

# **SB0789 Sexual Assault Evidence Collection Kits FAV**

Uploaded by: Cecilia Plante

Position: FAV



## TESTIMONY FOR SB0789

### Sexual Assault Evidence Collection Kits - Preservation and Storage

**Bill Sponsor:** Senator Hettleman

**Committee:** Judicial Proceedings

**Organization Submitting:** Maryland Legislative Coalition

**Person Submitting:** Cecilia Plante, co-chair

**Position:** FAVORABLE

I am submitting this testimony in favor of SB0789 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

One of the most disturbing and debilitating things about victimhood is losing any ability to find and punish your abuser. Being a victim of sexual assault is traumatizing enough without the very people who are supposed to provide support and help catch the perpetrator mishandling or disposing of the only physical link to the crime. Sexual assault kits should be preserved and treated with the same respect as any evidence collected from a crime scene.

This bill will require hospitals and health care providers to transfer the kits to a law enforcement agency and for law enforcement agencies to submit it to a laboratory for testing unless the victim declines to give consent or if there is clear evidence disproving the allegation of sexual assault. Additionally, the kit cannot be disposed of for 75 years after it was collected.

We should not dismiss or destroy evidence of such a brutal crime. It shows a complete lack of respect for the victim and allows the perpetrator to continue to commit these crimes.

We strongly support this bill and recommend a **FAVORABLE** report in committee.

# **SB 789 - Sexual Assault Evidence Collection Kits -**

Uploaded by: Jane Krienke

Position: FAV



Maryland  
Hospital Association

## **Senate Bill 789– Sexual Assault Evidence Collection Kits - Preservation and Storage**

**Position: *Support***

March 9, 2023

Senate Judicial Proceedings Committee

### **MHA Position**

On behalf of the Maryland Hospital Association's (MHA) 60 member hospitals and health systems, we appreciate the opportunity to comment in support of Senate Bill 789.

Across the state, hospital-based sexual assault forensic exam ([SAFE](#)) programs employ forensic nurse examiners. These registered nurses receive special training in evidence collection and are experts in delivering trauma-informed care to survivors of violence and abuse. State law ensures survivors of sexual assault have access to emergency medical treatment for injuries sustained as a result of the assault with no out-of-pocket expenses.

MHA has proudly served as a member of the [Maryland Sexual Assault Evidence Kit Policy and Funding Committee \(SAEK Committee\)](#) since its inception. This Committee has worked collaboratively to develop processes and issue guidance to stakeholders involved in supporting survivors of sexual assault. Recently discussions have focused on the definition of a sexual assault evidence kit. MHA supports the sponsor's amendments to the bill which specifies that the definition of a kit includes evidence collected by a health care provider from the body or clothing of a living or deceased person following an allegation or suspicion of a sexual assault. This definition strikes the right balance of excluding Do It Yourself kits while encompassing evidence that existed before sexual assault evidence collection kits were formally developed including the slides preserved by Dr Rudiger Breitenecker at Greater Baltimore Medical Center (GBMC) since the 1970's.

Dr Breitenecker, well ahead of his time, worked diligently to preserve thousands of samples from sexual assault survivors. The uncodified language in the sponsor's amendments allows GBMC to work with the SAEK Committee to develop a process that will preserve the integrity of these slides while also ensuring the contents can be tested if evidence is present. It cannot be underscored enough how critical it is that this process be done carefully and in collaboration with GBMC. MHA appreciates the sponsor's willingness to work together to ensure these slides are preserved and tested.

For these reasons, we ask for a *favorable* report on SB 789.

For more information, please contact:

Jane Krienke, Senior Legislative Analyst, Government Affairs

[Jkrienke@mhaonline.org](mailto:Jkrienke@mhaonline.org)

# **SAK - preservation - testimony - senate - 2023 - M**

Uploaded by: Laura Jessick

Position: FAV



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**Working to end sexual violence in Maryland**

P.O. Box 8782  
Silver Spring, MD 20907  
Phone: 301-565-2277  
Fax: 301-565-3619

For more information contact:  
Lisae C. Jordan, Esquire  
443-995-5544  
www.mcasa.org

**Testimony Supporting Senate Bill 789 with Sponsor Amendments**

**Laura Jessick, SAFE/SART Manager**

**Lisae C. Jordan, Executive Director & Counsel**

March 9, 2023

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 789 with Sponsor Amendments

**Senate Bill 789 – Sexual Assault Evidence Kits – Retention**

Senate Bill 789 with sponsor amendments would increase the required retention period for sexual assault evidence kits to 75 years, clarify the definition of a sexual assault evidence collection kit, and stabilize retention and storage of a collection of slides containing evidence of sexual assault.

More than one out of every five (21.3%) adult Maryland women—about 677,596—has been the victim of rape sometime in her lifetime, and approaching half (43.6%) of Maryland's adult women—about 1,387,006—and nearly one quarter (24.8%) of Maryland's adult men—about 740,013—have experienced other forms of sexual violence.<sup>1,2</sup> Sexual assault forensic examinations (SAFEs) and sexual assault evidence kits (SAEKs) are vital to the investigation and prosecution of these sexual assaults.<sup>3</sup>

DNA and other evidence recovered from SAEKs are an important tool used to identify perpetrators, prove sexual contact, and corroborate the victim's testimony. The FBI's Combined DNA Index System (CODIS)—a national DNA database populated by samples submitted by

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<sup>1</sup> National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, The National Intimate Partner and Sexual Violence Survey (NISVS): 2015 Data Brief. (Numbers adjusted to match current population data.)

<sup>2</sup> The terms "victim" and "survivor" are both used in this document, and MCASA encourages the use of whichever term is preferred by an individual who has experienced sexual violence. The word "victim" is used in Maryland's crime victim rights statutes and, as a result, is used more frequently in that context.

<sup>3</sup> Sexual assault forensic examinations are performed by health care providers trained in forensic examination and evidence collection. Sexual assault evidence kits collect the evidence recovered during the SAFE exam. SAEKs typically include paperwork to document the exam, swabs and glass slides for biological evidence collection, containers for blood and urine samples, evidence bags for clothing and other large pieces of evidence, and envelopes for hair, fibers, and other trace evidence.

participating federal, state, and local forensic laboratories—also uses SAEK evidence to identify serial perpetrators of sexual assault and exonerate innocent people accused of crimes.<sup>4</sup>

**Most sexual crimes are felonies with no statute of limitations for prosecution; evidence of these crimes should be retained for 75 years.** The current retention period of 20 years is insufficient given the statute of limitations.

**Self-collected evidence kits.** So called “do-it-yourself” rape kits are on the rise. These kits create a host of evidentiary problems and advertisements for the kits may mislead survivors. Nonetheless, when a self-collected kit exists, the evidence should not be destroyed. SB789 requires retention of this evidence. It also directs the SAEK committee and the Attorney General’s Consumer Protection Division to make recommendations regarding these kits.

**Senate Bill 789 was developed by the Attorney General’s Sexual Assault Evidence Kit Policy and Funding Committee.** This statutorily established, multidisciplinary committee brings together a wide variety of professionals working to improve Maryland’s policies regarding forensic exam kits (often called rape kits). SB789 is part of this Committee’s work and part of creating better responses to survivors of sexual assault.

**The Maryland Coalition Against Sexual Assault urges  
the Judicial Proceedings Committee  
to report favorably on Senate Bill 789 with Sponsor Amendments**

#SAKI

Maryland's Sexual Assault Kit Initiative -  
Find out what happened to your rape kit.

Call the confidential  
SAKI Survivor Information Line:

**833-364-0046**

Or email:  
**notification@mcasa.org**

MCASA Maryland Coalition Against Sexual Assault SALI Sexual Assault Legal Institute

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Iniciativa para el Kit de Abuso Sexual  
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<sup>4</sup> Sexual Assault Evidence Kits in the State of Maryland, Report of the Office of the Attorney General, January 1, 2017.

# **SAK - preservation - testimony - senate - 2023 - M**

Uploaded by: Lisae C Jordan

Position: FAV





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**Laura Jessick, SAFE/SART Manager**

**Lisae C. Jordan, Executive Director & Counsel**

March 9, 2023

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#### **Senate Bill 789 – Sexual Assault Evidence Kits – Retention**

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<sup>4</sup> Sexual Assault Evidence Kits in the State of Maryland, Report of the Office of the Attorney General, January 1, 2017.

# **SB 789 Sexual Assault Evidence Collection Kits - P**

Uploaded by: Scott Shellenberger

Position: FAV

**Bill Number: SB 789**  
**Scott D. Shellenberger, State's Attorney for Baltimore County**  
**Support**

**WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,**  
**STATE'S ATTORNEY FOR BALTIMORE COUNTY,**  
**IN SUPPORT OF SENATE BILL 789**  
**SEXUAL ASSAULT EVIDENCE COLLECTION KITS – PRESERVATION AND**  
**STORAGE**

I write in support of Senate Bill 789 that will lengthen the amount of time that Sexual Assault Evidence Kits must be preserved. This is a common sense requirement which assures victims of sexual assault that we will always preserve important evidence.

I am the Maryland State's Attorney Representative on the Maryland Sexual Assault Evidence Kit Policy and Funding Committee. Several years ago, Criminal Procedure Article §11-926 was changed to require Sexual Assault Evidence Kits to be retained for 20 years. As time has moved on and DNA testing has become more sophisticated it seems sensible to lengthen the amount of time kits must be saved.

For instance, in 2002 Alphonso Hill was convicted of raping a woman from back in 1983. The case was solved using DNA that had been saved for 19 years. What is more remarkable is Hill was also convicted in 2010 for a rape that occurred in 1989, some 21 years after the rape.

These cases alone make the case for the need to save Sexual Assault Kits for lengthy periods of time.

But let's not forget the longest case. A Goucher student was raped in 1979 and in that case Hill's DNA was matched 3 decades later.

Please remember these kits are not that large (approximately 11.5 x15 inches) and do not require special storage such as freezing or refrigeration. The kits can sit on a shelf in an evidence room for long periods of time.

Additional parts of the Bill assure that evidence collected in sexual assaults which are not kits per se and are not in the hands of law enforcement continue to be preserved. The Bill also provides for the transfer of kits to law enforcement upon request of the holder of the kit.

SB 789 is an update of best practices based upon the science of DNA and making sure victims always have the best evidence available.

I urge a favorable report.

**SB789\_FAV\_Hettleman.pdf**

Uploaded by: Shelly Hettleman

Position: FAV

**SHELLY HETTLEMAN**  
*Legislative District 11*  
Baltimore County

Judicial Proceedings Committee

Joint Committee on Children, Youth,  
and Families

Joint Committee on the Chesapeake  
and Atlantic Coastal Bays Critical Area



James Senate Office Building  
11 Bladen Street, Room 203  
Annapolis, Maryland 21401  
410-841-3131 · 301-858-3131  
800-492-7122 Ext. 3131  
Shelly.Hettleman@senate.state.md.us

## *The Senate of Maryland*

ANNAPOLIS, MARYLAND 21401

### **TESTIMONY OF SENATOR SHELLY HETTLEMAN**

#### **SB789- SEXUAL ASSAULT EVIDENCE COLLECTION KITS- PRESERVATION AND STORAGE**

Over the past decade, the General Assembly has made significant improvements to the ways in which sexual assault evidence kits (SAEKs) have been handled in Maryland. In 2017, we created a statewide standard for how long rape kits should be preserved. That year, we also created a process where stakeholders could come together through the Sexual Assault Evidence Kit Policy and Funding Committee to take a comprehensive look at how to improve criminal justice and health care policies for sexual assault survivors. SB 789 builds on this progress by ensuring that forensic evidence which has been collected prior to the creation of SAEKs is preserved and protected.

In the 1970's, a forward-thinking OBGYN in Baltimore County named Dr. Rudiger Breiteneker anticipated that one day we would have the technology to analyze DNA, so he collected forensic evidence from sexual assault survivors on slides that are preserved to this day. For almost five decades, this evidence has been in the possession of GBMC hospital. The Baltimore County Police Department and State's Attorney's office have a close working relationship with hospital officials, and with a subpoena, have used this evidence to convict dozens of serial rapists, including one who raped 15 women.

A few of Dr. Breiteneker's colleagues continue to work in this arena and care for these slides and we are grateful for their continued diligence. But we cannot rely on the longevity of this arrangement without putting it into law, ensuring that this evidence - and any other evidence that exists in a similar manner anywhere in the state - is protected and preserved - and treated like a SAEK.

SB 789 defines this evidence as a SAEK, using Department of Justice language, and gives the Sexual Assault Evidence and Funding Committee the authority to develop guidelines on whether and how this type of evidence that existed prior to January 1, 2000 should be handled by law enforcement for testing.

The bill also extends the time from 20 years to 75 years, the amount of time a SAEK must be retained and preserved. SAEKs are easy to store and do not take up very much room as they are flat envelopes. Our methods for storing and preserving the kits have improved greatly and 20 years is not enough time, especially considering the current backlog of kits and the complex, time-consuming legal proceedings and barriers involved in obtaining justice for these crimes.

Our state has no statute of limitations on the crime of rape and sexual assault. The ability to have evidence preserved and stored safely and without risk of being destroyed before it can even be analyzed, is critical to convicting those who commit these crimes and for getting justice for survivors.

The final section of the bill addresses the issue of Do it Yourself (DIY) evidence collections kits that have recently made it to the marketplace. Unfortunately, sexual assault is a highly underreported crime, and many survivors are scared to seek assistance from hospitals and police departments.

The DIY kits provide them with another option. We want to make sure that anyone using a DIY kit is fully educated about the potential risks involved - including that their evidence might not be accepted by our legal system - so we are asking the Consumer Protection Division of the Office of the Attorney General to make recommendations that protect consumers.

SB 789 is about protecting and preserving evidence and improving the ways in which our state delivers justice for citizens who are survivors of sexual assault. I urge a favorable report. Thank you for your consideration.

# **Sponsor Amendment**

Uploaded by: Shelly Hettleman

Position: FAV





SB0789/623527/1

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

08 MAR 23  
15:25:40

BY: Senator Hettleman  
(To be offered in the Judicial Proceedings Committee)

AMENDMENTS TO SENATE BILL 789  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “authorizing” in line 4 down through “circumstances” in line 6 and substitute “requiring sexual assault evidence collection kits collected before a certain date to be retained and transferred in a certain manner; requiring the Maryland Sexual Assault Evidence Kit Policy and Funding Committee, on or before a certain date, to make a report on certain recommendations, in consultation with the Consumer Protection Division of the Office of the Attorney General”.

AMENDMENT NO. 2

On page 1, strike in their entirety lines 20 through 22, inclusive.

On page 2, strike in their entirety lines 1 and 2; in line 3, strike “(4)” and substitute “(3)”; after line 4 insert:

**“(4) “QUALIFIED HEALTH CARE PROVIDER” HAS THE MEANING STATED IN § 11-1007 OF THIS ARTICLE.”;**

in line 7, after “A” insert “QUALIFIED”; in line 10, strike “IN RELATION TO” and substitute “FOLLOWING”; in line 13, strike “FOR USE IN A CRIMINAL INVESTIGATION”; in line 15, strike “PHYSICAL EVIDENCE COLLECTED BEFORE JANUARY 1, 1975” and substitute “A SELF-ADMINISTERED SEXUAL ASSAULT EVIDENCE COLLECTION KIT”; in line 16, after “A” insert “QUALIFIED”; and in line 28, after “kit” insert “OR A SELF-ADMINISTERED SEXUAL ASSAULT EVIDENCE COLLECTION KIT”.

On page 3, in lines 6 and 7 and 25, in each instance, strike “, HEALTH CARE PROVIDER, OR HOSPITAL”; in line 18, strike “, A HEALTH CARE PROVIDER, OR A HOSPITAL”; in lines 26 and 27, strike “FOR A SEXUAL ASSAULT EVIDENCE COLLECTION KIT IN THE CUSTODY OF A LAW ENFORCEMENT AGENCY, THE”; in lines 26, 29, and 31, in each instance, strike the brackets; and in lines 26, 29, and 31, strike “(1)”, “(I)”, and “(II)”, respectively.

On page 4, in lines 1 and 3, in each instance, strike the brackets; in lines 1 and 3, strike “(III)” and “(IV)”, respectively; and strike in their entirety lines 7 through 22, inclusive.

On page 5, strike in their entirety lines 21 through 31, inclusive; and in line 32, strike “(K)” and substitute “(j)”.

AMENDMENT NO. 3

On page 6, after line 3, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) A sexual assault evidence collection kit collected before January 1, 2000, and stored by a hospital or child advocacy center shall be:

(1) retained consistent with the requirements of § 11-926(d) of the Criminal Procedure Article, as enacted by Section 1 of this Act; and

(2) transferred to a law enforcement agency for testing within 30 days after being identified as a sexual assault evidence collection kit, or as directed by the Maryland Sexual Assault Evidence Kit Policy and Funding Committee.

(b) On or before December 1, 2023, the Maryland Sexual Assault Evidence Kit Policy and Funding Committee shall issue a report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly making recommendations for:

(1) guidelines for the transfer of sexual assault evidence collection kits collected before January 1, 2000, to be transferred to law enforcement agencies for testing;

(2) guidance on the use of self-administered sexual assault evidence collection kits; and

(3) in consultation with the Consumer Protection Division of the Office of the Attorney General, educating consumers about use of self-administered sexual assault evidence collection kits, including information regarding the kits' admissibility in a criminal prosecution and identifying other resources for victims of sexual assault.”;

and in line 4, strike “3.” and substitute “4.”.

**BaltimoreCounty\_FWA\_SB0789.pdf**

Uploaded by: Brian Edwards

Position: FWA



JOHN A. OLSZEWSKI, JR.  
*County Executive*

JENNIFER AIOSA  
*Director of Government Affairs*

AMANDA KONTZ CARR  
*Legislative Officer*

JOSHUA M. GREENBERG  
*Associate Director of Government Affairs*

**BILL NO.:**            **SB 789**

**TITLE:**                **Sexual Assault Evidence Collection Kits - Preservation and Storage**

**SPONSOR:**            **Senator Hettleman**

**COMMITTEE:**        **Judicial Proceedings**

**POSITION:**           **SUPPORT WITH AMENDMENTS**

**DATE:**                **March 9, 2023**

Baltimore County **SUPPORTS WITH AMENDMENTS** Senate Bill 789 – Sexual Assault Evidence Collection Kits - Preservation and Storage. This legislation would alter requirements for the storage and preservation of sexual assault evidence collection kits.

Baltimore County supports SB 789, which will improve the handling of sexual assault evidence kits (SAKs, or SAFE kits), with amendments; including, amendments to address serious issues related to “do-it-yourself, at-home or other self-administered kits” which are not collected by qualified professionals and should not be given the same status and handling requirements as SAKs.

SB 789 will increase the legally required retention period for qualified SAKs to 75 years, from the current 20 years. The Baltimore County Police Department already has a retention period of 75 years established by departmental policy, and the Department believes 75 years is the appropriate period because of the well-established challenges inherent in sexual assault cases, including delayed reporting by traumatized victims. Baltimore County is committed to victim-centered, offender-focused, and trauma-informed handling of sexual assault cases, and this bill with appropriate amendments will support these efforts and standardize appropriate practices across Maryland. The Baltimore County Police Department is pleased to be an active participant in the statewide Sexual Assault Evidence Kit Policy and Funding Committee, under the leadership of the Maryland Attorney General’s Office.

The County feels that this legislation could be made stronger with the following amendments in place:

(1) Baltimore County supports the addition of uncodified provisions to require retention of sexual assault evidence collection kits that were collected prior to 2000 and stored by a hospital or child advocacy center, to be retained for 75 years and to be transferred to law enforcement agencies within a specified period or as directed by the Maryland Sexual Assault Evidence Kit Policy and Funding Committee. This should provide support and structure to assist in the processing of this evidence as all possible leads are pursued to seek closure and justice for victims.

(2) The County also supports the addition of uncodified provisions to require and empower the Maryland Sexual Assault Evidence Kit Policy and Funding Committee to issue guidance regarding the use of “do-it-yourself, at-home or other self-administered kits” which are not collected by qualified professionals, including consultation with the Consumer Protection Division of the Office of the Attorney General.

(3) The County has concerns with language being added to the bill that would give “do-it-yourself, at-home or other self-administered kits” which are not collected by qualified professionals the same status as SAKs, or that would require law enforcement agencies to receive or retain such material. If Maryland law were to give these at-home kits the same treatment as SAKs, or require their acceptance by law enforcement agencies, this would convey unwarranted apparent legitimacy to the at-home kits, even though they are not admissible in court. Sellers of such kits could use such statutory provisions to support their marketing.

DNA profiles from these at-home kits are not admissible in court because chain of custody cannot be established, and they cannot be entered into CODIS, which is the FBI’s national DNA database (“The Combined DNA Index System) and is an important resource for solving sexual assault crimes. Any victim who uses one of these at-home kits is deprived of the no-cost opportunity to have evidence professionally collected, and to have that evidence admitted in court, as well as being deprived of the professional and supportive services that are available in conjunction with SAKs.

Accordingly, Baltimore County requests a **FAVORABLE WITH AMENDMENTS** report on SB 789. For more information, please contact Jenn Aiosa, Director of Government Affairs at [jaiosa@baltimorecountymd.gov](mailto:jaiosa@baltimorecountymd.gov).

**SB789\_OAG\_Support w Sponsor Amendments.pdf**

Uploaded by: Zenita Wickham Hurley

Position: FWA

**ANTHONY G. BROWN**  
*Attorney General*



**CANDACE MCLAREN LANHAM**  
*Chief of Staff*

**CAROLYN A. QUATTROCKI**  
*Deputy Attorney General*

**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

FACSIMILE NO.  
(410) 576-7036

WRITER'S DIRECT DIAL NO.  
410-576-7939

March 9, 2023

**TO:** The Honorable William C. Smith, Jr.  
Chair, Judicial Proceedings Committee

**FROM:** Zenita Hurley  
Chief, Office of Equity, Policy, and Engagement, Office of the Attorney  
General  
Chair, Maryland Sexual Assault Evidence Kit Policy and Funding Committee

**RE:** SB789- Sexual Assault Evidence Collection Kits - Preservation and Storage  
**(Support w/Sponsor Amendments)**

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The Office of the Attorney General (OAG), on behalf of the Maryland Sexual Assault Evidence Kit Policy and Funding Committee, urges a favorable report of Senate Bill 789 which, as amended by the sponsor, makes three critical improvements to the State's handling of sexual assault evidence kits (SAEKs):

- (1) defines the term "sexual assault evidence collection kit";
- (2) extends the SAEK retention period from 25 to 75 years; and
- (3) includes uncodified language that specifically prohibits rape kit evidence that predated modern SAEKs from being destroyed and requires them to be transferred to an LEA within 30 days or as directed by the SAEK Policy and Funding Committee.

The bill as amended would also include uncodified language directing the SAEK Committee to issue guidelines establishing the process by which sexual assault evidence kits collected prior to January 1, 2000 should be transferred to law enforcement agencies for testing; guidance regarding the use of do-it-yourself, at-home, and self-administered sexual assault evidence collection kits; and in consultation with the consumer protection division of the office of the attorney general, recommendations for educating consumers about the effects of using do-it-yourself, at-home, and self-administered sexual assault evidence collection kits, including information regarding the kits' admissibility in a criminal prosecution, and identifying other resources for victims of sexual assault.



By way of background, the SAEK Policy and Funding Committee was created by the General Assembly in 2017 to create effective statewide policies regarding the collection, testing, and retention of medical forensic evidence in sexual assault cases and increase access to justice for sexual assault victims. Each year, the Committee is also required to submit an annual report on its activities during the prior fiscal year to the Governor and the General Assembly. Earlier this year, the Committee issued its [fifth annual report](#) detailing its activities which included managing \$2.1 million in federal Sexual Assault Kit Initiative funding, implementing recent SAEK reforms, providing guidance and training to stakeholders on State laws and policies governing SAEKs, and developing new recommendations for improving Maryland's handling of SAEKs and its support of victims.

Senate Bill 789 seeks to address two “new” types of SAEKs that were recently brought to the attention of the SAEK Committee: glass slides containing evidence collected from patients alleging sexual assault that were collected between 1975 and 1997 and stored at the Greater Baltimore Medical Center (the “GBMC slides”); and at-home or do-it-yourself rape kits that have recently become available for purchase directly by consumers online.

Before the creation of modern-day SAEKs, a physician at GBMC had the foresight to preserve forensic samples from over 2,000 examinations of patients who alleged that they had been sexually assaulted. The GBMC slides, collected by Dr. Rudiger Breitenecker over a 20-year period until his retirement in 1997, have been known to the Baltimore County Police Department (BCPD) for many years. In fact, BCPD has already subpoenaed more than a hundred of the GBMC slides and worked with the prosecutor's office to secure convictions in several dozen cases. And while it is important to acknowledge the work of GBMC in preserving the slides and Baltimore County in using them to seek justice for victims, all of these efforts have occurred outside of the oversight that the General Assembly established for SAEKs. Moving forward, the GBMC slides should be identified as SAEKs and treated accordingly. To this end, Senate Bill 789 as amended adds a definition of SAEK that is consistent with that used by the Department of Justice's Bureau of Justice Assistance in its [SAKI grant program](#). It also includes uncodified language that allows for the SAEK Committee to develop guidelines on when and how the GBMC slides—and any other SAEKs that predate January 1, 2000—should be transferred to law enforcement for testing.

It bears noting that had GBMC simply retained the slides consistent with the State's current 25-year retention mandate, many of them would have been destroyed by now, depriving victims in older cases of the chance of obtaining justice. Senate Bill 789 ensures this protection exists for other SAEKs, regardless of when they were collected or where they are stored, by extending the SAEK retention requirement to 75 years. In Maryland, crimes of sexual assault have no statute of limitations. It is critical then that we protect evidence of sexual assault far beyond the current 25 year required retention.

Senate Bill 789 also seeks to address at-home and do-it yourself kits, which have seen some increased availability in recent years despite the strenuous objections of most health practitioners and victim advocacy groups. See e.g., the statement of the National Alliance to End Sexual Violence on At-Home-Kits available at <https://njcasa.org/wp-content/uploads/2019/08/NAESV-statement-on-at-home-rape-kits.pdf>. If the goal is to collect evidence that could be used in a criminal prosecution, these kits face numerous hurdles, including challenges proving the date and time of collection, protecting against tampering, and other chain-of-custody issues that render them virtually useless. On the other hand, it is very possible that the evidence collected via an at-home kit is the only evidence of sexual assault that exists in a particular case. In that instance, SAEK Committee members agreed that the kit should be retained so that the credibility of that evidence could be evaluated by a prosecutor for its possible use in trial, however unlikely. SB 789 balances all these competing concerns by ensuring that at-home kits be retained without mandating that they be tested or tracked like other SAEKs. The bill would also require the SAEK Committee, in consultation with the Consumer Protection Division of the Office of the Attorney General, to develop recommendations for educating victims who consider using the kits on their various pitfalls.

The recent discovery of older SAEKs and new do-it-yourself kits each represent distinct challenges, neither of which should continue unaddressed. SB 789 as amended represents the consensus of the SAEK Committee and provides a thoughtful and balanced approach to regulating SAEKs as they previously existed and continue to evolve. For all these reasons, we urge a favorable report.

cc: Committee Members