



**Maryland Sexual Assault Evidence Kit
Policy and Funding Committee**

February 4, 2022

TO: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

FROM: Maryland Sexual Assault Evidence Kit Policy and Funding Committee

RE: Senate Bill 331: Program for Preventing HIV Infection for Rape Victims –
Alterations and Repeal of Sunset (FAVORABLE)

The Maryland Sexual Assault Evidence Kit Policy and Funding Committee (SAEK Committee) submits this position paper in support of Senate Bill 331, which would remove the sunset on the Pilot Program for Preventing Human Immunodeficiency Virus (HIV) Infection for Rape Victims. The legislation would also remove the limits placed on the total amount that physicians, qualified health care providers, and hospitals may be paid for providing certain treatment and follow-up care in relation to HIV non-occupational post-exposure prophylaxis (nPEP) treatment. Lastly, SB331 seeks to alter the frequency within which the Governor’s Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) reports to the Governor and General Assembly on the operation and results of the program.

HIV nPEP treatment is a form of medical intervention designed to prevent HIV infection after exposure to the virus.¹ Timely administration of the full 28-day course of nPEP treatment is

¹ If prescribed and started within 72 hours of the sexual assault, HIV nPEP can often prevent the contraction of HIV for patients who meet the criteria for nPEP treatment. *See* MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE & MARYLAND INSTITUTE OF EMERGENCY MEDICAL SERVICES SYSTEMS, IMPROVED ACCESS TO SEXUAL ASSAULT MEDICAL FORENSIC EXAMINATIONS IN MARYLAND 15 (2015), *available at* <https://phpa.health.maryland.gov/Documents/Sexual-Assault-Forensic-Exam-Report-2015.pdf>.



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necessary to effectively protect against HIV.² In 2019, the SAEK Committee supported legislation which established a three-year pilot program to fund the full-course of nPEP treatment for victims of sexual assault.³ The pilot program went into effect October 1, 2019 and is scheduled to end on September 30, 2022.⁴ The pilot program, which is being administered by GOCPYVS, ensures that victims who meet the criteria for nPEP treatment are provided the full course of medication and follow-up care with no out of pocket expense.⁵ The total amount of payments made by the Criminal Injuries Compensation Board under the pilot program were limited to \$750,000, annually.⁶ Furthermore, due to the challenges associated with estimating the cost of providing this treatment for all qualifying victims, GOCPYVS was required to submit annual reports to the Governor and General Assembly on the operation and results of the pilot program including: (1) The number of patients that qualified to receive nPEP under the pilot program; (2) The number of patients that chose to receive nPEP; (3) The total amount reimbursed to providers for the nPEP; and (4) The cost of the nPEP and follow-up care provided under the pilot program.⁷

The HIV nPEP pilot program has proven to be sustainable and should therefore be implemented permanently, as contemplated by SB331. In its' 2021 report, GOCPYVS reported

² *HIV Post-Exposure Prophylaxis*, OH DEP'T. OF HEALTH, <https://www.odh.ohio.gov/-/media/ODH/ASSETS/Files/health/SADV/Ohio-Protocol/HIV-Post-Exposure-Prophylaxis-March-14-2018.pdf?la=en> (last visited November 15, 2018) (“Incomplete PEP treatment presents a theoretical risk to the victim”).

³ S.B. 657, Chapter 431 (2019).

⁴ *Id.*

⁵ MD. CODE ANN., Crim. Proc. § 11-1008(b)–(c) (West 2020).

⁶ Crim. Proc. § 11-1008(c)(2)(iv).

⁷ Crim. Proc. § 11-1008(e)(1)-(4).



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that under the pilot program, 1,147 victims of sexual assault qualified to receive nPEP treatment.⁸ Of that total, only 328 victims choose to receive the nPEP medication.⁹ GOCPYVS paid out a total of \$379,077.65 to provide nPEP treatment to victims of sexual assault since October 2019.¹⁰ Furthermore, GOCPYVS paid out a total of \$328,296.86 for initial care (including lab work) and follow-up care under the pilot program.¹¹ Over the course of the HIV nPEP pilot program, the State paid out \$707,374.51 to provide nPEP treatment and all related initial and follow-up care to victims of sexual assault.¹² This amount is far less than the annual \$750,000 that was allocated for the pilot program each year. These statistics prove that a long-term program to prevent HIV infection for victims of sexual assault can effectively be maintained and would not pose a huge economic burden on the State. Therefore, the program should be implemented permanently and the current September 30, 2022 end date should be repealed.

In addition to the pilot program's sustainability, the purpose of the program—to prevent victims of sexual assault from contracting HIV—is an important initiative that Maryland should uphold. HIV nPEP offers victims who have been exposed to HIV the best chance to avoid contracting an incurable disease that will affect the rest of their lives. Post-exposure prophylaxis intervention can reduce the risk of HIV infection by over 80%.¹³ While the risk of contracting HIV

⁸ Governor's Office of Crime Prevention, Youth, and Victim Services, *Report on the Operation and Results of the Pilot Program (HIV Postexposure Prophylaxis)*, 13 (2022),

[http://dlslibrary.state.md.us/publications/Exec/GOCPYVS/CP11-1008\(e\)_2021.pdf](http://dlslibrary.state.md.us/publications/Exec/GOCPYVS/CP11-1008(e)_2021.pdf).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ See World Health Organization, *Post-Exposure Prophylaxis to Prevent HIV Infection*, 1 (2014), https://www.who.int/hiv/topics/prophylaxis/pep_factsheet_dec2014.pdf.



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during consensual sex is low, victims of sexual assault have an increased risk because sexual assaults typically cause abrasions or lacerations (i.e. broken skin) which increase the likelihood of transmission.¹⁴ This heightened risk poses equally troubling mental health concerns for victims. Fear of HIV has been found to cause depression as well as emotional and psychological strain for victims of sexual assault.¹⁵

In addition to the health risk and psychological effects of possible HIV exposure, obtaining nPEP treatment can prove burdensome, if not impossible for many sexual assault victims in Maryland. Prior to the pilot program, one of the barriers for victims to obtain HIV nPEP is the high cost of the medications. If a victim has health insurance, co-pays can be as high as \$1,500.¹⁶ Without insurance, a full course of treatment can cost over \$3,000, depending on the medication prescribed.¹⁷ Victims enrolled in Maryland's Medicaid Program fare the best with regard to paying for HIV nPEP therapy, as the copay can be as low as \$1.00.¹⁸ However, not all victims of sexual assault are eligible for Medicaid and the exorbitant cost of the medication presents a barrier for those victims.

¹⁴ See Jessica E. Draughon, *Sexual Assault Injuries and Increased Risk of HIV Transmission*, 34 ADV. EMERG. NURS. J. Emergency Nursing J. 82, 82–87 (2012).

¹⁵ Edna Aryee, *I Was Raped: The Psychological Effects of Rape Among Liberian & Ghanaian Women in Ghana*, 12 WOMENS HEALTH & URBAN LIFE J. 98, 108 (2013), available at <https://tspace.library.utoronto.ca/bitstream/1807/35219/1/12.1.Aryee.pdf>.

¹⁶ FNEs who consulted with the SAEK Committee advised that co-pays typically average around \$1,500. See generally FLORIDA DEPARTMENT OF HEALTH'S, BUREAU OF COMMUNICABLE DISEASE, DIVISION OF DISEASE CONTROL AND HEALTH PROTECTION'S, HIV/AIDS SECTION, NPEP TOOLKIT FOR PROVIDERS 22 (2016), available at http://www.floridahealth.gov/diseases-and-conditions/aids/prevention/_documents/nPEP-toolkit.pdf.

¹⁷ The Committee obtained this numerical data after surveying 15 Maryland hospitals.

¹⁸ MARYLAND DEPARTMENT OF HEALTH, JOINT CHAIRMAN'S REPORT PROPHYLACTIC HIV THERAPY 10 (2018).



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Maryland has made a commitment to protect a sexual assault victim's confidentiality and encourage reporting by covering the cost of the sexual assault forensic exams, emergency hospital treatment, and follow-up medical testing.¹⁹ Permanently implementing the HIV nPEP program to cover the cost of the full course of HIV nPEP therapy should be a part of this commitment.

HIV prevention should continue to be a public health priority for Maryland. As such, the State should repeal the sunset on the HIV nPEP pilot program and continue to provide critical nPEP treatment indefinitely. Covering the cost of nPEP medication and follow-up care is the only way to ensure that victims of sexual assault are not forced to live with an incurable disease and a painful daily reminder of their assault. No victim should be denied HIV prevention simply because they cannot afford the medication. For these reasons, the SAEK Committee supports the passage of SB331 and urges a favorable report.

¹⁹ See MD. CODE ANN., Crim. Proc. § 11-816.1 (West 2018).