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January 28, 2025

TO: The Honorable Luke Clippinger
Chair, Judiciary Committee

FROM: Carisa A. Hatfield, Esq.
Assistant Attorney General
Counsel, Maryland Sexual Assault Evidence Kit Policy and Funding
Committee

RE: HB259 - Public Safety - Statewide DNA Database System, DNA
Collection, and Penalties - Alterations

The Office of the Attorney General (OAG), on behalf of the Maryland Sexual Assault Evidence Kit (SAEK) Policy and Funding Committee, urges a favorable report of House Bill 259.

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. This includes working with forensic nurse examiners (FNEs), Maryland State Police, and other law enforcement agencies across the State of Maryland to ensure the proper collection, testing, and retention of sexual assault evidence kits (SAEKs) and the uploading of collected samples against collected DNA samples into the Combined DNA Index System (CODIS) in an attempt to obtain a DNA hit. These DNA hits are an important component in the prosecution of sexual assault cases, particularly those whose original leads have since gone cold.

HB259 seeks to ensure that any DNA collected and entered into CODIS is collected and retained in a timely manner consistent with best practices in forensic science. It dictates when, where, and by whom samples must be collected. It also for the first time codifies requirements for the collection of DNA samples from registered sex offenders upon their registration.

The bill's mandate to collect DNA samples from eligible individuals before they are released ensures that those DNA samples are not missed and that any DNA uploaded into CODIS, such as those collected in a SAEK, will have a greater pool of samples to be compared against. The legislation also ensures that eligible samples are promptly uploaded into CODIS and that ineligible samples are not entered into CODIS and disposed of properly.

Regulation on the collection of DNA from sex offenders is long overdue. According to a study conducted by the Medical University of South Carolina in 2011, mandated sex offender registration "had no effect on the rate of sex crime recidivism."¹ A study conducted in 2003 found that the overall rate of sexual recidivism for sex offenders was four times higher than for other offenders released from incarceration.² Mandating the collection of DNA from registered sexual offenders at the time of their registration ensures that their DNA is in CODIS and increases access to justice for victims of sexual assault.

In consideration of the above, the SAEK Committee requests a favorable report on HB259.

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.

¹ Elizabeth J. Letourneau, Ph.D., et al. "Executive Summary: Evaluating the Effectiveness of Sex Offender Registration and Notification Policies for Reducing Sexual Violence against Women." Published June 2011. <https://www.nsvrc.org/sites/default/files/2012-03/Evaluating%20the%20Effectiveness%20of%20Sex%20Offender.pdf>.

² "Recidivism of Adult Sexual Offenders." Sex Offender Management Assessment and Planning Initiative, Office of Justice Programs. Published July 2015. <https://smart.ojp.gov/sites/g/files/xyckuh231/files/media/document/recidivismofadultsexualoffenders.pdf>