

SENATE BILL 933

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CF HB 1248

By: **Senators Waldstreicher, Beidle, Benson, Klausmeier, Lee, and Smith**

Introduced and read first time: February 15, 2019

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Sexual Assault Evidence Kits – Privacy and**
3 **Reimbursement**

4 FOR the purpose of prohibiting a physician, qualified health care provider, and hospital
5 from including certain information in a request to obtain payment for certain
6 services related to forensic examinations for certain sexually related crimes under
7 certain circumstances; altering the services for which the Criminal Injuries
8 Compensation Board is required to pay certain claims and for which a physician and
9 a qualified health care provider are immune from civil liability under certain
10 circumstances; and generally relating to sexual assault evidence kits.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 11–1007
14 Annotated Code of Maryland
15 (2018 Replacement Volume)

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

18 **Article – Criminal Procedure**

19 11–1007.

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

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

22 (3) “Initial assessment” includes:

23 (i) a psychological evaluation;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) a parental interview; and

2 (iii) a medical evaluation.

3 (4) "Physician" means an individual who is authorized under the Maryland
4 Medical Practice Act to practice medicine in the State.

5 (5) "Qualified health care provider" means an individual who is licensed by
6 a health occupations board established under the Health Occupations Article.

7 (6) (i) "Sexual abuse" means any act that involves sexual molestation
8 or exploitation of a child whether or not the sexual molestation or exploitation of the child
9 is by a parent or other individual who has permanent or temporary care, custody, or
10 responsibility for supervision of a child, or by any household or family member.

11 (ii) "Sexual abuse" includes:

12 1. incest, rape, or sexual offense in any degree;

13 2. sodomy; and

14 3. unnatural or perverted sexual practices.

15 (b) If a physician, a qualified health care provider, or a hospital provides a service
16 described in subsection (c) of this section to a victim of an alleged rape or sexual offense or
17 a victim of alleged child sexual abuse:

18 (1) the services shall be provided without charge to the individual; **[and]**

19 (2) the physician, qualified health care provider, or hospital is entitled to
20 be paid by the Criminal Injuries Compensation Board as provided under Subtitle 8 of this
21 title for the costs of providing the services; **AND**

22 **(3) THE PHYSICIAN, QUALIFIED HEALTH CARE PROVIDER, OR**
23 **HOSPITAL MAY NOT INCLUDE IN ANY REQUEST TO OBTAIN PAYMENT UNDER THIS**
24 **SUBSECTION A NARRATIVE DESCRIBING THE ALLEGED OFFENSE OF A VICTIM OR A**
25 **PHOTOGRAPH OF THE VICTIM.**

26 (c) This section applies to the following services:

27 (1) a physical **AND FORENSIC** examination to gather information and
28 evidence as to an alleged crime **WHEN THE EXAMINATION IS CONDUCTED WITHIN A**
29 **TIME PERIOD DETERMINED BY THE MARYLAND SEXUAL ASSAULT EVIDENCE KIT**
30 **POLICY AND FUNDING COMMITTEE TO BE IN ACCORDANCE WITH CURRENT**
31 **FORENSIC MEDICAL STANDARDS;**

1 (2) emergency hospital treatment and follow-up medical testing for up to
2 90 days after the initial physical examination; and

3 (3) for up to 5 hours of professional time to gather information and evidence
4 of the alleged sexual abuse, an initial assessment of a victim of alleged child sexual abuse
5 by:

6 (i) a physician;

7 (ii) qualified hospital health care personnel;

8 (iii) a qualified health care provider;

9 (iv) a mental health professional; or

10 (v) an interdisciplinary team expert in the field of child abuse.

11 (d) (1) A physician or a qualified health care provider who examines a victim
12 of alleged child sexual abuse under the provisions of this section is immune from civil
13 liability that may result from the failure of the physician or qualified health care provider
14 to obtain consent from the child's parent, guardian, or custodian for the examination or
15 treatment of the child.

16 (2) The immunity extends to:

17 (i) any hospital with which the physician or qualified health care
18 provider is affiliated or to which the child is brought; and

19 (ii) any individual working under the control or supervision of the
20 hospital.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
22 1, 2019.