

SENATE BILL 406

E2

0lr2410
CF HB 425

By: **Senators Waldstreicher and West**

Introduced and read first time: January 27, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Sexual Assault Evidence Kits – Privacy, Reimbursement,**
3 **and Notification**

4 FOR the purpose of requiring a physician, qualified health care provider, or hospital to
5 provide a certain notice to the Criminal Injuries Compensation Board regarding
6 certain services rendered; prohibiting a physician, qualified health care provider, or
7 hospital from including certain information in a request to obtain payment for
8 certain services related to sexual assault forensic examinations for certain sexually
9 related crimes under certain circumstances; altering the services for which the Board
10 is required to pay certain claims and for which a physician or a qualified health care
11 provider is immune from civil liability under certain circumstances; and generally
12 relating to sexual assault evidence kits.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Procedure
15 Section 11–1007
16 Annotated Code of Maryland
17 (2018 Replacement Volume and 2019 Supplement)

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

20 **Article – Criminal Procedure**

21 11–1007.

22 (a) (1) In this section the following words have the meanings indicated.

23 (2) “Child” means any individual under the age of 18 years.

24 (3) “Initial assessment” includes:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) a psychological evaluation;

2 (ii) a parental interview; and

3 (iii) a medical evaluation.

4 (4) "Physician" means an individual who is authorized under the Maryland
5 Medical Practice Act to practice medicine in the State.

6 (5) "Qualified health care provider" means an individual who is licensed by
7 a health occupations board established under the Health Occupations Article.

8 (6) (i) "Sexual abuse" means any act that involves sexual molestation
9 or exploitation of a child whether or not the sexual molestation or exploitation of the child
10 is by a parent or other individual who has permanent or temporary care, custody, or
11 responsibility for supervision of a child, or by any household or family member.

12 (ii) "Sexual abuse" includes:

13 1. incest, rape, or sexual offense in any degree;

14 2. sodomy; and

15 3. unnatural or perverted sexual practices.

16 (b) If a physician, a qualified health care provider, or a hospital provides a service
17 described in subsection (c) of this section to a victim of an alleged rape or sexual offense or
18 a victim of alleged child sexual abuse:

19 (1) the services shall be provided without charge to the individual; and

20 (2) the physician, qualified health care provider, or hospital:

21 (I) is entitled to be paid by the Criminal Injuries Compensation
22 Board as provided under Subtitle 8 of this title for the costs of providing the services;

23 (II) SHALL PROVIDE WRITTEN OR ELECTRONIC VERIFICATION
24 TO THE CRIMINAL INJURIES COMPENSATION BOARD THAT SERVICES WERE
25 RENDERED TO A VICTIM OF AN ALLEGED RAPE OR SEXUAL OFFENSE OR A VICTIM OF
26 ALLEGED CHILD SEXUAL ABUSE; AND

27 (III) MAY NOT INCLUDE IN ANY REQUEST TO OBTAIN PAYMENT
28 UNDER THIS SUBSECTION A NARRATIVE DESCRIBING THE ALLEGED OFFENSE OF A
29 VICTIM OR A PHOTOGRAPH OF THE VICTIM.

1 (c) This section applies to the following services:

2 (1) a physical **AND SEXUAL ASSAULT FORENSIC** examination to gather
3 information and evidence as to an alleged crime **WHEN THE EXAMINATION IS**
4 **CONDUCTED WITHIN 15 DAYS OF THE ALLEGED CRIME OR A LONGER PERIOD AS**
5 **PROVIDED BY REGULATION;**

6 (2) emergency hospital treatment and follow-up medical testing for up to
7 90 days after the initial physical examination; and

8 (3) for up to 5 hours of professional time to gather information and evidence
9 of the alleged sexual abuse, an initial assessment of a victim of alleged child sexual abuse
10 by:

11 (i) a physician;

12 (ii) qualified hospital health care personnel;

13 (iii) a qualified health care provider;

14 (iv) a mental health professional; or

15 (v) an interdisciplinary team expert in the field of child abuse.

16 (d) (1) A physician or a qualified health care provider who examines a victim
17 of alleged child sexual abuse under the provisions of this section is immune from civil
18 liability that may result from the failure of the physician or qualified health care provider
19 to obtain consent from the child's parent, guardian, or custodian for the examination or
20 treatment of the child.

21 (2) The immunity extends to:

22 (i) any hospital with which the physician or qualified health care
23 provider is affiliated or to which the child is brought; and

24 (ii) any individual working under the control or supervision of the
25 hospital.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
27 1, 2020.