

HOUSE BILL 1249

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CF SB 657

By: **Delegates Reznik, Atterbeary, B. Barnes, Barron, Cain, Cardin, Conaway, Crutchfield, Cullison, Dumais, Ebersole, W. Fisher, Gilchrist, Guyton, Healey, Hettleman, Hill, Ivey, Jalisi, Kelly, J. Lewis, R. Lewis, Lopez, Moon, Mosby, Palakovich Carr, Pena–Melnyk, Pendergrass, Shetty, Solomon, Sydnor, Terrasa, Valentino–Smith, Wilkins, and P. Young**

Introduced and read first time: February 8, 2019

Assigned to: Health and Government Operations and Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2019

CHAPTER _____

AN ACT concerning

Pilot Program – Alleged Rape, Sexual Offense, or Child Sexual Abuse – HIV Postexposure Prophylaxis

FOR the purpose of establishing the Pilot Program for Preventing HIV Infection for Rape Victims; establishing the purpose of the pilot program; requiring the Governor’s Office of Crime Control and Prevention to administer the pilot program; requiring that a victim of an alleged rape or sexual offense or a victim of alleged child sexual abuse be provided with a full course of treatment and follow–up care for postexposure prophylaxis for the prevention of HIV infection at the request of the victim and as prescribed by a health care provider; authorizing a victim who receives treatment under a certain provision of this Act to decline to provide certain information under certain circumstances; requiring the physician, qualified health care provider, or hospital providing a victim with certain treatment to inform the victim of a certain right; requiring that the treatment and follow–up care be provided without charge to the victim under certain circumstances; providing that the physician, qualified health care provider, or hospital providing the treatment or follow–up care is entitled to be paid by the Criminal Injuries Compensation Board under certain circumstances; providing for a certain immunity for certain persons; requiring the Governor’s Office of Crime Control and Prevention to report to the Governor and General Assembly on or before a certain date; defining certain terms; providing for

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.



the termination of this Act; and generally relating to the Pilot Program for Preventing HIV Infection for Rape Victims.

BY adding to

Article – Criminal Procedure

Section 11–1008

Annotated Code of Maryland

(2018 Replacement Volume)

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

Article – Criminal Procedure

11–1008.

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

(2) “CHILD” MEANS ANY INDIVIDUAL UNDER THE AGE OF 18 YEARS.

(3) “HIV” MEANS THE HUMAN IMMUNODEFICIENCY VIRUS THAT CAUSES ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(4) “PHYSICIAN” HAS THE MEANING STATED IN § 11–1007 OF THIS SUBTITLE.

(5) “QUALIFIED HEALTH CARE PROVIDER” HAS THE MEANING STATED IN § 11–1007 OF THIS SUBTITLE.

(6) “SEXUAL ABUSE” HAS THE MEANING STATED IN § 11–1007 OF THIS SUBTITLE.

(B) (1) THERE IS A PILOT PROGRAM FOR PREVENTING HIV INFECTION FOR RAPE VICTIMS.

(2) THE PURPOSE OF THE PILOT PROGRAM IS TO PREVENT HIV INFECTION FOR VICTIMS OF AN ALLEGED RAPE OR SEXUAL OFFENSE OR VICTIMS OF ALLEGED CHILD SEXUAL ABUSE.

(3) THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION SHALL ADMINISTER THE PILOT PROGRAM.

(C) (1) TO ACCOMPLISH THE PURPOSE OF THE PILOT PROGRAM, A VICTIM OF AN ALLEGED RAPE OR SEXUAL OFFENSE OR A VICTIM OF ALLEGED CHILD

SEXUAL ABUSE SHALL BE PROVIDED WITH A FULL COURSE OF TREATMENT AND FOLLOW-UP CARE FOR POSTEXPOSURE PROPHYLAXIS FOR THE PREVENTION OF HIV INFECTION AT THE REQUEST OF THE VICTIM AND AS PRESCRIBED BY A HEALTH CARE PROVIDER.

(2) (I) A VICTIM WHO RECEIVES TREATMENT UNDER THIS SUBSECTION MAY DECLINE TO PROVIDE HEALTH INSURANCE INFORMATION OR SUBMIT PERSONAL INFORMATION TO A PAYMENT ASSISTANCE PROGRAM IF THE VICTIM BELIEVES THAT PROVIDING THE INFORMATION WOULD INTERFERE WITH PERSONAL PRIVACY OR SAFETY.

(II) THE PHYSICIAN, QUALIFIED HEALTH CARE PROVIDER, OR HOSPITAL PROVIDING A VICTIM WITH TREATMENT AND FOLLOW-UP CARE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INFORM THE VICTIM OF THE VICTIM'S RIGHT TO DECLINE TO PROVIDE HEALTH INSURANCE INFORMATION OR SUBMIT PERSONAL INFORMATION TO A PAYMENT ASSISTANCE PROGRAM.

(III) IF A VICTIM DECLINES TO PROVIDE HEALTH INSURANCE INFORMATION OR TO SUBMIT PERSONAL INFORMATION TO A PAYMENT ASSISTANCE PROGRAM:

1. THE TREATMENT AND FOLLOW-UP CARE SHALL BE PROVIDED WITHOUT CHARGE TO THE VICTIM; AND

2. SUBJECT TO THE LIMITATION ESTABLISHED UNDER SUBPARAGRAPH (IV) OF THIS PARAGRAPH, THE PHYSICIAN, QUALIFIED HEALTH CARE PROVIDER, OR HOSPITAL PROVIDING THE TREATMENT OR FOLLOW-UP CARE IS ENTITLED TO BE PAID BY THE CRIMINAL INJURIES COMPENSATION BOARD AS PROVIDED UNDER SUBTITLE 8 OF THIS TITLE FOR THE COSTS OF PROVIDING THE SERVICES.

(IV) THE TOTAL AMOUNT PAID TO PHYSICIANS, QUALIFIED HEALTH CARE PROVIDERS, AND HOSPITALS FROM THE CRIMINAL INJURIES COMPENSATION BOARD UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH MAY NOT EXCEED \$750,000 ANNUALLY.

(D) (1) A PHYSICIAN OR A QUALIFIED HEALTH CARE PROVIDER WHO EXAMINES A VICTIM OF ALLEGED CHILD SEXUAL ABUSE UNDER THE PROVISIONS OF THIS SECTION IS IMMUNE FROM CIVIL LIABILITY THAT MAY RESULT FROM THE FAILURE OF THE PHYSICIAN OR QUALIFIED HEALTH CARE PROVIDER TO OBTAIN CONSENT FROM THE CHILD'S PARENT, GUARDIAN, OR CUSTODIAN FOR THE EXAMINATION OR TREATMENT OF THE CHILD.

(2) THE IMMUNITY PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION EXTENDS TO:

(I) ANY HOSPITAL WITH WHICH THE PHYSICIAN OR QUALIFIED HEALTH CARE PROVIDER IS AFFILIATED OR TO WHICH THE CHILD IS BROUGHT; AND

(II) ANY INDIVIDUAL WORKING UNDER THE CONTROL OR SUPERVISION OF THE HOSPITAL.

(E) ON OR BEFORE DECEMBER 1, 2021, THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE OPERATION AND RESULTS OF THE PILOT PROGRAM, INCLUDING:

(1) THE NUMBER OF PATIENTS THAT QUALIFIED TO RECEIVE POSTEXPOSURE PROPHYLAXIS UNDER THE PILOT PROGRAM;

(2) THE NUMBER OF PATIENTS THAT CHOSE TO RECEIVE POSTEXPOSURE PROPHYLAXIS;

(3) THE TOTAL AMOUNT REIMBURSED TO PROVIDERS FOR THE POSTEXPOSURE PROPHYLAXIS; AND

(4) THE COST OF THE POSTEXPOSURE PROPHYLAXIS TREATMENT AND FOLLOW-UP CARE PROVIDED UNDER THE PILOT PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019. It shall remain effective for a period of 3 years and, at the end of September 30, 2022, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.