



**COUNCIL OF THE DISTRICT OF COLUMBIA  
THE JOHN A. WILSON BUILDING  
1350 PENNSYLVANIA AVENUE, NW  
WASHINGTON, DC 20004**

**Charles Allen**  
Councilmember, Ward 6  
Chairperson  
Committee on Transportation and the Environment

**Committee Member**  
Business and Economic Development  
Health  
The Judiciary & Public Safety

June 26, 2023

Nyasha Smith, Secretary  
Council of the District of Columbia  
1350 Pennsylvania Avenue, NW  
Washington, D.C. 20004

Today, along with Councilmembers Nadeau, Bonds, Frumin, Gray, Henderson, Lewis George, Parker, Pinto, Robert White, and Trayon White, I am introducing the **“Ensuring Safe Forensic Evidence Handling for Sexual Assault Survivors Amendment Act of 2023”**. Please find enclosed a signed copy of the legislation. This legislation builds on the success of the Sexual Assault Victims’ Rights Amendment Act of 2014 (“SAVRAA 1.0”) and the Sexual Assault Victims’ Rights Amendment Act of 2019 (“SAVRAA 2.0”), the latter of which I passed as Chair of the Committee on the Judiciary and Public Safety, to further modernize the District’s sexual assault response continuum of care.

As background, current law requires that the Metropolitan Police Department (“MPD”) retrieve any physical evidence recovery kits (“PERKs”) – colloquially known as “rape kits” – and deliver them to the Department of Forensic Sciences (“DFS”) within 7 days after a crime has been reported.<sup>1</sup> Generally, DFS must then test the PERK within 90 days. However, current law does not require that DFS retrieve, receive, or store PERKs administered to victims who have not yet reported the crime to law enforcement – sometimes referred to as “anonymous kits.” Instead, these anonymous kits are preserved on an ad hoc basis by the D.C. Forensic Nurse Examiners (“DCFNE”), regional hospitals, or another jurisdiction, and retention periods and storage conditions differ.

While it is commendable that these entities have devised their own systems for storing anonymous kits, preserving evidence for use in a criminal prosecution is a function better served by District agencies. Furthermore, if a survivor presents at a Maryland hospital today for a sexual assault committed in the District, Maryland law enforcement agencies would store the PERK until a crime has been reported to MPD, and then there is no mandate that MPD retrieve the PERK until a report is filed. This arrangement is also problematic because it places the burden for

---

<sup>1</sup> PERKs are “used to collect and preserve physical evidence related to a sexual assault or alleged sexual assault.” D.C. Official Code § 4–561.01(10). PERKs are just one component of medical forensic care.

preserving the anonymous kit on Maryland, despite the fact that the crime was committed in the District and would, therefore, be investigated by MPD and prosecuted by the U.S. Attorney's Office for the District of Columbia. We also know that many sexual assault survivors come forward years after the attack, and consistent evidence preservation protocols better ensure that they can still move forward with their cases if they choose – and that any resulting prosecutions hold offenders accountable.

To address these issues, the legislation requires that DFS, in collaboration with the D.C. Sexual Assault Nurse Examiners Program, develop and implement a protocol for receiving and storing anonymous kits, including processes for being notified that an anonymous kit is available, receiving anonymous kits through the mail or by hand delivery, documenting the chain of custody, and preserving the anonymity of the survivor. The bill also expands reporting requirements placed on DFS and the SAVRAA Independent Expert Consultant to include information related to DFS' storage of anonymous kits. Furthermore, the bill provides a new definition of "medical forensic care" to refer more broadly to the medical services provided to victims of crime, of which the administration of PERKs is just one component. Finally, the bill clarifies that domestic violence counselors, human trafficking counselors, and sexual assault counselors' duty to report crimes is limited to certain cases involving minor victims.

Survivors of sexual assault must have the autonomy to decide, on their own terms, if and when their case enters the criminal justice system. And for the survivors who ultimately decide to report the crime to law enforcement, District law must ensure that forensic evidence is collected and preserved in a manner that aids the apprehension, prosecution, and conviction of perpetrators of sexual assault. This law will fill key gaps in the District's sexual assault continuum of care and, ultimately, close sex offense cases where victims do report, by requiring a more reliable system of retrieving and storing forensic evidence for victims who have not yet reported the crime to law enforcement.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles Allen", written in a cursive style.

Councilmember Charles Allen, Ward 6  
Chairperson, Committee on Transportation & the Environment  
Vice Chair, Metropolitan Washington Council of Governments

1 Brianne K. Nadeau

2 Councilmember Brianne K. Nadeau

3  
4 AKB

5  
6 Councilmember Anita Bonds

7  
8 Vincent C. Gray

9  
10 Councilmember Vincent C. Gray

11  
12 Janeese Lewis George

13  
14 Councilmember Janeese Lewis George

15  
16 BE RP

17  
18 Councilmember Brooke Pinto

19  
20 Trayon White

21  
22 Councilmember Trayon White, Sr.

Charles Allen

Councilmember Charles Allen

Matthew Frumin

Councilmember Matthew Frumin

Christina Henderson

Councilmember Christina Henderson

Zachary Parker

Councilmember Zachary Parker

Robert C. White, Jr.

Councilmember Robert C. White, Jr.

23  
24  
25  
26  
27 A BILL

28  
29  
30  
31  
32 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

33  
34  
35  
36  
37 To amend the Sexual Assault Victims' Rights Act of 2014 to clarify that the administration of  
38 physical evidence recovery kits, strangulation assessments, and intimate partner violence  
39 assessments are a form of medical forensic care, to establish requirements for the  
40 Metropolitan Police Department to retrieve, and for the Department of Forensic Sciences  
41 to store, the results of medical forensic care provided to sexual assault victims who have  
42 not yet reported the crime to the Metropolitan Police Department, and to expand the  
43 independent expert consultant and Department of Forensic Sciences' reporting  
44 requirements; to amend Title 14 to clarify that the reporting requirements for domestic  
45 violence counselors, human trafficking counselors, and sexual assault counselors only  
46 apply to crimes involving minor victims; and to amend Title 23 to make conforming  
47 changes.

48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Ensuring Safe Forensic Evidence Handling for Sexual Assault Survivors Amendment Act of 2023”.

Sec. 2. The Sexual Assault Victims’ Rights Act of 2014, effective November 20, 2014 (D.C. Law 20-139; D.C. Official Code § 4-561.01 *et seq.*), is amended as follows:

(a) Section 201 (D.C. Official Code § 4–561.01) is amended by adding a new paragraph (7A) to read as follows:

“(7A) “Medical forensic care” means care, provided to a patient who reports or is believed to be a victim of crime, conducted by a health care provider with specialized education and clinical experience in the collection of forensic evidence and treatment of such patients, including:

“(A) Gathering information from the patient for a medical forensic history;

“(B) Conducting an examination, including the administration of a sexual assault nurse exam, sexual assault forensic exam, PERK, strangulation assessment, or intimate partner violence assessment;

“(C) Coordinating treatment of injuries, documentation of biological and physical findings, and collection of evidence from the patient;

“(D) Documenting findings;

“(E) Providing information, treatment, and referrals for sexually transmitted infections, pregnancy, suicidal ideation, alcohol and substance abuse, and other non-acute medical concerns; and

“(F) Providing follow-up, as needed, for additional healing, treatment, or collection of evidence.”.

72 (b) Section 202 (D.C. Official Code § 4–561.02) is amended as follows:

73 (1) The lead-in language of subsection (a) is amended to read as follows:

74 “(a) Within 7 days after a sexual assault victim makes a report to the MPD, MPD shall  
75 retrieve the results of any medical forensic care not already in DFS’s custody and deliver:”.

76 (2) Subsection (b)(1) is amended by striking the phrase “a PERK is” and inserting  
77 the phrase “a PERK for a sexual assault victim who has reported to the MPD is” in its place.

78 (3) New subsections (d) and (e) are added to read as follows:

79 “(d) By January 1, 2025, DFS shall, in coordination with the DC SANE program, develop  
80 and implement a protocol for storing the results of medical forensic care for sexual assault victims  
81 who have not reported the crime to the MPD, including processes for:

82 “(1) Law enforcement agencies, hospitals, and other entities to notify DFS about  
83 the availability of results from medical forensic care;

84 “(2) DFS retrieving or receiving the result of the medical forensic care, including  
85 by mail or through hand delivery;

86 “(3) DFS notifying sexual assault victims who have not reported the crime to the  
87 MPD that the results of their medical forensic care are being retained by a District agency;

88 “(4) Documenting the chain of custody to preserve the evidentiary value of  
89 materials collected during medical forensic care;

90 “(5) Preserving the anonymity of victims who have not reported the crime to law  
91 enforcement; and

92 “(6) Sexual assault victims to request the destruction of the results of any medical  
93 forensic care, including a PERK.

94           “(e) By March 1, 2024, the Office of Victim Services and Justice Grants shall publish on  
95 its website a summary of the protocol developed pursuant to subsection (d) of this section.

96           “(f) Beginning April 1, 2024, DFS shall store, in accordance with the protocol developed  
97 pursuant to subsection (d) of this section and for the periods of time described in section 102 of  
98 the Millicent Allewelt Amendment Act of 2004, effective July 15, 2004 (D.C. Law 15-174; D.C.  
99 Official Code § 5-113.32), the results of any medical forensic care conducted on behalf of a victim  
100 who has not reported the crime to the MPD.”.

101           (c) Section 203 (D.C. Official Code § 4-561.03) is amended by striking the phrase “a  
102 PERK, including” and inserting the phrase “medical forensic care, including” in its place.

103           (d) Section 205 (D.C. Official Code § 4-561.05) is amended as follows:

104                   (1) Paragraph (6) is amended by striking the phrase “; and” and inserting a  
105 semicolon in its place.

106                   (2) Paragraph (7) is amended by striking the period and inserting the phrase “; and”  
107 in its place.

108                   (3) A new paragraph (8) is added to read as follows.

109                   “(8) Within 180 days after the effective date of the Ensuring Safe Forensic Evidence  
110 Handling for Sexual Assault Survivors Amendment Act of 2023, introduced on June 23, 2023 (Bill  
111 25-\_\_\_), audit all the results of medical forensic care in storage, including PERKs, to determine  
112 if:

113                           “(A) All the results of medical care performed on a sexual assault victim  
114 who reported a sexual assault to MPD have been delivered to the DFS for processing; and



115                   “(B) All the results of medical forensic care performed on a sexual assault  
116 victim who has not reported a sexual assault to MPD have been stored in compliance with the  
117 protocol developed pursuant to subsection (d) of this section.”.

118           (e) Section 210 (D.C. Official Code § 4–561.10) is amended as follows:

119                   (1) Paragraph (1) is amended by striking the phrase “the MPD;” and inserting the  
120 phrase “the MPD, including whether the PERK was associated with a reported crime, as described  
121 in section 202(a) of the Sexual Assault Victims’ Rights Act of 2014, effective November 20, 2014  
122 (D.C. Law 20-139; D.C. Official Code § 4-561.02(a)), or was retrieved from another jurisdiction  
123 under the process developed pursuant to section 202(d) of the Sexual Assault Victims’ Rights Act  
124 of 2014, effective November 20, 2014 (D.C. Law 20-139; D.C. Official Code § 4-561.02(d)).”.

125                   (2) Paragraph (7) is amended by striking the phrase “; and” and inserting a  
126 semicolon in its place.

127                   (3) Paragraph (8) is amended by striking the period and inserting the phrase “; and”  
128 in its place.

129                   (4) A new paragraph (9) is added to read as follows:

130                   “(9) The number of PERKs that are currently stored by DFS pursuant to the process  
131 developed pursuant to section 202(d) of the Sexual Assault Victims’ Rights Act of 2014, effective  
132 November 20, 2014 (D.C. Law 20-139; D.C. Official Code § 4-561.02(d)).”.

133                   (f) Section 212(h)(2) (D.C. Official Code § 4–561.12(h)(2)) is amended by striking the  
134 phrase “victim-centered, the procedure” and inserting the phrase “victim-centered, medical  
135 forensic care, including the procedure” in its place.

136           Sec. 3. Chapter 3 of Title 14 of the District of Columbia Official Code is amended as  
137 follows:

138 (a) Section 14-310(b)(4) is amended to read as follows:

139 “(4)(A) Notwithstanding any other law, domestic violence counselors shall report  
140 to the Metropolitan Police Department or the Child and Family Services Agency any crime  
141 disclosed in a confidential communication if the domestic violence counselor has actual  
142 knowledge that the crime disclosed to the domestic violence counselor places the child in  
143 immediate danger of the circumstances described in section 2(b)(1)(A), 2(b)(1)(C), or 2(b)(1)(D)  
144 of An Act to provide for the mandatory reporting by physicians and institutions in the District of  
145 Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C.  
146 Official Code § 4-1321.01 et seq.), and involves:

147 “(i) A victim under the age of 13;

148 “(ii) A perpetrator or alleged perpetrator with whom a victim under  
149 18 years of age has a significant relationship, as that term is defined in § 22-3001(10); or

150 “(iii) A perpetrator or alleged perpetrator who is more than 4 years  
151 older than a victim who is under 18 years of age.

152 “(B) Any disclosure made pursuant to subparagraph (A) of this subsection  
153 shall be narrowly tailored to only include information regarding the immediate danger to the victim  
154 because of the circumstances described in section 2(b)(1)(A), 2(b)(1)(C), or 2(b)(1)(D) of An Act  
155 to provide for the mandatory reporting by physicians and institutions in the District of Columbia  
156 of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official  
157 Code § 4-1321.01 et seq.) so as to not reveal any confidential communications that fall outside of  
158 those circumstances.”.

159 (b) Section 14-311(b)(4) is amended to read as follows:

160 (1) The lead-in language is amended to read as follows:



161                   “(4)(A) Notwithstanding any other law, human trafficking counselors shall report  
162 to the Metropolitan Police Department or the Child and Family Services Agency any crime  
163 disclosed in a confidential communication if the human trafficking counselor has actual knowledge  
164 that the crime disclosed to the human trafficking counselor places the child in immediate danger  
165 of the circumstances described in section 2(b)(1)(A), 2(b)(1)(C), or 2(b)(1)(D) of An Act to  
166 provide for the mandatory reporting by physicians and institutions in the District of Columbia of  
167 certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code  
168 § 4-1321.01 et seq.), and involves:

169                                   “(i) A victim under the age of 13;

170                                   “(ii) A perpetrator or alleged perpetrator with whom a victim under  
171 18 years of age has a significant relationship, as that term is defined in § 22-3001(10); or

172                                   “(iii) A perpetrator or alleged perpetrator who is more than 4 years  
173 older than a victim who is under 18 years of age.

174                   “(B) Any disclosure made pursuant to subparagraph (A) of this subsection  
175 shall be narrowly tailored to only include information regarding the immediate danger to the victim  
176 because of the circumstances described in section 2(b)(1)(A), 2(b)(1)(C), or 2(b)(1)(D) of An Act  
177 to provide for the mandatory reporting by physicians and institutions in the District of Columbia  
178 of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official  
179 Code § 4-1321.01 *et seq.*) so as to not reveal any confidential communications that fall outside of  
180 those circumstances.”.

181                   (c) Section 14-312(b)(5) is amended to read as follows:

182                                   “(5)(A) Notwithstanding any other law, sexual assault counselors shall report to the  
183 Metropolitan Police Department or the Child and Family Services Agency any crime disclosed in

184 a confidential communication if the sexual assault counselor has actual knowledge that the crime  
185 disclosed to the sexual assault counselor places the child in immediate danger of the circumstances  
186 described in section 2(b)(1)(A), 2(b)(1)(C), or 2(b)(1)(D) of An Act to provide for the mandatory  
187 reporting by physicians and institutions in the District of Columbia of certain physical abuse of  
188 children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.01 et seq.), and  
189 involves:

190 “(i) A victim under the age of 13;

191 “(ii) A perpetrator or alleged perpetrator with whom a victim under  
192 18 years of age has a significant relationship, as that term is defined in § 22-3001(10); or

193 “(iii) A perpetrator or alleged perpetrator who is more than 4 years  
194 older than a victim who is under 18 years of age.

195 “(B) Any disclosure made pursuant to subparagraph (A) of this subsection  
196 shall be narrowly tailored to only include information regarding the immediate danger to the victim  
197 because of the circumstances described in section 2(b)(1)(A), 2(b)(1)(C), or 2(b)(1)(D) of An Act  
198 to provide for the mandatory reporting by physicians and institutions in the District of Columbia  
199 of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official  
200 Code § 4-1321.01 *et seq.*) so as to not reveal any confidential communications that fall outside of  
201 those circumstances.”.

202 Sec. 4. Section 23-1907 of the District of Columbia Official Code is amended by adding a  
203 new paragraph (4A) to read as follows:

204 “(4A) “Medical forensic care” shall have the same meaning as provided in section  
205 201 of the Sexual Assault Victims’ Rights Act of 2014, effective November 20, 2014 (D.C. Law  
206 20-139; D.C. Official Code § 4-561.01(7A)).”.

207           Sec. 5. Section 23-1910(a)(3) of the District of Columbia Official Code is amended to read  
208 as follows:

209                   “(3)(A) The DFS shall notify the MPD of any material change in the status of any  
210 medical forensic care, including a PERK or toxicology test, within 7 days after the material change;  
211 provided, that the sexual assault victim 13 years of age or older has reported the sexual assault to  
212 MPD.

213                   “(B) The DFS shall notify the MPD of any PERK test results, DNA testing  
214 results, toxicology report, or other information collected as part of a medical forensic care within  
215 7 business days after the results become available; provided, that the sexual assault victim 13 years  
216 of age or older has reported the sexual assault to MPD.”.

217           Sec. 6. Fiscal impact statement.

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

221           Sec. 7. Effective date.

222           This act shall take effect following approval by the Mayor (or in the event of veto by the  
223 Mayor, action by the Council to override the veto), a 60-day period of congressional review as  
224 provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24,  
225 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of  
226 Columbia Register.