



2017 MAR 31 AM 9:28

OFFICE OF THE  
SECRETARY

MURIEL BOWSER  
MAYOR

APR - 3 2017

The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW, Suite 504  
Washington, D.C. 20004

2017 APR - 3 AM 9:30  
OFFICE OF THE  
SECRETARY

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council of the District of Columbia is the "Sexual Assault Victims' Rights Amendment Act of 2017."

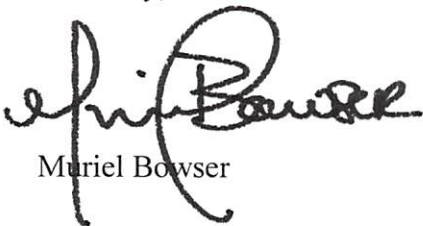
The legislation amends the Sexual Assault Victims' Rights Act of 2014 to better respond to the complex needs of victims of sexual violence. This bill expands the right of sexual assault victims to a sexual assault victim advocate; establishes the types of communications between a victim and a sexual assault victim advocate that are confidential; clarifies the duties of the Sexual Assault Response Team; clarifies the rights of victims when being provided emergency care; requires prosecutors to provide a reason to a victim on their decision not to prosecute; creates a new prohibition on the removal of a person's clothing without consent; and clarifies the right of a victim to compensation under existing insurance policies.

The bill also expands the definition of a sexual assault victim to include any person victim who is at least 12 years old. This clarification will ensure that adolescent victims of sexual assault are provided the same rights as adult victims of sexual assault.


With the passage of this bill, the District of Columbia will increase and enhance services for victims of sexual violence. Through this legislation, we reaffirm our commitment to improving outcomes for sexual assault survivors and building a safer, stronger DC.

I urge the Council to take prompt and favorable consideration of this legislation.

Sincerely,



Muriel Bowser

  
Chairman Phil Mendelson  
at the request of the Mayor

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Mayor, introduced the following bill which was referred to the Committee on \_\_\_\_\_.

To amend the Sexual Assault Victims' Rights Act of 2014 to expand the right to a sexual assault victim advocate to persons aged 12 years and older; to allow the Office of Victim Services and Justice Grants to certify sexual assault victim advocates; to expand the right of a victim to have a sexual assault victim advocate present during interviews with prosecutors; to clarify the right of a victim to have a sexual assault victim advocate present during interactions with law enforcement and prosecutors; to provide a victim with the right to receive information about their case from prosecutors; to clarify the process for handling and disposing of sexual assault forensic examination kits and physical evidence recovery kits; to clarify the information victims have the right to receive from the Metropolitan Police Department; to provide a right to confidentiality for communications between a victim and asexual assault victim advocate; to clarify the mandatory reporting requirements for sexual assault victim advocates; to clarify the timelines for processing of sexual assault forensic examination kits by the Department of Forensic Sciences; to establish a review committee to receive and investigate complaints from sexual assault victims; to create an annual report by the Sexual Assault Response Team; to improve data sharing among Sexual Assault Response Team members; to clarify the rights of victims when being provided emergency care; to expand the definition of sexual contact to include the removal of a person's clothing without their consent; and to clarify the right of a victim to compensation under existing insurance policies.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Sexual Assault Victims' Rights Amendment Act of 2017".

Sec. 2. The Sexual Assault Victims' Rights Act of 2014, effective November 20, 2014 (D.C. Law 20-139; D.C. Official Code § 23-1901 *et seq.*), is amended as follows:

1 (a) Section 101(c) (D.C. Official Code § 23-1907(a)) is amended as follows:

2 (1) Paragraph (2) is amended to read as follows:

3 “(2) “DC Sexual Assault Nurse Examiner Program” or “DC SANE Program”

4 means a program that provides comprehensive care to victims of rape, sexual assault, and other  
5 sex crimes who are 12 years of age or older, operated by the Office of Victim Services and  
6 Justice Grants, in collaboration with the Network for Victim Recovery of DC, or its successor  
7 entity, the Medstar Washington Hospital Center, or its successor entity, where medical forensic  
8 exams are conducted, and the DC Forensic Nurse Examiners, or its successor entity.”.

9 (2) Paragraph (5) is amended to read as follows:

10 “(5) “Interview” means any interview by the Metropolitan Police Department, or

11 other law enforcement agency with a sexual assault victim that occurs in conjunction with a  
12 sexual assault victim receiving any medical treatment or forensic evidence collection related to  
13 sexual assault at the hospital and any subsequent in-person interview with law enforcement  
14 related to the sexual assault.”.

15 (3) Paragraph (8) is amended to read as follows:

16 “(8) “Sexual assault victim” means an individual 12 years of age or older against

17 whom sexual assault has been committed or is alleged to have been committed. The term also  
18 includes a deceased victim of sexual assault”.

19 (4) Paragraph (9) is amended to read as follows:

20 “(9) “Sexual assault victim advocate” means:

21 “(A) A trained advocate employed by a community-based advocacy organization  
22 that is a member of the DC SANE program, or its successor; or

1           “(B) A trained advocate who has received Basic Certification as certified by the  
2 Office of Victim Services and Justice Grants.”.

3           (b) Section 101 (D.C. Official Code § 23-1908) is amended to read as follows:

4           “In addition to the rights set forth in subchapter I of this chapter, a sexual assault victim:

5           “(1) Shall have the right to have a sexual assault victim advocate present at any:

6                   “(A) Forensic medical, evidentiary, or physical examination;

7                   “(B) Interview at the hospital;

8                   “(C) Subsequent in-person interview with law enforcement related to the sexual  
9 assault; provided, that it meets the requirement of subparagraph (3) of this section;

10                   “(D) Point during the hospital visit;

11                   “(E) Initial interview with a prosecutor, or agent thereof, related to the sexual  
12 assault; provided, that it meets the requirement of subparagraph (3) of this section; and

13                   “(F) Subsequent in-person interview with a prosecutor, or agent thereof, related to  
14 the sexual assault; provided, that it meets the requirement of subparagraph (3) of this section; and

15           “(2) Has the right to have an advocate present during instances listed in paragraph (1) of  
16 this section even if the sexual assault victim previously declined the presence of an advocate.

17           “(3) The provisions of subparagraphs (C), (E), and (F) of this section shall become  
18 effective at the latter of:

19                   “(A) No later than 90 days after OVSJG has issued a Basic Certification to 10  
20 sexual assault victim advocates; or

21                   “(B) No later than July 1, 2018.”.

22           (c) Section 101(c) (D.C. Official Code § 23-1909) is amended as follows:

23           (1) Subsection (b) is amended to read as follows:

1           “(b) Law enforcement shall ensure that a sexual assault victim advocate is offered  
2 to the sexual assault victim before the commencement of any in-person interview with the sexual  
3 assault victim; provided, that:

4                       “(1) If a sexual assault victim chooses to assert her or his right to a sexual  
5 assault victim advocate, the law enforcement officer may only conduct a minimal facts interview  
6 with the sexual assault victim before the sexual assault victim consults with a sexual assault  
7 victim advocate; and

8                       “(2) If a sexual assault victim declines her or his right to a sexual assault  
9 advocate, the law enforcement officer shall notify the sexual assault victim of her or his right to  
10 request a sexual assault advocate at any point during the law enforcement process.

11                      “(3) Within 120 days after the effective date of this Act, the Office of  
12 Victim Services and Justice grants shall submit a report to the Mayor with the following  
13 information:

14                               “(A) An assessment of the possible needs of survivors;

15                               “(B) Recommends a process and identifies adequate resources for  
16 providing credentialed victim advocates outside of a hospital setting; and

17                               “(C) Recommends changes to agencies’ operating procedures or  
18 training.”.

19                      (2) A new subsection (c) is added to read as follows:

20                               “(c) A prosecutor shall ensure that a sexual assault victim advocate is offered to  
21 the sexual assault victim prior to the commencement of any in-person interview with the sexual  
22 assault victim; provided, that:

1                   “(1) If a sexual assault victim chooses to assert her or his right to a sexual  
2 assault victim advocate, the prosecutor or agent thereof may not conduct any subsequent  
3 interview until the sexual assault victim advocate is present; and

4                   “(2) If a sexual assault victim declines her or his right to a sexual assault  
5 advocate, the prosecutor or agent thereof shall notify the sexual assault victim of her or his right  
6 to request a community-based advocate at any point during the prosecutorial process.”.

7                   (3) A new subsection (d) is added to read as follows:

8                   “(d) In a case where the prosecutor declines the request of a warrant for an arrest  
9 or a pre-petition custody order, or declines to prosecute a case presented to them by a law  
10 enforcement authority, the prosecutor shall, within the boundaries of the law and the policy  
11 requirements of the prosecutor’s office:

12                   “(1) Notify the sexual assault victim, via an in-person meeting, by  
13 telephone, or in writing, of the reason that the warrant for arrest or pre-petition custody order or  
14 the prosecution was declined; and

15                   “(2) At the request of the sexual assault victim or the sexual assault  
16 victim’s representative, participate in an in-person meeting or telephone call with the sexual  
17 assault victim to explain the reasons for declining the warrant or pre-petition custody order or  
18 declining to prosecute a known offender.”.

19                   (5) A new subsection (f) is added to read as follows:

20                   “(f)(1) A sexual assault victim who requests access to the results of her or his  
21 medical forensic exam, Physical Evidence Recovery Kit (PERK), or toxicology test shall be  
22 provided those results by the Metropolitan Police Department, a sexual assault forensic nurse, or  
23 a sexual assault victim advocate:

1                                   “(A) Within 15 business days of their request, if the results are  
2 available; or

3                                   “(B) Within 15 business days from the date that the results become  
4 available.

5                                   “(2) (A) At least once per year, the Office of Victim Services and Justice  
6 Grants shall conduct training, in collaboration with the Department of Forensic Sciences and the  
7 Office of the Chief Medical Examiner, for members of the Sexual Assault Response Team.

8                                   “(B) The training shall educate the relevant SART agency staff on  
9 comprehension of the results of PERK and toxicology tests related to a medical forensic exam  
10 and how to explain the results, in a victim-centered approach, to a sexual assault victim.

11                                   “(C) Each SART agency shall have at least 2 individuals on staff  
12 who have completed the training.”.

13                                   (6) A new subsection (g) is added to read as follows:

14                                   “(g) In a sexual assault case where a an authorized law enforcement official  
15 intends to destroy or dispose of the PERK or its probative contents before the expiration of the  
16 maximum applicable statute of limitations, the sexual assault victim shall have the right to:

17                                   “(1) Upon written request, receive written notification from the authorized  
18 law enforcement official not later than 60 days before the date of the intended destruction or  
19 disposal; and

20                                   “(2) Upon written request, be granted an extended preservation of the  
21 PERK or its probative contents.

22                                   “(3) Be informed, in writing, of the rights established under this  
23 subsection.”.

1 (d) Section 101(c) (D.C. Official Code § 23-1910) is amended to read as follows:

2 "In addition to the notice requirements set forth in subchapter I of this chapter, MPD  
3 shall:

4 "(1) Inform the sexual assault victim of the toxicology results and findings of her  
5 or his sexual assault forensic kit examination; provided, that the MPD is not required to disclose  
6 to the sexual assault victim the identity of any suspect implicated by DNA or similar testing for  
7 cases with an open investigation or active prosecution;

8 "(2) Make reasonable attempts to notify a sexual assault victim of the MPD's  
9 intent to communicate with the suspect before communicating with the suspect and alerting the  
10 suspect of the sexual assault allegation made against the suspect; provided, that if prior  
11 notification is not possible, notification shall be made as soon as is reasonably possible after the  
12 communication with the suspect has occurred; and

13 "(3) Inform the sexual assault victim that she or he has the following rights:

14 "(A) They have the right to know the status of their Physical Evidence  
15 Recovery Kit (PERK) testing process; provided, that, at a minimum, the victim shall be informed  
16 of the reasons for any delay in processing and the eventual completion of the testing and analysis  
17 of the kit and/or the toxicology specimens related to her or his case;

18 "(B) They have a right to know the results of the PERK regardless of  
19 whether the DFS or another accredited laboratory performed the testing, or the existence of an  
20 open investigation or prosecution, without request for permission from the prosecutor to inform  
21 the victim;



1                   “(C) They have the right to have their PERK and any additional probative  
2 or evidentiary contents preserved, without charge, for the duration of the maximum applicable  
3 statute of limitations;

4                   “(D) They have the right to be informed of any PERK test results,  
5 including a DNA profile match, toxicology report, or other information collected as part of a  
6 medical forensic examination, if such disclosure does not impede or compromise an ongoing  
7 investigation; and

8                   “(E) They have the right to be provided a written copy of all policies  
9 governing the collection and preservation of a sexual assault evidence collection kit; and

10                   “(4) Provide the victim with the “Your Rights and Options as a Victim of Sexual  
11 Assault” brochure, as approved by the Sexual Assault Response Team (SART) which shall  
12 include, but not be limited to, the information listed in subparagraph (3) of this subsection.”.

13                   (e) Section 101(c) (D.C. Official Code § 23-1911) is amended to read as follows:

14                   “This subchapter does not create a cause of action or defense in favor of any person  
15 arising out of the failure to accord to a sexual assault victim the rights enumerated in D.C.  
16 Official Code § 23-1908 or the violation of any other provisions”.

17                   (f) Section 102(c) (D.C. Official Code § 14-312) is amended as follows:

18                   (1) Subsection (a)(6) is amended to read as follows:

19                   “(6) “Sexual assault victim” means an individual 12 years of age or older against  
20 whom sexual assault has been committed or is alleged to have been committed. The term also  
21 includes a deceased victim of sexual assault.”.

22                   (2) Subsection (a)(7) is amended to read as follows:

23                   “(7) “Sexual assault victim advocate” means:

1                   “(A) A trained advocate employed by a community-based advocacy  
2 organization that is a member of the DC SANE program, or its successor program; or

3                   “(B) A trained advocate who has received a Basic Certification as certified  
4 by the Office of Victim Services and Justice Grants.”.

5                   (3) Subsection (b) is amended to read as follows:

6                   “(b)(1) A sexual assault victim advocate shall not disclose a confidential  
7 communication except:

8   “(A) As required by statute or by a court of law;

9   “(B) As voluntarily authorized in writing by the sexual  
10 assault victim;

11   “(C) To other individuals employed by the DC SANE  
12 program and third party providers when and to the extent necessary to facilitate the delivery of  
13 services to the sexual assault victim;

14   “(D) To the MPD or other law enforcement agency to the  
15 extent necessary to protect the sexual assault victim or another individual from a substantial risk  
16 of imminent and serious physical injury;

17   “(E) To compile statistical or anecdotal information,  
18 without personal identifying information, for research or public information purposes; or

19   “(F) For any confidential communications relevant to a  
20 claim or defense if the sexual assault victim files a lawsuit against a sexual assault victim  
21 advocate or the DC SANE program.

1                   “(2) Unless the disclosure is public, confidential communications  
2 disclosed pursuant to paragraph (1) of this subsection shall not be further disclosed by the  
3 recipient except as authorized in paragraph (1) of this subsection.

4                   “(3) Confidential communications are not waived by the presence  
5 of a sign language or foreign language interpreter. An interpreter is subject to the same  
6 disclosure limitations set forth in paragraph (1) of this subsection and the same privilege set forth  
7 in subsection (c) of this section.

8                   “(4) The confidential nature of the communication is not waived  
9 by:

10                                   “(A) The presence of a third person who is required for the  
11 response at the time of the communication;

12                                   “(B) Group counseling; or

13                                   “(C) Disclosure to a third person with the consent of the  
14 victim where reasonably necessary to accomplish the purpose for which the advocate is  
15 consulted.

16                   “(5) Except as provided for in this Act, no sexual assault victim  
17 advocate shall be examined as a witness in any civil or criminal proceeding as to any confidential  
18 communication without the written consent of the victim or the representative of the victim as  
19 provided in subparagraph (B).

20                   “(6) The presence of a sexual assault victim’s advocate or sexual  
21 assault counselor does not operate to defeat any privilege otherwise guaranteed by law.

22                   “(7) The sexual assault victim advocate shall be exempt from  
23 mandatory reporting of any crime disclosed in a confidential communication unless:



1                   “(B) Victims who decline to be informed of the results of the sexual assault  
2 forensic examination kit.”.

3           (j) Section 210 (D.C. Official Code § 4-561.10) is amended to read as follows:

4           “In the annual report filed pursuant to D.C. Official Code § 5-1501.04(a)(5), the Director  
5 of the DFS shall include the number of sexual assault forensic examination kits:

6           “(a) Received from the MPD;

7           “(b) Processed by the DFS, including the time it took for each kit to be processed; and

8           “(c) Where permission to consume was requested, including the number of times  
9 permission was granted and the number of times permission was refused.”.

10          (k) Subparagraph (2) of subsection (c) of Section 212 (D.C. Official Code § 4-  
11 561.12(c)(2) is amended to read as follows:

12                   “The SART coordinator, who shall be appointed by the Director of the OVSJG;”.

13          (l) Section 213 (D.C. Official Code § 4-561.13) is amended to read as follows:

14          “4-561.13. Duties and responsibilities of the SART and SART members.

15          “(a) The SART shall:

16                   “(1) Improve the coordination and functioning of victim services, medical  
17 forensic care, investigations, and prosecutions available to victims of sexual assault;

18                   “(2) Conduct regular case reviews, through the Case Review Subcommittee  
19 established by Section 214 (D.C. Official Code § 4-561.14), of all parties involved in sexual  
20 assault responses, including a review of sexual assault reports and investigations by the MPD  
21 and cases reported to any member of the SART; and

22                   “(3) Develop a protocol to ensure that feedback and recommendations from the  
23 Case Review Subcommittee, established by Section 214 (D.C. Official Code § 4-561.14), are

1 incorporated into SART member agencies' policies, procedures, practices, training, and  
2 decisions to re-examine investigations, when applicable.

3           “(4) Establish a Feedback Review Committee for the purpose of receiving and  
4 investigating all complaints and comments from victims of sexual assault.

5           “(5) Issue an annual report to the Council and the Mayor which includes:

6                   “(A) A summary of the case review activities conducted pursuant to  
7 paragraph (2) of this section;

8                   “(B) A summary of all feedback received and the outcomes of all  
9 investigations pursuant to this feedback in paragraph (5) of this section;

10                   “(C) The number of victims that were informed by MPD of the results of  
11 their Physical Evidence Recovery Kit analysis pursuant to Section 215 (D.C. Official Code §4-  
12 561.15);

13                   “(D) Trends in victimization and reporting identified during the course of  
14 the year;

15                   “(E) Key activities conducted during the preceding year; and

16                   “(F) Key activities planned for the upcoming year.”.

17           “(b) The SART members shall:

18                   “(1) Provide aggregate data to other members of the SART which includes, but is  
19 not limited to:

20                           “(A) The numbers of cases involving sexual assault that came to the  
21 attention of the SART member;

22                           “(B) Demographics of sexual assault victims and offenders, if known, that  
23 came to the attention of the SART member;

1                   “(C) Type and extent of service provided to the sexual assault victim by  
2 each SART member agency;

3                   “(D) Disposition of each case closed by the SART member agency; and

4                   “(E) Any other information requested by the Director of the Office of  
5 Victim Services and Justice Grants or the chairperson of the SART that is directly related to  
6 sexual assault cases.”.

7           (m) Subsection 214(b) (D.C. Official Code § 4-561.14(b)) is amended as follows:

8                   (1) Subparagraph (1) (D.C. Official Code § 4-561.14(b)(1) is repealed; and

9                   (2) Subparagraph (4) (D.C. Official Code § 4-561.14(b)(4) is amended to read as  
10 follows:

11                   “(4) A representative, selected by the OVSJG, from a community-based  
12 organization that is providing post-assault mental health services;”.

13           Sec. 3. Section 4 of the Emergency Care for Sexual Assault Victims Act of 2008,  
14 effective March 25, 2009 (D.C. Law 17-346; D.C. Official Code § 7-2123), is amended to read  
15 as follows:

16                   “All hospitals that provide emergency care to victims of sexual assault shall:

17                   “(1) Provide each victim of sexual assault written information developed pursuant  
18 to D.C. Official Code § 7-2122;

19                   “(2) Provide each victim of sexual assault written information developed pursuant  
20 to D.C. Official Code § 23-1908;

21                   “(3) Orally inform each victim of sexual assault in a language he or she  
22 understands of their right to obtain a medical forensic exam, their right to consult with a sexual

1 assault victim advocate, their options regarding prophylactic antibiotics for the treatment of  
2 sexually transmitted diseases and emergency contraception for the prevention of pregnancy;

3 “(4) Immediately notify the DC SANE program, as established by D.C. Official  
4 Code § 23-1907(a)(2); and

5 “(5) Consistent with accepted medical practice and protocols, immediately  
6 provide prophylactic antibiotics for the treatment of sexually transmitted diseases and emergency  
7 contraception for the prevention of pregnancy to each victim of sexual assault, if the victim  
8 requests it and if the requested treatment is not medically contraindicated.”.

9 Sec. 4. Section 252(c) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995  
10 (D.C. Law 10-257; D.C. Official Code § 22-3020.52(c)), is amended by adding a new  
11 subparagraph (3) to read as follows:

12 “(3) The notification requirements of subsection (a) of this section shall not apply  
13 to the confidential communications between a sexual assault victim advocate, as defined in D.C.  
14 Official Code § 23-1907(8) and under D.C. Official Code § 14-312(6), and a sexual assault  
15 victim who is 12 years old or older related to a sexual assault or alleged sexual assault committed  
16 by someone with no significant relationship to the sexual assault victim.”.

17 Sec. 5. Subchapter II of Chapter 30 of Title 22 of the D.C. Official Code is amended by  
18 adding a new Section 3006a to read as follows:

19 “22-3006a. Unlawful removal of another person’s clothing.

20 “(a) It shall be unlawful for a person to remove another person’s clothing covering the  
21 immediate area of their body parts, as described in D.C. Official Code § 22-3001(9), without the  
22 person’s consent; provided, that this prohibition shall not include the removal of clothing that is  
23 intended:



1           “(1) To provide medical or lifesaving care to the person; or

2           “(2) By a parent, guardian, or caretaker as part of the normal course of  
3 responsibility of the parent, guardian, or caretaker to a person who is unable to understand the  
4 nature of the act or give knowing consent due to age, diminished capacity, or medical condition.

5           “(b) A violation of this section shall be subject to the penalties in D.C. Official Code §  
6 22-3006.”.

7           Sec. 6. Section 7 of the Victims of Violent Crime Compensation Act of 1996, effective  
8 April 9, 1997 (D.C. Law 11-243; D.C. Official Code § 4-506), is amended by adding a new  
9 subsection (e) to read as follows:

10           “(e) For victims or secondary victims who are dependents on a primary insurance  
11 holder’s insurance policy, the victim or secondary victim may be eligible for compensation under  
12 this chapter without first using the primary insurance holder’s insurance policy.”.

13           Sec. 7. Fiscal impact statement.

14           The Council adopts the fiscal impact statement provided in the committee report as the  
15 fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
16 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

17           Sec. 8. Effective date.

18           This act shall take effect following approval by the Mayor (or in the event of veto by the  
19 Mayor, action by the Council to override the veto), a 60-day period of congressional review as  
20 provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December  
21 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of  
22 Columbia Register.


Government of the District of Columbia  
Office of the Chief Financial Officer



Jeffrey S. DeWitt  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jeffrey S. DeWitt  
Chief Financial Officer 

**DATE:** March 17, 2017

**SUBJECT:** Fiscal Impact Statement – Sexual Assault Victims’ Rights Amendment Act of 2017

**REFERENCE:** Draft Bill as shared with the Office of Revenue Analysis on March 17, 2017

---

**Conclusion**

Funds are sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill.

**Background**

The bill makes a number of changes to the District’s sexual assault victims’ rights laws through the expansion of protections, increased government reporting and disclosure requirements, and greater transparency in the assault kit processing system.

One of the bill’s expansions is a reduction in the age of a sexual assault victim who can access the advocacy services of the DC SANE Program<sup>1</sup> from 18 years of age and older to 12 years of age and older.<sup>2</sup> This change allows victims aged 12-17 the right to have a victim advocate present during all hospital and law enforcement interactions. A second service expansion allows a victim to have a victim advocate present during initial and subsequent interviews with a prosecutor. The victim may decline to have an advocate present, but the prosecutor must inform the victim that she or he can still request the advocate’s presence at any point in the future. The bill also requires a prosecutor to notify a victim when declining to issue an arrest warrant or pre-petition custody order or prosecute

---

<sup>1</sup> The DC SANE program provides an examination from a trained forensic nurse through the District of Columbia Forensic Nurse Examiners (<http://dcforensicnurses.org/>) at MedStar Washington Hospital Center’s Department of Emergency Medicine and an advocate through the Network for Victim Recovery of DC, a DC non-profit that provides advocacy, legal, and therapeutic services (<https://www.nvrdc.org/>).

<sup>2</sup> The bill also expands the definition to include the deceased victim of sexual assault.

The Honorable Phil Mendelson

FIS: "Sexual Assault Victims' Rights Amendment Act of 2017," Draft Bill as shared with the Office of Revenue Analysis on March 17, 2017

a case. The bill requires the Office of Victims Services and Justice Grants (OVSJG) to develop an advocate training and certification program to facilitate the increase in trained advocates required.<sup>3</sup>

The bill ensures that sexual assault victim advocates are exempt from any mandatory reporting requirements unless the victim is under 12 years of age, the perpetrator or alleged perpetrator has a significant relationship to the victim, or the perpetrator or alleged perpetrator is more than four years older than the victim. The bill protects communications with a victim advocate as confidential unless authorized by the victim.

The bill also establishes more comprehensive rights for victims of sexual assault to access and store information related to their cases' Physical Evidence Recovery Kit (PERK). The Metropolitan Police Department (MPD) must inform a victim that she or he has the right to request the status of a PERK; the results of the PERK, any forensic exams, or toxicology reports;<sup>4</sup> free storage of a PERK for the duration of the statute of limitations; and information on DNA profile matches or toxicology reports. Sexual assault victims can request that MPD notify them before destroying any PERKs prior to the expiration of the statute of limitations on the incident. MPD must also provide a victim with a brochure outlining all rights of victims of sexual assault.

The bill provides the Department of Forensic Science (DFS) with additional time to process a sexual assault forensic examination kit if the kit is subject to consumption litigation.<sup>5</sup> DFS will have 75 days to process a kit once the court system issues a consumption determination.

The bill enhances the duties and reporting requirements of the Sexual Assault Response Team (SART) and its members. The SART must establish a Feedback Review Committee to receive and investigate complaints from sexual assault victims. The SART must also annually report to Council and the Mayor information from the Feedback Review Committee, a summary of its case review activities, MPD's activities around providing PERK results, and prior year and year-ahead planned activities. SART members must also provide data on cases that fall under their purview that relate to cases the SART chooses to review. The bill also requires MPD to include in its annual report the number of victims it informs and the number declining to be informed about the results of a forensic examination kit.<sup>6</sup>

The bill also allows a victim of sexual assault to receive compensation from the Crime Victim's Compensation Fund<sup>7</sup> without first processing an insurance policy claim.

The bill makes it unlawful to remove another person's clothing without consent. This activity would be considered misdemeanor sexual abuse punishable by not more than 180 days in jail and fined up to \$1,000.<sup>8</sup>

---

<sup>3</sup> Prosecutors do not need to implement the provisions of the bill until the latter of 90 days after OVSJG certifies 10 new victim advocates or July 1, 2018.

<sup>4</sup> MPD must provide these results within 15 days of the request if they are available or within 15 days from the date when the results become available.

<sup>5</sup> Both the prosecution and the defense have the right to examine evidence, but if the sample is likely to be wholly consumed through one examination, the courts will determine the most equitable way for evidence examination.

<sup>6</sup> Sexual Assault Victims' Rights Act of 2014, effective November 20, 2014 (D.C. Law 20-139; D.C. Official Code § 4-561.09).

<sup>7</sup> Victims of Violent Crime Compensation Act of 1996, effective April 9, 1997 (D.C. Law 11-243; D.C. Official Code § 4-515).

## **Financial Plan Impact**

Funds are sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill.

The bill's provisions to reduce the age of a sexual assault victim who can access advocacy services and to require prosecutors to honor a sexual assault victim's right to have an advocate present during interviews will increase the need for sexual assault victim advocates in the District. To help meet this need, OVSJG will establish an advocate training and certification program. OVSJG is in the process of developing a certification program and expects to have it designed by the end of fiscal year 2017. OVSJG can absorb the costs associated with the program's implementation.

The bill also creates a greater right for victims to access information about a PERK. OVSJG and MPD will need to create a database to track PERKS so that when a victim requests a status update, that information can be readily accessed and shared. The agencies have funded and are currently developing the database required to store this information. The bill also requires that PERKS be stored free of charge, at the request of a victim, until the statute of limitations on a crime has expired. OVSJG currently funds storage activities and can absorb the cost of any additional storage requests. MPD must also develop a "Your Rights and Options as a Victim of Sexual Assault" brochure to provide to a sexual assault victim. OVSJG will work with and provide MPD with the resources to develop the brochure.

The bill also gives DFS additional time to process forensic examination kits if the kit is subject to consumption litigation. This change will relieve operational pressures at DFS where currently the agency is expected to process kits within 90 days of receipt even if consumption litigation has delayed the agency's ability to process a kit. Under the bill DFS must process kits within 75 days of the court's consumption determination.

The bill's additional reporting requirements can be implemented by the relevant entities, such as MPD or the SART members' agencies, and any administrative costs can be absorbed.

The bill also allows a victim of sexual assault to access victim's compensation funds through the Crime Victims Compensation Fund without having to first access any private insurance payments. This could increase the payout amounts to victims of sexual assault and reduce the funds available for other purposes, but the DC Courts manage this Fund and award payments. The DC Courts paid out nearly \$8 million in 2015 and just over \$7 million in 2016 from the Fund. The average payout per claim was \$1,900 in 2015 and \$1,800 in 2016.

---

<sup>8</sup> Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3006).

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Attorney General



Legal Counsel Division

**MEMORANDUM**


**TO:** Lolita Alston  
Director  
Office of Legislative Support

**FROM:** Janet M. Robins  
Deputy Attorney General  
Legal Counsel Division

**DATE:** March 17, 2017

**SUBJECT:** Legal Sufficiency Review of Proposed Bill, the "Sexual Assault Victims Rights Amendment Act of 2017"  
(AE-16-598)

**This is to Certify that** this Office has reviewed the above referenced legislation and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.

  
\_\_\_\_\_  
Janet M. Robins