



State of Maryland
Department of State Police
Government Affairs Unit
Annapolis Office (410) 260-6100

POSITION ON PROPOSED LEGISLATION

DATE: February 27, 2024

BILL NUMBER: Senate Bill 949 **POSITION:** Support

BILL TITLE: Consumer Protection – Self-Administered Sexual Assault Evidence Collection Kits

REVIEW AND ANALYSIS:

Senate Bill 949 makes it illegal for a person to sell, offer for sale, or distribute a self-administered sexual assault evidence collection kit in the State of Maryland. The concept of self-administered sexual assault evidence collection kits is one that appears at first glance to be a welcome solution to a known problem; however, the reality is that such kits just create new problems. The problem that currently exists is that there is a shortage of Forensic Nurse Examiners (FNEs) available at hospitals throughout Maryland to process sexual assault kits on survivors of sexual assault. While it may seem reasonable to address this shortage by providing a product that allows a survivor to collect evidence themselves by following a set of instructions, significant problems are created when you transfer this role from a professional with specialized expertise to an untrained layperson who has just experienced the most traumatic event of their life.

There are numerous problems associated with self-administered sexual assault evidence collection kits. These include serious physical and mental health ramifications for the survivor, but equally concerning are the implications on the downstream forensic DNA testing that is such an important aspect of bringing perpetrators of sexual assault to justice. These issues include, but are not limited to the following.

- ***Proper Collection of Evidence*** - It is well established that the neurobiology of trauma impacts a survivor's ability to think clearly and process information in the immediate aftermath of an assault. It is unreasonable for a person in such a state of mind, who has no experience processing a sexual assault kit, to reliably follow a set of detailed and complicated directions. The expertise of a trained FNE ensures the proper collection of forensic samples that can be easily missed or contaminated if not done with proper collection techniques.
- ***Informed Collection of Evidence*** - Every sexual assault is unique, and often the events of the sexual assault factor into determining the most probative samples to collect. For example, there may not be any source of DNA found on a vaginal swab, but rather a DNA link is only able to be established by the testing of a neck swab that was taken only because the trained FNE was able to elicit through trauma-informed interview techniques that the perpetrator strangled the survivor.

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- ***Defensible Collection of Evidence*** - Even if the survivor is able to successfully collect DNA evidence, the fact is that the lack of time-stamped documentation of the collection in a controlled environment by an independent third party automatically brings the integrity of the evidence into question. The lack of a true chain of custody along with the potential for the compromised collection of evidence will result in any DNA results that are able to be obtained by the laboratory, not being able to be entered into the DNA Database or be admissible in a court of law.

For these reasons, the Maryland Department of State Police urges the Committee to give Senate Bill 949 a favorable report.