

HOUSE BILL 1248

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CF SB 933

By: Delegates Bartlett, Atterbeary, W. Fisher, Lopez, and ~~Shetty~~ Shetty, Bagnall, Barron, Carr, Charles, Chisholm, Cullison, Hill, Johnson, Kerr, Krebs, R. Lewis, Metzgar, Morgan, Pena-Melnyk, Pendergrass, Rosenberg, Saab, Sample-Hughes, Szeliga, and K. Young

Introduced and read first time: February 8, 2019

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2019

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Sexual Assault Evidence Kits – Privacy and**
3 **Reimbursement**

4 FOR the purpose of prohibiting a physician, qualified health care provider, and hospital
5 from including certain information in a request to obtain payment for certain
6 services related to sexual assault forensic examinations for certain sexually related
7 crimes under certain circumstances; altering the services for which the Criminal
8 Injuries Compensation Board is required to pay certain claims and for which a
9 physician and a qualified health care provider are immune from civil liability under
10 certain circumstances; and generally relating to sexual assault evidence kits.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 11–1007
14 Annotated Code of Maryland
15 (2018 Replacement Volume)

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

18 **Article – Criminal Procedure**

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 11-1007.

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

3 (2) "Child" means any individual under the age of 18 years.

4 (3) "Initial assessment" includes:

5 (i) a psychological evaluation;

6 (ii) a parental interview; and

7 (iii) a medical evaluation.

8 (4) "Physician" means an individual who is authorized under the Maryland
9 Medical Practice Act to practice medicine in the State.

10 (5) "Qualified health care provider" means an individual who is licensed by
11 a health occupations board established under the Health Occupations Article.

12 (6) (i) "Sexual abuse" means any act that involves sexual molestation
13 or exploitation of a child whether or not the sexual molestation or exploitation of the child
14 is by a parent or other individual who has permanent or temporary care, custody, or
15 responsibility for supervision of a child, or by any household or family member.

16 (ii) "Sexual abuse" includes:

17 1. incest, rape, or sexual offense in any degree;

18 2. sodomy; and

19 3. unnatural or perverted sexual practices.

20 (b) If a physician, a qualified health care provider, or a hospital provides a service
21 described in subsection (c) of this section to a victim of an alleged rape or sexual offense or
22 a victim of alleged child sexual abuse:

23 (1) the services shall be provided without charge to the individual; [and]

24 (2) the physician, qualified health care provider, or hospital is entitled to
25 be paid by the Criminal Injuries Compensation Board as provided under Subtitle 8 of this
26 title for the costs of providing the services; AND

27 **(3) THE PHYSICIAN, QUALIFIED HEALTH CARE PROVIDER, OR**
28 **HOSPITAL MAY NOT INCLUDE IN ANY REQUEST TO OBTAIN PAYMENT UNDER THIS**

1 **SUBSECTION A NARRATIVE DESCRIBING THE ALLEGED OFFENSE OF A VICTIM OR A**
2 **PHOTOGRAPH OF THE VICTIM.**

3 (c) This section applies to the following services:

4 (1) a physical **AND SEXUAL ASSAULT FORENSIC** examination to gather
5 information and evidence as to an alleged crime **WHEN THE EXAMINATION IS**
6 **CONDUCTED WITHIN A TIME PERIOD DETERMINED BY THE MARYLAND SEXUAL**
7 **ASSAULT EVIDENCE KIT POLICY AND FUNDING COMMITTEE TO BE IN ACCORDANCE**
8 **WITH CURRENT FORENSIC MEDICAL STANDARDS;**

9 (2) emergency hospital treatment and follow-up medical testing for up to
10 90 days after the initial physical examination; and

11 (3) for up to 5 hours of professional time to gather information and evidence
12 of the alleged sexual abuse, an initial assessment of a victim of alleged child sexual abuse
13 by:

14 (i) a physician;

15 (ii) qualified hospital health care personnel;

16 (iii) a qualified health care provider;

17 (iv) a mental health professional; or

18 (v) an interdisciplinary team expert in the field of child abuse.

19 (d) (1) A physician or a qualified health care provider who examines a victim
20 of alleged child sexual abuse under the provisions of this section is immune from civil
21 liability that may result from the failure of the physician or qualified health care provider
22 to obtain consent from the child's parent, guardian, or custodian for the examination or
23 treatment of the child.

24 (2) The immunity extends to:

25 (i) any hospital with which the physician or qualified health care
26 provider is affiliated or to which the child is brought; and

27 (ii) any individual working under the control or supervision of the
28 hospital.

29 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
30 **1, 2019.**