SENATE BILL No. 533

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2-319.2; IC 35-40.5.

Synopsis: Sexual assault victims' rights. Provides certain procedural protections for victims of sexual assault, including the rights guaranteed to a victim as they relate to: (1) a victim's ability to have a support person present during a forensic medical exam or an interview with a law enforcement officer, prosecuting attorney, or defense attorney; (2) a victim's right to be interviewed by a law enforcement officer of the gender of the victim's choosing; (3) the collection and analysis of sexual assault forensic evidence from the victim; (4) a victim's ability to obtain a copy of a law enforcement report concerning the sexual assault; (5) notice to victims; and (6) legal procedures provided to protect a victim during a legal proceeding. Creates a civil cause of action for a violation of a victim's rights. Establishes the rights of victims of sexual assault commission.

Effective: July 1, 2025.

Yoder

January 16, 2025, read first time and referred to Committee on Corrections and Criminal Law.

Introduced

First Regular Session of the 124th General Assembly (2025)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2024 Regular Session of the General Assembly.

SENATE BILL No. 533

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-31.5-2-319.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: **Sec. 319.2. "Support person", for purposes of IC 35-40.5, has the meaning set forth in IC 35-40.5-1-1.**

SECTION 2. IC 35-40.5-1-1, AS AMENDED BY P.L.32-2021, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: 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 police 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) "Support person" means a person of the victim's choosing.

~~(6)~~ **(7)** "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)~~ **(8)** "Victim advocate" has the meaning set forth in IC 35-37-6-3.5.

~~(8)~~ **(9)** "Victim service provider" has the meaning set forth in IC 35-37-6-5.

SECTION 3. IC 35-40.5-2-1, AS ADDED BY P.L.58-2020, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: 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, **prosecuting attorney, or defense attorney;**

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

SECTION 4. IC 35-40.5-3-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: **Sec. 2.5. A victim has the right to have a support person present during any:**

(1) forensic medical examination; and

(2) interview conducted by a law enforcement officer, prosecuting attorney, or defense attorney.

A victim retains this right even if the victim has waived the right in a previous examination or interview.

SECTION 5. IC 35-40.5-4-2, AS AMENDED BY P.L.133-2020, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: 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.

(3) The victim's right to have a support person present during the forensic medical examination.

(4) The ramifications of delaying the forensic medical examination if a victim advocate, victim service provider, or support person cannot be summoned in a reasonably timely manner as described in subdivisions (2) and (3).

SECTION 6. IC 35-40.5-5-1, AS AMENDED BY P.L.133-2020, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 1. Before a law enforcement officer, **prosecuting attorney, or defense attorney** commences an interview of a victim, the law enforcement officer, **prosecuting attorney, or defense attorney** 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, **or support person** 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.

(3) The victim's right to be interviewed by a law enforcement officer of the gender of the victim's choosing. If no law

enforcement officer of that gender is reasonably available, the victim may be interviewed by an available law enforcement officer only upon the victim's consent.

SECTION 7. IC 35-40.5-5.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]:

Chapter 5.2. Analysis of Sexual Assault Forensic Evidence

Sec. 1. A victim has the right to prompt analysis of sexual assault forensic evidence collected from a forensic medical examination.

Sec. 2. A provider shall, upon conducting a forensic medical examination to collect sexual assault forensic evidence, inform the victim of the following:

(1) The sexual assault forensic evidence shall be transported to the crime laboratory.

(2) Not later than ninety (90) days after receiving the sexual assault forensic evidence, the crime laboratory shall analyze the sexual assault forensic evidence, unless the victim waives this requirement in writing at any time before analysis of the evidence.

(3) The crime laboratory shall retain the sexual assault forensic evidence until the later of:

(A) the statute of limitations bars prosecution of the offense as described under IC 35-41-4-2; or

(B) the victim reaches forty (40) years of age if the victim was a minor when the offense occurred;

before the evidence is destroyed.

(4) If the victim elects to waive the requirement under subdivision (2), the victim may still request that the sexual assault forensic evidence collected be tested before it is destroyed pursuant to subdivision (3).

Sec. 3. Not later than twenty-four (24) hours after collecting any sexual assault forensic evidence, a provider shall notify the law enforcement agency with jurisdiction over the offense.

Sec. 4. (a) The law enforcement agency that receives notice under section 3 of this chapter shall:

(1) obtain the sexual assault forensic evidence from the provider and transport the evidence to a crime laboratory not later than five (5) days after receiving notice from the provider; or

(2) comply with the transport requirements described under IC 16-21-8-10.

(b) Pursuant to subsection (a)(2), if the law enforcement agency complies with IC 16-21-8-10, the law enforcement agency must transport the sexual assault forensic evidence to a crime laboratory not later than forty-eight (48) hours after receiving notice from the provider.

(c) Not later than five (5) days after receiving notice, the law enforcement agency that receives notice or transports evidence under this chapter shall assign a case number to any evidence that is submitted to the crime laboratory for testing and analysis.

(d) If a law enforcement agency having possession of the sexual assault forensic evidence does not have jurisdiction over the alleged sexual assault, not later than five (5) days after taking possession of the sexual assault forensic evidence, the law enforcement agency shall notify the law enforcement agency having proper jurisdiction. After receiving notice, the law enforcement agency having proper jurisdiction shall take possession of the evidence and submit the evidence as provided in this section.

(e) A law enforcement agency that submits sexual assault forensic evidence to a crime laboratory shall, immediately after submission, notify the victim of the:

(1) name, address, and telephone number of the crime laboratory where the evidence has been submitted; and

(2) information described in section 2 of this chapter.

Sec. 5. Sexual assault forensic evidence may not be used:

(1) to prosecute a victim for any unrelated misdemeanor crimes or any crime under IC 35-48-4; or

(2) as a basis to search for further evidence of any unrelated misdemeanor crimes or any crime under IC 35-48-4 that may have been committed by the victim.

SECTION 8. IC 35-40.5-7-2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: **Sec. 2. Not later than five (5) business days after receiving a written request by a victim, a law enforcement officer shall provide a free, complete, and unaltered copy of all law enforcement reports concerning the sexual assault to the victim, regardless of whether the report has been closed by the law enforcement agency.**

SECTION 9. IC 35-40.5-8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]:

Chapter 8. Cause of Action

Sec. 1. (a) If a victim suffers an injury:

(1) as the result of any act or practice that violates this article;

or

(2) from a threatened violation of this article;

the individual may bring a civil action.

(b) A court may order an award of any or all of the following to an individual who prevails in an action under subsection (a):

(1) The greater of:

(A) actual and consequential damages resulting from the violation or threatened violation; or

(B) liquidated damages of not more than one thousand dollars ($1,000).

(2) Reasonable attorney's fees, litigation expenses, and costs.

(3) Declaratory or equitable relief, including injunctive relief.

(4) Other relief the court considers proper.

(c) The remedies and penalties set forth in subsection (b) are:

(1) cumulative; and

(2) in addition to other remedies and penalties imposed for a violation of this article.

SECTION 10. IC 35-40.5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]:

Chapter 9. Legal Procedures

Sec. 1. As provided under this article, a victim has the right to be reasonably protected from the defendant and persons acting on behalf of the defendant in either a civil or criminal case relating to the alleged sexual assault.

Sec. 2. A victim shall not be required to submit to a polygraph examination as provided under IC 35-37-4.5-2.

SECTION 11. IC 35-40.5-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]:

Chapter 10. Rights of Victims of Sexual Assault Commission

Sec. 1. As used in this chapter, "commission" refers to the rights of victims of sexual assault commission established by section 2 of this chapter.

Sec. 2. The rights of victims of sexual assault commission is established under the executive branch of state government as a continuing commission.

Sec. 3. The commission consists of the following members, all of whom are voting members:

(1) The executive director of the Indiana criminal justice institute or the executive director's designee.

(2) The superintendent of the state police department or the

superintendent's designee.

(3) The secretary of education or the secretary's designee.

(4) The commissioner of the commission for higher education or the commissioner's designee.

(5) Ten (10) members who are Indiana residents appointed by the governor as follows:

(A) One (1) member who is a victim.

(B) One (1) member who is a representative of the Indiana Coalition to End Sexual Assault and Human Trafficking.

(C) One (1) member who is a representative of the prosecuting attorneys council of Indiana.

(D) One (1) member who is a representative of the Indiana State Bar Association.

(E) One (1) member who is a representative of the Indiana Association of Chiefs of Police.

(F) One (1) member who is a representative of the Indiana state police laboratory division.

(G) One (1) member who is a representative of a rape crisis center.

(H) One (1) member who is a representative of an organization that provides services, education, or outreach to minority communities and immigrant communities.

(I) One (1) member who is a representative of an organization that provides services, education, or outreach to lesbian, gay, bisexual, and transgender individuals.

(J) One (1) member who is a forensic nurse.

Sec. 4. (a) The executive director of the Indiana criminal justice institute or the executive director's designee shall serve as the chairperson of the commission.

(b) Members of the commission appointed under section 3(5) of this chapter serve a term that ends June 30 of the odd-numbered year next following appointment but may be reappointed for subsequent terms. A member to whom this subsection applies serves at the will of the governor.

(c) A vacancy under subsection (b) shall be filled by the governor to meet the corresponding qualification. A member appointed under this subsection serves until the end of the unexpired term of the vacating member.

Sec. 5. The commission shall meet at least one (1) time each year and at the call of the chairperson.

Sec. 6. (a) Eight (8) members of the commission constitute a quorum.

(b) The affirmative votes of a majority of the voting members appointed to the commission are required for the commission to take action on any measure.

Sec. 7. The Indiana criminal justice institute shall staff the commission.

Sec. 8. The following apply to the mileage, per diem, and travel expenses for the commission:

(1) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for mileage, traveling expenses as provided under IC 4-13-1-4, and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(2) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to the minimum salary per diem, mileage, and traveling expenses provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 9. The commission shall study nationally recognized best practices and make recommendations regarding the following:

(1) The development and implementation of an effective mechanism for submitting, tracking, and investigating complaints regarding the handling of, or response to, a sexual assault report or investigation by any agency or organization involved in the handling or response.

(2) Whether a need exists for additional victim advocates for victims. If the commission determines there is a need for additional victim advocates, the commission shall:

(A) develop criteria to certify victim advocates;

(B) in conjunction with rape crisis centers, victim advocacy organizations, and other similar agencies or organizations, establish a plan to provide additional victim advocates to meet the needs identified by the commission; and

(C) determine the cost of funding the plan described in clause (B).

(3) Whether a need exists to expand a victim's right to a

victim advocate beyond the medical examination and law enforcement, prosecuting attorney, or defense attorney interview settings. If the commission determines there is a need to expand the right to a victim advocate, the commission shall:

(A) identify the scope and nature of the need; and

(B) make recommendations on how to fulfill the need.

(4) Whether a need exists to provide an ongoing evaluation of the implementation of the rights of victims. If such a need does exist, the commission shall:

(A) identify the scope and nature of the need; and

(B) make recommendations on how to fulfill the need.

(5) Whether there is an ongoing need to maintain the commission after the commission issues the report required by section 12 of this chapter.

Sec. 10. In fulfilling the requirements described in section 9 of this chapter, the commission shall do the following:

(1) Collect data concerning:

(A) sexual assault reporting;

(B) arrests;

(C) prosecution rates;

(D) access to victim advocates; and

(E) any other data necessary for the commission's deliberations and recommendations.

If the data described in this subdivision does not exist, the commission shall encourage the Indiana criminal justice institute to collect and maintain the data.

(2) Obtain feedback from stakeholders, practitioners, and leadership in law enforcement, victim services, forensic science, and health care for the development of best practices or clinical guidelines for caring for and treating victims.

Sec. 11. In undertaking the commission's duties described in this chapter, the commission may retain independent experts to:

(1) request files and records from any law enforcement officer in a manner that keeps the information confidential, anonymous, and in the aggregate;

(2) conduct confidential interviews with law enforcement officers, medical providers, victim advocates, and others with direct knowledge of the sexual assault response process; and

(3) provide advice and recommendations to the commission while maintaining confidentiality.

Sec. 12. Not later than December 31, 2026, the commission shall

prepare and submit a report summarizing the commission's findings and recommendations under this chapter to the:

(1) general assembly in an electronic format under IC 5-14-6;

(2) governor; and

(3) attorney general.