



SB0406 Criminal Procedure - Sexual Assault Evidence Kits - Privacy, Reimbursement, and Notification
Presented to the Hon. Will Smith and Members of the Senate Judiciary Proceedings Committee
February 13, 2020 12:00 p.m.

POSITION: SUPPORT

NARAL Pro-Choice Maryland urges the Senate Judiciary Proceedings Committee to issue **a favorable report on SB0406 Criminal Procedure - Sexual Assault Evidence Kits - Privacy, Reimbursement, and Notification**, sponsored by Senator Jeff Waldstreicher.

Our organization is an advocate for reproductive health, rights, and justice. Thus, we strive to ensure that every individual can maintain their personal bodily autonomy and grow up in a safe, healthy environment. Children who have survived sexual abuse—a clear violation of their bodily autonomy and safety—unequivocally require appropriate supportive services. Survivors of childhood violence, including sexual abuse, are more likely to experience later injury, HIV, sexually transmitted infections, unintended pregnancy, early age of first sexual experience, and additional sexual risk behavior.ⁱⁱⁱ Thus, we advocate for policies that aim to support the safety, wellbeing, and privacy of children who have experienced sexual abuse.

Under Title 10 of the Department of Health, Maryland forensic exam regulations require children who have experienced sexual abuse to be treated as a special patient population; physicians must diligently work to minimize further emotional or physical trauma.ⁱⁱⁱ Depending on the case specifics and professional judgment, physicians may choose to perform a sexual assault forensic exam (SAFE) if the child is seen within 120 hours of an abusive encounter. The child's family cannot be charged for the physical examination, initial assessments, or any subsequent testing performed up to 90 days after the initial exam. In their reports, physicians must include relevant case identifiers.

The Maryland Coalition Against Sexual Assault estimates that there are more than 31 thousand cases of child sexual assault each year in Maryland.^{iv} Current law does not protect thousands of child sexual abuse survivors from having a narrative of the offense or a photograph included in the physician's report. The core elements of sexual abuse—invasion of personal boundaries, uncontrollable exposure and vulnerability, and feelings of powerlessness—are only perpetrated further by this action.^v Medical care is an essential aspect of properly caring for a child who has experienced sexual abuse, yet the current timeline of 120 hours following an abusive encounter is far too slim—of a study done with women who experienced child sexual abuse, only 21% reported having disclosed within a month of the occurrence.^{vi} Medical staff are additionally challenged when considering whether to obtain consent for assessments and examinations from a parent or legal guardian, given that 56% of perpetrators of child sexual abuse are acquaintances of the child or the family.ⁱⁱ

SB0406 seeks to support the privacy, wellbeing, and safety of children who have experienced sexual abuse. The exclusion of narratives of the abusive encounter(s) and photographs of the child, in any compensatory reports, reduces the exposure and vulnerability of the child, recognizes the possible harms of sharing such information, and respects the boundaries of the child.^v Increasing the timeline prior to sexual assault forensic exams allow

providers to more fully assess the needs and state of the child and to assist in the collection of necessary evidence for any future criminal charges. At the national level, less than 3% of child sexual assault perpetrators serve jail time for their offense.^{iv} Additionally, the removal of civil liability from medical providers, in relation to consent for assessments, allows for care to be initiated and continued in situations where the perpetrator's relationship to the family or child is unclear. Ultimately, optimal practices will involve respect, taking appropriate time, respecting boundaries, and sharing both information and control over what is occurring throughout.^v

In accordance with goals towards reproductive health, rights, and justice, children who have experienced sexual abuse deserve to have the ability to maintain their bodily autonomy, grow up in a safe, loving environment, and receive appropriate, sensitive medical care when these rights have been violated. At every point of care, children who have experienced sexual abuse must be protected, listened to, and supported; providers caring for these children must also be protected within their dedicated work. For these reasons, NARAL Pro-Choice Maryland **urges a favorable committee report on SB0406**. Thank you for your time and consideration.

ⁱ Hillis, Susan D., James A. Mercy, and Janet R. Saul. 2017. "The Enduring Impact of Violence against Children." *Psychology, Health and Medicine*. <https://doi.org/10.1080/13548506.2016.1153679>.

ⁱⁱ Maryland Coalition Against Sexual Assault, "Child Sexual Abuse", mcasa.org. Accessed February 9, 2020. <https://mcasa.org/assets/files/Child-SV-Updated.pdf>

ⁱⁱⁱ Department of Health and Mental Hygiene, "Maryland Forensic Exam Regulations Effective 12-29-08," mcasa.org. Accessed February 9, 2020. <https://mcasa.org/assets/files/Maryland-Forensic-Exam-Regs-effective-12-29-08.pdf>

^{iv} Maryland Coalition Against Sexual Assault, "Child Victims of Sexual Assault: Focus on Maryland," mcasa.org. Accessed February 9, 2020. <https://mcasa.org/assets/files/Children-in-Maryland-AC-Updated.pdf>

^v Schachter, C.L., Stalker, C.A., Teram, E., Lasiuk, G.C., Danilkewich, A. 2008. *Handbook on sensitive practice for health care practitioner: Lessons from adult survivors of childhood sexual abuse*. Ottawa: Public Health Agency of Canada

^{vi} López, Sílvia, Concepció Faro, Lourdes Lopetegui, Enriqueta Pujol-Ribera, Mònica Monteagudo, Àngels Avecilla-Palau, Cristina Martínez, Jesús Cobo, and María Isabel Fernández. 2017. "Child and Adolescent Sexual Abuse in Women Seeking Help for Sexual and Reproductive Mental Health Problems: Prevalence, Characteristics, and Disclosure." *Journal of Child Sexual Abuse*. <https://doi.org/10.1080/10538712.2017.1288186>