

# HOUSE BILL 1700

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8lr3658

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By: **Delegate Hettleman**

Introduced and read first time: February 16, 2018

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Sexual Assault Evidence Collection Kits – Analysis**

3 FOR the purpose of requiring a sexual assault evidence collection kit to be submitted to a  
4 certain laboratory for analysis except under certain circumstances; requiring a  
5 certain victim of sexual assault to be given the option to consent to a certain analysis  
6 without making a certain commitment; requiring a certain law enforcement agency  
7 to submit a certain sexual assault evidence collection kit to a certain laboratory for  
8 analysis within a certain period of time, to notify a certain victim of certain matters,  
9 to make use of certain service organizations, and to ensure certain protections for  
10 certain victims; requiring a certain laboratory to take certain actions within a certain  
11 period of time; requiring certain results of a certain analysis to be entered into the  
12 Combined DNA Index System (CODIS); requiring each State and local law  
13 enforcement agency to adopt certain policies and procedures on or before a certain  
14 date; providing for the prospective application of this Act; and generally relating to  
15 sexual assault evidence collection kits.

16 BY repealing and reenacting, with amendments,  
17 Article – Criminal Procedure  
18 Section 11–926  
19 Annotated Code of Maryland  
20 (2008 Replacement Volume and 2017 Supplement)

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

23 **Article – Criminal Procedure**

24 11–926.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2) “Child advocacy center” has the meaning stated in § 13–2201 of the  
2 Health – General Article.

3           (3) “Hospital” has the meaning stated in § 19–301 of the Health – General  
4 Article.

5           (b) A health care provider that performs a sexual assault evidence collection kit  
6 exam on a victim of sexual assault shall provide the victim with:

7           (1) contact information for the investigating law enforcement agency that  
8 the victim may contact about the status and results of the kit analysis; and

9           (2) written information describing the laws and policies governing the  
10 testing, preservation, and disposal of a sexual assault evidence collection kit.

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

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

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

17           (d) (1) A sexual assault evidence collection kit shall be transferred to a law  
18 enforcement agency:

19                   (i) by a hospital or a child advocacy center within 30 days after the  
20 exam is performed; or

21                   (ii) by a government agency in possession of a kit, unless the agency  
22 is otherwise required to retain the kit by law or court rule.

23           (2) Except as provided in paragraph (3) of this subsection, within 20 years  
24 after the evidence is collected, a law enforcement agency may not destroy or dispose of:

25                   (i) a sexual assault evidence collection kit; or

26                   (ii) other crime scene evidence relating to a sexual assault that has  
27 been identified by the State’s Attorney as relevant to prosecution.

28           (3) A law enforcement agency is not required to comply with the  
29 requirements in paragraph (2) of this subsection if:

30                   (i) the case for which the evidence was collected resulted in a  
31 conviction and the sentence has been completed; or

1 (ii) all suspects identified by testing a sexual assault evidence  
2 collection kit are deceased.

3 (4) On written request by the victim from whom the evidence was collected,  
4 a law enforcement agency with custody of a sexual assault evidence collection kit or other  
5 crime scene evidence relating to a sexual assault shall:

6 (i) notify the victim no later than 60 days before the date of intended  
7 destruction or disposal of the evidence; or

8 (ii) retain the evidence for 12 months longer than the time period  
9 specified in paragraph (2) of this subsection or for a time period agreed to by the victim and  
10 the law enforcement agency.

11 **(E) (1) AN INVESTIGATING LAW ENFORCEMENT AGENCY THAT RECEIVES**  
12 **A SEXUAL ASSAULT EVIDENCE COLLECTION KIT SHALL SUBMIT THE SEXUAL**  
13 **ASSAULT EVIDENCE COLLECTION KIT TO A FORENSIC LABORATORY FOR ANALYSIS**  
14 **UNLESS:**

15 **(I) THERE IS CLEAR EVIDENCE DISPROVING THE ALLEGATION**  
16 **OF SEXUAL ASSAULT;**

17 **(II) THE SEXUAL ASSAULT EVIDENCE COLLECTION KIT**  
18 **CONTAINS AN INSUFFICIENT AMOUNT OF FORENSIC EVIDENCE TO ENABLE AN**  
19 **ANALYSIS TO BE PERFORMED; OR**

20 **(III) THE VICTIM FROM WHOM THE EVIDENCE WAS COLLECTED**  
21 **DECLINES TO GIVE CONSENT FOR ANALYSIS.**

22 **(2) A VICTIM OF SEXUAL ASSAULT WHO WISHES TO REMAIN**  
23 **ANONYMOUS SHALL BE GIVEN THE OPTION TO CONSENT TO SUBMISSION OF THE**  
24 **VICTIM'S SEXUAL ASSAULT EVIDENCE COLLECTION KIT FOR ANALYSIS WITHOUT**  
25 **MAKING ANY COMMITMENT TO TAKING FURTHER ACTION.**

26 **(3) EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION,**  
27 **AN INVESTIGATING LAW ENFORCEMENT AGENCY THAT RECEIVES A SEXUAL**  
28 **ASSAULT EVIDENCE COLLECTION KIT SHALL:**

29 **(I) SUBMIT THE SEXUAL ASSAULT EVIDENCE COLLECTION KIT**  
30 **TO A FORENSIC LABORATORY FOR ANALYSIS WITHIN 30 DAYS OF RECEIPT OF THE**  
31 **KIT;**

32 **(II) NOTIFY THE VICTIM WHEN A SEXUAL ASSAULT EVIDENCE**  
33 **COLLECTION KIT IS SENT FOR ANALYSIS;**

1 (III) NOTIFY THE VICTIM OF THE RESULTS OF THE ANALYSIS;

2 (IV) MAKE USE OF COMMUNITY-BASED SEXUAL ASSAULT VICTIM  
3 SERVICE ORGANIZATIONS THAT CAN PROVIDE SERVICES AND SUPPORT TO  
4 SURVIVORS OF SEXUAL ASSAULT; AND

5 (V) ENSURE PRIVACY PROTECTIONS FOR VICTIMS IN  
6 CONNECTION WITH NOTIFICATION PROCEDURES.

7 (4) A FORENSIC LABORATORY THAT RECEIVES A SEXUAL ASSAULT  
8 EVIDENCE COLLECTION KIT FOR ANALYSIS SHALL DETERMINE SUITABILITY AND  
9 COMPLETE SCREENING, TESTING, AND ANALYSIS WITHIN A TIME FRAME  
10 ESTABLISHED BY THE MARYLAND SEXUAL ASSAULT EVIDENCE KIT POLICY AND  
11 FUNDING COMMITTEE.

12 (5) THE ELIGIBLE RESULTS OF AN ANALYSIS OF A SEXUAL ASSAULT  
13 EVIDENCE COLLECTION KIT SHALL BE ENTERED INTO THE COMBINED DNA INDEX  
14 SYSTEM.

15 (6) ON OR BEFORE JANUARY 1, 2019, EACH STATE AND LOCAL LAW  
16 ENFORCEMENT AGENCY SHALL ADOPT WRITTEN POLICIES AND PROCEDURES  
17 REGARDING THE HANDLING OF SEXUAL ASSAULT EVIDENCE COLLECTION KITS  
18 CONSISTENT WITH THE PROVISIONS OF THIS SUBSECTION.

19 [(e)](F) The Attorney General shall adopt regulations for uniform statewide  
20 implementation of this section.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
22 apply only prospectively and shall not be applied to and interpreted to affect any sexual  
23 assault evidence collection kits in the possession of law enforcement agencies before the  
24 effective date of this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2018.