



Maryland  
Hospital Association

February 21, 2020

To: The Honorable Luke Clippinger, Chairman  
House Judiciary Committee

From: Jennifer Witten, Vice President, Government Affairs  
Maryland Hospital Association

Re: Letter of Concern- House Bill 1248- Sexual Assault Evidence Kits - Voluntary Payment for Testing

Dear Chairman Clippinger:

On behalf of the Maryland Hospital Association's (MHA) 61 member hospitals and health systems, we appreciate the opportunity to comment on House Bill 1248. Maryland's hospitals care for millions of people each year, treating 2.3 million in emergency departments and delivering more than 67,000 babies. The 108,000 people they employ are [caring for Maryland](#) around-the-clock every day. Unfortunately, all too often that includes caring for people who have been harmed through abuse and violence.

MHA has been a proud member of the Maryland Attorney General's Sexual Assault Evidence Kit Policy and Funding Committee (SAEK Committee) since its inception in 2017. This interdisciplinary group of stakeholders was created to develop effective statewide policies regarding the collection, testing, and retention of medical forensic evidence in sexual assault cases, craft recommendations on payment for sexual assault evidence collection kits and examine barriers that impact the forensic nurse examiner workforce, who are specially-trained professionals who often care for these patients.

In its short tenure, SAEK Committee accomplished a lot, including applying for and receiving a federal grant to assist the state in testing untested or unsubmitted sexual assault evidence kits and in developing a statewide tracking system.<sup>i</sup> In addition, this committee recommended establishing a pilot program to provide access to HIV prophylaxis for victims of sexual assault with no out of pocket expense.<sup>ii</sup> These recommendations were developed in collaboration with interested stakeholders and legislators with the intent to improve the mechanics of the systems serving sexual assault survivors.

HB 1248 presents several concerns. Last year, the General Assembly passed HB 1096/Senate Bill 767, which was based on the SAEK Committee's recommendations. This legislation required all sexual assault evidence kits to be tested, with a few exceptions that align with the requirements for entering evidence into the national database used by forensic laboratories (CODIS). HB 1248 would allow victims (or their insurance carriers) to pay to have a forensic kit tested that meets one of the testing exceptions. There is concern that this would inequitably benefit victims with access

to the resources to cover the cost. All qualifying kits should be tested in a timely manner, regardless of an individual's ability to pay. HB 1248 also allows kits to be tested even if the evidence is not eligible to be uploaded into CODIS. The SAEK Committee's testing subcommittee took great care to craft the recommendations regarding the testing of kits, which is now state law. The determination was made that this evidence would not be useful in a prosecution if there is already evidence that a crime did not occur.

We ask the Judiciary Committee to carefully consider this legislation since it was not included as one of the SAEK Committee's recommendations and presents several concerns that could promote the unequal treatment of victims of sexual assault.

For more information, please contact:  
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<sup>i</sup> Maryland Attorney General. (May 1, 2018). "Sexual Assault Evidence Kit Policy and Funding Committee, Governor's Office of Crime Control and Prevention Submit Application for SAKI Grant: Grant Would be Used to Test and Track Untested Kits; Aid in the Identification of Perpetrators."  
[www.marylandattorneygeneral.gov/press/2018/050118.pdf](http://www.marylandattorneygeneral.gov/press/2018/050118.pdf)

<sup>ii</sup> Maryland Sexual Assault Evidence Kit Policy & Funding Committee. (January, 2019). Annual Report.  
[www.marylandattorneygeneral.gov/Pages/Groups/2019\\_SAEK\\_Committee\\_Annual\\_Report.pdf](http://www.marylandattorneygeneral.gov/Pages/Groups/2019_SAEK_Committee_Annual_Report.pdf)