

AN ACT
D.C. ACT 23-174

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 26, 2019

To amend the Victims of Violent Crime Compensation Act of 1996 to provide that if a victim or secondary victim is a dependent on a primary insurance holder's insurance policy, the primary insurance holder's insurance policy shall not constitute a collateral source, unless the victim or secondary victim chooses to avail himself or herself of the benefits or compensation from the primary insurance holder's insurance policy, and to allow applications for crime victims compensation to be filed by electronic mail; to amend the Sexual Assault Victims' Rights Act of 2014 to modify the DC SANE Program to include entities that provide comprehensive medical forensic care to sexual assault victims and are a member of the Sexual Assault Response Team, to require the Department of Forensic Sciences to process physical evidence recovery kits involved in consumption litigation within 90 days after the date of receipt of a consumption determination from the prosecution, to authorize the Department of Forensic Sciences to delegate the processing of physical evidence recovery kits to accredited laboratories, to prohibit hospitals from charging a sexual assault victim for costs associated with a physical evidence recovery kit, to require the Chief of Police to annually report on the number of sexual assault victims who request the results of their physical evidence recovery kits, to expand the information reported by the Department of Forensic Sciences about physical evidence recovery kits in its annual report, to expand the membership of the Sexual Assault Response Team, to require the Office of Victim Services and Justice Grants to facilitate annual training for members of the Sexual Assault Response Team, to authorize the Sexual Assault Response Team to expand its membership, to require the Sexual Assault Response Team to establish a Feedback Review Committee to receive and investigate complaints and comments from sexual assault victims, to require the Sexual Assault Response Team to submit a report to the Mayor and the Council that includes a summary of its activities, to require each member of the Sexual Assault Response Team to provide certain data to other members of the Sexual Assault Response Team, to provide that the Sexual Assault Response Team shall only conduct case reviews of cases involving sexual assault victims 18 years of age or older, and to require that, before conducting case reviews, the SART obtain the consent of the sexual assault victim involved in the case; to amend the Emergency Care for Sexual Assault Victims Act of 2008 to require that hospitals providing emergency care to sexual assault victims inform them of the rights

provided under section 23-1908 of the District of Columbia Official Code and, if the victim consents, immediately notify the sexual assault victim advocate dispatch system; to amend section 14-312 of the District of Columbia Official Code to exempt sexual assault counselors from mandatory reporting of child abuse except under certain circumstances; to amend the Anti-Sexual Abuse Act of 1994 to exempt certain communications between sexual assault victims and sexual assault counselors from mandatory reporting of child abuse; to amend the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001 to add the Director of the Office of Victim Services and Justice Grants as a member of the Criminal Justice Coordinating Council; to amend Subchapter II of Chapter 19 of Title 23 of the District of Columbia Official Code to require additional training for sexual assault youth victim advocates, to require physical evidence recovery kits to be preserved without charge to the sexual assault victim, to expand the rights of sexual assault victims in certain settings, to require that specific specialized units of the Metropolitan Police Department provide certain information to sexual assault victims over the age of 13, and to allow sexual assault victims to opt out of receiving certain information or services from the Metropolitan Police Department.

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 2019".

Sec. 2. The Victims of Violent Crime Compensation Act of 1996, effective April 9, 1997 (D.C. Law 11-243; D.C. Official Code § 4-501 *et seq.*), is amended as follows:

(a) Section 8 (D.C. Official Code § 4-507) is amended by adding a new subsection (a-1) to read as follows:

"(a-1) Notwithstanding subsection (a) of this section, if a victim or secondary victim is a dependent on a primary insurance holder's insurance policy, the primary insurance holder's insurance policy shall not constitute a collateral source for the purposes of subsection (a) of this section, unless the victim or secondary victim chooses to avail himself or herself of the benefits or compensation from the primary insurance holder's insurance policy."

(b) Section 13 (D.C. Official Code § 4-512) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "in person or by mail." and inserting the phrase "in person, by mail, or by electronic mail." in its place.

(2) Subsection (b) is amended by striking the phrase "claimant by first class mail, along" and inserting the phrase "claimant by first class mail or electronic mail, along" in its place.

(3) Subsection (c) is amended by striking the phrase "claimant by first class mail, along" and inserting the phrase "claimant by first class mail or electronic mail, along" in its place.

Sec. 3. Title II of 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 to read as follows:

“Sec. 201. Definitions.

“For the purposes of this title, the term:

“(1) “Case Review Subcommittee” means the SART Case Review Subcommittee established by section 214.

“(2) “Consumption litigation” means litigation in a criminal proceeding initiated by notification to the defense of the need to consume an entire DNA sample in forensic testing.

“(3) “DC SANE Program” means the DC Sexual Assault Nurse Examiner Program that provides comprehensive medical forensic care to sexual assault victims, including:

“(A) The DC Forensic Nurse Examiners;

“(B) The Child and Adolescent Protection Center; and

“(C) Any other entity within the District that is a member of the SART or the multidisciplinary investigation team, as described in section 151 of the Prevention of Child Abuse and Neglect Act of 1977, effective October 19, 2002 (D.C. Law 14-206; D.C. Official Code § 4-1301.51).

“(4) “DFS” means the Department of Forensic Sciences.

“(5) “Hospital” means a facility that provides 24-hour inpatient care, including diagnostic, therapeutic, and other health-related services, for a variety of physical or mental conditions, and may, in addition, provide outpatient services, particularly emergency care.

“(6) “Independent expert consultant” means the individual retained pursuant to section 204 and charged with the duties and obligations specified in section 205.

“(7) “MPD” means the Metropolitan Police Department.

“(8) “OCME” means the Office of the Chief Medical Examiner.

“(9) “OVSJG” means the Office of Victim Services and Justice Grants, established by Mayor’s Order 2016-171.

“(10) “PERK” means a Physical Evidence Recovery Kit used to collect and preserve physical evidence related to a sexual assault or alleged sexual assault.

“(11) “SART” means the Sexual Assault Response Team established by section 212.

“(12) “Sexual assault” shall have the same meaning as provided in D.C. Official Code § 23-1907(9).

“(13) “Sexual assault victim” means an individual against whom a sexual assault has been committed or is alleged to have been committed, including a deceased individual.

“(14) “Sexual assault victim advocate dispatch system” means the system developed by OVSJG and approved by the SART, pursuant to D.C. Official Code § 23-1909(e).

“(15) “Task Force” means the Sexual Assault Victims’ Rights Task Force established pursuant to section 215.”.

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

(1) The section heading is amended by striking the phrase “of sexual assault forensic examination kits” and inserting the phrase “of PERKs” in its place.

(2) Subsection (a) is amended as follows:

(A) The lead-in language is amended by striking the phrase “the kits” and inserting the phrase “any PERK” in its place.

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

“(1) The PERK to the DFS; and”.

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

“(b)(1) If a PERK is not involved in consumption litigation, the DFS shall process the PERK within 90 days after DFS receives the PERK.

“(2) If a PERK is involved in consumption litigation, the DFS shall process the PERK within 90 days after the DFS receives a consumption determination from the prosecution.”.

(4) A new subsection (b-1) is added to read as follows:

“(b-1)(1) Notwithstanding subsection (b) of this section, the DFS may delegate the processing of a PERK to an accredited laboratory pursuant to a statement of work, which shall establish protocols for:

“(A) DFS to notify the accredited laboratory that a PERK is available for processing;

“(B) Delivery of the PERK to the accredited laboratory;

“(C) Processing the PERK; and

“(D) Delivery of the PERK and any results to the DFS.

“(2) Even if DFS delegates the processing of a PERK to an accredited laboratory, DFS shall comply with the time periods described in subsection (b) of this section.”.

(5) Subsection (c) is amended by striking the phrase “from the” and inserting the phrase “after the” in its place.

(c) Section 203 (D.C. Official Code § 4-561.03) is amended as follows:

(1) The section heading is amended by striking the phrase “sexual assault forensic examination kits.” and inserting the phrase “PERKs.” in its place.

(2) Strike the phrase “the administration of a sexual assault forensic examination kit or for the kit itself” and insert the phrase “a PERK, including the costs of the PERK, its administration, and the processing of the PERK or any biological specimens” in its place.

(d) Section 204 (D.C. Official Code § 4-561.04) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “the OVS” and inserting the phrase “the OVSJG” in its place.

(2) Subsection (b) is amended as follows:

(A) Strike the word “consultant” and insert the phrase “independent expert consultant” in its place.

(B) Strike the phrase “the OVS” and insert the phrase “the OVSJG” in its place.

(3) Subsection (c) is amended to read as follows:

“(c) The independent expert consultant shall be retained for a period of one year, with the option for the OVSJG to extend the contract in 1-year increments.”.

(4) Subsection (d) is amended to read as follows:

“(d) The independent expert consultant selected shall have current and recognized expertise in the areas of law enforcement, crime victims’ rights, victim advocacy, medical best practices, policy and procedure development, sexual assault, and the investigation or prosecution of sexual assault.”.

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

(1) The section heading is amended to read as follows:

“Sec. 205. Duties and obligations of the independent expert consultant.”.

(2) Paragraph (1) is amended by striking the phrase “Task Force established by section 215” and inserting the phrase “Task Force” in its place.

(3) Paragraph (2)(C) is amended by striking the phrase “with current best practices” and inserting the phrase “with best practices” in its place.

(4) Paragraph (3) is amended by striking the phrase “including;” and inserting the phrase “including:” in its place.

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

“(5) Within 120 days after the date of being retained by the OVSJG, audit all PERKs in storage to determine if all PERKs in which a sexual assault victim reported a sexual assault to MPD have been delivered to the DFS for processing;”.

(6) Paragraph (7) is amended by striking the phrase “the consultant” and inserting the phrase “the independent expert consultant” in its place.

(f) Section 206 (D.C. Official Code § 4-561.06) is amended as follows:

(1) Subsection (a)(1)(A)(ii) is amended by striking the phrase “the consultant” and inserting the phrase “the independent expert consultant” in its place.

(2) Subsection (b) is amended to read as follows:

“(b)(1) The independent expert consultant shall, within 45 days after being retained by the OVSJG:

“(A) Develop a plan and schedule for preparing the public report and reviewing the case review plan and process described in subsection (a)(1) of this section; and

“(B) Submit the plan to the OVSJG for review and approval.

“(2) The plan developed pursuant to paragraph (1) of this subsection shall include a timeline for submitting any recommendations to the Council or the Mayor regarding proposed legislation.”.

(3) Subsection (c) is amended as follows:

(A) Strike the phrase “The OVS” and insert the phrase “The OVSJG” in its place.

(B) Strike the phrase “30 days from the” and insert the phrase “30 days after the” in its place.

(g) Section 208 (D.C. Official Code § 4-561.08) is amended by striking the phrase “sexual assault crimes” and inserting the phrase “sexual assaults” in its place.

(h) Section 209(a) (D.C. Official Code § 4-561.09(a)) is amended as follows:

(1) Paragraph (4) is amended to read as follows:

“(4) The recommendations received from the Case Review Subcommittee and the measures the MPD has taken, if any, to address those recommendations;”.

(2) Paragraph (5) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new paragraph (6) is added to read as follows:

“(6) The number of sexual assault victims who:

“(A) Requested the results of their PERK; and

“(B) Did not request the results of their PERK.”.

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

“Sec. 210. DFS reporting requirement.

“In the annual report filed pursuant to section 5(a)(5) of the Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code § 5-1501.04(a)(5)), the Director of the DFS shall provide, for the prior calendar year:

“(1) The number of PERKS received from the MPD;

“(2) The number of PERKS processed by the DFS or an accredited laboratory to which the DFS delegated the processing;

“(3) The average time it took for PERKS to be processed by the DFS or an accredited laboratory to which the DFS delegated the processing;

“(4) The longest period of time it took for PERKS to be processed by the DFS or an accredited laboratory to which the DFS delegated the processing;

“(5) The number of PERKS involved in consumption litigation;

“(6) The number of times in which an accredited laboratory to which the DFS delegated the processing failed to comply with the time periods described in section 202(b);

“(7) If permission to consume was requested, the number of cases in which processing was completed 90 days after the PERK was received by the DFS due to consumption litigation; and

“(8) The number of days in which each PERK was delayed awaiting a consumption litigation determination.”.

(j) Section 212 (D.C. Official Code § 4-561.12) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “Team.” and inserting the phrase “Team (“SART”).” in its place.

(2) Subsection (b) is amended to read as follows:

“(b) The SART shall be a partnership of public and private agencies that:

“(1) Coordinates a high-quality, multidisciplinary, victim-centered response to sexual assault cases; and

“(2) Makes recommendations to improve the continuum of services in the District for sexual assault victims.”.

(3) Subsection (c) is amended to read as follows:

“(c) Membership on the SART shall include the following persons:

“(1) The Director of the OVSJG, or the Director’s designee;

“(2) The SART coordinator, who shall be appointed by the Director of the OVSJG, and serve as a non-voting member;

“(3) “The Attorney General for the District of Columbia, or the Attorney General’s designee;

“(4) The Chief of Police, or the Chief’s designee who is a member of the Sexual Assault Unit with the rank of Captain or above;

“(5) A representative from the MPD Victim Services Branch;

“(6) The Director of the Child and Family Services Agency, or the Director’s designee;

“(7) The Executive Director of the Children’s Advocacy Center, or the Director’s designee;

“(8) The United States Attorney for the District of Columbia, or the United States Attorney’s designee who is an attorney assigned to the Sex Offense and Domestic Violence Section;

“(9) A representative from the Victim Witness Assistance Unit of the United States Attorney’s Office for the District of Columbia;

“(10) A representative from the United States Park Police;

“(11) The Director of each entity in the DC SANE Program, or the Director’s designee; provided, that the Director or the Director’s designee shall be a forensic nurse examiner, as that term is defined in D.C. Official Code § 23-1907(2), or a physician with specialized training in medical forensic evidence collection;

“(12) The Director of each community-based organization that is providing victim advocacy services pursuant to D.C. Official Code § 23-1909, or the Director’s designee; provided, that the community-based organization has been approved for membership by the SART;

“(13) The Director, or the Director’s designee, of each entity that provides medical forensic care to sexual assault victims; provided, that the entity has been approved for membership by the SART;

“(14) A representative from a community-based organization, selected by the SART, that is providing post-sexual assault mental health services;

“(15) A representative from the designated State sexual assault coalition, as that term is defined in 34 U.S.C. § 12291(a)(33), for the District;

“(16) The Director of the DFS, or the Director’s designee, who is a forensic scientist;

“(17) The Chief Medical Examiner, or the Chief Medical Examiner’s designee;

and

“(18) A representative from a District of Columbia-based college or university that provides direct victim services to sexual assault victims and who holds a position at that college or university.”.

(4) New subsections (d-1) and (d-2) are added to read as follows:

“(d-1) A chairperson shall be elected from among the non-governmental members of the SART.

“(d-2) No non-governmental organization or entity shall have more than one representative on the SART.”.

(5) Subsection (g) is amended by striking the phrase “does not” and inserting the phrase “shall not” in its place.

(6) New subsections (h) and (i) are added to read as follows:

“(h)(1) At least annually, OVSJG shall, in collaboration with the DFS and the OCME, facilitate training for members of the SART.

“(2) The training shall include instruction on explaining, in a manner that is trauma-informed and victim-centered, the procedure and results of a PERK, forensic analysis of the PERK, and toxicology tests.

“(i) In addition to the members listed in subsection (c) of this section, the SART may expand its membership by establishing a membership application, evaluation, and approval process for:

“(1) Any community-based organization that seeks to provide victim advocacy services pursuant to D.C. Official Code § 23-1909;

“(2) Any entity that seeks to provide medical forensic care to sexual assault victims; and

“(3) Any entity that seeks to administer a victim hotline or participate in the sexual assault victim advocate dispatch system.”.

(k) Section 213 (D.C. Official Code § 4-561.13) is amended as follows:

(1) The existing text is designated as subsection (a).

(2) The newly designated subsection (a) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “victims of sexual assault” and inserting the phrase “sexual assault victims” in its place.

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

“(2) Conduct regular case reviews, through the Case Review Subcommittee, of all parties involved in sexual assault responses involving sexual assault victims 18 years of age or older, including a review of sexual assault reports and investigations by the MPD and cases reported to any member of the SART;”.

(C) Paragraph (3) is amended as follows:

(i) Strike the phrase “Case Review Subcommittee, established by section 214,” and insert the phrase “Case Review Subcommittee” in its place.

(ii) Strike the period and insert a semicolon in its place.

(D) New paragraphs (4) and (5) are added to read as follows:

“(4) Establish a Feedback Review Committee for the purpose of receiving and investigating all complaints and comments from sexual assault victims, including complaints and comments regarding the United States Attorney’s Office for the District of Columbia; and

“(5) By January 1, 2022, submit a report to the Mayor and the Council that includes the following:

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

“(B) A summary of all feedback received and the findings of all investigations conducted pursuant to paragraph (4) of this subsection;

“(C) The number of sexual assault victims who were informed by the MPD of the results of their PERK;

“(D) A discussion of any trends related to victimization and reporting;

“(E) A description of the activities conducted by the SART during the preceding fiscal year; and

“(F) Activities planned by the SART for the following fiscal year.”.

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

“(b) Each SART member shall provide the following data to other members of the SART:

“(1) The numbers of sexual assault victims served by each SART member;

“(2) The demographics of sexual assault victims and offenders, if known, served by each SART member;

“(3) The type and extent of service provided to each sexual assault victim by each SART member;

“(4) The disposition of each case closed by the SART member; and

“(5) Any other information requested by the Director of the OVSJG or the chairperson of the SART that is directly related to sexual assault cases; provided, that the information is not otherwise confidential or privileged under District or federal law.”.

(l) Section 214 (D.C. Official Code § 4-561.14) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “Review Subcommittee” and inserting the phrase “Review Subcommittee (“Case Review Subcommittee”)” in its place.

(2) Subsection (b) is amended as follows:

(A) The lead-in language is amended by striking the phrase “of, at a minimum, the” and inserting the phrase “of the” in its place.”

(B) Paragraph (2) is amended by striking the phrase “or his or her” and inserting the phrase “or the Commander’s” in its place.

(C) Paragraph (3) is amended by striking the phrase “or his or her” and inserting the phrase “or the Director’s” in its place.

(D) Paragraph (4) is amended by striking the phrase “the OVS” and inserting the phrase “the OVSJG” in its place.

(E) Subsection (5) is amended by striking the phrase “or his or her” and inserting the phrase “or the Director’s” in its place.

(F) Subsection (6) is amended by striking the phrase “or his or her” and inserting the phrase “or the Director’s” in its place.

(3) Subsection (c) is amended to read as follows:

“(c)(1) The Case Review Subcommittee shall conduct case reviews of the following types of cases involving sexual assault victims 18 years of age or older:

“(A) A random sample of investigations that involve sexual assault; and

“(B) Specific cases as requested by members of the SART, the Case Review Subcommittee, or the independent expert consultant.

“(2) Before conducting case reviews under paragraph (1) of this subsection, the SART shall obtain the consent of the sexual assault victim involved in the case.”.

(4) The lead-in language of subsection (d) is amended to read as follows:

“(d) In addition to the duties set forth in subsection (c) of this section, the Case Review Subcommittee shall, for cases involving sexual assault victims 18 years of age or older:”.

(5) Subsection (e) is amended by striking the phrase “does not” and inserting the phrase “shall not” in its place.

(m) Section 215 (D.C. Official Code § 4-561.15) is amended as follows:

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

“(a) Beginning October 1, 2014, the OVSJG shall establish a Sexual Assault Victim Rights Task Force (“Task Force”) to study nationally recognized best practices and develop recommendations regarding:”.

(2) Subsection (b)(8) is amended by striking the phrase “the OVS” and inserting the phrase “the OVSJG” in its place.

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

(a) Paragraph (3) is amended to read as follows:

“(3) Inform each victim of sexual assault, orally and in writing, in a language that the victim understands, of the:

“(A) Victim of sexual assault’s rights under D.C. Official Code § 23-1908; and

“(B) Option to be provided, by the hospital, with prophylactic antibiotics for the treatment of sexually transmitted diseases and emergency contraception for the prevention of pregnancy;”.

(b) Paragraph (4) is amended by striking the period and inserting the phrase “; and” in its place.

(c) A new paragraph (5) is added to read as follows:

“(5) If the sexual assault victim, who is 13 years of age or older, consents, immediately notify the sexual assault victim advocate dispatch system described in D.C. Official Code § 23-1909(e).”.

Sec. 5. Section 14-312 of the District of Columbia Official Code is amended as follows:

(a) The section heading is amended to read as follows:

“§ 14-312. Sexual assault counselors.”.

(b) Subsection (a) is amended as follows:

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

“(1) “Confidential communication” means:

“(A) Information exchanged between a sexual assault victim 13 years of age or older and a sexual assault counselor during the course of the sexual assault counselor providing counseling, support, and assistance to the victim; and

“(B) Records kept by a community-based organization in the course of providing victim advocacy services pursuant to D.C. Official Code § 23-1909 for sexual assault victim 13 years of age or older.”.

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

“(2) “DC SANE Program” means the DC Sexual Assault Nurse Examiner Program that provides comprehensive medical forensic care to sexual assault victims including:

“(A) The DC Forensic Nurse Examiners;

“(B) The Child and Adolescent Protection Center; and

“(C) Any other entity within the District that is a member of the SART or the multidisciplinary investigation team, as described in section 151 of the Prevention of Child Abuse and Neglect Act of 1977, effective October 19, 2002 (D.C. Law 14-206; D.C. Official Code § 4-1301.51).”.

(3) Paragraph (5) is amended to read as follows:

“(5) “Sexual assault” means any of the following offenses: §§ 22-1834 (sex trafficking of children); 22-2704 (abducting or enticing child from his or her home for the purposes of prostitution; harboring such child); 22-2705 (pandering; inducing or compelling an individual to engage in prostitution); 22-2706 (compelling an individual to live life of prostitution against his or her will); 22-2708 (causing spouse or domestic partner to live in prostitution); 22-2709 (detaining an individual in disorderly house for debt there contracted); 22-1901 (incest); 22-3002 (first degree sexual abuse); 22-3003 (second degree sexual abuse); 22-3004 (third degree sexual abuse); 22-3005 (fourth degree sexual abuse); 22-3006 (misdemeanor sexual abuse); 22-3008 (first degree child sexual abuse); 22-3009 (second degree child sexual abuse); 22-3009.01 (first degree sexual abuse of a minor); 22-3009.02 (second degree sexual abuse of a minor); 22-3009.03 (first degree sexual abuse of a secondary education student); 22-3009.04 (second degree sexual abuse of a secondary education student); 22-3010 (enticing a child or minor); 22-3010.01 (misdemeanor sexual abuse of a child or minor); 22-3010.02 (arranging for sexual contact with a real or fictitious child); 22-3013 (first degree sexual abuse of a ward, patient, client, or prisoner); 22-3014 (second degree sexual abuse of a ward, patient, client, or prisoner); 22-3015 (first degree sexual abuse of a patient or client); 22-3016 (second degree sexual abuse of a patient or client); 22-3018 (attempts to commit sexual offenses); or 22-3102 (knowingly using a minor in a sexual performance or promoting a sexual performance by a minor).”.

(4) A new paragraph (5A) is added to read as follows:

“(5A) “Sexual assault counselor” shall have the same meaning as provided in § 23-1907(10).”.

(5) Paragraph (6) is amended to read as follows:

“(6) “Sexual assault victim” means any individual against whom a sexual assault has been committed or is alleged to have been committed, including:

“(A) Deceased individuals; and

“(B) Representatives appointed by the court to exercise the rights and receive services on behalf of sexual assault victims who are under 18 years of age, incompetent, incapacitated, or deceased.”.

(6) Paragraph (7) is repealed.

(c) Subsection (b) is amended as follows:

(1) Paragraph (1) is amended as follows:

(A) The lead-in language is amended by striking the phrase “victim advocate shall” and inserting the phrase “counselor shall” in its place.

(B) Subparagraph (F) is amended by striking the phrase “victim advocate” and inserting the word “counselor” in its place.

(2) Paragraph (3) is amended to read as follows:

“(3) The confidentiality of a confidential communication shall not be waived by the presence of, or disclosure to a:

“(A) Sign language or foreign language interpreter; provided, that a sign language or foreign language interpreter shall be subject to the limitations and exceptions set forth in paragraph (1) of this subsection and the same privileges set forth in subsection (c) of this section;

“(B) Third party participating in group counseling with the sexual assault victim; or

“(C) Third party with the consent of the victim where reasonably necessary to accomplish the purpose for which the sexual assault counselor is consulted.”.

(3) New paragraphs (4) and (5) are added to read as follows:

“(4) Except as provided in this subsection, no sexual assault counselor shall be compelled to reveal a confidential communication in any civil, criminal, or administrative proceeding, unless the sexual assault victim has given written consent.

“(5) Notwithstanding § 4-1321.02, sexual assault counselors shall be exempt from mandatory reporting of any crime disclosed in a confidential communication unless the sexual assault counselor has actual knowledge that the crime disclosed to the sexual assault counselor involves:

“(A) A victim under the age of 13;

“(B) A perpetrator or alleged perpetrator with whom the sexual assault victim has a significant relationship, as that term is defined in § 22-3001(10); or

“(C) A perpetrator or alleged perpetrator who is more than 4 years older than the sexual assault victim.”.

(d) A new subsection (b-1) is added to read as follows:

“(b-1) The presence of a sexual assault counselor shall not waive any privilege otherwise guaranteed by law.”.

Sec. 6. Section 252(c) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 19-315; D.C. Official Code § 22-3020.52(c)), is amended by adding a new paragraph (3) to read as follows:

“(3) Sexual assault counselors shall be exempt from reporting pursuant to subsection (a) of this section any crime disclosed in a confidential communication unless the sexual assault counselor has actual knowledge that the crime disclosed to the sexual assault counselor involves:

“(A) A victim under the age of 13;

“(B) A perpetrator or alleged perpetrator with whom the sexual assault victim has a significant relationship, as that term is defined in section 101(10) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001(10)); or

“(C) A perpetrator or alleged perpetrator who is more than 4 years older than the sexual assault victim.”.

Sec. 7. Section 1504(a) of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4233(a)), is amended as follows:

(a) Paragraph (6) is amended by striking the phrase “Director, District of Columbia Department” and inserting the phrase “Director, Department” in its place.

(b) Paragraph (15) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(c) Paragraph (18) is amended by striking the period and inserting the phrase “; and” in its place.

(d) A new paragraph (19) is added to read as follows:

“(19) Director, Office of Victim Services and Justice Grants.”.

Sec. 8. Subchapter II of Chapter 19 of Title 23 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by striking the phrase “victim advocate” and inserting the phrase “victim advocates and sexual assault youth victim advocates” in its place.

(b) Section 23-1907 is amended to read as follows:

“For the purposes of this subchapter, the term:

“(1) “DC SANE Program” means the DC Sexual Assault Nurse Examiner Program that provides comprehensive medical forensic care to sexual assault victims, including:

“(A) The DC Forensic Nurse Examiners;

“(B) The Child and Adolescent Protection Center; or

“(C) Any other entity within the District that is a member of the SART, or the multidisciplinary investigation team, described in § 4-1301.51.

“(2) “Forensic nurse examiner” means a nurse with specialized training in medical forensic evidence collection who provides comprehensive medical forensic care to sexual assault victims and participates in the DC SANE Program.

“(3) “Hospital” means a facility that provides 24-hour inpatient care, including diagnostic, therapeutic, and other health-related services, for a variety of physical or mental conditions, and may, in addition, provide outpatient services, particularly emergency care.

“(4) “Interview” means any interview conducted by the MPD or other District agency with a sexual assault victim relating to the alleged sexual assault.

“(5) “MPD” means the Metropolitan Police Department.

“(6) “OVSJG” means the Office of Victim Services and Justice Grants, established pursuant to Mayor’s Order 2016-171.

“(7) “PERK” means a Physical Evidence Recovery Kit used to collect and preserve physical evidence related to a sexual assault or alleged sexual assault.

“(8) “SART” shall have the same meaning as provided in § 4-561.01(11).

“(9) “Sexual assault” means any of the following offenses: §§ 22-1834 (sex trafficking of children); 22-2704 (abducting or enticing child from his or her home for the purposes of prostitution; harboring such child); 22-2705 (pandering; inducing or compelling an individual to engage in prostitution); 22-2706 (compelling an individual to live life of prostitution against his or her will); 22-2708 (causing spouse or domestic partner to live in prostitution); 22-2709 (detaining an individual in disorderly house for debt there contracted); 22-1901 (incest); 22-3002 (first degree sexual abuse); 22-3003 (second degree sexual abuse); 22-3004 (third degree sexual abuse); 22-3005 (fourth degree sexual abuse); 22-3006 (misdemeanor sexual abuse); 22-3008 (first degree child sexual abuse); 22-3009 (second degree child sexual abuse); 22-3009.01 (first degree sexual abuse of a minor); 22-3009.02 (second degree sexual abuse of a minor); 22-3009.03 (first degree sexual abuse of a secondary education student); 22-3009.04 (second degree sexual abuse of a secondary education student); 22-3010 (enticing a child or minor); 22-3010.01 (misdemeanor sexual abuse of a child or minor); 22-3010.02 (arranging for sexual contact with a real or fictitious child); 22-3013 (first degree sexual abuse of a ward, patient, client, or prisoner); 22-3014 (second degree sexual abuse of a ward, patient, client, or prisoner); 22-3015 (first degree sexual abuse of a patient or client); 22-3016 (second degree sexual abuse of a patient or client); 22-3018 (attempts to commit sexual offenses); or 22-3102 (knowingly using a minor in a sexual performance or promoting a sexual performance by a minor).

“(10) “Sexual assault counselor” means an employee, contractor, or volunteer of a community-based organization serving sexual assault victims 13 years of age or older who:

“(A) Renders support, counseling, or assistance to a sexual assault victim;

“(B) Has undergone at least 40 hours of training related to sexual assault counseling using a curriculum approved by the OVSJG that includes instruction on:

- violence;
- “(i) The dynamics and history of sexual assault and gender-based violence;
- exploitation;
- “(ii) Sex trafficking and other forms of commercial sexual
- “(iii) Trauma resulting from sexual assault, gender-based violence, and commercial sexual exploitation;
- “(iv) Responding to the specific needs of youth sexual assault victims;
- “(v) Responding to the specific needs of sexual assault victims with respect to their sexual orientation, gender identity, or gender expression;
- “(vi) Trauma-informed care, crisis intervention, personal safety, and risk management; and
- “(vii) Cultural humility;
- “(viii) The sexual assault victim advocate dispatch system, developed by OVSJG and approved by the SART, pursuant to § 23-1909(e); and
- “(ix) Services available to sexual assault victims, including how to access medical forensic care services available through the DC SANE Programs; and
- “(C) Is supervised by an individual who has a minimum of:
- “ (i) 5 years of experience rendering support, counseling, or assistance to sexual assault victims; or
- “ (ii) 3 years of experience rendering support, counseling, or assistance to sexual assault victims and an advanced degree in a related field.
- “(11) “Sexual assault victim” means any individual against whom a sexual assault has been committed or is alleged to have been committed, including:
- “(A) Deceased individuals; and
- “(B) Representatives appointed by the court to exercise the rights and receive services on behalf of sexual assault victims who are under 18 years of age, incompetent, incapacitated, or deceased.
- “(12) “Sexual assault victim advocate” means an employee or contractor of a community-based organization whose director or their director’s designee is a member of the SART and who:
- “(A) Is a sexual assault counselor; and
- “(B) Has undergone an additional 20 hours of training related to sexual assault victim advocacy using a curriculum approved by the OVSJG that includes instruction on:
- “ (i) The District’s criminal justice system;
- “ (ii) Crime victims’ rights; and
- “ (iii) Avoiding the unauthorized practice of law.”.
- “(13) “Sexual Assault Victim’s Rights Card” means a document, published by OVSJG in consultation with the SART, printed in the most widely spoken languages in the District, that advises sexual assault victims of their rights under this subchapter.

“(14) “Sexual assault youth victim advocate” means an employee or contractor of a community-based organization whose director or the director’s designee is a member of the SART and who:

“(A) Qualifies as a sexual assault victim advocate; and

“(B) Has undergone an additional 20 hours of training related to youth sexual assault victim advocacy using a curriculum approved by the OVSJG that includes instruction on:

“(i) Providing services to sexual assault victims under the age of 18, including the different needs of children and adolescents;

“(ii) Navigating family dynamics in the context of providing services to children and adolescents who have experienced sexual assault;

“(iii) The co-occurrence of child abuse in children and adolescents who have experienced sexual assault; and

“(iv) Children’s susceptibility to suggestive questioning, the impact suggestive questions have on criminal investigations and prosecutions, and techniques for minimizing the potential for suggestibility.”.

(c) Section 23-1908 is amended to read as follows:

“§ 23-1908. Sexual assault victims’ rights.

“(a) In addition to the rights set forth in subchapter I of this chapter, a sexual assault victim shall have the right to have:

“(1) A PERK performed at no cost;

“(2) To have their PERK and any additional probative or evidentiary contents preserved, without charge, for 65 years from the date the crime is first reported to the law enforcement agency, as that term is defined in § 5-113.31(9);

“(3) For sexual assault victims 18 years of age or older, a sexual assault victim advocate, and for sexual assault victims ages 13 to 17, a sexual assault youth victim advocate, present during any:

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

“(B) Point during the hospital visit; provided, that the presence of a sexual assault victim advocate or a sexual assault youth victim advocate does not pose health or safety risks to the sexual assault victim, the sexual assault victim advocate, or the sexual assault youth victim advocate; and

“(C) Interview.

“(b) A sexual assault victim shall have the rights provided in subsection (a)(3) of this section even if the sexual assault victim previously declined the presence of a sexual assault victim advocate or a sexual assault youth victim advocate.”.

(d) Section 23-1909 is amended to read as follows:

“§ 23-1909. Sexual assault victim advocates and sexual assault youth victim advocates; sexual assault victim advocate dispatch system.

“(a)(1) Hospitals shall, if a sexual assault victim who is 13 years of age or older consents, immediately notify the sexual assault victim advocate dispatch system before beginning any

forensic medical, evidentiary, or physical examination arising out of a sexual assault or an alleged sexual assault.

“(2) A sexual assault victim advocate shall, for sexual assault victims 18 years of age or older, and a sexual assault youth victim advocate shall, for sexual assault victims ages 13 to 17, inform the sexual assault victim of their rights under this subchapter.

“(b) The MPD shall, for a person known or suspected to be a sexual assault victim 13 years of age or older:

“(1) Upon making, provide to that person a Sexual Assault Victim’s Rights Card;

“(2) Before beginning an interview, advise the person of a sexual assault victim’s right to either a sexual assault victim advocate, if the sexual assault victim is 18 years of age or older, or a sexual assault youth victim advocate, if the sexual assault victim is ages 13 to 17;

“(3) If a sexual assault victim asserts their right to a sexual assault victim advocate or a sexual assault youth victim advocate, only conduct a minimal facts interview before the sexual assault victim consults with the advocate; and

“(4) If a sexual assault victim declines their right to a sexual assault victim advocate or sexual assault youth victim advocate, notify the sexual assault victim of their right to have a sexual assault victim advocate or a sexual assault youth victim advocate present as provided in § 23-1908.

“(c)(1) By June 1, 2020, the independent expert consultant, as that term is defined in § 4-561.01(6), shall submit to the MPD a report making recommendations on the scope of a minimal facts inquiry.

“(2)(A) By April 1, 2020, the independent expert consultant shall provide a draft of the report making recommendations on the scope of a minimal facts inquiry to the SART.

“(B) SART members may provide to the independent expert consultant written comments in response to that draft report within a reasonable period of time, to be determined by the independent expert consultant, but not less than one month.

“(3) The independent expert consultant shall consider all written comments that are timely received from SART members under paragraph (2)(B) of this subsection and submit its final report to the MPD based on the comments received.

“(4) The MPD shall, within 60 days after receiving the independent expert consultant’s final report, issue a general order regarding the scope of a minimal facts inquiry.

“(d) The MPD’s duties described in subsection (b) of this section shall:

“(1) For sexual assault victims ages 13 to 17, be performed by a member of MPD’s Youth Division; and

“(2) For sexual assault victims 18 years of age or older, be performed by a member of MPD’s Sexual Assault Unit.

“(e)(1) There is established a sexual assault victim advocate dispatch system that:

“(A) For a sexual assault victim ages 13 to 17:

“(i) Dispatches a sexual assault youth victim advocate to settings in which the sexual assault victim has the right to a sexual assault youth victim advocate’s presence pursuant to § 23-1908(a)(3); or

“(ii) Provides the sexual assault victim with electronic access, including telephonic access, to a sexual assault youth victim advocate:

“(I) In settings or during times in which dispatching a sexual assault youth victim advocate is impracticable; or

“(II) Upon the sexual assault victim’s request; and

“(B) For a sexual assault victim 18 years of age or older:

“(i) Dispatches a sexual assault victim advocate to settings in which the sexual assault victim has the right to a sexual assault victim advocate’s presence pursuant to § 23-1908(a)(3); or

“(ii) Provides the sexual assault victim with electronic access, including telephonic access, to a sexual assault victim advocate:

“(I) In settings or during times in which dispatching a sexual assault advocate is impracticable; or

“(II) Upon the sexual assault victim’s request.

“(2) The sexual assault victim advocate dispatch system shall be developed by OVSJG and approved by the SART.”.

(e) Section 23-1910 is amended to read as follows:

“§ 23-1910. Access to information.

“(a) Except as provided in subsection (b) of this section, in addition to the notice requirements set forth in subchapter I of this chapter, for a sexual assault victim 13 years of age or older, MPD shall:

“(1) Inform the sexual assault victim of:

“(A) The status of any medical forensic examination, PERK, or toxicology test related to the sexual assault, including the reasons for any delay in processing and the eventual completion of the testing and analysis of specimens related to the case, within 15 business days after any material change in the status of the medical forensic examination, PERK, or toxicology test; and

“(B) Any PERK test results, DNA testing results, toxicology report, or other information collected as part of a medical forensic examination within 15 business days after the results become available; provided, that the MPD is not required to disclose to the sexual assault victim the identity of any suspect implicated by DNA or similar testing for cases with an open investigation or active prosecution;

“(2) Provide the sexual assault victim, upon request, with a written copy of all policies governing the administration and preservation of a PERK;

“(3) Have the PERK and its probative contents preserved for 65 years from the date the crime is first reported to the law enforcement agency, as that term is defined in § 5-113.31(9);

“(4) Provide the sexual assault victim with written notification at least 60 days before the date of the intended destruction or disposal of the PERK; and

“(5) Make reasonable attempts to notify a sexual assault victim 13 years of age or older of the MPD’s intent to communicate with a suspect before communicating with the suspect

and alerting the suspect of the sexual assault allegation made against the suspect; provided, that if prior notification is not possible, notification shall be made as soon as is reasonably possible after the communication with the suspect has occurred.

“(b)(1) A sexual assault victim 13 years of age or older may request, in writing, that the MPD not perform any of its duties described in subsection (a) of this section.

“(2) If a sexual assault victim 13 years of age or older requests that the MPD not perform any of its duties described in subsection (a) of this section, the MPD shall not perform those duties, unless the sexual assault victim later requests that the MPD perform those duties; provided, that if a sexual assault victim requests that the MPD not preserve his or her PERK and its probative contents pursuant to subsection (a)(3) of this section, a sexual assault victim may not subsequently request that the MPD preserve his or her PERK and its probative contents pursuant to subsection (a)(3) of this section.

“(3)(A) The DFS shall notify the MPD of any material change in the status of any medical forensic examination, PERK, or toxicology test within 7 days after the material change.

“(B) The DFS shall notify the MPD of any PERK test results, DNA testing results, toxicology report, or other information collected as part of a medical forensic examination within 7 business days after the results become available.”.

Sec. 9. Applicability.

(a) Except as provided in subsection (b) of this section, sections 3, 4, 5, 6, and 8 shall apply as of October 1, 2020.

(b) The amendatory section 23-1909(c) within section 8(d) shall apply as of the effective date of this act.

Sec. 10. Fiscal impact statement.

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

Sec. 11. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

A handwritten signature in blue ink, appearing to read "Phil Mendel", written over a horizontal line.

Chairman
Council of the District of Columbia

A handwritten signature in black ink, appearing to read "Muriel Bowser", written over a horizontal line.

Mayor
District of Columbia

APPROVED

November 26, 2019



COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, DC, 20004

Docket No. **B23-0067**

☐ ITEM ON CONSENT CALENDAR

☒ ACTION & DATE

FIRST READING, Oct 22, 2019

☒ VOICE VOTE

RECORDED VOTE ON REQUEST

APPROVED

ABSENT

☐ ROLL CALL VOTE - Result

Council Member	Aye	Nay	NV	AB	Council Member	Aye	Nay	NV	AB	Council Member	Aye	Nay	NV	AB
Chmn. Mendelson	X				Gray	X				Silverman	X			
Allen	X				Grosso	X				T. White	X			
Bonds	X				McDuffie	X				Todd	X			
Cheh	X				Nadeau	X								
Evans	X				R. White	X								
X - Indicate Vote				AB - Absent				NV - Present, Not Voting						

CERTIFICATION RECORD

Secretary to the Council

11-13-19

Date

Docket No. **B23-0067**

☐ ITEM ON CONSENT CALENDAR

☒ ACTION & DATE

FINAL READING, Nov 5, 2019

☒ VOICE VOTE

RECORDED VOTE ON REQUEST

APPROVED

ABSENT

☐ ROLL CALL VOTE - Result

Council Member	Aye	Nay	NV	AB	Council Member	Aye	Nay	NV	AB	Council Member	Aye	Nay	NV	AB
Chmn. Mendelson	X				Gray	X				Silverman	X			
Allen	X				Grosso	X				T. White	X			
Bonds	X				McDuffie	X				Todd	X			
Cheh	X				Nadeau	X								
Evans	X				R. White	X								
X - Indicate Vote				AB - Absent				NV - Present, Not Voting						

CERTIFICATION RECORD

Secretary to the Council

11-13-19

Date