

SENATE BILL 731

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8lr3543
CF HB 639

By: **Senators Feldman, Benson, Guzzone, Kagan, Kelley, King, Klausmeier, Lee, Mathias, Peters, and Zucker**

Introduced and read first time: February 5, 2018

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health – Alleged Rape, Sexual Offense, or Child Sexual Abuse – HIV**
3 **Post–Exposure Prophylaxis**

4 FOR the purpose of requiring the Maryland Department of Health to compensate a
5 physician or hospital that provides certain post–exposure prophylaxis treatment
6 under certain circumstances for the prevention of HIV to a victim of alleged rape or
7 sexual offense or a victim of alleged child sexual abuse without charge to the victim;
8 providing that if a health care provider prescribes post–exposure prophylaxis to the
9 victim, the victim may not be required to apply for or seek services from another
10 health care provider in order to receive a full course of treatment of post–exposure
11 prophylaxis; defining a certain term; and generally relating to post–exposure
12 prophylaxis for victims of alleged rape or sexual offense and victims of alleged child
13 sexual abuse.

14 BY repealing and reenacting, with amendments,
15 Article – Health – General
16 Section 15–127
17 Annotated Code of Maryland
18 (2015 Replacement Volume and 2017 Supplement)

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

21 **Article – Health – General**

22 15–127.

23 (a) (1) In this section the following words have the meanings indicated.

24 (2) “Child” means any individual under the age of 18 years.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) **“HIV” MEANS THE HUMAN IMMUNODEFICIENCY VIRUS THAT**
2 **CAUSES ACQUIRED IMMUNE DEFICIENCY SYNDROME.**

3 (4) “Initial assessment” includes:

- 4 (i) A psychological evaluation;
- 5 (ii) Parental interview; and
- 6 (iii) Medical evaluation.

7 **[(4)] (5)** (i) For purposes of this section, “sexual abuse” means any act
8 that involves sexual molestation or exploitation of a child whether or not the sexual
9 molestation or exploitation of the child is by a parent or other person who has permanent
10 or temporary care or custody or responsibility for supervision of a child, or by any household
11 or family member.

12 (ii) “Sexual abuse” includes:

- 13 1. Incest, rape, or sexual offense in any degree;
- 14 2. Sodomy; and
- 15 3. Unnatural or perverted sexual practices.

16 (b) If a physician or a hospital provides any of the services described in subsection
17 (c) of this section to a victim of an alleged rape or sexual offense or a victim of alleged child
18 sexual abuse, the services shall be provided without charge to the individual and the
19 physician or hospital is entitled to be paid by the Department for the costs of providing the
20 services.

21 (c) The services to which this section applies are:

22 (1) A physical examination to gather information and evidence as to the
23 alleged crime;

24 (2) Emergency hospital treatment and follow-up medical testing for up to
25 90 days after the initial physical examination in paragraph (1) of this subsection; **[and]**

26 (3) **A FULL COURSE OF TREATMENT FOR POST-EXPOSURE**
27 **PROPHYLAXIS FOR THE PREVENTION OF HIV INFECTION AT THE REQUEST OF THE**
28 **VICTIM AND AS PRESCRIBED BY A HEALTH CARE PROVIDER; AND**

29 (4) For up to 5 hours of professional time to gather information and
30 evidence as to the alleged sexual abuse, an initial assessment of a victim of alleged child

1 sexual abuse by:

- 2 (i) A physician;
- 3 (ii) Qualified hospital health care personnel;
- 4 (iii) A mental health professional; or
- 5 (iv) An interdisciplinary team expert in the field of child abuse.

6 (d) (1) A physician who examines a victim of alleged child sexual abuse under
7 the provisions of this section is immune from any civil liability that may result from the
8 failure of the physician to obtain consent from the child's parent, guardian, or custodian for
9 the examination or treatment of the child.

10 (2) The immunity extends to:

- 11 (i) Any hospital with which the physician is affiliated or to which
12 the child is brought; and
- 13 (ii) Any individual working under the control or supervision of the
14 hospital.

15 **(E) IF A HEALTH CARE PROVIDER PRESCRIBES POST-EXPOSURE**
16 **PROPHYLAXIS TO A VICTIM OF AN ALLEGED RAPE OR SEXUAL OFFENSE OR A VICTIM**
17 **OF ALLEGED CHILD SEXUAL ABUSE, THE VICTIM MAY NOT BE REQUIRED TO APPLY**
18 **FOR OR SEEK SERVICES FROM ANOTHER HEALTH CARE PROVIDER IN ORDER TO**
19 **RECEIVE A FULL COURSE OF TREATMENT FOR POST-EXPOSURE PROPHYLAXIS.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2018.