

HOUSE BILL 255

E2

7lr0618
CF SB 349

By: Delegates Hettleman, Sydnor, Anderson, Angel, Atterbeary, Aumann, Barkley, Barron, Bromwell, Brooks, Chang, Clippinger, Conaway, Davis, Dumais, Ebersole, Fennell, Frick, Gutierrez, Hayes, Jackson, Jones, Kaiser, Kelly, Kipke, Korman, Krimm, Lafferty, Lam, R. Lewis, Lierman, Luedtke, McCray, McIntosh, Miele, A. Miller, Moon, Morales, Morhaim, Pena-Melnyk, Platt, Queen, Rosenberg, Sanchez, Sophocleus, Stein, Tarlau, Valentino-Smith, M. Washington, West, B. Wilson, C. Wilson, K. Young, and P. Young

Introduced and read first time: January 23, 2017

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 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

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 regulations; defining certain terms; and generally relating to sexual assault victims'
2 rights.

3 BY repealing and reenacting, with amendments,
4 Article – Criminal Procedure
5 Section 11–926
6 Annotated Code of Maryland
7 (2008 Replacement Volume and 2016 Supplement)

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

10 **Article – Criminal Procedure**

11 11–926.

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

14 **(2) “CHILD ADVOCACY CENTER” HAS THE MEANING STATED IN §**
15 **13–2201 OF THE HEALTH – GENERAL ARTICLE.**

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

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

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

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

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

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

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

31 ~~(c) (1) A LAW ENFORCEMENT AGENCY, GOVERNMENT AGENCY, OR~~
32 ~~HEALTH CARE PROVIDER MAY NOT DESTROY OR DISPOSE OF A SEXUAL ASSAULT~~

~~EVIDENCE COLLECTION KIT OR OTHER CRIME SCENE EVIDENCE RELATING TO A SEXUAL ASSAULT WITHIN 20 YEARS AFTER THE EVIDENCE IS COLLECTED.~~

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

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

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

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

(I) A SEXUAL ASSAULT EVIDENCE COLLECTION KIT; OR

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

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

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

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

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

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

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

1 ~~(D)~~ (E) THE ATTORNEY GENERAL SHALL ADOPT REGULATIONS FOR
2 UNIFORM STATEWIDE IMPLEMENTATION OF THIS SECTION.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.