

Chapter 659

(Senate Bill 734)

AN ACT concerning

Sexual Assault Victims Resources Act of 2017

FOR the purpose of expanding the services to be provided by certain sexual assault crisis programs; specifying criteria for receiving certain grant funding; requiring the Governor to include certain funding in the State budget; authorizing the Governor, under certain circumstances, to reduce a certain appropriation; providing for the allocation of certain grant money; stating certain findings of the General Assembly; establishing the Maryland Sexual Assault Evidence Kit Policy and Funding Committee; providing for the composition, terms, quorum, meetings, and staffing of the Committee; prohibiting a member of the Committee from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Committee to develop and disseminate certain best practices information and recommendations; authorizing the Committee to adopt rules governing its operation; requiring the Attorney General to adopt certain regulations in consultation with the Committee; requiring the Committee to make certain evaluations regarding State and local funding; requiring the Committee to report on its activities to the Governor and the General Assembly on or before a certain date each year; defining a certain term; and generally relating to resources for sexual assault victims.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–923
Annotated Code of Maryland
(2008 Replacement Volume and 2016 Supplement)

BY adding to
Article – Criminal Procedure
Section 11–927
Annotated Code of Maryland
(2008 Replacement Volume and 2016 Supplement)

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

Article – Criminal Procedure

11–923.

(a) The General Assembly finds that an increasing number of sexual assault offense victims in the State:

(1) lack necessary counseling and follow-up services; and

(2) in some parts of the State, have only the help of extremely limited support services.

(b) The purpose of this section is to provide for sexual assault crisis programs that address the special needs of sexual assault victims.

(c) (1) The Governor's Office of Crime Control and Prevention shall help establish sexual assault crisis programs in the State.

(2) The programs shall be developed and located to facilitate their use by alleged victims residing in surrounding areas.

(3) The programs shall:

(i) provide specialized support services to adult and minor alleged victims of sexual assault crimes; [and]

(ii) include a hotline and counseling service;

(III) PROVIDE INFORMATION TO ALLEGED VICTIMS OF SEXUAL ASSAULT CRIMES REGARDING:

1. CRIMINAL PROSECUTIONS OF SEXUAL ASSAULT CRIMES;

2. CIVIL LAW REMEDIES AVAILABLE TO VICTIMS OF SEXUAL ASSAULT;

3. SEXUAL ASSAULT EVIDENCE COLLECTION; AND

4. VICTIM RIGHTS; AND

(IV) PARTICIPATE IN THE SEXUAL ASSAULT RESPONSE TEAM IN EACH COUNTY IN WHICH THE PROGRAM REGULARLY PROVIDES SERVICES.

(d) The Governor's Office of Crime Control and Prevention may award grants to public or private nonprofit organizations to operate the sexual assault crisis programs **CERTIFIED BY THE FEDERALLY RECOGNIZED STATE SEXUAL ASSAULT COALITION.**

(e) The Governor's Office of Crime Control and Prevention shall 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.

(f) (1) Money for the sexual assault crisis programs shall be as provided in the annual State budget and shall be used to supplement, but not supplant, money that the programs receive from other sources.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IN EACH FISCAL YEAR THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF NOT LESS THAN \$3,000,000 FOR THE FEDERALLY RECOGNIZED STATE SEXUAL ASSAULT COALITION AND SEXUAL ASSAULT CRISIS PROGRAMS FUNDED UNDER THIS SECTION.

(3) IN EACH FISCAL YEAR BEGINNING WITH FISCAL YEAR 2019, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL SUBMITTED TO THE GENERAL ASSEMBLY A GENERAL FUND APPROPRIATION FOR SEXUAL ASSAULT CRISIS PROGRAMS FUNDED UNDER THIS SECTION IN AN AMOUNT NOT LESS THAN THE APPROPRIATION MADE FOR THE SEXUAL ASSAULT CRISIS PROGRAMS IN THE IMMEDIATELY PRECEDING FISCAL YEAR, INCREASED BY NOT LESS THAN THE PERCENTAGE BY WHICH 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 TO THE GOVERNOR UNDER § 6-106(B) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(4) (I) 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 FOR A PURPOSE FOR WHICH FUNDS ARE APPROPRIATED UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE GOVERNOR MAY REDUCE THE APPROPRIATION REQUIRED UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION BY THE AMOUNT RECEIVED UNDER THE FEDERAL VICTIMS OF CRIME ACT.

(II) THE REDUCTION AUTHORIZED UNDER THIS PARAGRAPH MAY NOT EXCEED 40% OF THE APPROPRIATION REQUIRED UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION.

(III) THE GOVERNOR MAY NOT REDUCE THE APPROPRIATION UNDER THIS PARAGRAPH IF THE FUNDS RECEIVED UNDER THE FEDERAL VICTIMS OF CRIME ACT HAVE BEEN AWARDED ON OR BEFORE JUNE 1, 2017, OR ARE AWARDED FOR CONTINUATION OF SERVICES PREVIOUSLY FUNDED BY THE FEDERAL VICTIMS OF CRIME ACT.

(5) AN APPROPRIATION MADE UNDER THIS SUBSECTION SHALL BE ALLOCATED AS FOLLOWS:

(I) AT LEAST \$100,000 TO THE FEDERALLY RECOGNIZED STATE SEXUAL ASSAULT COALITION;

(II) AT LEAST \$100,000 TO EACH OF THE SEXUAL ASSAULT CRISIS PROGRAMS PROVIDED FOR IN SUBSECTION (D) OF THIS SECTION; AND

(III) THE BALANCE OF THE APPROPRIATION TO BE DISTRIBUTED TO THE SEXUAL ASSAULT CRISIS PROGRAMS PROVIDED FOR IN SUBSECTION (D) OF THIS SECTION 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.

(g) The Executive Director of the Governor's Office of Crime Control and Prevention shall include a report on the sexual assault crisis programs in the annual report submitted by the Governor's Office of Crime Control and Prevention to the General Assembly, in accordance with § 2-1246 of the State Government Article.

(h) (1) The Governor's Office of Crime Control and Prevention shall establish and sustain child advocacy centers in the State.

(2) The child advocacy centers:

(i) may be based in private nonprofit organizations, local departments of social services, local law enforcement agencies, or a partnership among any of these entities;

(ii) shall be developed and located to facilitate their use by alleged victims residing in the surrounding areas;

(iii) shall investigate allegations of sexual crimes against children and sexual abuse of minors;

(iv) shall provide or facilitate referrals to appropriate counseling, legal, medical, and advocacy services for victims; and

(v) shall be included in all joint investigation procedures developed in accordance with § 5-706 of the Family Law Article.

(3) The Governor's Office of Crime Control and Prevention may contract with public or private nonprofit organizations to operate child advocacy centers.

(4) Money for child advocacy centers shall be as provided in the annual State budget and shall be used to supplement, but not supplant, money that the programs receive from other sources.

(5) On or before January 1 each year, the Governor's Office of Crime Control and Prevention shall submit an annual report, in accordance with § 2-1246 of the State Government Article, on child advocacy centers to the General Assembly.

11-927.

(A) IN THIS SECTION, "COMMITTEE" MEANS THE MARYLAND SEXUAL ASSAULT EVIDENCE KIT POLICY AND FUNDING COMMITTEE.

(B) THE GENERAL ASSEMBLY FINDS THAT:

(1) THERE IS A LACK OF CONSISTENT POLICIES REGARDING SEXUAL ASSAULT EVIDENCE COLLECTION IN THE STATE;

(2) EFFECTIVE POLICIES REGARDING COLLECTION OF MEDICAL FORENSIC EVIDENCE ARE AN IMPORTANT COMPONENT OF PROVIDING SEXUAL ASSAULT VICTIMS WITH ACCESS TO JUSTICE AND OF HOLDING THE PERPETRATORS OF SEXUAL ASSAULTS ACCOUNTABLE;

(3) SEXUAL ASSAULT EVIDENCE COLLECTION EXAMS ARE UNAVAILABLE AT MANY HOSPITALS;

(4) THERE IS A SHORTAGE OF FORENSIC NURSE EXAMINERS QUALIFIED TO PERFORM SEXUAL ASSAULT EVIDENCE COLLECTION;

(5) LAW ENFORCEMENT AGENCIES LACK A UNIFORM APPROACH FOR TESTING AND RETAINING SEXUAL ASSAULT EVIDENCE KITS; ~~AND~~

(6) HOSPITALS, LAW ENFORCEMENT AGENCIES, AND OTHERS IN THE JUSTICE SYSTEM LACK THE RESOURCES AND FUNDING NECESSARY TO ENSURE CONSISTENCY IN SEXUAL ASSAULT EVIDENCE COLLECTION; AND

(7) POLICIES REGARDING SEXUAL ASSAULT EVIDENCE COLLECTION ARE PART OF THE JUSTICE SYSTEM AND REQUIRE COORDINATION WITH MULTIPLE STATE AGENCIES AND VICTIM SERVICES PROVIDERS.

(C) THE PURPOSES OF THIS SECTION ARE TO:

(1) PROVIDE FOR A STATEWIDE SEXUAL ASSAULT EVIDENCE KIT POLICY AND FUNDING COMMITTEE TO INCREASE ACCESS TO JUSTICE FOR SEXUAL ASSAULT VICTIMS;

(2) HOLD THE PERPETRATORS OF SEXUAL ASSAULT ACCOUNTABLE;

(3) INCREASE AVAILABILITY OF SEXUAL ASSAULT EVIDENCE COLLECTION EXAMS; AND

(4) CREATE EFFECTIVE STATEWIDE POLICIES REGARDING THE COLLECTION, TESTING, AND RETENTION OF MEDICAL FORENSIC EVIDENCE IN SEXUAL ASSAULT CASES.

(D) (1) THERE IS A MARYLAND SEXUAL ASSAULT EVIDENCE KIT POLICY AND FUNDING COMMITTEE.

(2) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

(I) THE FOLLOWING MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE, AS EX OFFICIO MEMBERS:

1. ONE MEMBER OF THE SENATE BUDGET AND TAXATION COMMITTEE; AND

2. ONE MEMBER OF THE SENATE JUDICIAL PROCEEDINGS COMMITTEE;

(II) THE FOLLOWING MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE, AS EX OFFICIO MEMBERS:

1. ONE MEMBER OF THE HOUSE APPROPRIATIONS COMMITTEE; AND

2. ONE MEMBER OF THE HOUSE JUDICIARY COMMITTEE;

(III) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE;

(IV) THE SUPERINTENDENT OF THE STATE POLICE, OR THE SUPERINTENDENT'S DESIGNEE;

(V) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S DESIGNEE WHO HAS EXPERTISE IN RESPONDING TO CHILD SEXUAL ABUSE;

(VI) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE WHO HAS EXPERTISE IN THE PROCUREMENT OF SEXUAL ASSAULT EVIDENCE KITS;

(VII) THE EXECUTIVE DIRECTOR OF THE CRIMINAL INJURIES COMPENSATION BOARD, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(VIII) THE FOLLOWING MEMBERS APPOINTED BY THE ATTORNEY GENERAL:

1. ONE REPRESENTATIVE OF THE MARYLAND STATE'S ATTORNEYS' ASSOCIATION;

2. THE EXECUTIVE DIRECTOR OF THE MARYLAND COALITION AGAINST SEXUAL ASSAULT, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

3. ONE REPRESENTATIVE OF THE MARYLAND ASSOCIATION OF CHIEFS OF POLICE;

4. ONE REPRESENTATIVE OF A LEGAL SERVICES PROGRAM OR AGENCY THAT WORKS PRIMARILY TO REPRESENT SEXUAL ASSAULT VICTIMS;

5. ONE FORENSIC NURSE EXAMINER WHO WORKS IN A COUNTY IN WHICH THERE IS MORE THAN ONE HOSPITAL; AND

6. ONE REPRESENTATIVE OF A CRIME LAB WHO HAS EXPERTISE IN SEXUAL ASSAULT FORENSIC EVIDENCE KIT ANALYSIS; AND

(IX) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

1. ONE REPRESENTATIVE OF THE STATE BOARD OF NURSING WHO HAS EXPERTISE IN FORENSIC NURSING; AND

2. ONE REPRESENTATIVE OF THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.

(3) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE, IS THE COMMITTEE CHAIR.

(4) A MEMBER OF THE COMMITTEE:

(I) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMITTEE; BUT

(II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(5) (I) THE TERM OF AN APPOINTED MEMBER OF THE COMMITTEE IS 4 YEARS.

(II) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMITTEE ON JUNE 1, 2017.

(III) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(IV) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(6) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE COMMITTEE IS A QUORUM.

(7) (I) THE COMMITTEE SHALL MEET QUARTERLY AT THE TIMES AND PLACES THAT THE COMMITTEE DETERMINES.

(II) THE COMMITTEE MAY HOLD ADDITIONAL MEETINGS AT THE CALL OF THE COMMITTEE CHAIR OR ANY SIX MEMBERS OF THE COMMITTEE AFTER GIVING PROPER NOTICE IN THE MANNER PROVIDED IN THE RULES OF THE COMMITTEE.

(E) (1) THE COMMITTEE SHALL DEVELOP AND DISSEMINATE BEST PRACTICES INFORMATION AND RECOMMENDATIONS REGARDING:

(I) THE TESTING AND RETENTION OF SEXUAL ASSAULT EVIDENCE COLLECTION KITS;

(II) COORDINATION BETWEEN STATE AGENCIES, VICTIM SERVICES PROVIDERS, LOCAL LAW ENFORCEMENT, AND LOCAL SEXUAL ASSAULT RESPONSE TEAMS;

(III) PAYMENT FOR SEXUAL ASSAULT EVIDENCE COLLECTION KITS;

(IV) INCREASING THE AVAILABILITY OF SEXUAL ASSAULT EVIDENCE COLLECTION EXAMS FOR ALLEGED VICTIMS OF SEXUAL ASSAULT;

(V) REDUCING THE SHORTAGE OF FORENSIC NURSE EXAMINERS; AND

(VI) INCREASING THE AVAILABILITY OF INFORMATION TO SEXUAL ASSAULT VICTIMS REGARDING:

1. CRIMINAL PROSECUTIONS OF SEXUAL ASSAULT CRIMES;

2. CIVIL LAW REMEDIES AVAILABLE TO VICTIMS OF SEXUAL ASSAULT;

3. SEXUAL ASSAULT EVIDENCE COLLECTION KITS; AND

4. VICTIM RIGHTS.

(2) THE COMMITTEE MAY ADOPT RULES GOVERNING THE ADMINISTRATION AND PROCEEDINGS OF THE COMMITTEE.

(F) THE ATTORNEY GENERAL, IN CONSULTATION WITH THE COMMITTEE, SHALL ADOPT REGULATIONS BASED ON THE COMMITTEE'S RECOMMENDATIONS PROVIDING FOR THE COLLECTION, TESTING, AND RETENTION OF SEXUAL ASSAULT EVIDENCE COLLECTION KITS IN THE STATE.

(G) (1) THE COMMITTEE SHALL EVALUATE STATE AND LOCAL FUNDING NEEDS TO DETERMINE WHETHER FUNDING ALLOCATIONS ARE SUFFICIENT AND APPROPRIATE TO IMPLEMENT THE BEST PRACTICES DEVELOPED BY THE COMMITTEE UNDER SUBSECTION (E) OF THIS SECTION AND THE REGULATIONS ADOPTED BY THE ATTORNEY GENERAL UNDER SUBSECTION (F) OF THIS SECTION.

(2) THE COMMITTEE'S EVALUATION UNDER THIS SUBSECTION SHALL 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.

(H) IN FISCAL YEAR 2018 AND IN EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE FUNDS IN THE STATE BUDGET TO IMPLEMENT THIS SECTION, INCLUDING FUNDS TO:

(1) EMPLOY A FULL-TIME ASSISTANT ATTORNEY GENERAL TO:

(I) STAFF THE COMMITTEE; AND

**(II) ASSIST WITH THE IMPLEMENTATION OF REGULATIONS
ADOPTED UNDER THIS SECTION; AND**

(2) OPERATE AND MAINTAIN AN OFFICE.

**(I) ON OR BEFORE JANUARY 1 ANNUALLY, BEGINNING JANUARY 1, 2019,
THE COMMITTEE SHALL REPORT ON THE COMMITTEE'S ACTIVITIES DURING THE
PRIOR FISCAL YEAR TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF
THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial appointed members of the Maryland Sexual Assault Evidence Kit Policy and Funding Committee shall expire as follows:

- (1) one member in 2020;
- (2) four members in 2021;
- (3) four members in 2022; and
- (4) four members in 2023.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017.

Approved by the Governor, May 25, 2017.