

SENATE BILL 615

E4

3lr2769
CF HB 759

By: **Senator Hettleman**

Introduced and read first time: February 6, 2023

Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Governor's Office of Crime Prevention, Youth, and Victim Services – Sexual Assault Evidence Collection Kit Reporting Program

FOR the purpose of requiring the Governor's Office of Crime Prevention, Youth, and Victim Services to establish and administer a certain reporting program relating to sexual assault evidence collection kits; requiring a law enforcement agency and a person with control or possession of a sexual assault evidence collection kit to report certain information to the program and comply with certain regulations; clarifying the uses for the Rape Kit Testing Grant Fund; and generally relating to a sexual assault evidence collection kit reporting program.

BY adding to

Article – Criminal Procedure

Section 11–926.1

Annotated Code of Maryland

(2018 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 4–401

Annotated Code of Maryland

(2022 Replacement Volume)

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

Article – Criminal Procedure

11–926.1.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(A) (1) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL ESTABLISH AND ADMINISTER A REPORTING PROGRAM FOR TRACKING THE LOCATION, STATUS, AND CHAIN OF CUSTODY FOR SEXUAL ASSAULT EVIDENCE COLLECTION KITS.

(2) THE REPORTING PROGRAM SHALL:

(I) TRACK THE LOCATION, STATUS, AND CHAIN OF CUSTODY OF SEXUAL ASSAULT EVIDENCE COLLECTION KITS IN THE STATE;

(II) RECEIVE INFORMATION RELATING TO THE LOCATION, STATUS, AND CHAIN OF CUSTODY FROM ANY LAW ENFORCEMENT AGENCY OR PERSON WITH CONTROL OR POSSESSION OF A SEXUAL ASSAULT EVIDENCE COLLECTION KIT; AND

(III) ALLOW FOR A VICTIM OR A VICTIM'S REPRESENTATIVE TO TRACK THE LOCATION, STATUS, AND CHAIN OF CUSTODY OF A SEXUAL ASSAULT EVIDENCE COLLECTION KIT CONTAINING SAMPLES TAKEN FROM THE VICTIM.

(3) (I) INFORMATION CONTAINED IN THE REPORTING SYSTEM IS NOT OPEN TO PUBLIC INSPECTION.

(II) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES MAY DISCLOSE INFORMATION CONTAINED IN THE REPORTING SYSTEM ONLY TO:

1. THE VICTIM ABOUT WHOM THE INFORMATION PERTAINS;

2. A VICTIM'S REPRESENTATIVE FOR THE VICTIM ABOUT WHOM THE INFORMATION PERTAINS;

3. A SEXUAL ASSAULT CRISIS PROGRAM ESTABLISHED UNDER § 11-923 OF THIS SUBTITLE;

4. A CHILD ADVOCACY CENTER ESTABLISHED UNDER § 11-928 OF THIS SUBTITLE;

5. A LAW ENFORCEMENT AGENCY;

6. A STATE'S ATTORNEY;

7. A PERSON AUTHORIZED BY THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES TO RECEIVE THE INFORMATION; OR

8. A PERSON ENTITLED TO RECEIVE THE INFORMATION BY FEDERAL OR STATE LAW, SUBPOENA, COURT RULE, OR COURT ORDER.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, BEGINNING OCTOBER 1, 2023, A LAW ENFORCEMENT AGENCY OR ANY PERSON, INCLUDING A HEALTH CARE PROVIDER, FORENSIC LABORATORY, OR STATE'S ATTORNEY, THAT HAS CONTROL OR POSSESSION OF A SEXUAL ASSAULT EVIDENCE COLLECTION KIT SHALL:

(I) REPORT LOCATION, STATUS, AND CHAIN OF CUSTODY INFORMATION TO THE REPORTING PROGRAM ESTABLISHED UNDER THIS SECTION IN A MANNER REQUIRED BY THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES; AND

(II) COMPLY WITH ALL REGULATIONS DEVELOPED BY THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES UNDER THIS SECTION.

(2) A LAW ENFORCEMENT AGENCY OR A PERSON, INCLUDING A HEALTH CARE PROVIDER, FORENSIC LABORATORY, OR STATE'S ATTORNEY, THAT HAD CONTROL OR POSSESSION OF A SEXUAL ASSAULT EVIDENCE COLLECTION KIT BEFORE OCTOBER 1, 2023, AND HAS CONTROL OR POSSESSION OF THE SEXUAL ASSAULT EVIDENCE COLLECTION KIT ON OR AFTER OCTOBER 1, 2023, SHALL REPORT LOCATION, STATUS, AND CHAIN OF CUSTODY INFORMATION TO THE REPORTING PROGRAM ESTABLISHED UNDER THIS SECTION ON OR BEFORE DECEMBER 31, 2025.

(C) (1) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES, IN CONSULTATION WITH THE MARYLAND SEXUAL ASSAULT EVIDENCE KIT POLICY AND FUNDING COMMITTEE, SHALL ADOPT ANY REGULATIONS NECESSARY TO CARRY OUT THIS SECTION.

(2) REGULATIONS ADOPTED BY THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES IN ACCORDANCE WITH THIS SECTION SHALL INCLUDE:

(I) REQUIREMENTS FOR REPORTING THE LOCATION AND CHAIN OF CUSTODY OF A SEXUAL ASSAULT EVIDENCE COLLECTION KIT TO THE

PROGRAM ESTABLISHED BY THE GOVERNOR’S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES UNDER THIS SECTION; AND

(II) PROCEDURES FOR DISCLOSING INFORMATION ABOUT SEXUAL ASSAULT EVIDENCE COLLECTION KITS INCLUDED IN THE REPORTING PROGRAM, INCLUDING DISCLOSURE TO PARTIES AUTHORIZED TO RECEIVE INFORMATION CONTAINED IN THE REPORTING SYSTEM.

Article – Public Safety

4–401.

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

(2) “Forensic laboratory” means a facility, an entity, or a site that offers or performs forensic analysis and is owned or operated by the State, a county or municipal corporation in the State, or another governmental entity.

(3) “Fund” means the Rape Kit Testing Grant Fund.

(4) “Law enforcement agency” means the Department of State Police or a police department of a county or municipal corporation in the State.

(b) There is a Rape Kit Testing Grant Fund.

(c) The purpose of the Fund is to provide law enforcement agencies with funding to pay for testing of sexual assault evidence collection kits by forensic laboratories.

(d) The Executive Director of the Governor’s Office of Crime Prevention, Youth, and Victim Services shall:

(1) administer the Fund;

(2) establish and publish procedures for the distribution of funding to law enforcement agencies;

(3) ensure each jurisdiction in the State that has a forensic laboratory is able to access the Fund;

(4) consider the number of sexual assault incidents that were investigated by a law enforcement agency in the prior fiscal year when distributing funding; and

(5) submit a report with information on the distribution of funding to the General Assembly, in accordance with § 2–1257 of the State Government Article, before September 1 each year.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) money appropriated in the State budget to the Fund;

(2) any interest earnings of the Fund; and

(3) any other money from any other source accepted for the benefit of the Fund.

(g) (1) The Fund may be used only for equipment, supplies, personnel, and outsourcing necessary for the testing of sexual assault evidence collection kits in forensic laboratories.

(2) SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, THE FUND MAY BE USED FOR EQUIPMENT, SUPPLIES, PERSONNEL, AND OUTSOURCING NECESSARY FOR THE TESTING OF SEXUAL ASSAULT EVIDENCE COLLECTION KITS COLLECTED BEFORE OR AFTER THE ESTABLISHMENT OF THE FUND.

(h) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any interest earnings of the Fund, including interest earnings under subsection (f) of this section, shall be credited to the Fund.

(i) Expenditures from the Fund may be made only in accordance with the State budget.

(j) Money expended from the Fund for testing of sexual assault evidence collection kits is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for testing of sexual assault evidence collection kits.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.