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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: SB615 - Governor's Office of Crime Prevention, Youth, and Victim Services
- Sexual Assault Evidence Collection Kit Reporting Program (**Support**)

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 615, which establishes requirements for implementing a statewide sexual assault evidence kit (SAEK) tracking system.

The SAEK Policy and Funding Committee, created by [statute](#) in 2017, is charged with developing and disseminating best practices information regarding: 1) the testing and retention of sexual assault evidence collection kits; 2) coordination between State agencies, victim services providers, local law enforcement, and local sexual assault response teams; 3) payment for sexual assault evidence collection kits; 4) increasing the availability of sexual assault evidence collection exams for alleged victims of sexual assault; 5) reducing the shortage of forensic nurse examiners; and 6) increasing the availability of information to sexual assault victims regarding criminal prosecutions of sexual assault crimes, civil law remedies available to victims of sexual assault, sexual assault evidence collection kits, and victim rights. Md. Code Ann., Crim. Pro. § 11-927(e)(1). In 2018, House Bill 1124 expanded the Committee's mandate to include making recommendations regarding the creation and operation of a statewide sexual assault evidence collection kit tracking system that is accessible by law enforcement and survivors of sexual assault. To offset the costs of standing up a statewide tracking system, House Bill 1124 also directed the Committee to seek federal grant funding to support this effort.

Since then, Maryland has applied for and been awarded two federal Sexual Assault Kit Initiative (SAKI) grants (FY2018 and FY2021) for a combined total of \$5.1 million. Grant funding will be used to test unsubmitted SAEKs, provide victim and investigative support services, and stand up a statewide SAEK testing system. Approximately \$700,000 of the FY2018 grant was allotted to stand up the tracking system. In 2019, Governor Hogan identified the Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) as the host agency for Maryland's tracking system. GOCPYVS and the SAEK Committee began working with the Maryland Department of Information Technology (DoIT) to determine the technological requirements to launch and maintain a statewide tracking system. Led by DoIT, the SAEK Committee reviewed various tracking systems, ultimately determining to proceed with a commercial solution to be acquired consistent with Maryland procurement law. Responses to that procurement are currently being reviewed by Committee members with an award expected in the coming months. For more information regarding the development of the tracking system, see the SAEK Committee's 2023 annual report, available [online](#) on the Committee's [website](#).

Senate Bill 615 is necessary to ensure that the tracking system, once created, can be successfully implemented. Specifically, the bill requires any party with custody of a kit—health care providers, forensic lab personnel, and prosecutors—to enter the status and location of the kit into the tracking system. The bill also protects the information entered into the system from public disclosure while ensuring that it is accessible to key stakeholders in the SAEK testing process including, importantly, victims of sexual assault. In addition to requiring that parties enter SAEK information into the tracking system prospectively beginning October 21, 2023, Senate Bill 615 also requires agencies to enter the location, status, and chain of custody information for all kits in their possession by December 31, 2025.

Beyond supporting the successful implementation of the statewide tracking system, Senate Bill 615 would also provide more transparency and accountability in the Committee's efforts to oversee compliance with the new testing mandates passed by the General Assembly in 2019. That law ([Chapter 34](#)) created a broad presumption to test all kits which contain evidence that is eligible to be uploaded into the Federal Bureau of Investigation's Combined DNA Index System—a national database that stores DNA profiles which can be searched to solve and link crimes—with limited exceptions. Agencies were also directed to retain kits for at least 20 years. Although OAG promulgated regulations requiring annual reporting by law enforcement agencies and laboratories to monitor compliance with this new law, agencies have struggled to submit timely and accurate data. In the Committee's 2023 annual report, for example, OAG reported that only 40 of the 72 agencies that investigate sexual assaults had submitted data. A number of those submissions included incomplete information. (See Appendix B and Appendix C.) When fully functional, it is expected that the tracking system will be able to generate most, if not all, of the annual reporting data currently required by regulation.

For all these reasons, we urge a favorable report on SB615.

cc: Committee Members

This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or sbrantley@oag.state.md.us