criminal or civil proceeding.

As added by P.L.41-2007, SEC.19.

IC 10-11-2-33 Medical forensic examination kits

Sec. 33. (a) The superintendent shall adopt guidelines to establish a standard medical forensic examination kit for victims of a sex crime.

(b) The superintendent shall distribute the standard medical forensic examination kits to hospitals and other health care providers who may provide forensic medical examinations to the victims of a sex crime. The superintendent may adopt guidelines to carry out this subsection.

As added by P.L.161-2014, SEC.1.

Indiana Sex Crimes

For SART purposes, the following crimes are considered sex crimes (IC 16-21-8-1):

IC 35-42-4-1 Rape

Sec. 1. (a) Except as provided in subsection (b), a person who knowingly or intentionally has sexual intercourse with another person or knowingly or intentionally causes another person to perform or submit to other sexual conduct (as defined in IC 35-31.5-2-221.5) when:

(1) the other person is compelled by force or imminent threat of force;

(2) the other person is unaware that the sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) is occurring; or

(3) the other person is so mentally disabled or deficient that consent to sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) cannot be given; commits rape, a Level 3 felony.

(b) An offense described in subsection (a) is a Level 1 felony if:

(1) it is committed by using or threatening the use of deadly force;

(2) it is committed while armed with a deadly weapon;

(3) it results in serious bodily injury to a person other than a defendant; or

(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977,P.L.340, SEC.36; P.L.320-1983, SEC.23; P.L.16-1984, SEC.19;P.L.297-1989, SEC.1; P.L.31-1998, SEC.3; P.L.158-2013, SEC.437;P.L.214-2013, SEC.36; P.L.168-2014, SEC.67.

IC 35-42-4-2 Criminal Deviate Conduct (repealed).

IC 35-42-4-3 Child Molesting

Sec. 3. (a) A person who, with a child under fourteen (14) years of age, knowingly or intentionally performs or submits to sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) commits child molesting, a Level 3 felony. However, the offense is a Level 1 felony if:

(1) it is committed by a person at least twenty-one (21) years of age;

(2) it is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(3) it results in serious bodily injury;

(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; or

(5) it results in the transmission of a dangerous sexually transmitted disease and the person knew that the person was infected with the disease.

(b) A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting, a Level 4 felony. However, the offense is a Level 2 felony if:

(1) it is committed by using or threatening the use of deadly force;

(2) it is committed while armed with a deadly weapon; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) A person may be convicted of attempted child molesting of an individual at least fourteen (14) years of age if the person believed the individual to be a child under fourteen (14) years of age at the time the person attempted to commit the offense.

(d) It is a defense to a prosecution under this section that the accused person reasonably believed that the child was sixteen (16) years of age or older at the time of the conduct, unless:

(1) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(2) the offense results in serious bodily injury; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.38; Acts 1978, P.L.82, SEC.2; Acts 1981, P.L.301 SEC.1; P.L.79-1994, SEC.12; P.L.33-1996, SEC.8; P.L.216-1996, SEC.18; P.L.31-1998, SEC.5; P.L.216-2007, SEC.42; P.L.158-2013, SEC.439; P.L.247-2013, SEC.6; P.L.168-2014, SEC.68; P.L.187-2015, SEC.48.

IC 35-42-4-5 Vicarious Sexual Gratification; Sexual Conduct in Presence of a Minor

Sec. 5. (a) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to touch or fondle himself or herself or another child under the age of sixteen (16) with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Level 5 felony. However, the offense is:

(1) a Level 4 felony if a child involved in the offense is under the age of fourteen (14); and

(2) a Level 3 felony if:

(A) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(B) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; or

(C) the commission of the offense results in serious bodily injury.

(b) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to:

- (1) engage in sexual intercourse with another child under sixteen (16) years of age;
- (2) engage in sexual conduct with an animal other than a human being; or
- (3) engage in other sexual conduct (as defined in IC 35-31.5-2-221.5) with another person;

with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Level 4 felony. However, the offense is a Level 3 felony if any child involved in the offense is less than fourteen (14) years of age, and the offense is a Level 2 felony if the offense is committed by using or threatening the use of deadly force, if the offense is committed while armed with a deadly weapon, if the offense results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) A person eighteen (18) years of age or older who knowingly or intentionally:

- (1) engages in sexual intercourse;
- (2) engages in other sexual conduct (as defined in IC 35-31.5-2-221.5); or
- (3) touches or fondles the person's own body;

in the presence of a child less than fourteen (14) years of age with the intent to arouse or satisfy the sexual desires of the child or the older person commits performing sexual conduct in the presence of a minor, a Level 6 felony.

As added by P.L.183-1984, SEC.4. Amended by P.L.79-1994, SEC.13; P.L.31-1998, SEC.6; P.L.118-2002, SEC.1; P.L.123-2003, SEC.1; P.L.158-2013, SEC.441.

IC 35-42-4-8 Sexual Battery

Sec. 8. (a) A person who, with intent to arouse or satisfy the person's own sexual desires or the sexual desires of another person:

- (1) touches another person when that person is:
 - (A) compelled to submit to the touching by force or the imminent threat of force; or
 - (B) so mentally disabled or deficient that consent to the touching cannot be given; or
- (2) touches another person's genitals, pubic area, buttocks, or female breast when that person is unaware that the touching is occurring;

commits sexual battery, a Level 6 felony.

(b) An offense described in subsection (a) is a Level 4 felony if: (1) it is committed by using or threatening the use of deadly force;

(2) it is committed while armed with a deadly weapon; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

As added by P.L.322-1987, SEC.2. Amended by P.L.31-1998, SEC.7; P.L.72-2012, SEC.4; P.L.158-2013, SEC.444.

IC 35-42-4-9 Sexual Misconduct with a Minor

Sec. 9. (a) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) commits sexual misconduct with a minor, a Level 5 felony. However, the offense is:

(1) a Level 4 felony if it is committed by a person at least twenty-one (21) years of age; and
(2) a Level 1 felony if it is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined

in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(b) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits sexual misconduct with a minor, a Level 6 felony. However, the offense is:

(1) a Level 5 felony if it is committed by a person at least twenty-one (21) years of age; and

(2) a Level 2 felony if it is committed by using or threatening the use of deadly force, while armed with a deadly weapon, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) It is a defense that the accused person reasonably believed that the child was at least sixteen (16) years of age at the time of the conduct. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

(d) It is a defense that the child is or has ever been married.

However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

(e) It is a defense to a prosecution under this section if all the following apply:

(1) The person is not more than four (4) years older than the victim.

(2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(3) The crime:

(A) was not committed by a person who is at least twenty-one (21) years of age;

(B) was not committed by using or threatening the use of deadly force;

(C) was not committed while armed with a deadly weapon;

(D) did not result in serious bodily injury;

(E) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and (F) was not committed by a person having a position of authority or substantial influence over the victim.

(4) The person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person.

As added by P.L.79-1994, SEC.15. Amended by P.L.33-1996, SEC.9; P.L.216-1996, SEC.21; P.L.31-1998, SEC.8; P.L.266-2003, SEC.1; P.L.216-2007, SEC.45; P.L.158-2013, SEC.445.

IC 35-42-4-6 Child Solicitation

Sec. 6. (a) As used in this section, “solicit” means to command, authorize, urge, incite, request, or advise an individual:

- (1) in person;
- (2) by telephone or wireless device;
- (3) in writing;
- (4) by using a computer network (as defined in IC 35-43-2-3(a));
- (5) by advertisement of any kind; or
- (6) by any other means;

to perform an act described in subsection (b) or (c).

(b) A person eighteen (18) years of age or older who knowingly or intentionally solicits a child under fourteen (14) years of age, or an individual the person believes to be a child under fourteen (14) years of age, to engage in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person, commits child solicitation, a Level 5 felony. However, the offense is a Level 4 felony if the person solicits the child or individual the person believes to be a child under fourteen (14) years of age to engage in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) and:

- (1) commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and travels to meet the child or individual the person believes to be a child; or
- (2) has a previous unrelated conviction for committing an offense under this section.

(c) A person at least twenty-one (21) years of age who knowingly or intentionally solicits a child at least fourteen (14) years of age but less than sixteen (16) years of age, or an individual the person believes to be a child at least fourteen (14) years of age but less than sixteen (16) years of age, to engage in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person, commits child solicitation, a Level 5 felony. However, the offense is a Level 4 felony if the person solicits the child or individual the person believes to be a child at least fourteen (14) but less than sixteen (16) years of age to engage in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5), and:

- (1) commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and travels to meet the child or individual the person believes to be a child; or
- (2) has a previous unrelated conviction for committing an offense under this section.

(d) In a prosecution under this section, including a prosecution for attempted solicitation, the state is not required to prove that the person solicited the child to engage in an act described in subsection (b) or (c) at some immediate time.

As added by P.L.183-1984, SEC.5. Amended by P.L.11-1994, SEC.16; P.L.79-1994, SEC.14; P.L.216-1996, SEC.20; P.L.118-2002, SEC.2; P.L.124-2005, SEC.1; P.L.216-2007, SEC.44; P.L.158-2013, SEC.442; P.L.247-2013, SEC.7; P.L.168-2014, SEC.70.

- (8) Child seduction (IC 35-42-4-7).

IC 35-42-4-7 Child Seduction

Sec. 7. (a) As used in this section, “adoptive parent” has the meaning set forth in IC 31-9-2-6.

(b) As used in this section, “adoptive grandparent” means the parent of an adoptive parent.

(c) As used in this section, “charter school” has the meaning set forth in IC 20-18-2-2.5.

(d) As used in this section, “child care worker” means a person who:

(1) provides care, supervision, or instruction to a child within the scope of the person's employment in a shelter care facility;

(2) is employed by a:

(A) school corporation;

(B) charter school;

(C) nonpublic school; or

(D) special education cooperative;

attended by a child who is the victim of a crime under this chapter; or

(3) is:

(A) affiliated with a:

(i) school corporation;

(ii) charter school;

(iii) nonpublic school; or

(iv) special education cooperative;

attended by a child who is the victim of a crime under this chapter, regardless of how or whether the person is compensated;

(B) in a position of trust in relation to a child who attends the school; or cooperative;

(C) engaged in the provision of care or supervision to a child who attends the school; or cooperative; and

(D) at least four (4) years older than the child who is the victim of a crime under this chapter.

The term does not include a student who attends the school or cooperative.

(e) As used in this section, "custodian" means any person who resides with a child and is responsible for the child's welfare.

(f) As used in this section, "mental health professional" means:

(1) a mental health counselor licensed under IC 25-23.6-8.5;

(2) a psychologist; or

(3) a psychiatrist.

(g) As used in this section, "military recruiter" means a member of:

(1) the United States Air Force;

(2) the United States Army;

(3) the United States Coast Guard;

(4) the United States Marine Corps;

(5) the United States Navy;

(6) any reserve components of the military forces listed in subdivisions (1) through (5); or

(7) the Indiana National Guard;

whose primary job function, classification, or specialty is recruiting individuals to enlist with an entity listed in subdivisions (1) through (7).

(h) As used in this section, “nonpublic school” has the meaning set forth in IC 20-18-2-12.

(i) For purposes of this section, a person has a “professional relationship” with a child if:

(1) the person:

(A) has a license issued by the state or a political subdivision on the basis of the person’s training and experience that authorizes the person to carry out a particular occupation; or

(B) is employed in a position in which counseling, supervising, instructing, or recruiting children forms a significant part of the employment; and

(2) the person has a relationship with a child that is based on the person’s employment or licensed status as described in subdivision (1).

The term includes a relationship between a child and a mental health professional or military recruiter. The term does not include a coworker relationship between a child and a person described in subdivision (1)(B).

(j) As used in this section, “school corporation” has the meaning set forth in IC 20-18-2-16.

(k) As used in this section, “special education cooperative” has the meaning set forth in IC 20-35-5-1.

(l) As used in this section, “stepparent” means an individual who is married to a child’s custodial or noncustodial parent and is not the child’s adoptive parent.

(m) If a person who:

(1) is at least eighteen (18) years of age; and

(2) is the:

(A) guardian, adoptive parent, adoptive grandparent, custodian, or stepparent of; or

(B) child care worker for;

a child at least sixteen (16) years of age but less than eighteen (18) years of age; engages with the child in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching with the intent to arouse or satisfy the sexual desires of either the child or the adult, the person commits child seduction.

(n) A person who:

(1) has or had a professional relationship with a child at least sixteen (16) years of age but less than eighteen (18) years of age whom the person knows to be at least sixteen (16) years of age but less than eighteen (18) years of age;

(2) may exert undue influence on the child because of the person’s current or previous professional relationship with the child; and

(3) uses or exerts the person’s professional relationship to engage in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching with the child with the intent to arouse or satisfy the sexual desires of the child or the person; commits child seduction.

(o) A law enforcement officer who:

(1) is at least five (5) years older than a child who is:

(A) at least sixteen (16) years of age; and

(B) less than eighteen (18) years of age;

(2) has contact with the child while acting within the scope of the law enforcement officer’s official duties with respect to the child; and

(3) uses or exerts the law enforcement officer's professional

relationship with the child to engage with the child in:

(A) sexual intercourse;

(B) other sexual conduct (as defined in IC 35-31.5-2-221.5); or

(C) any fondling or touching with the child with the intent to arouse or satisfy the sexual desires of the child or the law enforcement officer;

commits child seduction.

(p) In determining whether a person used or exerted the person's professional relationship with the child to engage in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching with the intent to arouse or satisfy the sexual desires of the child or the person under this section, the trier of fact may consider one (1) or more of the following:

(1) The age difference between the person and the child.

(2) Whether the person was in a position of trust with respect to the child.

(3) Whether the person's conduct with the child violated any ethical obligations of the person's profession or occupation.

(4) The authority that the person had over the child.

(5) Whether the person exploited any particular vulnerability of the child.

(6) Any other evidence relevant to the person's ability to exert undue influence over the child.

(q) Child seduction under this section is:

(1) a Level 6 felony if the person or law enforcement officer engaged in any fondling or touching with the intent to arouse or satisfy the sexual desires of:

(A) the child; or

(B) the person or law enforcement officer; and

(2) a Level 5 felony if the person or law enforcement officer engaged in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with the child.

As added by P.L.158-1987, SEC.4. Amended by P.L.1-1997, SEC.148; P.L.71-1998, SEC.5; P.L.228-2001, SEC.5; P.L.161-2003, SEC.10; P.L.1-2005, SEC.228; P.L.125-2009, SEC.7; P.L.114-2012, SEC.138; P.L.208-2013, SEC.8; P.L.158-2013, SEC.443; P.L.168-2014, SEC.71; P.L.226-2014(ts), SEC.5; P.L.233-2015, SEC.324

C 35-46-1-3 Incest

Sec. 3. (a) A person eighteen (18) years of age or older who engages in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with another person, when the person knows that the other person is related to the person biologically as a parent, child, grandparent, grandchild, sibling, aunt, uncle, niece, or nephew, commits incest, a Level 5 felony. However, the offense is a Level 4 felony if the other person is less than sixteen (16) years of age.

(b) It is a defense that the accused person's otherwise incestuous relation with the other person was based on their marriage, if the marriage was valid where it was entered into.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.86; P.L.158-1987, SEC.5; P.L.79-1994, SEC.16; P.L.158-2013, SEC.549.

Victim Rights in the State of Indiana

Indiana Constitution, Article 1, § 13(b)

Victims of crime, as defined by law, shall have the right to be treated with fairness, dignity and respect throughout the criminal justice process; and, as defined by law, to be informed of and present during public hearings and to confer with the prosecution, to the extent that exercising these rights does not infringe upon the constitutional rights of the accused.

IC 35-40-1-1 Intent to Protect Rights of Victims

Sec. 1. The legislature recognizes that many innocent persons suffer economic loss and personal injury or death as a result of criminal or delinquent acts. It is the intent of the general assembly to do the following: (1) Enact laws that define, implement, preserve, and protect the rights guaranteed to victims by Article 1, Section 13 of the Constitution of the State of Indiana. (2) Ensure that Article 1, Section 13 of the Constitution of the State of Indiana is fully and fairly implemented. As added by P.L.139-1999, SEC.1.

IC 35-40-2-1 Standing of Victims

Sec. 1. A victim has standing to assert the rights established by this article. However, this article does not do any of the following: (1) Provide grounds for a victim to challenge a charging decision or a conviction, obtain a stay of trial, or compel a new trial. (2) Give rise to a claim for damages against the state of Indiana, a political subdivision, or any public official. (3) Provide grounds for a person accused of or convicted of a crime or an act of delinquency to obtain any form of relief. As added by P.L.139-1999, SEC.1.

IC 35-40-3-1 Construction of Article

Sec. 1. This article shall be construed to preserve and protect the rights to which a victim is entitled without interfering with the rights of the accused to receive a fair trial or the duty of the prosecuting attorney to represent the people of Indiana. As added by P.L.139-1999, SEC.1.

IC 35-40-3-2 Victims Confined by Law Enforcement

Sec. 2. This article may not be construed to imply that a victim who is confined by the department of correction or by any local law enforcement agency has a right to be released to attend a hearing or that the department of correction or the local law enforcement agency has a duty to transport the confined victim to a hearing. As added by P.L.139-1999, SEC.1.

IC 35-40-4-8 “Victim”

Sec. 8. “Victim” means a person that has suffered harm as a result of a crime that was perpetrated directly against the person. The term does not include a person that has been charged with a crime arising out of the same occurrence. As added by P.L.139-1999, SEC.1.

IC 35-40-5 Chapter 5. Victim Rights

IC 35-40-5-1 Right to Fairness, Dignity, and Respect; Right to Freedom from Harassment and Intimidation

Sec. 1. A victim has the right to be: (1) treated with fairness, dignity, and respect; and (2) free from intimidation, harassment, and abuse; throughout the criminal justice process. As added by P.L.139-1999, SEC.1. Amended by P.L.169-2009, SEC.2.

IC 35-40-5-2 Release or Escape from Custody of Perpetrator

Sec. 2. (a) A victim has the right to be informed, upon request, when a person who is: (1) accused of committing; or (2) convicted of committing; a crime perpetrated directly against the victim is released from custody or has escaped. (b) Whenever a person accused or convicted of committing a crime is released or escapes from the custody of a mental

health treatment agency or a hospital that is not operated by a county sheriff or the department of correction, the court committing the accused or convicted person to the mental health treatment agency or hospital shall carry out this section to inform the victim of the release or escape. The mental health treatment agency or hospital shall provide the court with sufficient information about the release or escape to allow the court to carry out this section. As added by P.L.139-1999, SEC.1.

IC 35-40-5-3 Right to Confer with Prosecuting Attorney's Office

Sec. 3. (a) This section applies if either of the following has occurred: (1) The alleged felony or delinquent act that would have been a felony if committed by an adult was directly perpetrated against the victim. (2) The alleged felony, misdemeanor, or delinquent act that would have been a felony or misdemeanor if committed by an adult was: (A) a violation of IC 35-42-2 (offenses against the person), IC 35-45-2-1 (intimidation), IC 35-45-2-2 (harassment), IC 35-46-1-15.1 (invasion of privacy), IC 35-46-1-15.3, or IC 35-47-4-3 (pointing a firearm); and (B) directly perpetrated against the victim by a person who: (i) is or was a spouse of the victim; (ii) is or was living as if a spouse of the victim; or (iii) has a child in common with the victim. (3) The alleged misdemeanor or delinquent act that would have been a misdemeanor if committed by an adult, other than a misdemeanor described in subdivision (2), was directly perpetrated against the victim, and the victim has complied with the notice requirements under IC 35-40-10. (b) A victim has the right to confer with a representative of the prosecuting attorney's office: (1) after a crime allegedly committed against the victim has been charged; (2) before the trial of a crime allegedly committed against the victim; and (3) before any disposition of a criminal case involving the victim. This right does not include the authority to direct the prosecution of a criminal case involving the victim. As added by P.L.139-1999, SEC.1. Amended by P.L.65-2016, SEC.30.

IC 35-40-5-4 Consideration of Victim's Safety

Sec. 4. A victim has the right to have the victim's safety considered in determining release from custody of a person accused of committing a crime against the victim. As added by P.L.139-1999, SEC.1.

IC 35-40-5-5 Right to be Heard at Sentencing or Release

Sec. 5. A victim has the right to be heard at any proceeding involving sentencing, a postconviction release decision, or a pre-conviction release decision under a forensic diversion program. As added by P.L.139-1999, SEC.1. Amended by P.L.85-2004, SEC.7.

IC 35-40-5-6 Presentence Reports

Sec. 6. (a) A victim has the right to make a written or oral statement for use in preparation of the presentence report. (b) Notwithstanding IC 35-38-1-13, the victim has the right to read presentence reports relating to the crime committed against the victim, except those parts of the reports containing the following: (1) The source of confidential information. (2) Information about another victim. (3) Other information determined confidential or privileged by the judge in a proceeding. The information given to the victim must afford the victim a fair opportunity to respond to the material included in the presentence report.

IC 35-40-5-7 Order of Restitution

Sec. 7. A victim has the right to pursue an order of restitution and other civil remedies against the person convicted of a crime against the victim. As added by P.L.139-1999, SEC.1.

IC 35-40-5-8 Right to Information about Criminal Case or Perpetrator

Sec. 8. A victim has the right to information, upon request, about the disposition of the criminal case involving the victim or the conviction, sentence, and release of a person accused of committing a crime against the victim. As added by P.L.139-1999, SEC.1.

IC 35-40-5-9 Right to be Informed of Victim's Rights

Sec. 9. A victim has the right to be informed of the victim's constitutional and statutory rights. As added by P.L.139-1999, SEC.1.

[no IC 35-40-5-10]

IC 35-40-5-11 Defense Interview with Child Victims of Sex Crimes

Sec. 11. (a) This section applies only to a child less than sixteen (16) years of age who is the victim or alleged victim of a sex offense (as defined in IC 11-8-8-5.2). (b) As used in this section, "defense counsel" includes an agent of: (1) the defense counsel; or (2) the defendant. (c) After charges are filed against a defendant, if defense counsel would like to interview a child described in subsection (a), the defendant or defense counsel must contact the prosecuting attorney. The child has the right under section 3 of this chapter to confer with the prosecuting attorney before the interview occurs. The prosecuting attorney may not instruct the child not to speak with defense counsel. (d) If the parties are unable to agree to the terms of the interview, the parties may petition the court for a hearing on the terms of the interview prior to the interview taking place. The court shall review the terms suggested by the parties and consider the age of the child, any special considerations, and the rights of victims provided by IC 35-40-5-1 in setting reasonable terms for the interview. As added by P.L.169-2009, SEC.3.

IC 35-40-6 Chapter 6. Prosecuting Attorney Duties and Victim Assistance Programs

IC 35-40-6-1 Applicability of Chapter

Sec. 1. This chapter applies when: (1) law enforcement officials have received a report of an alleged offense not later than five (5) days after the alleged offense occurred or was discovered, unless the prosecuting attorney having jurisdiction finds that the report was not made within the five (5) day period due to circumstances beyond the control of a victim of the alleged offense; and (2) a victim fully cooperates with and responds to reasonable requests from law enforcement officials and the prosecuting attorney. As added by P.L.139-1999, SEC.1.

IC 35-40-6-2 Victims to be Treated with Dignity

Sec. 2. A prosecuting attorney shall provide that: (1) victims are treated with dignity, respect, and sensitivity at all stages of the criminal justice process; and (2) the rights of victims are protected. As added by P.L.139-1999, SEC.1.

IC 35-40-6-3 Victim Assistance Program; Contract to Operate

Sec. 3. A prosecuting attorney may contract with a person to operate a victim assistance program to provide the services required under this chapter. As added by P.L.139-1999, SEC.1.

IC 35-40-6-4 Victim Assistance Program; Purposes

Sec. 4. A prosecuting attorney or a victim assistance program shall do the following: (1) Inform a victim that the victim may be present at all public stages of the criminal justice process to the extent that: (A) the victim's presence and statements do not interfere with a defendant's constitutional rights; and (B) there has not been a court order restricting, limiting, or prohibiting attendance at the criminal proceedings. (2) Timely notify a victim of all criminal justice hearings and proceedings that are scheduled for a criminal matter in which the victim was involved. (3) Promptly notify a victim when a criminal court proceeding has been rescheduled or canceled. (4) Obtain an interpreter or translator, if necessary, to advise a victim of the rights granted to a victim under the law. (5) Coordinate efforts of local law enforcement agencies that are designed to promptly inform a victim after an offense occurs of the availability of, and the application process for, community services for victims and the families of victims, including information concerning services such as the following: (A) Victim compensation funds. (B) Victim assistance resources. (C) Legal resources. (D) Mental health services. (E) Social services. (F) Health resources. (G) Rehabilitative services. (H) Financial assistance services. (I) Crisis intervention services. (J) Transportation and child care services to promote the participation of a victim or a member of the victim's immediate family in the criminal proceedings. (6) Inform the victim that the court may order a defendant

convicted of the offense involving the victim to pay restitution to the victim under IC 35-50-5-3. (7) Upon request of the victim, inform the victim of the terms and conditions of release of the person accused of committing a crime against the victim. (8) Upon request of the victim, give the victim notice of the criminal offense for which: (A) the defendant accused of committing the offense against the victim was convicted or acquitted; or (B) the charges were dismissed against the defendant accused of committing the offense against the victim. (9) In a county having a victim-offender reconciliation program (VORP), provide an opportunity for a victim, if the accused person or the offender agrees, to: (A) meet with the accused person or the offender in a safe, controlled environment; (B) give to the accused person or the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim and the victim's family; and (C) negotiate a restitution agreement to be submitted to the sentencing court for damages incurred by the victim as a result of the offense. (10) Assist a victim in preparing verified documentation necessary to obtain a restitution order under IC 35-50-5-3. (11) Advise a victim of other rights granted to a victim under the law. As added by P.L.139-1999, SEC.1.

IC 35-40-6-5 Victim-Offender Reconciliation Program

Sec. 5. (a) If a victim participates in a victim-offender reconciliation program (VORP) operated by a victim assistance program under section 4(9) of this chapter, the victim shall execute a waiver releasing: (1) the prosecuting attorney responsible for the victim assistance program; and (2) the victim assistance program; from civil and criminal liability for actions taken by the victim, an accused person, or an offender as a result of participation by the victim, the accused person, or the offender in a victim-offender reconciliation program (VORP). (b) A victim is not required to participate in a victim-offender reconciliation program (VORP) under section 4(9) of this chapter. As added by P.L.139-1999, SEC.1.

IC 35-40-6-6 Threat of Harm to Victim

Sec. 6. If: (1) a victim submits to the prosecuting attorney an affidavit asserting: (A) that an act or threat of physical violence or intimidation has been made against the victim or the immediate family of the victim; and (B) that the act or threat described in clause (A) has been made by the defendant or at the direction of the defendant; and (2) the prosecuting attorney has reason to believe the allegations in the affidavit are true and warrant the filing of a motion for bond revocation; the prosecuting attorney shall file a motion under IC 35-33-8-5 requesting the court to revoke the defendant's bond or order for personal recognizance. As added by P.L.139-1999, SEC.1.

IC 35-40-6-7 Notification Requested by Victim

Sec. 7. If the defendant is convicted, and upon the victim's request, the victim shall be notified, if applicable, of the following: (1) The function of the presentence report. (2) The name and telephone number of the probation department that is preparing the presentence report. (3) The right to make a victim impact statement under IC 35-38-1-8.5. (4) The defendant's right to review the presentence report. (5) The victim's right to review the presentence report, except those parts excised by the court or made confidential by IC 35-40-5-6. (6) The victim's right to be present and heard at any sentencing procedure under IC 35-40-5-5. (7) The time, place, and date of the sentencing proceeding. As added by P.L.139-1999, SEC.1. Amended by P.L.14-2000, SEC.71.

IC 35-40-6-8 Request Form for Revocation of Bond

Sec. 8. The prosecuting attorney or a victim assistance program shall advise a victim on how the request form completed under section 6 of this chapter may be filed with the appropriate agencies and departments. As added by P.L.139-1999, SEC.1.

IC 35-40-6-9 Contact between Victim and Probation Department

Sec. 9. (a) Notice provided under this chapter does not relieve a probation department of responsibility under IC 35-38-1-8.5 to initiate the contact between a victim and the probation department concerning the consequences suffered by the victim as a result of the crime. (b) At the time of contact with a victim, a probation department shall advise the victim of the date, time, and place of sentencing and of the victim's right to be present and to be heard at the proceeding. As added by P.L.139-1999, SEC.1.

IC 35-40-6-10 Victim to be Informed of Status of Case

Sec. 10. If a person convicted of a crime against the victim seeks appellate review or attacks the person's conviction or sentence, the prosecuting attorney or the office of the attorney general, whichever is appropriate, shall inform the victim, upon request, of the status of the case and of the decision of the court. As added by P.L.139-1999, SEC.1.

IC 35-40-7 Chapter 7. Notice of Release on Bond or Escape

IC 35-40-7-1 Responsibility of Law Enforcement Agency with Custody

Sec. 1. The law enforcement agency having custody of a person accused of committing a crime against a victim shall notify the victim if the accused person escapes from the custody of the law enforcement agency. As added by P.L.139-1999, SEC.1.

IC 35-40-7-2 Notifying Victim of a Bond Hearing, Escape, Death, or Release

Sec. 2. Upon request of a victim, the office of the prosecuting attorney having jurisdiction or a law enforcement agency having custody of a person accused of a crime against the victim shall notify the victim of the scheduling of a bond hearing, the escape or death of a person accused of committing a crime against the victim, release of a person convicted of a crime against the victim to a work release program, or any other type of postarrest release of a person convicted of a crime or charged with a crime against the victim. As added by P.L.139-1999, SEC.1. Amended by P.L.162-2011, SEC.56.

IC 35-40-7-3 Notice; Timing

Sec. 3. A notice under this chapter must be given by a law enforcement agency that has custody of the person at the time of the escape or release to a victim: (1) before the person is released by the law enforcement agency, if possible; or (2) as soon as practicable after the person escapes or has been released by the law enforcement agency. As added by P.L.139-1999, SEC.1.

IC 35-40-8 Chapter 8. Notice of Probation Modification, Revocation, or Termination

IC 35-40-8-1 Victim Notification of Termination of Probation or Forensic Diversion

Sec. 1. Upon request of a victim, a criminal court shall notify the victim of any probation or forensic diversion revocation disposition proceeding or proceeding in which the court is asked to terminate the probation or forensic diversion of a person who is convicted of a crime against the victim. As added by P.L.139-1999, SEC.1. Amended by P.L.85-2004, SEC.8.

IC 35-40-8-2 Victim Notification of Certain Probation or Forensic Diversion Program Modifications

Sec. 2. Upon request of a victim, a criminal court shall notify the victim of a modification of the terms of probation or a forensic diversion program of a person convicted of a crime against the victim only if: (1) the modification will substantially affect the person's contact with or safety of the victim; or (2) the modification affects the person's restitution or confinement status. As added by P.L.139-1999, SEC.1. Amended by P.L.85-2004, SEC.9.

IC 35-40-9 Chapter 9. Notice of Release, Discharge, or Escape from a Mental Health Treatment Agency

IC 35-40-9-1 Mental Health Treatment Agency to Notify Victim

Sec. 1. If the court described in IC 35-40-5-2 has received a request for notice from a victim and has communicated the request to a mental health treatment agency, the mental health treatment agency shall mail a notification to the court described in IC 35-40-5-2 not later than ten (10) days before the release or discharge of a person: (1) accused or convicted of committing a criminal offense against the victim; and (2) placed by court order with the mental health treatment agency. As added by P.L.139-1999, SEC.1.

IC 35-40-9-2 Mental Health Treatment Agency to Notify Court

Sec. 2. A mental health treatment agency shall immediately notify the court described in IC 35-40-5-2 after the escape or subsequent readmission of a person: (1) accused or convicted of committing a criminal offense against the victim; and (2) placed by court order with the mental health treatment agency. As added by P.L.139-1999, SEC.1.

IC 35-40-9-3 Court to Give Notice on Behalf of Mental Health Treatment Agency

Sec. 3. The court described in IC 35-40-5-2 shall give the notice required under IC 35-40-5-2 on behalf of the mental health treatment agency. As added by P.L.139-1999, SEC.1.

IC 35-40-10 Chapter 10. Request for Notice

IC 35-40-10-1 Responsibilities of Victims

Sec. 1. (a) A victim shall provide to and maintain with the agency that is responsible for providing notice to the victim a request for notice on a form that is provided by that agency. The form must include a telephone number, electronic mail address, and mailing address for the victim. If the victim fails to keep the victim's telephone number and address current, the agency may withdraw the victim's request for notice. (b) A victim may restore a request for notice of subsequent proceedings by filing, on a request form provided by an agency, the victim's current telephone number, electronic mail address, and mailing address. As added by P.L.139-1999, SEC.1. Amended by P.L.162-2011, SEC.57.

IC 35-40-10-2 Forms Designated by Prosecuting Attorney

Sec. 2. A notice provided to a victim under this article must be on a form designated by the prosecuting attorney. The prosecuting attorneys council of Indiana established by IC 33-39-8-2 shall develop and disseminate model notice forms for use by prosecuting attorneys. As added by P.L.139-1999, SEC.1. Amended by P.L.98-2004, SEC.153.

IC 35-40-11 Chapter 11. Victim's Discretion; Form of Statement

IC 35-40-11-1 Victim's Right to be Heard at Court Proceedings

Sec. 1. It is at the victim's discretion to exercise the victim's rights under this article to be present and to be heard at court proceedings, and the absence of the victim at a court proceeding does not preclude the court from holding the proceeding. As added by P.L.139-1999, SEC.1.

IC 35-40-11-2 Oral, Written, or Taped Statements Allowed

Sec. 2. Except as provided in section 3 of this chapter, a victim's right to be heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, or submission of a statement through audiotape or videotape. As added by P.L.139-1999, SEC.1.

IC 35-40-11-3 Statement when Victim in Custody

Sec. 3. If a victim is in custody for committing or allegedly committing an offense, the victim may be heard by submitting a written statement to the court. As added by P.L.139-1999, SEC.1.

IC 35-40-12 Chapter 12. Procedures Related to Notices and Consultations

IC 35-40-12-1 Consultation with Victim's Next of Kin, Parent, or Guardian

Sec. 1. (a) This section applies if: (1) the victim is an individual; (2) the victim is incompetent, deceased, less than eighteen (18) years of age, or otherwise incapable of receiving or understanding a notice or consultation required under this article; and (3) a person has not been designated under IC 35-40-13 to exercise the rights of the victim under this article. (b) A notice or consultation required under this article may be performed by notifying or consulting with at least one (1) of the next of kin or the parent, guardian, or custodian of the victim. As added by P.L.139-1999, SEC.1.

IC 35-40-12-2 Notice to Victim's Agent

Sec. 2. (a) This section applies if the victim is an entity other than an individual. (b) A notice or consultation required under this article may be performed by notifying or consulting with a responsible officer or agent of the entity. As added by P.L.139-1999, SEC.1.

IC 35-40-12-3 Notice when Victim is a Partnership

Sec. 3. (a) This section applies if the victim is a partnership. (b) A notice or consultation required under this article may be performed by notifying or consulting with at least one (1) partner. As added by P.L.139-1999, SEC.1.

IC 35-40-12-4 Name and Address of Person to Receive Notice

Sec. 4. (a) This section applies if the victim is an entity other than an individual. (b) A request for notice under IC 35-40-10 must identify the name, electronic mail address, and mailing address of the person who is to receive notices and consultations on behalf of the entity. As added by P.L.139-1999, SEC.1. Amended by P.L.162-2011, SEC.58.

IC 35-40-12-5 Notice to Multiple Victims

Sec. 5. (a) This section applies if there are multiple victims that are entitled to notices or consultations under this article. (b) The prosecuting attorney for the county in which the crime occurred may adopt procedures that afford to a group of victims the rights afforded by this article. As added by P.L.139-1999, SEC.1.

IC 35-40-13 Chapter 13. Inability to Exercise Rights; Designation of Others; Representative of a Minor

IC 35-40-13-1 Victim Physically or Emotionally Unable to Exercise Rights; Designation of Representative

Sec. 1. (a) If a victim is physically or emotionally unable to exercise any right but is able to designate a lawful representative who is not a bona fide witness, the designated person may exercise the same rights that the victim is entitled to exercise. (b) A victim may revoke the designation of a representative at any time and exercise the victim's rights. As added by P.L.139-1999, SEC.1.

IC 35-40-13-2 Appointment of Representative by Court

Sec. 2. If a victim is incompetent, deceased, or otherwise incapable of designating another person to act in the victim's place, the court may appoint, upon request of the prosecuting attorney, a lawful representative who is not a witness. As added by P.L.139-1999, SEC.1.

IC 35-40-13-3 Victim a Minor

Sec. 3. If the victim is a minor, the victim's parents or legal guardian may exercise all of the victim's rights on behalf of the victim. As added by P.L.139-1999, SEC.1.

IC 35-40-13-4 Victim Not a Minor; Appointment of Representative by Court

Sec. 4. If section 3 of this chapter does not apply, the court shall consider appointing a relative of the incompetent, deceased, or otherwise incapable victim as the lawful representative. As added by P.L.139-1999, SEC.1.

IC 35-40-13-5 Guidelines for Court when Appointing Representatives

Sec. 5. The court shall consider the following guidelines in appointing a person to represent an incompetent or deceased victim: (1) Any conflict occasioned by the allegation of criminal conduct that substantially or adversely affected the person. (2) The person's willingness and ability to do all of the following: (A) Work with and accompany the victim through all proceedings, including criminal, civil, and dependency proceedings. (B) Communicate with the victim. (C) Express the concerns of the victim to those authorized to come in contact with the victim as a result of the proceedings. (3) The person's training, if any, to serve as a representative of the incompetent victim. (4) The likelihood of the person being called as a witness in the criminal case involving the incompetent victim. As added by P.L.139-1999, SEC.1.

IC 35-37-4-4 Sex Crimes; Admissibility of Evidence of Past Sexual Conduct; Procedure

Sec. 4. (a) In a prosecution for a sex crime as defined in IC 35-42-4: (1) evidence of the victim's past sexual conduct; (2) evidence of the past sexual conduct of a witness other than the accused; (3) opinion evidence of the victim's past sexual conduct; (4) opinion evidence of the past sexual conduct of a witness other than the accused; (5) reputation evidence of the victim's past sexual conduct; and (6) reputation evidence of the past sexual conduct of a witness other than the accused; may not be admitted, nor may reference be made to this evidence in the presence of the jury, except as provided in this chapter. (b) Notwithstanding subsection (a), evidence: (1) of the victim's or a witness's past sexual conduct with the defendant; (2) which in a specific instance of sexual activity shows that some person other than the defendant committed the act upon which the prosecution is founded; or (3) that the victim's pregnancy at the time of trial was not caused by the defendant; may be introduced if the judge finds, under the procedure provided in subsection (c) of this section, that it is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value. (c) If the defendant or the state proposes to offer evidence described in subsection (b) of this section, the following procedure must be followed: (1) The defendant or the state shall file a written motion not less than ten (10) days before trial stating that it has an offer of proof concerning evidence described in subsection (b) and its relevancy to the case. This motion shall be accompanied by an affidavit in which the offer of proof is stated. (2) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, and at the hearing allow the questioning of the victim or witness regarding the offer of proof made by the defendant or the state. At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant or the state regarding the sexual conduct of the victim or witness is admissible under subsection (b) of this section, the court shall make an order stating what evidence may be introduced by the defendant or the state and the nature of the questions to be permitted. The defendant or the state may then offer evidence under the order of the court. (d) If new information is discovered within ten (10) days before trial or during the course of the trial that might make evidence described in subsection (b) of this chapter admissible, the judge shall order a hearing out of the presence of the jury to determine whether the proposed evidence is admissible under this chapter. (e) This section does not limit the right of either the state or the accused to impeach credibility by a showing of prior felony convictions. (f) If: (1) a defendant files a motion under subsection (c)(1) concerning evidence described in subsection (b)(3); and (2) the state acknowledges that the victim's pregnancy is not due to the conduct of the defendant; the court shall instruct the jury that the victim's pregnancy is not due to the conduct of the defendant. However, other evidence concerning the pregnancy may not be admitted, and further reference to the pregnancy may not be made in the presence of the jury. As added by Acts 1981, P.L.298, SEC.6. Amended by P.L.322-1983, SEC.1.

IC 35-37-4-11 Safeguarding Victim from Contact with Accused and Relatives of Accused; Waiting Areas

Sec. 11. (a) During court proceedings a court shall provide safeguards necessary to minimize the contact of the victim of an offense or delinquent act with: (1) a defendant accused of the offense or a juvenile accused of committing the delinquent act; and (2) the relatives and friends of: (A) a defendant accused of the offense; or (B) a juvenile accused of committing the delinquent act. (b) The safeguards required under subsection (a) may include courthouse waiting areas for victims that are separated from those waiting areas specified for defendants, juveniles alleged to be delinquent children, and the relatives and friends of accused persons. (c) A county is not required under this section, or by mandate of a court, to expend any funds to change the physical configuration of a courthouse in the county to meet the requirements of this section. As added by P.L.36-1990, SEC.10.

IC 35-37-4-12 Physical Safety of Victim or Victim's Family in Danger; Exclusion of Evidence; Disclosure to Court

Sec. 12. (a) If the physical safety of a victim or the victim's immediate family is in danger, a victim may not be required to give personal information during the course of sworn testimony regarding the following: (1) Telephone numbers. (2) Place of employment. (3) Residential address. (b) In any hearing to determine the introduction into evidence of the personal information specified in subsection (a), the court, if the court finds an actual danger to the victim or the victim's immediate family exists, may require the party possessing the personal information to disclose the personal information to the court for in camera review. As added by P.L.1-1991, SEC.193

IC 35-38-1-2 “Victim Representative” Defined; Sentencing; Date; Hearing for Increased Penalty; Imprisonment Pending Sentencing

Sec. 2. (a) As used in this chapter, “victim representative” means a person designated by a sentencing court who is: (1) a spouse, parent, child, sibling, or other relative of; or (2) a person who has had a close personal relationship with; the victim of a felony who is deceased, incapacitated, or less than eighteen (18) years of age. (b) Upon entering a conviction, the court shall set a date for sentencing within thirty (30) days, unless for good cause shown an extension is granted. If a presentence report is not required, the court may sentence the defendant at the time the judgment of conviction is entered. However, the court may not pronounce sentence at that time without: (1) inquiring as to whether an adjournment is desired by the defendant; and (2) informing the victim, if present, of a victim's right to make a statement concerning the crime and the sentence. When an adjournment is requested, the defendant shall state its purpose and the court may allow a reasonable time for adjournment. (c) If: (1) the state in the manner prescribed by IC 35-34-1-2.5 sought an increased penalty by alleging that the person was previously convicted of the offense; and (2) the person was convicted of the subsequent offense in a jury trial; the jury shall reconvene for the sentencing hearing. The person shall be sentenced to receive the increased penalty if the jury (or the court, if the trial is to the court alone) finds that the state has proved beyond a reasonable doubt that the person had a previous conviction for the offense. (d) If the felony is nonsuspendible under IC 35-50-2-2 (before its repeal) or IC 35-50-2-2.2, the judge shall order the defendant, if the defendant has previously been released on bail or recognizance, to be imprisoned in the county or local penal facility pending sentencing. (e) Upon entering a conviction for a felony, the court shall designate a victim representative if the victim is deceased, incapacitated, or less than eighteen (18) years of age. As added by P.L.311-1983, SEC.3. Amended by P.L.50-1984, SEC.8; P.L.131-1985, SEC.14; P.L.36-1990, SEC.11; P.L.168-2014, SEC.56.

IC 35-38-1-8 Presentence Report to be Considered by Court Before Sentencing; Advisement of Victim of Right to Make Statement

Sec. 8. (a) Except as provided in subsection (c), a defendant convicted of a felony may not be sentenced before a written presentence report is prepared by a probation officer and considered by the sentencing court. Delay of sentence until a presentence report is prepared does not constitute an indefinite postponement or suspension of sentence. (b) A victim present at sentencing in a felony or misdemeanor case shall be advised by the court of a victim's right to make a statement concerning the crime and the sentence. (c) A court may sentence a person convicted of a Level 6 felony without considering a written presentence report prepared by a probation officer. However, if a defendant is committed to the department of correction or a community corrections program under IC 35-38-2.6, the probation officer shall prepare a report that meets the requirements of section 9 of this chapter to be sent with the offender to the department in lieu of the presentence investigation report required by section 14 of this chapter. As added by P.L.311-1983, SEC.3. Amended by P.L.131-1985, SEC.16; P.L.240-1991(ss2), SEC.90; P.L.104-1997, SEC.6; P.L.158-2013, SEC.395.

IC 35-38-1-8.5 Presentence Investigation; Notice to Victim; Victim Impact Statement; Contents

Sec. 8.5. (a) A probation officer who is conducting a presentence investigation shall send written notification of the following to each victim or each victim representative designated by the court under section 2(e) of this chapter: (1) The date, time, and place of the sentencing hearing set by the court. (2) The right of the victim or victim representative to make an oral or written statement to the court at the sentencing hearing. (3) The right of the victim or victim representative to submit or refuse to submit to the probation officer a written or oral statement of the impact of the crime upon the victim for inclusion by the probation officer in a victim impact statement. (b) The notification required by subsection (a) must be sent at least seven (7) days before the date of the sentencing hearing to the last known address of the victim or the victim representative. (c) The probation officer shall prepare a victim impact statement for inclusion in the convicted person's presentence report. The victim impact statement consists of information about each victim and the consequences suffered by a victim or a victim's family as a result of the crime. (d) Unless the probation officer certifies to the court under section 9 of this chapter that a victim or victim representative could not be contacted or elected not to submit a statement to the probation officer concerning the crime, the victim impact statement required under this section must include the following information about each victim: (1) A summary of the financial, emotional,

and physical effects of the crime on the victim and the victim's family. (2) Personal information concerning the victim, excluding telephone numbers, place of employment, and residential address. (3) Any written statements submitted by a victim or victim representative to the probation officer. (4) If the victim desires restitution, the basis and amount of a request for victim restitution. (e) A victim or victim representative is not required to submit a statement or to cooperate in the preparation of the victim impact statement required under this section. As added by P.L.36-1990, SEC.12. Amended by P.L.216-1996, SEC.12.

IC 35-38-1-9 “Recommendation” and “Victim”; Presentence Investigation Matters; Certification by Probation Officer When No Written Statements Submitted

Sec. 9. (a) As used in this chapter, “recommendation” has the meaning set forth in IC 35-31.5-2-272, and “victim” has the meaning set forth in IC 35-31.5-2-348. (b) The presentence investigation consists of the gathering of information with respect to: (1) the circumstances attending the commission of the offense; (2) the convicted person's history of delinquency or criminality, social history, employment history, family situation, economic status, education, and personal habits; (3) the impact of the crime upon the victim; and (4) whether the convicted person is licensed or certified in a profession regulated by IC 25. (c) The presentence investigation may include any matter that the probation officer conducting the investigation believes is relevant to the question of sentence, and must include: (1) any matters the court directs to be included; (2) any written statements submitted to the prosecuting attorney by a victim under IC 35-35-3; (3) any written statements submitted to the probation officer by a victim; and (4) preparation of the victim impact statement required under section 8.5 of this chapter. (d) If there are no written statements submitted to the probation officer, the probation officer shall certify to the court: (1) that the probation officer has attempted to contact the victim; and (2) that if the probation officer has contacted the victim, the probation officer has offered to accept the written statements of the victim or to reduce the victim's oral statements to writing, concerning the sentence, including the acceptance of any recommendation. (e) A presentence investigation report prepared by a probation officer must include the information and comply with any other requirements established in the rules adopted under IC 11-13-1-8. (f) The probation officer shall consult with a community corrections program officer or employee (if there is a community corrections program in the county) regarding services and programs available to the defendant while preparing the presentence investigation report. As added by P.L.311-1983, SEC.3. Amended by P.L.36-1990, SEC.13; P.L.240-1991(ss2), SEC.91; P.L.216-1996, SEC.13; P.L.155-2011, SEC.10; P.L.114-2012, SEC.77; P.L.179-2015, SEC.14.

IC 35-38-1-10.6 Crime Victims; Notice that Criminal had Antibodies for Human Immunodeficiency Virus (HIV); Counseling

Sec. 10.6. (a) The state department of health shall notify victims of an offense relating to a criminal sexual act or an offense relating to controlled substances if tests conducted under section 10.5 of this chapter or IC 16-41-8-5 confirm that the person tested had antibodies for the human immunodeficiency virus (HIV). (b) The state department of health shall provide counseling to persons notified under this section. As added by P.L.123-1988, SEC.27. Amended by P.L.1-1990, SEC.348; P.L.2-1992, SEC.878; P.L.71-1998, SEC.3; P.L.125-2007, SEC.6; P.L.125-2009, SEC.6.

IC 35-35-3-5 Presentation to and Opinion by Victim; Certification

Sec. 5. (a) As a part of the recommendation submitted to the court, the prosecuting attorney must certify that he has offered to show the proposed recommendation to the victims of the felony, if any, and that they have been offered an opportunity to present their opinion of the recommendation to the prosecuting attorney and the court. (b) A victim present at sentencing in a felony or misdemeanor case shall be advised by the court of a victim's right to make a statement concerning the crime and the sentence. The court shall also offer the victim, if present, an opportunity to make a statement concerning the crime and the sentence. If unable to attend the hearing, the victim may mail a written statement to the court, which must be included in the presentence report made with respect to the defendant. (c) However, this section gives no additional rights to the defendant. Failure to comply gives no grounds for postconviction relief. As added by Acts 1981, P.L.298, SEC.4. Amended by P.L.126-1985, SEC.3.

IC 35-35-3-6 Procedure required by IC 35-35-3-5; Representatives of Deceased or Legal Entity Victims; Multiple Victims

Sec. 6. (a) If the victim is deceased or is under the age of eighteen (18) years, the prosecuting attorney shall certify that he has completed the procedure required by section 5 of this chapter with at least one (1) of the next of kin or the parent, guardian, or custodian of the victim. If the victim is a corporation, limited liability company, association, or governmental entity, the prosecuting attorney shall certify that he has completed the procedure with a responsible officer or agent of the entity. If the victim is a partnership, the prosecuting attorney shall certify that he has completed the procedure with at least one (1) partner. (b) If there are more than three (3) victims, the prosecuting attorney shall complete the procedure required by section 5 of this chapter with the three (3) who he believes have suffered the most. As added by Acts 1981, P.L.298, SEC.4. Amended by Acts 1982, P.L.204, SEC.28; P.L.8-1993, SEC.508.

IC 35-35-3-7 Inability to Locate Victim or Next of Kin; Certification

Sec. 7. If the prosecuting attorney is unable to make a certification required under section 5 or 6 of this chapter because he was unable, after a reasonable effort, to locate the victim or his next of kin, then he shall certify this fact to the court. He may then submit the recommendation, and the court may act upon it. As added by Acts 1981, P.L.298, SEC.4.

IC 35-37-4.5 Sex Crimes Victims and Polygraph Examinations

IC 35-37-4.5-1 "Polygraph"

Sec. 1. As used in this chapter, "polygraph" means a device that permanently and simultaneously records, at a minimum, an individual's: (1) cardiovascular and respiratory patterns; and (2) galvanic skin responses; in order to determine truthfulness. As added by P.L.41-2007, SEC.20.

IC 35-37-4.5-2 Prohibition against Requiring a Sex Crime Victim to Submit to a Polygraph Examination

Sec. 2. A law enforcement officer may not require an alleged victim of an offense described in IC 35-42-4 to submit to a polygraph or other truth telling device examination. As added by P.L.41-2007, SEC.20.

IC 35-37-4.5-3 Polygraph Refusal; Duties of Law Enforcement Officers

Sec. 3. A law enforcement officer may not refuse to investigate, charge, or prosecute an offense under IC 35-42-4 solely because the alleged victim of the offense has not submitted to a polygraph or other truth telling device examination. As added by P.L.41-2007, SEC.20.

IC 35-37-4.5-4 Voluntary Submission to Polygraph Examination

Sec. 4. This chapter does not prohibit an alleged victim of an offense under IC 35-42-4 from voluntarily submitting to a polygraph or other truth telling device examination. As added by P.L.41-2007, SEC.20.

Privileged Communications

IC 35-37-6 Chapter 6. Privileged Communications and Victim Counseling

IC 35-37-6-1 “Confidential Communication”

Sec. 1. (a) As used in this chapter, “confidential communication” means any information:

(1) exchanged between a victim and a victim advocate in the course of the relationship between the victim and the victim advocate;

(2) exchanged or disclosed in a support group in which a victim is or was a participant;

or

(3) exchanged in the presence of a third person who facilitates or facilitated communication between a victim and a victim advocate.

(b) The term includes communication that is verbal or written and includes:

(1) advice;

(2) notes;

(3) reports;

(4) statistical data;

(5) memoranda;

(6) working papers;

(7) records; and

(8) personally identifying information;

produced in the course of advocating for a victim.

As added by P.L.136-1987, SEC.5. Amended by P.L.104-2008, SEC.7.

IC 35-37-6-1.5 “Confidential Information”

Sec. 1.5. (a) As used in this chapter, “confidential information” includes:

(1) personally identifying information;

(2) descriptions of physical appearance;

(3) the case file; and

(4) the case history;

of a person who seeks, receives, or has received services from a victim advocate.

(b) The term does not include:

(1) information disclosed to a victim service provider or a victim advocate if the victim:

(A) files criminal charges;

(B) institutes a civil lawsuit; or

(C) reports allegations of criminal conduct to a law enforcement agency;

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against the victim service provider or victim advocate; and

(2) alleged child abuse or neglect that is required to be reported under IC 31-33.

As added by P.L.104-2008, SEC.8.

IC 35-37-6-2 Repealed

As added by P.L.136-1987, SEC.5. Amended by P.L.2-1997, SEC.74; P.L.2-1998, SEC.80; P.L.2-2005, SEC.122; P.L.99-2007, SEC.208. Repealed by P.L.104-2008, SEC.24.

IC 35-37-6-2.5 “Personally Identifying Information”

Sec. 2.5. (a) As used in this chapter, “personally identifying information” means information that identifies a victim or the location where domestic violence, dating violence, sexual assault, or stalking occurred, including the victim’s:

- (1) name;
- (2) mailing and physical address;
- (3) electronic mail address;
- (4) Internet protocol address;
- (5) telephone numbers, including facsimile numbers;
- (6) Social Security number;
- (7) date of birth;
- (8) racial or ethnic background; and
- (9) religious affiliation.

(b) The term includes any other information that, in combination with other nonpersonally identifying information, would identify an individual.

As added by P.L.104-2008, SEC.9.

IC 35-37-6-2.7 “Student Advocate Office”

Sec. 2.7. As used in this chapter, “student advocate office” means a student services office, victim assistance office, or other victim counselor as designated by a state educational institution or an approved postsecondary educational institution.

As added by P.L.70-2016, SEC.2.

IC 35-37-6-3 “Victim”

Sec. 3. As used in this chapter, “victim” means:

- (1) an individual against whom an act of:
 - (A) domestic or family violence;
 - (B) dating violence;
 - (C) sexual assault (as defined in IC 5-26.5-1-8);
 - (D) human and sexual trafficking (IC 35-42-3.5); or

(E) stalking (IC 35-45-10-5);

is committed; or

(2) an individual:

(A) who is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking

(IC 35-42-3.5), or stalking (IC 35-45-10-5); and

(B) who:

(i) is a member of the family of an individual described in subdivision (1); but

(ii) is not a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

As added by P.L.136-1987, SEC.5. Amended by P.L.104-2008, SEC.10.

IC 35-37-6-3.5 “Victim Advocate”

Sec. 3.5. (a) As used in this chapter, “victim advocate” means an individual employed or Indiana Code 2017

appointed by or who volunteers for:

(1) a victim services provider; or

(2) the student advocate office of a state educational institution or an approved postsecondary educational institution, if the individual provides services to a victim.

(b) The term does not include:

(1) a law enforcement officer;

(2) an employee or agent of a law enforcement officer;

(3) a prosecuting attorney; or

(4) an employee or agent of a prosecuting attorney’s office.

(c) The term includes an employee, an appointee, or a volunteer of a:

(1) victim services provider;

(2) domestic violence program;

(3) sexual assault program;

(4) rape crisis center;

(5) battered women’s shelter;

(6) transitional housing program for victims of domestic violence; or

(7) program that has as one (1) of its primary purposes to provide services to an individual:

(A) against whom an act of:

(i) domestic or family violence;

- (ii) dating violence;
- (iii) sexual assault (as defined in IC 5-26.5-1-8);
- (iv) human and sexual trafficking (IC 35-42-3.5); or
- (v) stalking (IC 35-45-10-5);

is committed; or

(B) who:

(i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking

(IC 35-42-3.5), or stalking (IC 35-45-10-5); and

(ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

As added by P.L.104-2008, SEC.11. Amended by P.L.70-2016, SEC.3.

IC 35-37-6-4 Repealed

As added by P.L.136-1987, SEC.5. Repealed by P.L.104-2008, SEC.24.

IC 35-37-6-5 “Victim Service Provider”

Sec. 5. As used in this chapter, “victim service provider” means a person:

(1) that is:

(A) a public agency;

(B) a unit of a public agency; or

(C) an organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code;

(2) that is not affiliated with a law enforcement agency;

(3) that has, as one (1) of its primary purposes, to provide services for emotional and psychological conditions that occur to an individual:

(A) against whom an act of:

(i) domestic or family violence;

(ii) dating violence;

(iii) sexual assault (as defined in IC 5-26.5-1-8);

(iv) human and sexual trafficking (IC 35-42-3.5); or

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(v) stalking (IC 35-45-10-5);

is committed; or

(B) who:

(i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking

(IC 35-42-3.5), or stalking (IC 35-45-10-5); and

(ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

As added by P.L.136-1987, SEC.5. Amended by P.L.104-2008, SEC.12.

IC 35-37-6-6 Repealed

As added by P.L.136-1987, SEC.5. Repealed by P.L.104-2008, SEC.24.

IC 35-37-6-7 Application of Chapter

Sec. 7. This chapter does not limit any other testimonial privilege available to a person.

As added by P.L.136-1987, SEC.5.

IC 35-37-6-8 Duty of Victim Advocate to Report

Sec. 8. This chapter does not relieve a victim advocate of any duty to report suspected abuse, neglect, battery, or exploitation under IC 12-10-3, IC 31-33, or IC 35-46-1-13.

As added by P.L.136-1987, SEC.5. Amended by P.L.3-1989, SEC.222; P.L.2-1992, SEC.875; P.L.1-1997, SEC.144; P.L.104-2008, SEC.13.

IC 35-37-6-9 Confidential Communications; Compelling Testimony; Records; Temporary Emergency Shelters

Sec. 9. (a) The following persons or entities may not be compelled to give testimony, to produce records, or to disclose any information concerning confidential communications and confidential information to anyone or in any judicial, legislative, or administrative proceeding:

(1) A victim.

(2) A victim advocate or victim service provider unless the victim specifically consents to the disclosure in a written authorization that contains the date the consent expires.

(b) A victim advocate, victim service provider, or victim may not be compelled to provide testimony in any judicial, legislative, or administrative proceeding that would identify the name, address, location, or telephone number of any facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.

(c) A victim service provider or victim advocate may not require a victim to consent to the disclosure of information concerning confidential communications and confidential information as a condition of the victim receiving services.

(d) This section does not prohibit a victim from providing testimony concerning an offense.

(e) The consent to disclose information on behalf of:

(1) a child who is less than eighteen (18) years of age and is unemancipated; or

(2) an incapacitated victim;

may be made by a custodial parent, custodian, guardian, or guardian ad litem in a written authorization that contains the date the consent expires.

(f) A consent under subsection (e) may not be given by a custodial parent, custodian, guardian, or guardian ad litem of the victim if the custodial parent, custodian, guardian, or guardian ad litem:

(1) committed; or

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(2) is alleged to have committed;

an offense against the victim.

As added by P.L.136-1987, SEC.5. Amended by P.L.104-2008, SEC.14.

IC 35-37-6-10 Waiver by Victim of Protections of Chapter

Sec. 10. (a) A victim does not waive the protections afforded by this chapter by testifying in court about an offense. However, if the victim partially discloses the contents of a confidential communication in the course of testifying, either party may request the court to rule that justice requires the protections of this chapter to be waived, to the extent they apply to that portion of the communication.

(b) A waiver under this section applies only to the extent necessary to require any witness to respond to questions concerning the confidential communication that are relevant to the facts and circumstances of the case.

As added by P.L.136-1987, SEC.5.

IC 35-37-6-11 Waiver by Victim Advocate of Protection of Chapter; Disclosure of Confidential Information

Sec. 11. A victim advocate may not waive the protections afforded to a victim under this chapter. However, if:

(1) a victim brings suit against a victim advocate or victim service provider in which the victim advocate was employed or served as a volunteer at the time of the counseling relationship; and

(2) the suit alleges malpractice during the relationship; the victim advocate may testify or produce records regarding confidential communications with the victim and is not liable for doing so.

As added by P.L.136-1987, SEC.5. Amended by P.L.104-2008, SEC.15.

IC 35-37-6-13 Authorization of Release of Confidential Information

Sec. 13. (a) Except as provided in subsection (d):

(1) a victim; or

(2) in the case of a deceased victim, the victim's personal representative; may authorize a victim advocate or victim service provider to release confidential information or other information by signing a written authorization that specifies what information will be released and to whom the information will be released.

(b) The authorization described in subsection (a) must include a date the authorization expires.

(c) A victim advocate shall make reasonable attempts to notify a victim when a victim service provider or victim advocate is required to disclose confidential information or confidential communications.

(d) A consent for release may not be given by a personal representative of the victim if the personal representative:

(1) abused or killed the victim;

(2) is alleged to have abused or killed the victim; or

(3) assisted another person in abusing or killing the victim.

As added by P.L.104-2008, SEC.16.

IC 35-37-6-14 Prosecuting Attorney Duty to Disclose; Victim Preserves Confidentiality

Sec. 14. (a) This section does not:

- (1) relieve a prosecuting attorney of the constitutional and ethical obligation to disclose exculpatory evidence; and
- (2) prohibit impeachment of a victim as permitted by the Indiana Rules of Evidence.

(b) A victim does not waive any privileges or confidentiality protections under this

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chapter if the victim:

(1) testifies about underlying acts of domestic violence, dating violence, sexual assault, or stalking; or

(2) reveals that he or she used or attempted to use the services of a victim service provider or victim advocate.

As added by P.L.104-2008, SEC.17.

IC 35-37-6-15 Partial Disclosure

Sec. 15. The partial disclosure of a confidential communication under this chapter does not waive any privilege concerning the remainder of the confidential communication.

As added by P.L.104-2008, SEC.18.

IC 35-37-6-16 Refusal to Testify

Sec. 16. The fact that a victim or victim advocate refuses to testify or disclose information because of a privilege under this chapter does not raise any negative inferences or presumptions.

As added by P.L.104-2008, SEC.19.

IC 35-37-6-17 Disclosure of Information in Aggregate Form

Sec. 17. A victim service provider may disclose information in the aggregate that does not identify a victim regarding services and demographic information to comply with federal or state data collection requirements.

As added by P.L.104-2008, SEC.20.

CRIME VICTIM'S RIGHTS

A victim of crime has the right to be treated with fairness, dignity, and respect free from intimidation, harassment, and abuse throughout the criminal justice process. The State of Indiana also provides for the following rights:

- The right to be notified of the time and place of all court proceedings and to be present at all court proceedings (except where the law forbids it);
- The right to be informed of his or her constitutional and statutory rights as a victim;
- The right to be informed if the offender is released from custody or has escaped;
- The right to confer with the prosecutor's office after the accused is charged, before the trial, and before any sentencing in the criminal case;
- The right to have his or her safety taken into consideration in determining release from custody of the accused;
- The right to be heard at any hearing involving sentencing or post-conviction release from custody of a convicted offender;
- The right to make a written or oral Victim Impact Statement to be included in the pre-sentence report;
- The right to pursue restitution and other civil remedies against the person convicted of a crime against him or her;
- The right to be given information about the outcome of the criminal case involving the victim, and to be given information about the conviction, sentence or release of a person accused of committing a crime against him or her;
- The right to obtain a translator or interpreter when necessary to advise the victim of his or her rights under the law; and
- The right to be informed of services available to victims, including:
 - Violent Crimes Compensation Fund
 - Victim assistance services
 - Legal resources
 - Mental health services
 - Social services
 - Health resources
 - Rehabilitative services
 - Crisis intervention services
 - Childcare and transportation services to promote victims; participation in court proceedings
- Victims are afforded all of these rights to the extent that exercising these rights does not infringe upon the constitutional rights of the accused.

RIGHTS NOTIFICATION FOR NON-REPORTING ADULT SEX CRIME VICTIMS

1. I understand that I am entitled to have a medical forensic examination performed without reporting to law enforcement and without charge to me or my insurance.
2. I understand that law enforcement will maintain custody of the sexual assault kit and evidence collected during the medical forensic examination. My identity will remain anonymous.
3. I understand that I have 365 days to report the sex crime to law enforcement. If I do not report the crime to law enforcement after one year, the sexual assault kit and evidence collected may be destroyed.
4. I understand that the provider who performed my medical forensic examination will apply to the Criminal Justice Institute (ICJI) for reimbursement and that application will include a copy of all medical records relating to my examination and treatment.
5. I understand that it is my responsibility to notify ICJI of any changes in my home and/or email address.

ICJI Violent Crimes Compensation Fund
101 W. Washington St., Suite 1170E
Indianapolis, IN 46204-3414

Telephone: 1-800-353-1484; Email: ViolentCrimeCompensation@cji.in.gov

6. I have received a copy of this document.

Signature of Patient

Date

Patient's Home Address

Patient's Email

Medical Record # _____ Law Enforcement # _____

Agency Name/Phone

SAMPLE COUNTY SEXUAL ASSAULT RESPONSE TEAM AGREEMENT

WHEREAS, Sample County recognizes the need and benefit of establishing and maintaining a Sexual Assault Response Team (SC-SART); and

WHEREAS, the following signatories of this Agreement desire to be a part of the SC-SART (“Members”) and acknowledge that the SC-SART will operate based upon a “Victim Centered” Principle, as set forth in the Mission Statement and Vision Statement, attached hereto as Exhibit A; and

WHEREAS, the SC-SART recognizes the need for collaboration in its efforts to respond to the needs of investigating the serious allegations surrounding the report of a sexual assault; and

WHEREAS, the Members also recognize the continuing need for periodic review and revision of existing policies, procedures and guidelines to ensure conformity with the needs of victims, improvements in science and medical procedures, and changes in the laws and investigative procedures and techniques.

IT IS THEREFORE, RESOLVED AS FOLLOWS:

1. Guidelines for Adults. The Members hereunder agree to adopt and follow the Guidelines for Reporting Adults, attached as Exhibit B, and the Guidelines for Non-reporting Adults, attached as Exhibit C, in all adult sexual assault cases reported in Sample County.
2. Guidelines for Minors. The Members hereunder further agree to adopt and follow the Guidelines for Infants, Children, and Adolescents, attached as Exhibit D, in all sexual assault cases involving minors that are reported in Sample County.
3. SC-SART Committee. The Members agree that these guidelines should be reviewed annually by the SC-SART Committee.
 - A. The SC-SART Committee will consist of the following appointees:
 - a) One (1) representative from the Sample County Prosecuting Attorney's Office.
 - b) One (1) Law Enforcement Officer from each of the following law enforcement agencies:
 - (i) Sample City Police Department
 - (ii) Sample Town Police Department
 - (iii) Sample County Sheriff's Department
 - (iv) Sample College Campus Security
 - (v) Sample County Hospital Police Department
 - (vi) Indiana State Police
 - c) Two (2) officers to represent the smaller towns, to be appointed by agreement of the Chiefs/Marshals from [list smaller towns].
 - d) One (1) SANE nurse from the Sample County Hospital [include SANE or administrator from each hospital in county]
 - e) One (1) representative from the Department of Child Services
 - f) One (1) representative from the Sample County Health Department
 - g) One (1) representative from the Indiana State Police Laboratory

- h) One (1) representative from Sample County Community Corrections
- i) One (1) representative from the Indiana Criminal Justice Institute
- j) One (1) representative from Victim Advocacy Agency.
- k) One (1) representative from Indiana Coalition to End Sexual Assault
- l) One (1) representative from Child Advocacy Center.

B. Experience Recommended. It is recommended that all appointees have experience working with sexual assault cases and their victims.

C. Committee Meetings. Committee meetings shall be held as agreed upon by the committee members, but are to be regularly scheduled at least every other month.

4. Amendments. Any recommended revisions to this Agreement and its Exhibits shall be submitted to all Members for review and approval, as agreed upon by the Committee Members.

5. Training. The SC-SART Committee will also be responsible for scheduling and conducting a SART-related education or training session at least once every two (2) years. The SC-SART Committee will also be responsible for providing information regarding other SART related training opportunities to ensure that all members of the SC-SART and related agencies have access to the latest information concerning the proper handling of reports of sexual assault in Sample County.

6. Compliance with Laws. The parties will operate at all times in compliance with federal, state, and local laws, rules and regulations, the policies, rules and regulations of the parties, and the applicable standards of accrediting bodies. It is the intent and agreement of the parties that neither this Agreement nor any part hereof shall be construed to require any party to violate the Laws in its operation and all parts of this Agreement must be interpreted in a manner that is consistent with the Laws.

7. Privacy of Victims. Members agree at all times to respect and preserve the privacy of the victims the SC-SART is serving to the extent reasonably possible.

EXHIBIT A

MISSION STATEMENT

It shall be the mission of every person within the Sexual Assault Response Team of Sample County to ensure an effective, consistent, comprehensive and collaborative response to sexual assault that prioritizes the needs of sexual assault victims and brings responsible persons to justice.

VISION STATEMENT

The Sample County Sexual Assault Response Team will function as a vehicle for collaboration, relationship building and education among and between professionals in Sample County by:

- Identifying the needs of the victims;
- Providing victims with crisis intervention and support services as requested or required;
- Providing a joint, effective, sensitive approach to victims of sexual assault;
- Conducting a thorough and professional investigation of the crime;
- Documenting and preserving forensic evidence for prosecuting the perpetrator of the crime; and
- Supporting or leading prevention and education programs.

EXHIBIT B

Sexual Assault Response Team of SAMPLE County Guidelines for Reporting Adults

1. The SC-SART will be activated immediately to a sexual assault that is reported to law enforcement, a hospital, a medical facility or any other entity.
2. The SC-SART, consisting of a law enforcement officer of the appropriate jurisdiction, a Sexual Assault Nurse Examiner (SANE) and a Victim Advocate, will report to the location where the medical forensic examination will take place to assess the facts.
3. The SC-SART will collaborate with a SANE nurse to determine an appropriate location and the appropriate person who will conduct a medical forensic exam if necessary. If it is determined a forensic exam is needed, a forensic exam and an Indiana State Police (ISP) sexual assault kit will be completed, provided the victim consents to such exam.
4. Any evidence collected by the SANE will be given to law enforcement for investigative purposes.
5. Law enforcement will take photographs and collect evidence pertinent to the investigation with the consent of the victim. Law enforcement will follow its department's policy for evidence handling and storage.
6. Following the SANE examination, all appropriate forms will be completed, including but not limited to: Application for Benefits for Sex Crime Victims Services Fund, the Adult Medical Forensic Examination Form, Medical Release Form and the Crime Victim/Domestic Violence Form.
7. A formal interview of the victim by law enforcement will be conducted at the earliest opportunity.
8. The Sample County Prosecuting Attorney's Office Sex Crimes Deputy Prosecuting Attorney will be available for consultation during the investigation, examination, search warrants, court proceedings, or as otherwise may be necessary to assist all members of the SC-SART. If the Sex Crimes DPA is unavailable for any reason, a member of the Sample County Prosecuting Attorney's Office Screening Team or the assigned Sample County Prosecuting Attorney's Office after-hours on-call prosecutor will be available for consultation or as otherwise needed to assist.
9. Should a legal action be initiated as a result of the SC-SART investigation, all members of the team agree to be available for consultation or testimony in any related hearings, depositions and trials.

EXHIBIT C

Sexual Assault Response Team of SAMPLE County Guidelines for Non-Reporting Adults

1. When a victim who is at least eighteen (18) years of age reports a sexual assault in Sample County and requests a forensic examination, but elects not to have the crime of sexual assault reported to law enforcement, a confidential number will be assigned to that victim by the medical facility, and a Victim Advocate will be called to the Medical Facility to offer services to the victim. The Victim Advocate for non-reporting adults may not be the employee or agent of law enforcement or the prosecuting attorney's office.
2. The victim will be informed of his/her rights under the law and will receive a copy of their signed consent form from the medical facility at the time of the medical forensic examination.
3. The medical facility will notify the law enforcement agency of the appropriate jurisdiction to transport the ISP sexual assault kit and/or other items of possible evidence for evidence handling and storage pursuant to that law enforcement agency's policies and procedures.
4. If the victim declines to report to law enforcement within one (1) year (365 calendar days) of the date the sample is logged into evidence that he/she does not want to proceed with a criminal investigation, each law enforcement agency may abide by its existing policy on destruction of evidence.

5. Should the victim elect to have the sexual assault reported to law enforcement prior to the one (1) year (365 calendar days) expiration of time, that agency will conduct the victim interview and will be responsible for obtaining a signature from the victim on a medical release form. This will allow law enforcement to have access to and obtain the medical forensic examination records from the medical facility that performed the examination and will permit an evidentiary examination of the contents of the ISP sexual assault kit.

EXHIBIT D

Sexual Assault Response Team of SAMPLE County Guidelines for Infants, Children and Adolescents

1. The SC-SART will be activated immediately, in accordance with Indiana law, for a sexual assault report to law enforcement or a sexual assault report to the Department of Child Services (DCS), where the victim is under eighteen (18) years of age.
2. A law enforcement officer of the appropriate jurisdiction, a DCS representative, or a Sexual Assault Nurse Examiner (SANE), will determine the following:
 - a. If the victim is in immediate need of medical care due to injury, the victim will be transported to the nearest or most appropriate hospital.
 - b. If immediate medical attention is NOT needed, the SC-SART will collaborate to determine whether the report is an emergency, urgent or non-urgent case. In all emergency cases, the medical forensic examination should be done without delay.
 - c. In urgent and non-urgent cases, the forensic interview of the victim should be done prior to the medical forensic examination. A law enforcement officer of the appropriate jurisdiction or DCS representative will contact the child advocacy center to set up a forensic interview as soon as possible.
 - d. The victim advocate shall be notified and kept apprised of all decisions and offer services to the child and family.
3. All children who are suspected victims of child sexual abuse are entitled to a medical evaluation by a provider with specialized training. The SC-SART will collaborate with a SANE nurse to determine an appropriate location and the appropriate person to conduct the medical forensic exam. Medical forensic exams will include an Indiana State Police (ISP) sexual assault kit when appropriate.
4. Law enforcement will collect evidence, including the victim's clothing at the time of the assault if possible, and take photographs pertinent to the investigation. Law enforcement will follow its department's policy for evidence handling and storage. Any evidence collected during the medical forensic exam will be given to law enforcement for investigative purposes.
5. The Sample County Prosecuting Attorney's Office Sex Crimes Deputy Prosecuting Attorney will be available for consultation during the investigation, examination, search warrants, court proceedings, or as otherwise may be necessary to assist all members of the SC-SART. If the Sex Crimes DPA is unavailable for any reason, a member of the Sample County Prosecuting Attorney's Office Screening Team or the assigned Sample County Prosecuting Attorney's Office after-hours on-call prosecutor will be available for consultation or as otherwise needed to assist.
6. Should a criminal or CHINs action be initiated as a result of the SC-SART investigation, all members of the team agree to be available for consultation and/or testimony in any related hearings, depositions, and trial.

Date

Marshal, Sample Town Police Department

Date

Chief, Sample City Police Department

Date	Sheriff, Sample County Sheriff's Dept.
Date	Post Commander, Indiana State Police
Date	Chief, Sample College Campus Security
Date	Prosecuting Attorney, xth Judicial Circuit
Date	Executive Director, Victim Advocates
Date	Representative, Sample County Hospital
Date	Chief, Sample County Hospital Police Dept.
Date	Representative, Sample County Department of Health
Date	Representative, Sample County Department of Child Services
Date	Representative, Sample County Community Corrections
Date	Representative, Indiana Criminal Justice Institute (ICJI)
Date	Representative, Indiana Coalition to End Sexual Assault (ICESA)
Date	Representative, Child Advocacy Center



Indiana Coalition to **End Sexual Assault**

Engage. Educate. Empower.

9245 N. Meridian Street, Suite 227
Indianapolis, IN 46260

317.624.2370

indianacesa.org

