

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 759

(Delegate Bartlett)

Judiciary

Judicial Proceedings

Governor's Office of Crime Prevention, Youth, and Victim Services - Sexual Assault Evidence Collection Kit Reporting Program

This bill requires the Governor’s Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) to establish and administer a reporting program for tracking the location, status, and chain of custody of sexual assault evidence collection kits. Related requirements are established for law enforcement agencies and others that have control or possession of such kits. GOCPYVS must adopt regulations relating to the reporting program, as specified. The bill also clarifies that the existing Rape Kit Testing Grant Fund may be used for equipment, supplies, personnel, and outsourcing necessary for the testing of kits collected before or after the establishment of the fund.

Fiscal Summary

State Effect: General fund expenditures increase by \$119,400 in FY 2024 for staff; future years reflect annualization and ongoing costs. No costs to procure the reporting system are reflected because GOCPYVS is already in the process of procuring such a system even in the absence of the bill, as discussed below. Revenues are not affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	119,400	145,900	152,400	159,100	167,400
Net Effect	(\$119,400)	(\$145,900)	(\$152,400)	(\$159,100)	(\$167,400)

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

Local Effect: The bill is not anticipated to materially affect local government operations or finances; it is assumed that local law enforcement agencies, forensic laboratories, and State’s Attorneys offices can implement the bill’s changes with existing resources.

Small Business Effect: Minimal. It is assumed that medical care providers are not significantly affected by the bill’s changes.

Analysis

Bill Summary: The reporting program must (1) track the location, status, and chain of custody of sexual assault evidence collection kits in the State; (2) receive information relating to the location, status, and chain of custody from any law enforcement agency or person with control or possession of a kit; and (3) allow for a victim or a victim's representative to track the location, status, and chain of custody of a kit containing samples taken from the victim.

Information contained in the reporting system is not open to public inspection. GOCPYVS may disclose information contained in the reporting system only to (1) the victim about whom the information pertains; (2) a victim's representative for the victim about whom the information pertains; (3) a sexual assault crisis program; (4) a child advocacy center; (5) a law enforcement agency; (6) a State's Attorney; (7) a person authorized by GOCPYVS to receive the information; or (8) a person entitled to receive the information by federal or State law, subpoena, court rule, or court order.

Beginning October 1, 2023, a law enforcement agency or any person that has control or possession of a sexual assault evidence collection kit, including a health care provider, forensic laboratory, or State's Attorney, must (1) report location, status, and chain of custody information to the reporting program in a manner required by GOCPYVS and (2) comply with all regulations developed by GOCPYVS under the bill. A law enforcement agency or a person that had control or possession of a sexual assault evidence collection kit before October 1, 2023 – or has control or possession of a kit on or after October 1, 2023 – must report location, status, and chain of custody information to the reporting program by December 31, 2025.

GOCPYVS, in consultation with the Maryland Sexual Assault Evidence Kit Policy and Funding Committee, must adopt any regulations necessary to carry out the reporting program. The regulations must include (1) requirements for reporting the location and chain of custody of a kit to the reporting program and (2) procedures for disclosing information about kits included in the reporting program.

Current Law:

Sexual Assault Evidence Collection Kits

A health care provider that performs a sexual assault evidence collection kit exam on a victim of sexual assault must, among other things, provide the victim with contact information for the investigating law enforcement agency that the victim may contact about the status and results of the kit analysis. In addition, 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, must provide the victim with information about the status of the kit analysis and all other results except results that would impede or compromise an ongoing investigation, as specified.

Except when a specified exception applies, an investigating law enforcement agency that receives a sexual assault evidence collection kit must (1) submit the kit and all requested associated reference standards to a forensic laboratory for analysis within 30 days of receipt of the kit and all requested associated reference standards and (2) make use of certified sexual assault crisis programs or other qualified community-based sexual assault victim service organizations that can provide services and support to survivors of sexual assault.

A forensic laboratory that receives a sexual assault evidence collection kit and all requested associated reference standards for analysis must determine the suitability of testing the kit and complete screening, testing, and analysis in a timely manner. Failure to complete the screening, testing, and analysis in a timely manner as specified may not constitute the basis for excluding the analysis or results as evidence in a criminal proceeding.

Forensic laboratories must report annually to the Maryland Sexual Assault Evidence Kit Policy and Funding Committee regarding the required time to complete testing, from receipt of the kit until a report is prepared, for each sexual assault evidence collection kit it receives. The eligible results of an analysis of a sexual assault evidence collection kit must be entered into the Combined DNA Index System (known as CODIS). The DNA collected from a victim may not be used for any purpose except as authorized.

Rape Kit Testing Grant Fund

Chapters 508 and 509 of 2019 established the Rape Kit Testing Grant Fund, a special fund administered by the Executive Director of GOCPYVS, to provide law enforcement agencies with funding to pay for testing of sexual assault evidence collections kits by forensic laboratories. The fund consists of money appropriated in the State budget, interest earnings, and any other money accepted for the benefit of the fund. The fund may only be used for equipment, supplies, personnel, and outsourcing necessary for the testing of sexual assault evidence kits in forensic laboratories. The fiscal 2024 budget as introduced includes an appropriation of \$3.5 million in general funds to the fund.

Maryland Sexual Assault Evidence Kit Policy and Funding Committee

Chapter 659 of 2017 established the Maryland Sexual Assault Evidence Kit Policy and Funding Committee to develop and disseminate best practices information and recommendations regarding, among other things, the creation and operation of a statewide sexual assault evidence collection kit tracking system that is accessible to victims of sexual assault and law enforcement. In January 2023, the committee released its [annual report](#),

which includes information regarding GOCPYVS's efforts to procure a sexual assault evidence kit tracking system. According to the report, a request for proposal for the procurement of a tracking system was published on October 7, 2022, and all proposals were due by December 9, 2022. The report also stated the committee's intent to introduce legislation requiring the participation of all necessary end-users (prosecutors, forensic nurse examiners, law enforcement, and forensic laboratory personnel).

Governor's Office of Crime Prevention, Youth, and Victims Services

GOCPYVS serves as a coordinating office that advises the Governor on criminal justice strategies. The office plans, promotes, and funds efforts with government entities, private organizations, and the community to advance public policy, enhance public safety, reduce crime and juvenile delinquency, and serve victims.

Among other funds and grants, GOCPVYS coordinates the disbursements of federal funds awarded through the Crime Victims Fund and the National Sexual Assault Kit Initiative (SAKI). The purpose of the Crime Victims Fund, established by the federal Victims of Crime Act (VOCA) of 1984, is to improve the treatment of victims of crime by providing victims with the assistance and services necessary to aid their restoration after a violent criminal act and to support and aid victims as they move through the criminal justice process. The purpose of SAKI is to, among other things, support multidisciplinary community response teams to inventory, track, and expeditiously test previously unsubmitted sexual assault evidence collection kits, in addition to optimize victim notification protocols and services.

GOCPYVS advises that as of February 2023, there is approximately \$661,600 in federal funds remaining from a multi-year \$2.6 million SAKI grant awarded in federal fiscal 2018. In federal fiscal 2022, the State was awarded \$26.3 million through VOCA, and GOCPYVS reports that the federal fiscal 2023 award is expected to be between \$18.9 million and \$26.3 million.

State Expenditures:

Procurement of the Sexual Assault Evidence Collection Kit Reporting System

GOCPVYS advises that it is already in the process of procuring a sexual assault evidence collection reporting system and that the request for proposals from vendors closed in December 2022. GOCPVYS advises that even though the procurement process is underway, the office is unable to provide an estimate as to when the reporting system will be purchased and available for tracking sexual assault evidence collection kits. GOCPYVS further estimates that the initial cost for purchasing the reporting system is approximately \$1.0 million, although the office cannot provide an estimate for ongoing maintenance.

GOCPYVS anticipates using federal funds from the 2018 SAKI grant and VOCA to purchase and maintain the tracking system.

Because GOCPYVS plans to procure the reporting system even in the absence of the bill, the bill’s requirement for GOCPYVS to establish a reporting system – and maintain it over time – does not affect State finances, as GOCPYVS would be incurring those costs even in the absence of the bill.

Administrative Expenditures

General fund expenditures increase by \$119,352 in fiscal 2024, which accounts for the bill’s October 1, 2023 effective date. This estimate reflects the cost of hiring one program manager for GOCPYVS to develop regulations, oversee the reporting system in accordance with the bill’s provisions, and assist with training law enforcement and others that must report information to the system (such as health care providers, forensic laboratories, and State’s Attorneys). Although GOCPYVS is planning to establish a reporting system even in the absence of the bill, the timeline established in the bill under which reporting must begin necessitates additional staff. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$111,943
Operating Expenses	<u>7,409</u>
Total FY 2024 State Expenditures	\$119,352

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

The Department of State Police (DSP) advises that it needs to hire a coordinator to act as a liaison between the system vendor and GOCPYVS and to provide the necessary coordination of data entry into the reporting system from the State police crime laboratory. However, given that GOCPYVS is establishing the reporting system even in the absence of the bill, DSP will need to upload information to the reporting system even in the absence of the bill. Therefore, it is assumed that DSP can implement the bill with existing staff. To the extent existing staff prove insufficient, DSP may request additional resources through the annual budget process.

It is assumed that any other affected State law enforcement agencies can implement the bill with existing resources.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 615 (Senator Hettleman) - Judicial Proceedings.

Information Source(s): Baltimore and Frederick counties; City of Havre de Grace; Governor's Office of Crime Prevention, Youth, and Victim Services; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2023
js/lgc Third Reader - March 20, 2023

Analysis by: Thomas S. Elder

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