

HOUSE BILL 1047

I3, E2

4lr3174
CF SB 949

By: ~~Delegate Bartlett~~ Delegates Bartlett, Arian, Simpson, Conaway, and Williams

Introduced and read first time: February 7, 2024

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2024

CHAPTER _____

1 AN ACT concerning

2 **Consumer Protection – Self-Administered Sexual Assault Evidence Collection**
3 **Kits**

4 FOR the purpose of providing that a party in a criminal trial involving an allegation of ~~a~~
5 ~~sexual-crime~~ sexually assaultive behavior may not introduce ~~evidence~~ information
6 that physical evidence of ~~a sexual-crime~~ sexually assaultive behavior was obtained
7 using certain materials; providing that selling, offering for sale, or distributing a
8 certain self-administered sexual assault evidence collection kit is an unfair,
9 deceptive, or abusive trade practice; establishing the Forensic Nurse Examiner
10 Training Grant Program; establishing the Forensic Nurse Examiner Training Grant
11 Program Fund as a special, nonlapsing fund; prohibiting the limitation or waiver of
12 certain rights and warranties on certain products used to collect evidence of a sexual
13 assault; and generally relating to self-administered sexual assault evidence
14 collection kits.

15 BY repealing and reenacting, with amendments,
16 Article – Commercial Law
17 Section 13–301(14)(xl)
18 Annotated Code of Maryland
19 (2013 Replacement Volume and 2023 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Commercial Law
22 Section 13–301(14)(xli)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Annotated Code of Maryland
(2013 Replacement Volume and 2023 Supplement)

BY adding to

Article – Commercial Law
Section 13–301(14)(xlii); and 14–4601 through 14–4604 to be under the new subtitle
“Subtitle 46. Self-Administered Sexual Assault Evidence Collection Kits”
Annotated Code of Maryland
(2013 Replacement Volume and 2023 Supplement)

BY adding to

Article – Courts and Judicial Proceedings
Section 10–925
Annotated Code of Maryland
(2020 Replacement Volume and 2023 Supplement)

BY adding to

Article – Criminal Procedure
Section 11–926(j)
Annotated Code of Maryland
(2018 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure
Section 11–926(j)
Annotated Code of Maryland
(2018 Replacement Volume and 2023 Supplement)

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

Article – Commercial Law

13–301.

Unfair, abusive, or deceptive trade practices include any:

(14) Violation of a provision of:

(xl) Title 14, Subtitle 13 of the Public Safety Article; [or]

(xli) Title 14, Subtitle 45 of this article; or

(XLII) TITLE 14, SUBTITLE 46 OF THIS ARTICLE; OR

**SUBTITLE 46. SELF-ADMINISTERED SEXUAL ASSAULT EVIDENCE COLLECTION
KITS.**

1 14-4601.

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "PROGRAM" MEANS THE FORENSIC NURSE EXAMINER TRAINING
5 GRANT PROGRAM.

6 (C) "QUALIFIED HEALTH CARE PROVIDER" HAS THE MEANING STATED IN §
7 11-926 OF THE CRIMINAL PROCEDURE ARTICLE.

8 (D) "SELF-ADMINISTERED SEXUAL ASSAULT EVIDENCE COLLECTION KIT"
9 MEANS MATERIALS ADVERTISED OR MARKETING AS A MEANS FOR A PERSON OTHER
10 THAN A QUALIFIED HEALTH CARE PROVIDER TO COLLECT PHYSICAL EVIDENCE OF
11 A SEXUAL CRIME.

12 (E) "SEXUAL CRIME" HAS THE MEANING STATED IN § 10-925 OF THE
13 COURTS ARTICLE.

14 14-4602.

15 (A) THIS SECTION DOES NOT APPLY TO A SELF-ADMINISTERED SEXUAL
16 ASSAULT EVIDENCE COLLECTION KIT THAT IS ISSUED BY THE MARYLAND
17 DEPARTMENT OF HEALTH.

18 (B) A PERSON MAY NOT SELL, OFFER FOR SALE, OR DISTRIBUTE A
19 SELF-ADMINISTERED SEXUAL ASSAULT EVIDENCE COLLECTION KIT.

20 (C) (1) A VIOLATION OF THIS SECTION IS:

21 (I) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE
22 WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

23 (II) SUBJECT TO THE ENFORCEMENT AND PENALTY
24 PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

25 (2) (I) IN ADDITION TO ANY PENALTY IMPOSED UNDER TITLE 13
26 OF THIS ARTICLE, A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL
27 PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION.

28 (II) THE CIVIL PENALTY UNDER SUBPARAGRAPH (I) OF THIS
29 PARAGRAPH IS RECOVERABLE BY THE STATE IN A CIVIL ACTION OR AN
30 ADMINISTRATIVE CEASE AND DESIST ACTION UNDER § 13-403(A) AND (B) OF THIS

ARTICLE OR AFTER AN ADMINISTRATIVE HEARING HAS BEEN HELD UNDER § 13-403(D)(3) AND (4) OF THIS ARTICLE.

(D) ONLY THE ATTORNEY GENERAL MAY ENFORCE THIS SECTION.

(E) ALL FINES, PENALTIES, AND DAMAGES COLLECTED FOR VIOLATIONS OF THIS SECTION SHALL BE DEPOSITED INTO THE FORENSIC NURSE EXAMINER TRAINING GRANT PROGRAM FUND ESTABLISHED UNDER § 14-4604 OF THIS SUBTITLE.

14-4603.

(A) THERE IS A FORENSIC NURSE EXAMINER TRAINING GRANT PROGRAM.

(B) THE PURPOSE OF THE PROGRAM IS TO ASSIST NONPROFIT ENTITIES THAT PROVIDE RESOURCES FOR VICTIMS OF SEXUAL ASSAULT IN THE STATE TO FUND TRAINING FOR NURSES IN THE STATE TO DEVELOP SKILLS IN CONDUCTING FORENSIC EXAMINATIONS OF VICTIMS OF SEXUAL ASSAULT.

(C) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL ESTABLISH:

(1) AN APPLICATION PROCESS FOR NONPROFIT ENTITIES AND HIGHER EDUCATION INSTITUTIONS AND COLLEGES IN THE STATE TO APPLY FOR GRANT FUNDING FROM THE PROGRAM; AND

(2) ELIGIBILITY CRITERIA FOR SELECTING RECIPIENTS FOR GRANT FUNDING FROM THE PROGRAM.

14-4604.

(A) IN THIS SECTION, "FUND" MEANS THE FORENSIC NURSE EXAMINER TRAINING GRANT PROGRAM FUND.

(B) THERE IS A FORENSIC NURSE EXAMINER TRAINING GRANT PROGRAM FUND.

(C) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING FOR GRANTS AWARDED UNDER THE PROGRAM.

(D) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL ADMINISTER THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 14-4602 OF THIS SUBTITLE; AND

(2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) THE FUND MAY BE USED ONLY TO FUND GRANTS TO NONPROFIT ENTITIES THROUGH THE PROGRAM.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

Article – Courts and Judicial Proceedings

10-925.

~~(A) IN THIS SECTION, "SEXUAL CRIME" MEANS:~~

~~(1) AN OFFENSE UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;~~

~~(2) THE SEXUAL ABUSE OF A MINOR UNDER § 3-604 OF THE CRIMINAL LAW ARTICLE; OR~~

~~(3) THE SEXUAL ABUSE OF A VULNERABLE ADULT UNDER § 3-802 OF THE CRIMINAL LAW ARTICLE.~~

(A) IN THIS SECTION, "SEXUALLY ASSAULTIVE BEHAVIOR" HAS THE MEANING STATED IN § 10-923 OF THIS SUBTITLE.

(B) ~~EVIDENCE~~ INFORMATION THAT PHYSICAL EVIDENCE OF ~~A SEXUAL CRIME~~ SEXUALLY ASSAULTIVE BEHAVIOR WAS OBTAINED USING MATERIALS THAT WERE SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN A MANNER THAT WOULD CONSTITUTE A VIOLATION OF § 14-4602 OF THE COMMERCIAL LAW ARTICLE IS NOT ADMISSIBLE IN A CRIMINAL OR CIVIL PROCEEDING INVOLVING AN ALLEGATION OF ~~A SEXUAL CRIME~~ SEXUALLY ASSAULTIVE BEHAVIOR.

(C) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE A COURT TO ADMIT PHYSICAL EVIDENCE.

Article – Criminal Procedure

11-926.

(J) (1) ANY AGREEMENT, CONDITION OF ACCESS OR USE, OR POLICY THAT LIMITS OR WAIVES ANY SUBSTANTIVE OR PROCEDURAL RIGHT OR REMEDY TO A CLAIM AGAINST ANY PERSON WHO PROVIDES A VICTIM OR ANOTHER PERSON WITH ANY SERVICE, PRODUCT, INFORMATION, OR OTHER MEANS TO COLLECT EVIDENCE OF A SEXUAL ASSAULT IS NULL AND VOID AS BEING AGAINST THE PUBLIC POLICY OF THE STATE.

(2) ANY DISCLAIMER OF ANY WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT REGARDING ANY SERVICE, PRODUCT, INFORMATION, OR OTHER MEANS TO COLLECT EVIDENCE OF A SEXUAL ASSAULT IS NULL AND VOID AS BEING AGAINST THE PUBLIC POLICY OF THE STATE.

~~[(j)]~~ (K) The Attorney General shall adopt regulations for uniform statewide implementation of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.