



Maryland
Hospital Association

House Bill 1096 – Criminal Procedure – Sexual Assault Evidence Collection Kits – Analysis

Committee: Judiciary Committee, March 6, 2019

Position: *Support*

Bill Summary

HB 1096 requires that a sexual assault evidence collection kit be submitted to a forensic laboratory for analysis unless a certain requirement is met; requiring that a certain victim be given the option to consent to submission of a certain sexual assault evidence collection kit for analysis without making a certain commitment and requires a certain law enforcement agency that receives a sexual assault evidence collection kit to take certain actions under certain circumstances

MHA Position

Maryland's hospitals support the implementation of a statewide, uniform standard for processing sexual assault evidence collection kits. In 2015, the Office of the Attorney General surveyed 135 law enforcement agencies and found approximately 3,700 untested kits across the stateⁱ. According to the report, most jurisdictions did not have a traditional backlog of kits waiting for testing in laboratories, but rather, these kits were not submitted for testing because of the varying agency policies on what met the legal definition for testingⁱⁱ. Most states that have deliberated this issue, recommend that all kits are submitted for testing except in limited circumstancesⁱⁱⁱ. This inclusive approach is survivor-centered, helping ensure equal treatment across the state.

Although several local jurisdictions have expanded their testing criteria, in its 2019 annual report, the Maryland Sexual Assault Evidence Kit Funding & Policy Committee (SAEK Committee) recommended the establishment of a statewide protocol to ensure uniformity^{iv}. Maryland's hospitals support the implementation of this standard because increased and efficient testing helps law enforcement agencies identify suspects, catch serial perpetrators and provide a path to justice for survivors of sexual assault.

The criteria outlined in HB 1096, which is supported by the SAEK Committee's 2019 report^v, includes testing of all sexual assault evidence collection kits, unless:

- There is clear evidence disproving the allegation of sexual assault
- The facts alleged, if true, could not be interpreted to violate a provision of Title 3, Subtitle 2, Title 3, Subtitle 3, Title 3, Subtitle 6 or Title 11, Subtitle 3 of the Criminal Law Article
- The suspect's profile is contained in CODIS and the suspect admitted to consensual sex with the victim during the incident that led to the forensic examination
- The victim from who the evidence was collected declines to give consent for analysis
- A victim of sexual assault who wishes to remain anonymous shall be given the option to consent to submission of the evidence for analysis without making any commitment to taking further action

This approach strikes the balance of testing all qualifying kits, while also providing survivors the choice to remain anonymous without further contact from the criminal justice system. This legislation also supports law enforcement in their efforts to identify sexual assault suspects.

For these reasons, we urge a *favorable report* on HB 1096.

ⁱ Office of the Attorney General. *Statewide Accounting of Untested Sexual Assault Evidence Kits in the State of Maryland*. (January 1, 2017). Retrieved from: http://www.marylandattorneygeneral.gov/Reports/Rape_Kit_Report.pdf

ⁱⁱ Ibid.

ⁱⁱⁱ Ibid, i.

^{iv} Maryland Sexual Assault Evidence Kit Policy & Funding Committee. *Annual Report*. (January, 2019). Retrieved from: http://www.marylandattorneygeneral.gov/Pages/Groups/2019_SAEK_Committee_Annual_Report.pdf

^v Ibid, iii.