

# SENATE BILL 1094

E2, E4

7lr2644  
CF HB 1141

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By: **Senator Smith**

Introduced and read first time: February 17, 2017

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Statewide Sexual Assault Evidence Collection Kit**  
3 **Tracking System – Requirements**

4 FOR the purpose of requiring the Department of State Police to create and operate a certain  
5 statewide sexual assault evidence collection kit tracking system; authorizing the  
6 State Police to contract with certain entities for the creation, operation, and  
7 maintenance of a certain system; providing requirements for a certain tracking  
8 system; authorizing the State Police to use a certain implementation process and to  
9 submit certain reports on certain dates; requiring a certain kit to be assigned to a  
10 certain jurisdiction; providing certain persons immunity from civil damages in  
11 certain circumstances; requiring certain local law enforcement agencies, the State  
12 Police Crime Laboratory, certain hospitals, and the State's Attorney in each county  
13 to participate in a certain tracking system in a certain manner; providing that  
14 certain records and information are exempt from public inspection and copying;  
15 defining certain terms; and generally relating to sexual assault evidence.

16 BY repealing and reenacting, without amendments,  
17 Article – Criminal Procedure  
18 Section 11–926  
19 Annotated Code of Maryland  
20 (2008 Replacement Volume and 2016 Supplement)

21 BY adding to  
22 Article – Criminal Procedure  
23 Section 11–927  
24 Annotated Code of Maryland  
25 (2008 Replacement Volume and 2016 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



**Article – Criminal Procedure**

11-926.

(a) A health care provider that performs a sexual assault evidence collection kit exam on a victim of sexual assault shall provide the victim with contact information for the investigating law enforcement agency that the victim may contact about the status and results of the kit analysis.

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

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

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

**11-927.**

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

**(2) “STATE POLICE” MEANS THE DEPARTMENT OF STATE POLICE.**

**(3) “SYSTEM” MEANS THE STATEWIDE SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING SYSTEM.**

**(B) (1) THE STATE POLICE SHALL CREATE AND OPERATE A STATEWIDE SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING SYSTEM.**

**(2) THE STATE POLICE MAY CONTRACT WITH STATE, LOCAL, OR PRIVATE ENTITIES, INCLUDING SOFTWARE AND TECHNOLOGY PROVIDERS, FOR THE CREATION, OPERATION, AND MAINTENANCE OF THE SYSTEM.**

**(C) THE SYSTEM SHALL:**

**(1) TRACK THE LOCATION AND STATUS OF SEXUAL ASSAULT EVIDENCE COLLECTION KITS THROUGHOUT THE CRIMINAL JUSTICE PROCESS, INCLUDING THE INITIAL COLLECTION IN EXAMINATIONS PERFORMED AT MEDICAL FACILITIES, RECEIPT AND STORAGE AT LAW ENFORCEMENT AGENCIES, RECEIPT AND ANALYSIS AT FORENSIC LABORATORIES, AND STORAGE AND ANY DESTRUCTION AFTER COMPLETION OF ANALYSIS;**

1           **(2) ALLOW MEDICAL FACILITIES PERFORMING SEXUAL ASSAULT**  
2 **FORENSIC EXAMINATIONS, LAW ENFORCEMENT AGENCIES, PROSECUTORS, THE**  
3 **STATE POLICE CRIME LABORATORY, AND OTHER ENTITIES THAT HAVE CUSTODY OF**  
4 **SEXUAL ASSAULT EVIDENCE COLLECTION KITS TO UPDATE AND TRACK THE STATUS**  
5 **AND LOCATION OF SEXUAL ASSAULT EVIDENCE COLLECTION KITS;**

6           **(3) ALLOW VICTIMS OF SEXUAL ASSAULT TO ANONYMOUSLY TRACK**  
7 **OR RECEIVE UPDATES REGARDING THE STATUS OF THE VICTIM'S SEXUAL ASSAULT**  
8 **EVIDENCE COLLECTION KIT; AND**

9           **(4) ALLOW CONTINUOUS ELECTRONIC ACCESS.**

10           **(D) (1) THE STATE POLICE MAY USE A PHASED-IN IMPLEMENTATION**  
11 **PROCESS TO LAUNCH THE SYSTEM AND FACILITATE ENTRY AND USE OF THE SYSTEM**  
12 **FOR REQUIRED PARTICIPANTS.**

13           **(2) THE STATE POLICE MAY PHASE IN INITIAL PARTICIPATION**  
14 **ACCORDING TO REGION, VOLUME, OR OTHER APPROPRIATE CLASSIFICATIONS.**

15           **(3) ANY ENTITY WITH SEXUAL ASSAULT EVIDENCE COLLECTION KITS**  
16 **IN THE CUSTODY OF THE ENTITY SHALL FULLY PARTICIPATE IN THE SYSTEM NO**  
17 **LATER THAN JUNE 1, 2019.**

18           **(4) THE STATE POLICE SHALL SUBMIT A REPORT ON THE STATUS**  
19 **AND PLAN FOR LAUNCHING THE SYSTEM, INCLUDING THE PLAN FOR PHASED-IN**  
20 **IMPLEMENTATION, TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246**  
21 **OF THE STATE GOVERNMENT ARTICLE, NO LATER THAN JANUARY 1, 2018.**

22           **(E) (1) ON OR BEFORE JULY 1, 2019, AND TWICE PER YEAR ON JANUARY**  
23 **31 AND JULY 31 THEREAFTER, THE STATE POLICE SHALL SUBMIT A REPORT ON THE**  
24 **SYSTEM TO THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.**

25           **(2) THE REPORT SHALL INCLUDE FOR STATEWIDE AND BY**  
26 **JURISDICTION THE FOLLOWING:**

27                   **(I) THE NUMBER OF SEXUAL ASSAULT EVIDENCE COLLECTION**  
28 **KITS IN THE SYSTEM;**

29                   **(II) THE NUMBER OF SEXUAL ASSAULT EVIDENCE COLLECTION**  
30 **KITS FOR WHICH FORENSIC ANALYSIS HAS BEEN COMPLETED DURING THE**  
31 **REPORTING PERIOD;**

1 (III) THE NUMBER OF SEXUAL ASSAULT EVIDENCE COLLECTION  
2 KITS ADDED TO THE SYSTEM DURING THE REPORTING PERIOD;

3 (IV) THE NUMBER OF SEXUAL ASSAULT EVIDENCE COLLECTION  
4 KITS FOR WHICH FORENSIC ANALYSIS HAS BEEN REQUESTED BUT NOT COMPLETED  
5 DURING THE REPORTING PERIOD;

6 (V) THE AVERAGE AND MEDIAN LENGTH OF TIME FOR SEXUAL  
7 ASSAULT EVIDENCE COLLECTION KITS TO BE SUBMITTED FOR FORENSIC ANALYSIS  
8 AFTER BEING ADDED TO THE SYSTEM DURING THE REPORTING PERIOD;

9 (VI) THE AVERAGE AND MEDIAN LENGTH OF TIME FOR  
10 FORENSIC ANALYSIS TO BE COMPLETED ON SEXUAL ASSAULT EVIDENCE  
11 COLLECTION KITS AFTER BEING SUBMITTED FOR ANALYSIS DURING THE  
12 REPORTING PERIOD;

13 (VII) THE NUMBER OF SEXUAL ASSAULT EVIDENCE COLLECTION  
14 KITS DESTROYED OR REMOVED FROM THE SYSTEM DURING THE REPORTING  
15 PERIOD;

16 (VIII) THE NUMBER OF SEXUAL ASSAULT EVIDENCE COLLECTION  
17 KITS FOR WHICH FORENSIC ANALYSIS HAS NOT BEEN COMPLETED AND 6 MONTHS  
18 OR MORE HAVE PASSED SINCE THOSE SEXUAL ASSAULT EVIDENCE COLLECTION  
19 KITS WERE ADDED TO THE SYSTEM; AND

20 (IX) THE NUMBER OF SEXUAL ASSAULT EVIDENCE COLLECTION  
21 KITS FOR WHICH FORENSIC ANALYSIS HAS NOT BEEN COMPLETED AND 1 YEAR OR  
22 MORE HAS PASSED SINCE THOSE SEXUAL ASSAULT EVIDENCE COLLECTION KITS  
23 WERE ADDED TO THE SYSTEM.

24 (3) THE STATE POLICE MAY PUBLISH THE REPORT ON ITS WEB SITE.

25 (F) FOR A REPORT REQUIRED UNDER SUBSECTION (E) OF THIS SECTION, A  
26 SEXUAL ASSAULT EVIDENCE COLLECTION KIT SHALL BE ASSIGNED TO THE  
27 JURISDICTION ASSOCIATED WITH THE LAW ENFORCEMENT AGENCY ANTICIPATED  
28 TO RECEIVE THE SEXUAL ASSAULT EVIDENCE COLLECTION KIT OR THAT OTHERWISE  
29 HAS CUSTODY OF THE SEXUAL ASSAULT EVIDENCE COLLECTION KIT.

30 (G) (1) A PUBLIC AGENCY OR ENTITY, INCLUDING ITS OFFICIALS AND  
31 EMPLOYEES, AND A HOSPITAL AND ITS EMPLOYEES PROVIDING SERVICES TO  
32 VICTIMS OF SEXUAL ASSAULT MAY NOT BE HELD CIVILLY LIABLE FOR DAMAGES  
33 ARISING FROM A RELEASE OF INFORMATION OR THE FAILURE TO RELEASE

1 INFORMATION RELATED TO THE SYSTEM IF THE RELEASE WAS WITHOUT GROSS  
2 NEGLIGENCE.

3 (2) (I) EACH LOCAL LAW ENFORCEMENT AGENCY SHALL TRACK  
4 THE STATUS OF ALL SEXUAL ASSAULT EVIDENCE COLLECTION KITS IN THE CUSTODY  
5 OF THE LOCAL LAW ENFORCEMENT AGENCY AND OTHER ENTITIES CONTRACTING  
6 WITH THE LOCAL LAW ENFORCEMENT AGENCY.

7 (II) EACH LAW ENFORCEMENT AGENCY SHALL BEGIN FULL  
8 PARTICIPATION IN THE SYSTEM ESTABLISHED UNDER THIS SECTION ACCORDING TO  
9 THE IMPLEMENTATION SCHEDULE ESTABLISHED BY THE STATE POLICE.

10 (3) (I) THE STATE POLICE CRIME LABORATORY SHALL TRACK  
11 THE STATUS OF ALL SEXUAL ASSAULT EVIDENCE COLLECTION KITS IN THE CUSTODY  
12 OF THE STATE POLICE AND OTHER ENTITIES CONTRACTING WITH THE STATE  
13 POLICE.

14 (II) THE STATE POLICE CRIME LABORATORY SHALL BEGIN  
15 FULL PARTICIPATION IN THE SYSTEM ESTABLISHED BY THIS SECTION ACCORDING  
16 TO THE IMPLEMENTATION SCHEDULE ESTABLISHED BY THE STATE POLICE.

17 (4) (I) EACH HOSPITAL LICENSED UNDER TITLE 19 OF THE  
18 HEALTH – GENERAL ARTICLE SHALL TRACK THE STATUS OF ALL SEXUAL ASSAULT  
19 EVIDENCE COLLECTION KITS COLLECTED BY OR IN THE CUSTODY OF THE HOSPITAL  
20 AND OTHER ENTITIES CONTRACTING WITH THE HOSPITAL.

21 (II) EACH HOSPITAL SHALL BEGIN FULL PARTICIPATION IN THE  
22 SYSTEM ESTABLISHED BY THIS SECTION ACCORDING TO THE IMPLEMENTATION  
23 SCHEDULE ESTABLISHED BY THE STATE POLICE.

24 (5) (I) THE STATE’S ATTORNEY IN EACH COUNTY SHALL TRACK  
25 THE STATUS OF ALL SEXUAL ASSAULT EVIDENCE COLLECTION KITS CONNECTED TO  
26 CRIMINAL INVESTIGATIONS AND PROSECUTIONS IN THE COUNTY.

27 (II) EACH STATE’S ATTORNEY SHALL BEGIN FULL  
28 PARTICIPATION IN THE SYSTEM ESTABLISHED BY THIS SECTION ACCORDING TO THE  
29 IMPLEMENTATION SCHEDULE ESTABLISHED BY THE STATE POLICE.

30 (H) ANY RECORDS AND INFORMATION CONTAINED IN THE SYSTEM ARE  
31 EXEMPT FROM PUBLIC INSPECTION AND COPYING.

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