

HOUSE BILL 1047

I3, E2

4r3174
CF SB 949

By: **Delegate Bartlett**

Introduced and read first time: February 7, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Self-Administered Sexual Assault Evidence Collection**
3 **Kits**

4 FOR the purpose of providing that a party in a criminal trial involving an allegation of a
5 sexual crime may not introduce evidence that physical evidence of a sexual crime
6 was obtained using certain materials; providing that selling, offering for sale, or
7 distributing a certain self-administered sexual assault evidence collection kit is an
8 unfair, deceptive, or abusive trade practice; establishing the Forensic Nurse
9 Examiner Training Grant Program; establishing the Forensic Nurse Examiner
10 Training Grant Program Fund as a special, nonlapsing fund; and generally relating
11 to self-administered sexual assault evidence collection kits.

12 BY repealing and reenacting, with amendments,
13 Article – Commercial Law
14 Section 13–301(14)(xl)
15 Annotated Code of Maryland
16 (2013 Replacement Volume and 2023 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – Commercial Law
19 Section 13–301(14)(xli)
20 Annotated Code of Maryland
21 (2013 Replacement Volume and 2023 Supplement)

22 BY adding to
23 Article – Commercial Law
24 Section 13–301(14)(xlii); and 14–4601 through 14–4604 to be under the new subtitle
25 “Subtitle 46. Self-Administered Sexual Assault Evidence Collection Kits”
26 Annotated Code of Maryland
27 (2013 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Courts and Judicial Proceedings
3 Section 10–925
4 Annotated Code of Maryland
5 (2020 Replacement Volume and 2023 Supplement)

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

8 **Article – Commercial Law**

9 13–301.

10 Unfair, abusive, or deceptive trade practices include any:

11 (14) Violation of a provision of:

12 (xl) Title 14, Subtitle 13 of the Public Safety Article; [or]

13 (xli) Title 14, Subtitle 45 of this article; or

14 **(XLII) TITLE 14, SUBTITLE 46 OF THIS ARTICLE; OR**

15 **SUBTITLE 46. SELF-ADMINISTERED SEXUAL ASSAULT EVIDENCE COLLECTION**
16 **KITS.**

17 14–4601.

18 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
19 **INDICATED.**

20 **(B) “PROGRAM” MEANS THE FORENSIC NURSE EXAMINER TRAINING**
21 **GRANT PROGRAM.**

22 **(C) “QUALIFIED HEALTH CARE PROVIDER” HAS THE MEANING STATED IN §**
23 **11–926 OF THE CRIMINAL PROCEDURE ARTICLE.**

24 **(D) “SELF-ADMINISTERED SEXUAL ASSAULT EVIDENCE COLLECTION KIT”**
25 **MEANS MATERIALS ADVERTISED OR MARKETED AS A MEANS FOR A PERSON OTHER**
26 **THAN A QUALIFIED HEALTH CARE PROVIDER TO COLLECT PHYSICAL EVIDENCE OF**
27 **A SEXUAL CRIME.**

28 **(E) “SEXUAL CRIME” HAS THE MEANING STATED IN § 10–925 OF THE**
29 **COURTS ARTICLE.**

1 14-4602.

2 (A) THIS SECTION DOES NOT APPLY TO A SELF-ADMINISTERED SEXUAL
3 ASSAULT EVIDENCE COLLECTION KIT THAT IS ISSUED BY THE MARYLAND
4 DEPARTMENT OF HEALTH.

5 (B) A PERSON MAY NOT SELL, OFFER FOR SALE, OR DISTRIBUTE A
6 SELF-ADMINISTERED SEXUAL ASSAULT EVIDENCE COLLECTION KIT.

7 (C) (1) A VIOLATION OF THIS SECTION IS:

8 (I) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE
9 WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

10 (II) SUBJECT TO THE ENFORCEMENT AND PENALTY
11 PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

12 (2) (I) IN ADDITION TO ANY PENALTY IMPOSED UNDER TITLE 13
13 OF THIS ARTICLE, A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL
14 PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION.

15 (II) THE CIVIL PENALTY UNDER SUBPARAGRAPH (I) OF THIS
16 PARAGRAPH IS RECOVERABLE BY THE STATE IN A CIVIL ACTION OR AN
17 ADMINISTRATIVE CEASE AND DESIST ACTION UNDER § 13-403(A) AND (B) OF THIS
18 ARTICLE OR AFTER AN ADMINISTRATIVE HEARING HAS BEEN HELD UNDER §
19 13-403(D)(3) AND (4) OF THIS ARTICLE.

20 (D) ONLY THE ATTORNEY GENERAL MAY ENFORCE THIS SECTION.

21 (E) ALL FINES, PENALTIES, AND DAMAGES COLLECTED FOR VIOLATIONS OF
22 THIS SECTION SHALL BE DEPOSITED INTO THE FORENSIC NURSE EXAMINER
23 TRAINING GRANT PROGRAM FUND ESTABLISHED UNDER § 14-4604 OF THIS
24 SUBTITLE.

25 14-4603.

26 (A) THERE IS A FORENSIC NURSE EXAMINER TRAINING GRANT PROGRAM.

27 (B) THE PURPOSE OF THE PROGRAM IS TO ASSIST NONPROFIT ENTITIES
28 THAT PROVIDE RESOURCES FOR VICTIMS OF SEXUAL ASSAULT IN THE STATE TO
29 FUND TRAINING FOR NURSES IN THE STATE TO DEVELOP SKILLS IN CONDUCTING
30 FORENSIC EXAMINATIONS OF VICTIMS OF SEXUAL ASSAULT.

1 **(C) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND**
2 **VICTIM SERVICES SHALL ESTABLISH:**

3 **(1) AN APPLICATION PROCESS FOR NONPROFIT ENTITIES IN THE**
4 **STATE TO APPLY FOR GRANT FUNDING FROM THE PROGRAM; AND**

5 **(2) ELIGIBILITY CRITERIA FOR SELECTING RECIPIENTS FOR GRANT**
6 **FUNDING FROM THE PROGRAM.**

7 **14-4604.**

8 **(A) IN THIS SECTION, "FUND" MEANS THE FORENSIC NURSE EXAMINER**
9 **TRAINING GRANT PROGRAM FUND.**

10 **(B) THERE IS A FORENSIC NURSE EXAMINER TRAINING GRANT PROGRAM**
11 **FUND.**

12 **(C) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING FOR GRANTS**
13 **AWARDED UNDER THE PROGRAM.**

14 **(D) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND**
15 **VICTIM SERVICES SHALL ADMINISTER THE FUND.**

16 **(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
17 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

18 **(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,**
19 **AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

20 **(F) THE FUND CONSISTS OF:**

21 **(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 14-4602 OF THIS**
22 **SUBTITLE; AND**

23 **(2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**
24 **THE BENEFIT OF THE FUND.**

25 **(G) THE FUND MAY BE USED ONLY TO FUND GRANTS TO NONPROFIT**
26 **ENTITIES THROUGH THE PROGRAM.**

27 **(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND**
28 **IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

1 **(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO**
2 **THE GENERAL FUND OF THE STATE.**

3 **(1) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE**
4 **WITH THE STATE BUDGET.**

5 **Article – Courts and Judicial Proceedings**

6 **10-925.**

7 **(A) IN THIS SECTION, “SEXUAL CRIME” MEANS:**

8 **(1) AN OFFENSE UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW**
9 **ARTICLE;**

10 **(2) THE SEXUAL ABUSE OF A MINOR UNDER § 3-604 OF THE**
11 **CRIMINAL LAW ARTICLE; OR**

12 **(3) THE SEXUAL ABUSE OF A VULNERABLE ADULT UNDER § 3-802 OF**
13 **THE CRIMINAL LAW ARTICLE.**

14 **(B) EVIDENCE THAT PHYSICAL EVIDENCE OF A SEXUAL CRIME WAS**
15 **OBTAINED USING MATERIALS THAT WERE SOLD, OFFERED FOR SALE, OR**
16 **DISTRIBUTED IN A MANNER THAT WOULD CONSTITUTE A VIOLATION OF § 14-4602**
17 **OF THE COMMERCIAL LAW ARTICLE IS NOT ADMISSIBLE IN A CRIMINAL OR CIVIL**
18 **PROCEEDING INVOLVING AN ALLEGATION OF A SEXUAL CRIME.**

19 **(C) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE A COURT TO ADMIT**
20 **PHYSICAL EVIDENCE.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2024.