

Chapter 159

(House Bill 255)

AN ACT concerning

Criminal Procedure – Sexual Assault Victims’ Rights – Disposal of Rape Kit Evidence and Notification

FOR the purpose of requiring a certain health care provider to provide a certain victim with written information describing the laws and policies governing the testing, preservation, and disposal of a certain sexual assault evidence collection kit; requiring a hospital or child advocacy center to transfer a sexual assault evidence collection kit to a law enforcement agency within a certain amount of time; requiring a government agency to transfer a sexual assault evidence collection kit to a law enforcement agency, except under certain circumstances; prohibiting a law enforcement agency, ~~government agency, or health care provider~~ from destroying or disposing of a sexual assault evidence collection kit or certain other evidence relating to a sexual assault within a certain amount of time after the occurrence of the sexual assault except under certain circumstances; requiring a certain law enforcement agency, ~~government agency, or health care provider,~~ on written request by a certain victim, to notify the victim within a certain amount of time before the date of intended destruction or disposal of certain evidence or retain the evidence longer than a certain time period; requiring the Attorney General to adopt certain regulations; defining certain terms; and generally relating to sexual assault victims’ rights.

BY repealing and reenacting, with amendments,
 Article – Criminal Procedure
 Section 11–926
 Annotated Code of Maryland
 (2008 Replacement Volume and 2016 Supplement)

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

Article – Criminal Procedure

11–926.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CHILD ADVOCACY CENTER” HAS THE MEANING STATED IN § 13–2201 OF THE HEALTH – GENERAL ARTICLE.

(3) "HOSPITAL" HAS THE MEANING STATED IN § 19-301 OF THE HEALTH – GENERAL ARTICLE.

~~(a)~~ **(B)** A health care provider that performs a sexual assault evidence collection kit exam on a victim of sexual assault shall provide the victim with:

(1) contact information for the investigating law enforcement agency that the victim may contact about the status and results of the kit analysis; AND

(2) WRITTEN INFORMATION DESCRIBING THE LAWS AND POLICIES GOVERNING THE TESTING, PRESERVATION, AND DISPOSAL OF A SEXUAL ASSAULT EVIDENCE COLLECTION KIT.

~~(b)~~ **(C)** An investigating law enforcement agency that receives a sexual assault evidence collection kit, within 30 days after a request by the victim from whom the evidence was collected, shall provide the victim with:

(1) information about the status of the kit analysis; and

(2) all available results of the kit analysis except results that would impede or compromise an ongoing investigation.

~~**(c)** **(1)** A LAW ENFORCEMENT AGENCY, GOVERNMENT AGENCY, OR HEALTH CARE PROVIDER MAY NOT DESTROY OR DISPOSE OF A SEXUAL ASSAULT EVIDENCE COLLECTION KIT OR OTHER CRIME SCENE EVIDENCE RELATING TO A SEXUAL ASSAULT WITHIN 20 YEARS AFTER THE EVIDENCE IS COLLECTED.~~

(D) (1) A SEXUAL ASSAULT EVIDENCE COLLECTION KIT SHALL BE TRANSFERRED TO A LAW ENFORCEMENT AGENCY:

(I) BY A HOSPITAL OR A CHILD ADVOCACY CENTER WITHIN 30 DAYS AFTER THE EXAM IS PERFORMED; OR

(II) BY A GOVERNMENT AGENCY IN POSSESSION OF A KIT, UNLESS THE AGENCY IS OTHERWISE REQUIRED TO RETAIN THE KIT BY LAW OR COURT RULE.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 20 YEARS AFTER THE EVIDENCE IS COLLECTED, A LAW ENFORCEMENT AGENCY MAY NOT DESTROY OR DISPOSE OF:

(I) A SEXUAL ASSAULT EVIDENCE COLLECTION KIT; OR

(II) OTHER CRIME SCENE EVIDENCE RELATING TO A SEXUAL ASSAULT THAT HAS BEEN IDENTIFIED BY THE STATE'S ATTORNEY AS RELEVANT TO PROSECUTION.

(3) A LAW ENFORCEMENT AGENCY IS NOT REQUIRED TO COMPLY WITH THE REQUIREMENTS IN PARAGRAPH (2) OF THIS SUBSECTION IF:

(I) THE CASE FOR WHICH THE EVIDENCE WAS COLLECTED RESULTED IN A CONVICTION AND THE SENTENCE HAS BEEN COMPLETED; OR

(II) ALL SUSPECTS IDENTIFIED BY TESTING A SEXUAL ASSAULT EVIDENCE COLLECTION KIT ARE DECEASED.

~~(2)~~ (4) ON WRITTEN REQUEST BY THE VICTIM FROM WHOM THE EVIDENCE WAS COLLECTED, A LAW ENFORCEMENT AGENCY, ~~GOVERNMENT AGENCY,~~ OR ~~HEALTH CARE PROVIDER~~ WITH CUSTODY OF A SEXUAL ASSAULT EVIDENCE COLLECTION KIT OR OTHER CRIME SCENE EVIDENCE RELATING TO A SEXUAL ASSAULT SHALL:

(I) NOTIFY THE VICTIM NO LATER THAN 60 DAYS BEFORE THE DATE OF INTENDED DESTRUCTION OR DISPOSAL OF THE EVIDENCE; OR

(II) RETAIN THE EVIDENCE FOR 12 MONTHS LONGER THAN THE TIME PERIOD SPECIFIED IN PARAGRAPH ~~(1)~~ (2) OF THIS SUBSECTION OR FOR A TIME PERIOD AGREED TO BY THE VICTIM AND THE LAW ENFORCEMENT AGENCY.

~~(D)~~ (E) THE ATTORNEY GENERAL SHALL ADOPT REGULATIONS FOR UNIFORM STATEWIDE IMPLEMENTATION OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, April 18, 2017.