

IC 35-40.5ARTICLE 40.5. RIGHTS OF SEXUAL ASSAULT VICTIMS

Ch. 1.Definitions

Ch. 2.Attachment and Duration of Rights

Ch. 3.Right to a Victim Advocate or Victim Service Provider

Ch. 4.Collection of Sexual Assault Forensic Evidence

Ch. 5.Interview With a Law Enforcement Officer

Ch. 6.Compliance

Ch. 7.Notice to Victims

IC 35-40.5-1Chapter 1. Definitions

35-40.5-1-1Definitions

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

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

As added by P.L.58-2020, SEC.6.

IC 35-40.5-2Chapter 2. Attachment and Duration of Rights

35-40.5-2-1When rights attach

35-40.5-2-2Victim continuously retains rights

IC 35-40.5-2-1When rights attach

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

- (1) a forensic medical exam; or
- (2) an interview by a law enforcement officer;

in relation to injuries, trauma, or an investigation resulting from an alleged sexual assault.

As added by P.L.58-2020, SEC.6.

IC 35-40.5-2-2Victim continuously retains rights

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

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

As added by P.L.58-2020, SEC.6.

IC 35-40.5-3Chapter 3. Right to a Victim Advocate or Victim Service Provider

35-40.5-3-1Victim's right to speak with certain persons

35-40.5-3-2Certain communications inadmissible as evidence

IC 35-40.5-3-1Victim's right to speak with certain persons

Sec. 1. A victim has the right to:

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

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

As added by P.L.58-2020, SEC.6.

IC 35-40.5-3-2Certain communications inadmissible as evidence

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

As added by P.L.58-2020, SEC.6.

IC 35-40.5-4Chapter 4. Collection of Sexual Assault Forensic Evidence

35-40.5-4-1Services provided to victim without charge

35-40.5-4-2Provider's duty to inform victim of certain rights

35-40.5-4-3Provider to notify victim advocate

IC 35-40.5-4-1Services provided to victim without charge

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

As added by P.L.58-2020, SEC.6.

IC 35-40.5-4-2 Provider's duty to inform victim of certain rights

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

(1) The victim's rights under this article and other relevant law in a document to be developed by the state sexual assault response team, which shall be signed by the victim to confirm receipt, unless the victim has already been provided with the document under IC 35-40.5-5-1.

(2) The victim's right to speak with a victim advocate or victim service provider. If a victim advocate or victim service provider is not available, a victim has the right to speak with victims assistance or a social worker.

As added by P.L.58-2020, SEC.6. Amended by P.L.133-2020, SEC.14.

IC 35-40.5-4-3 Provider to notify victim advocate

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

As added by P.L.58-2020, SEC.6.

IC 35-40.5-5 Chapter 5. Interview With a Law Enforcement Officer

35-40.5-5-1 Law enforcement duty to inform

IC 35-40.5-5-1 Law enforcement duty to inform

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

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

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

As added by P.L.58-2020, SEC.6. Amended by P.L.133-2020, SEC.15.

IC 35-40.5-6 Chapter 6. Compliance

35-40.5-6-1 Defendant may not object to failure to comply

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

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

As added by P.L.58-2020, SEC.6.

IC 35-40.5-7 Chapter 7. Notice to Victims

35-40.5-7-1Duty of law enforcement to inform victim of rights

IC 35-40.5-7-1 Duty of law enforcement to inform victim of rights

Sec. 1. (a) Upon initial interaction with a victim, a law enforcement officer or provider shall provide the victim with a document developed by the state sexual assault response team that explains the rights of victims:

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

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

- (1) A clear statement that a victim is not required to receive a medical evidentiary or physical examination in order to retain the rights provided under this article or any other relevant law.
- (2) Information concerning state and federal victim compensation funds for medical and other costs associated with the sexual assault.

As added by P.L.58-2020, SEC.6. Amended by P.L.133-2020, SEC.16.

<http://www.iga.in.gov/legislative/laws/2020/ic/titles/035#35-40.5>