

SENATE BILL 349

E2

7lr2521
CF HB 255

By: ~~Senator Zirkin~~ **Senators Zirkin, Kelley, Brochin, Cassilly, Hough, Lee, Muse,
Norman, Ramirez, Ready, and Smith**

Introduced and read first time: January 25, 2017

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 21, 2017

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Sexual Assault Victims’ Rights – Disposal of Rape Kit**
3 **Evidence and Notification**

4 FOR the purpose of requiring a certain health care provider to provide a certain victim with
5 written information describing the laws and policies governing the testing,
6 preservation, and disposal of a certain sexual assault evidence collection kit;
7 requiring a hospital or child advocacy center to transfer a sexual assault evidence
8 collection kit to a law enforcement agency within a certain amount of time; requiring
9 a government agency to transfer a sexual assault evidence collection kit to a law
10 enforcement agency, except under certain circumstances; prohibiting a law
11 enforcement agency, government agency, or health care provider from destroying or
12 disposing of a sexual assault evidence collection kit or certain other evidence relating
13 to a sexual assault within a certain amount of time after the occurrence of the sexual
14 assault, except under certain circumstances; requiring a certain law enforcement
15 agency, government agency, or health care provider, on written request by a certain
16 victim, to notify the victim within a certain amount of time before the date of
17 intended destruction or disposal of certain evidence or retain the evidence longer
18 than a certain time period; requiring the Attorney General to adopt certain
19 regulations; defining certain terms; and generally relating to sexual assault victims’
20 rights.

21 BY repealing and reenacting, with amendments,

22 Article – Criminal Procedure

23 Section 11–926

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2008 Replacement Volume and 2016 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
4 That the Laws of Maryland read as follows:

5 **Article – Criminal Procedure**

6 11–926.

7 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
8 **INDICATED.**

9 **(2) “CHILD ADVOCACY CENTER” HAS THE MEANING STATED IN §**
10 **13–2201 OF THE HEALTH – GENERAL ARTICLE.**

11 **(3) “HOSPITAL” HAS THE MEANING STATED IN § 19–301 OF THE**
12 **HEALTH – GENERAL ARTICLE.**

13 ~~(A)~~ **(B)** A health care provider that performs a sexual assault evidence
14 collection kit exam on a victim of sexual assault shall provide the victim with:

15 **(1)** contact information for the investigating law enforcement agency that
16 the victim may contact about the status and results of the kit analysis; AND

17 **(2) WRITTEN INFORMATION DESCRIBING THE LAWS AND POLICIES**
18 **GOVERNING THE TESTING, PRESERVATION, AND DISPOSAL OF A SEXUAL ASSAULT**
19 **EVIDENCE COLLECTION KIT.**

20 ~~(B)~~ **(C)** An investigating law enforcement agency that receives a sexual assault
21 evidence collection kit, within 30 days after a request by the victim from whom the evidence
22 was collected, shall provide the victim with:

23 **(1)** information about the status of the kit analysis; and

24 **(2)** all available results of the kit analysis except results that would impede
25 or compromise an ongoing investigation.

26 ~~(C) (1) A LAW ENFORCEMENT AGENCY, GOVERNMENT AGENCY, OR~~
27 ~~HEALTH CARE PROVIDER MAY NOT DESTROY OR DISPOSE OF A SEXUAL ASSAULT~~
28 ~~EVIDENCE COLLECTION KIT OR OTHER CRIME SCENE EVIDENCE RELATING TO A~~
29 ~~SEXUAL ASSAULT WITHIN 20 YEARS AFTER THE EVIDENCE IS COLLECTED.~~

30 **(D) (1) A SEXUAL ASSAULT EVIDENCE COLLECTION KIT SHALL BE**
31 **TRANSFERRED TO A LAW ENFORCEMENT AGENCY:**

1 **(I) BY A HOSPITAL OR A CHILD ADVOCACY CENTER WITHIN 30**
2 **DAYS AFTER THE EXAM IS PERFORMED; OR**

3 **(II) BY A GOVERNMENT AGENCY IN POSSESSION OF A KIT,**
4 **UNLESS THE AGENCY IS OTHERWISE REQUIRED TO RETAIN THE KIT BY LAW OR**
5 **COURT RULE.**

6 **(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,**
7 **WITHIN 20 YEARS AFTER THE EVIDENCE IS COLLECTED, A LAW ENFORCEMENT**
8 **AGENCY MAY NOT DESTROY OR DISPOSE OF:**

9 **(I) A SEXUAL ASSAULT EVIDENCE COLLECTION KIT; OR**

10 **(II) OTHER CRIME SCENE EVIDENCE RELATING TO A SEXUAL**
11 **ASSAULT THAT HAS BEEN IDENTIFIED BY THE STATE'S ATTORNEY AS RELEVANT TO**
12 **PROSECUTION.**

13 **(3) A LAW ENFORCEMENT AGENCY IS NOT REQUIRED TO COMPLY**
14 **WITH THE REQUIREMENTS IN PARAGRAPH (2) OF THIS SUBSECTION IF:**

15 **(I) THE CASE FOR WHICH THE EVIDENCE WAS COLLECTED**
16 **RESULTED IN A CONVICTION AND THE SENTENCE HAS BEEN COMPLETED; OR**

17 **(II) ALL SUSPECTS IDENTIFIED BY TESTING A SEXUAL ASSAULT**
18 **EVIDENCE COLLECTION KIT ARE DECEASED.**

19 ~~**(2)**~~ **(4) ON WRITTEN REQUEST BY THE VICTIM FROM WHOM THE**
20 **EVIDENCE WAS COLLECTED, A LAW ENFORCEMENT AGENCY, ~~GOVERNMENT AGENCY,~~**
21 **~~OR HEALTH CARE PROVIDER~~ WITH CUSTODY OF A SEXUAL ASSAULT EVIDENCE**
22 **COLLECTION KIT OR OTHER CRIME SCENE EVIDENCE RELATING TO A SEXUAL**
23 **ASSAULT SHALL:**

24 **(I) NOTIFY THE VICTIM NO LATER THAN 60 DAYS BEFORE THE**
25 **DATE OF INTENDED DESTRUCTION OR DISPOSAL OF THE EVIDENCE; OR**

26 **(II) RETAIN THE EVIDENCE FOR 12 MONTHS LONGER THAN THE**
27 **TIME PERIOD SPECIFIED IN PARAGRAPH ~~(1)~~ (2) OF THIS SUBSECTION OR FOR A TIME**
28 **PERIOD AGREED TO BY THE VICTIM AND THE LAW ENFORCEMENT AGENCY.**

29 ~~**(D)**~~ **(E) THE ATTORNEY GENERAL SHALL ADOPT REGULATIONS FOR**
30 **UNIFORM STATEWIDE IMPLEMENTATION OF THIS SECTION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.