

Department of Legislative Services  
 Maryland General Assembly  
 2017 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

House Bill 1209

(Delegate A. Miller, *et al.*)

Appropriations and Judiciary

Budget and Taxation and Judicial Proceedings

Sexual Assault Victims Resources Act of 2017

This bill (1) expands the services that sexual assault crisis programs in the State must provide and (2) requires the Governor to include in the annual budget bill an appropriation of at least \$3 million for the federally recognized State sexual assault coalition and sexual assault crisis programs, as specified. Under specified circumstances, the Governor is authorized to reduce the mandated appropriation by up to 40%. The bill also establishes the Maryland Sexual Assault Evidence Kit Policy and Funding Committee. In fiscal 2018 and in each fiscal year thereafter, the Governor must include funds in the State budget to implement the bill’s provisions relating to the committee, including funds to operate and maintain an office and employ a full-time assistant Attorney General to staff the committee and assist with the implementation of regulations that must be adopted.

The bill takes effect June 1, 2017.

Fiscal Summary

**State Effect:** General fund expenditures increase by \$157,900 in FY 2018 for the Office of the Attorney General (OAG) and the Governor’s Office of Crime Control and Prevention (GOCCP) to hire staff to implement the bill. Future year expenditures reflect annualization and the additional general funds needed to meet the mandated appropriation, increased by 3% each year beginning in FY 2020, and assuming no reduction in the mandated appropriation. Revenues are not affected. **This bill establishes a mandated appropriation beginning in FY 2019.**

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	157,900	1,508,800	1,556,500	1,605,900	1,657,000
Net Effect	(\$157,900)	(\$1,508,800)	(\$1,556,500)	(\$1,605,900)	(\$1,657,000)

Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

**Local Effect:** Local grant revenues and expenditures increase to the extent that local governments provide public sexual assault crisis programs and qualify for funding under the bill's provisions.

**Small Business Effect:** Meaningful to the extent that private small business sexual assault crisis programs receive additional funding for programming under the bill's provisions.

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## Analysis

### Bill Summary:

#### *Sexual Assault Crisis Programs*

Sexual assault crisis programs must (1) participate in the sexual assault response team in each county in which the program regularly provides services and (2) provide information to alleged victims of sexual assault crimes regarding criminal prosecutions of sexual assault crimes, civil law remedies available to victims of sexual assault, sexual assault evidence collection, and victim rights. As is the case under current law, GOCCP may award grants to public or private nonprofit organizations to operate the sexual assault crisis programs; however, the bill specifies that the programs must be certified by the federally recognized State sexual assault coalition.

#### *Mandatory Appropriation for Coalition and Sexual Assault Crisis Programs*

The Governor must include in the annual budget bill an appropriation of at least \$3 million for the federally recognized State sexual assault coalition and sexual assault crisis programs. Beginning in fiscal 2019, the general fund appropriation for sexual assault crisis programs must be at least in the amount of the appropriation made annually for the programs in the immediately preceding fiscal year, increased by at least the percentage that the projected total general fund revenues for the upcoming fiscal year exceed the revised estimate of total general fund revenues submitted by the Board of Revenue Estimates (BRE) to the Governor.

If a federally recognized State sexual assault coalition and sexual assault crisis program receive a new award of funds under the federal Victims of Crime Act (VOCA) for which funds are appropriated under the bill's requirements, the Governor may reduce the mandated appropriation by the amount received under VOCA. The reduction authorized by the bill may not exceed 40% of the required appropriation. In addition, the Governor may not reduce the mandated appropriation if the funds received under VOCA have been awarded by June 1, 2017, or are awarded for continuation of services previously funded by VOCA.

An appropriation made under these provisions must be allocated as follows:

- at least \$100,000 to the federally recognized State sexual assault coalition;
- at least \$100,000 to each of the public and private sexual assault crisis programs certified by the federally recognized State sexual assault coalition and awarded grants by GOCCP; and
- the balance of the appropriation distributed to the public and private sexual assault crisis programs, with each sexual assault crisis program receiving a proportionate share relative to the number of individuals who reside in the geographic area regularly served by the sexual assault crisis program.

*Maryland Sexual Assault and Evidence Policy and Funding Committee*

The stated purposes for the establishment of the committee are to:

- provide for a statewide sexual assault evidence kit policy and funding committee to increase access to justice for sexual assault victims;
- hold the perpetrators of sexual assault accountable;
- increase availability of sexual assault evidence collection exams; and
- create effective statewide policies regarding the collection, testing, and retention of medical forensic evidence in sexual assault cases.

The committee must develop and disseminate best practices information and recommendations regarding:

- the testing and retention of sexual assault evidence collection kits;
- coordination between State agencies, victim services providers, local law enforcement, and local sexual assault response teams;
- payment for sexual assault evidence collection kits;
- increasing the availability of sexual assault evidence collection exams for alleged victims of sexual assault;
- reducing the shortage of forensic nurse examiners; and
- 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.

The Attorney General, in consultation with the committee, must adopt regulations based on the committee's recommendations providing for the collection, testing, and retention of sexual assault evidence collection kits in the State. The committee must evaluate State and local funding needs to determine whether funding allocations are sufficient and appropriate

to implement the best practices developed by the committee and the regulations adopted by the Attorney General. The committee's evaluation must include considerations of whether the costs associated with hospital personnel training and the availability of sexual assault examinations may be included as part of a hospital's required community benefit.

The committee may adopt rules governing the administration and proceedings of the committee. The committee must meet quarterly but may hold additional meetings, as specified. By January 1, 2019, and by January 1 annually thereafter, the committee must report on its activities during the prior fiscal year to the Governor and the General Assembly.

The bill establishes provisions governing the membership of the committee and the terms of committee members. Committee members may not receive compensation but are entitled to reimbursement for expenses, as provided in the State budget.

**Current Law:** GOCCP must help establish sexual assault crisis programs in the State. The programs must provide specialized support services to adult and minor alleged victims of sexual assault crimes and include hotline and counseling services. GOCCP may award grants to public or nonprofit organizations to operate the programs. Money for the sexual assault crisis programs is as provided in the annual State budget and must be used to supplement, but not supplant, money that the programs receive from other sources.

GOCCP must regularly consult, collaborate with, and consider the recommendations of the federally recognized State sexual assault coalition regarding sexual assault crisis programs and policies, practices, and procedures that impact victims of sexual assault. In addition, GOCCP must annually report to the General Assembly on the sexual assault crisis programs. In the 2016 [report](#), GOCCP reported that funds supported 17 rape crisis programs that serve all 24 jurisdictions in the State.

**Background:** Chapter 37 of 2015 required a law enforcement agency or other State or local agency charged with the maintenance, storage, and preservation of sexual assault kit evidence to conduct an inventory of all kits that were stored by the agency by January 1, 2016, and report the results to OAG. Chapter 37 required OAG to prepare and transmit, by December 1, 2016, a report to the General Assembly detailing (1) the number of untested sexual assault collection kits stored by each agency; (2) the date that each untested sexual assault collection kit was collected; and (3) recommendations for addressing any backlog of untested sexual assault collection kits.

In January 2017, OAG released the required [report](#) detailing the findings of the audit and including recommendations for addressing the backlog. One of the recommendations included the formation of a Sexual Assault Evidence Kit Oversight Committee to develop (1) mandated uniform standards in a model policy; (2) corresponding support for funding,

training, education, and survivor notification; (3) long-term monitoring of agency compliance with the model policy; and (4) policy guidance on the availability, collecting, testing, and storage of sexual assault evidence kits and related issues.

As shown in **Exhibit 1**, a combination of State and federal funding has been allocated and administered through GOCCP for sexual assault crisis programs in the State for both fiscal 2017 and 2018.

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**Exhibit 1**  
**Sexual Assault Funding Allocated and Administered through GOCCP**

	<u>Fiscal 2017</u>	<u>Fiscal 2018</u>	<u>% Increase</u>
<b>State General Funds</b>	\$1,673,027	\$1,673,027	0%
<b>Federal Funds</b>			
Sexual Assault Services Formula Program	304,794	419,215	37.5%
Violence Against Women Formula	2,607,854	2,806,130	7.6%
Family Violence Prevention and Services	1,749,794	1,863,904	6.5%
Total Federal Funds	\$4,662,442	\$5,089,249	9.2%

Source: Department of Legislative Services

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In addition, in 2016, Maryland received approximately \$46.2 million in VOCA grants. Although it is unclear exactly what portion of the VOCA grants is allocated specifically for victims of sexual assault, many of the groups currently receiving VOCA grants operate sexual assault crisis programs. While the grant amounts awarded over the last three fiscal years have increased, recent developments in the federal government indicate that these and similar grants may be eliminated.

**State Fiscal Effect:** General fund expenditures increase by a total of \$157,858 in fiscal 2018 for (1) OAG to hire an assistant Attorney General to staff the committee and assist with the implementation of adopted regulations and (2) GOCCP to hire one program manager to administer the additional funding for sexual assault crisis programs certified by the federally recognized State sexual assault coalition. Due to a 90-day start-up delay, it is assumed that State finances are not affected in fiscal 2017.

Beginning in fiscal 2019, general fund expenditures increase by a minimum of \$1.5 million annually, which reflects full salaries with annual increases, employee turnover and ongoing operating expenses, and an increase in the general fund appropriation for the coalition and the sexual assault crisis programs in order to meet the bill’s mandated appropriation.

These impacts are described in more detail below by agency.

*Office of the Attorney General*

General fund expenditures for OAG increase by \$90,282 in fiscal 2018, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring an assistant Attorney General to staff the committee and assist with the implementation of the regulations adopted pursuant to the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$85,123
Operating Expenses	<u>5,159</u>
<b>FY 2018 OAG Admin. Expenditures</b>	<b>\$90,282</b>

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

Any expense reimbursements for committee members are assumed to be minimal and absorbable within existing budgeted resources.

*Governor's Office of Crime Control and Prevention*

*Administrative Expenditures:* General fund administrative expenditures for GOCCP increase by \$67,576 in fiscal 2018, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring a program manager to administer the additional funding provided by the bill for sexual assault crisis programs certified by the federally recognized State sexual assault coalition. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. Although GOCCP currently awards grants to such sexual assault crisis programs, the bill expands the funding available and establishes required allocations, thus necessitating additional staff. It is assumed that the program manager is needed in fiscal 2018 to begin implementing the bill's changes.

Position	1
Salary and Fringe Benefits	\$62,417
Operating Expenses	<u>5,159</u>
<b>FY 2018 GOCCP Admin. Expenditures</b>	<b>\$67,576</b>

Future year administrative expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

*Mandated Funding for the Coalition and Sexual Assault Crisis Programs:* Although the bill does not specifically state when the first \$3 million appropriation must occur, the fiscal 2018 budget bill has already been enacted. Thus, it is assumed that the bill's first mandated appropriation of at least \$3 million for the coalition and sexual assault crisis programs is included in the budget bill introduced during the 2018 legislative session for the fiscal 2019 budget.

As noted in Exhibit 1, \$1.67 million in general funds was included in both the fiscal 2017 and 2018 budgets for sexual assault crisis programs. Although the bill authorizes the Governor to reduce the required \$3 million appropriation, as specified, by up to 40% (\$1.2 million) to account for new VOCA funds received by a sexual assault coalition or crisis program, without any such reduction in the required appropriation, general fund expenditures increase by at least \$1.33 million in fiscal 2019 to meet the minimum mandated appropriation of \$3 million. This analysis assumes that, in the absence of the bill, the Governor would continue to include \$1.67 million in general funds for sexual assault crisis programs in the budget bill for fiscal 2019 (and each subsequent fiscal year).

To the extent that sufficient new additional funding is provided through VOCA grants and the Governor reduces the appropriation by the maximum amount authorized, the general fund expenditure increase in fiscal 2019 is reduced to as little as \$130,000 over the fiscal 2018 appropriation. However, since the extent of any new federal funding is unknown, and there is no requirement for the Governor to reduce the mandated appropriation, this analysis does not account for any reduction in the mandated appropriation.

For the purpose of this analysis, it is assumed that the general fund appropriation increases by approximately 3% annually beginning in fiscal 2020, even though the percentage by which the projected total general fund revenues for future fiscal years will exceed the revised estimate of total general fund revenues submitted by BRE to the Governor is unknown. This analysis assumes that the appropriated funding for the specified grants in the bill is completely expended each year through the grants awarded by GOCCP.

#### *Department of Health and Mental Hygiene*

Although the Department of Health and Mental Hygiene (DHMH) advises that a part-time position is needed to participate on the committee established by the bill, the Department of Legislative Services disagrees. It is assumed that participation by DHMH on the committee only requires limited amounts of time and can likely be handled with existing budgeted resources.

## Additional Information

**Prior Introductions:** None.

**Cross File:** SB 734 (Senator Kasemeyer, *et al.*) - Budget and Taxation and Judicial Proceedings.

**Information Source(s):** Office of the Attorney General; Governor's Office of Crime Control and Prevention; Department of Health and Mental Hygiene; Department of Legislative Services

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Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510