



**Maryland Sexual Assault Evidence Kit
Policy and Funding Committee
Breakfast Reception & Meeting
Thursday, May 30, 2019
9:30 am – 12:00 pm
Office of the Attorney General
200 St. Paul Place
22nd Floor, Kornbaltt Conference Room
Baltimore, MD 21202**

MEETING MINUTES

In attendance: Argi Magers, Barbara Darly, Carrie Williams, Claire Kelleher-Smith, Daniel Katz, Delegate J. Sandy Bartlett, Delegate Wanika Fisher, Donald Hogan, Donna “Melynda” Clarke, Duwane Rager representing Senator Jeff Waldstreicher, Heather Amador, Jane Krienke, Jennifer Witten, Jessica Williams, Johntel Greene representing Senator Sarah Elfreth, Lieutenant Russell Trow, Linda Forsyth representing Senator Delores G. Kelley, Lisae Jordan, Melissa Einhorn representing Senator Adelaide C. Eckardt, Maura Dunnigan representing Delegate Shelly L. Hettleman, Samantha Blizzard, Teresa Long, Zenita Wickham Hurley

Committee Meeting

Opening Remarks & Presentation of Certificates

After a brief coffee reception, Attorney General Brian E. Frosh welcomed everyone and recognized members of the community who contributed to the work of the SAEK Committee during the 2019 Legislative Session. The Chair, Carrie Williams, also brought remarks and acknowledged Sexual Assault Awareness Month which was in April.

2019 Legislative Session Updates

- **SB767 & HB1096—SAEK Testing Criteria**
Assistant Attorney General and Chief Counsel for Civil Rights, Zenita Wickham Hurley, led the discussion of SB767 and HB1096, which were sponsored by Senator Will Smith and Delegate Shelly Hettleman respectively, and passed by the General Assembly. This legislation establishes a uniform statewide testing criteria and will help to eliminate testing policy inconsistencies among jurisdictions. Pursuant to the bills, the SAEK Committee is required to establish an independent process to review and make recommendations regarding a decision of a law enforcement agency (LEA) not to test a kit. The Office of the Attorney General must adopt regulations to ensure the uniform statewide implementation of the new testing criteria. The legislation goes into effect on January 1, 2020.

- SB569 & HB1268—Establishing Rape Kit Testing Grant Fund
Ms. Hurley led the discussion of the bills that established the Rape Kit Testing Grant Fund. SB569 and HB1268 creates a nonlapsing grant fund to provide law enforcement agencies with the necessary funding to accommodate the new testing criteria. The legislation also allows law enforcement agencies to obtain the equipment and personnel necessary to test additional kits.
- SB933 & HB1248—Protecting Survivors’ Privacy & Expanding Reimbursement
Delegate J. Sandy Bartlett led the discussion of SB933 and HB1248, which sought to protect the privacy of survivors and increase access to sexual assault forensic exams (SAFEs). HB1248 passed on the House floor, but unfortunately failed in the Judicial Proceedings Committee (JPR). SB933 also did not make it out of JPR. During the 2020 Legislative Session, the SAEK Committee is committed to supporting similar legislation which will likely be reintroduced.
- SB369 & HB372—DNA Chain of Custody “Notice & Demand”
The Committee Chair began the discussion of the DNA Chain of Custody bills by providing an overview of the legislation which would have added a standard “Notice and Demand” provision for offering DNA evidence in court, similar to the one already in place for Controlled Dangerous Substances. The bills did not pass during this session. Del Wanika Fisher, one of the bill sponsors, was present and provided additional insight regarding the legislative progression of the bills. The legislation will likely be reintroduced during the next legislative session. The SAEK Committee is dedicated to continuing to support the implementation of a “Notice & Demand” statute for DNA evidence.
- SB657 & HB1249—HIV nPEP Pilot Program
Lisae Jordan, Executive Director and Counsel for the Maryland Coalition Against Sexual Assault (MCASA), began the discussion of the legislation which established the HIV nPEP Pilot Program. The Program will last for three years and ensure that qualifying sexual assault survivors receive the full 28-day HIV nPEP¹ medication free of charge. The Program will also allow the state to obtain an accurate estimate of the cost to implement a permanent HIV nPEP reimbursement program. Funding for the Pilot Program is currently capped at \$750,000. Jennifer Witten, Vice President of Government Affairs for the Maryland Hospital Association (MHA), advised that MHA is working with the Governor’s Office of Crime Control & Prevention to implement the Pilot Program throughout the state.

Federal SAKI Grant Updates

Assistant Attorney General Jessica Williams provided updates regarding the SAKI Grant Inventory. The Office of the Attorney General (OAG) is responsible for conducting the statewide inventory. In March, OAG hired SAEK investigators to conduct the inventory and subsequently, began inventorying untested kits. The inventory is steadily progressing.

The Testing, Retention, Tracking, and Victim Notification Subcommittee will meet over the next two months to select the order in which kits will be tested under the SAKI Grant and review different tracking systems. MCASA advised that they are in the process of developing policies and procedures for notifying victims. Additionally, the Maryland State Police indicated that they are

¹ HIV nPEP is a form of medical intervention designed to prevent HIV infection after exposure to the virus

in negotiations with Bode Technology Group Inc. to finalize a contract governing kits tested under the SAKI Grant.

Drug-Facilitated Sexual Assault

Claire Kelleher-Smith, Esq., Senior Staff Attorney for MCASA, discussed the topics related to drug-facilitated sexual assault (DFSA). In December 2018, several members of the Committee attended a training on DFSA, sponsored by MCASA and taught by Marc LeBeau, chief of the Chemistry Unit at the FBI's Laboratory. The FNE Subcommittee will use the information taught at the training to develop recommendations on DFSA. The Subcommittee will also explore other states' policies to determine the best practices for handling evidence in DFSA cases.

After the floor was opened for additional comments, the meeting was adjourned at approximately 12:00 PM.