

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 54.1-2970.1, relating to individual*
3 *incapable of making informed decision; procedure for physical evidence recovery kit examination.*

4 [S 1006]
5 Approved

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That the Code of Virginia is amended by adding a section numbered 54.1-2970.1 as follows:**

8 **§ 54.1-2970.1. Individual incapable of making informed decision; procedure for physical evidence**
9 **recovery kit examination.**

10 *A. A licensed physician, physician assistant, nurse practitioner, or registered nurse may perform a*
11 *physical evidence recovery kit examination for a person who is believed to be the victim of a sexual*
12 *assault and who is incapable of making an informed decision regarding consent to such examination*
13 *when:*

14 *1. There is a need to conduct the examination before the victim is likely to be able to make an*
15 *informed decision in order to preserve physical evidence of the alleged sexual assault from degradation;*

16 *2. No legally authorized representative or other person authorized to consent to medical treatment on*
17 *the individual's behalf is reasonably available to provide consent within the time necessary to preserve*
18 *physical evidence of the alleged sexual assault; and*

19 *3. A capacity reviewer, as defined in § 54.1-2982, provides written certification that, based upon a*
20 *personal examination of the individual, the individual is incapable of making an informed decision*
21 *regarding the physical evidence recovery kit examination and that, given the totality of the*
22 *circumstances, the examination should be performed. The capacity reviewer who provides such written*
23 *certification shall not be otherwise currently involved in the treatment of the person assessed, unless an*
24 *independent capacity reviewer is not reasonably available.*

25 *B. Any physical evidence recovery kit examination performed pursuant to this section shall be*
26 *performed in accordance with the requirements of §§ 19.2-11.2 and 19.2-165.1 and shall protect the*
27 *alleged victim's identity.*

28 *C. A licensed physician, physician assistant, nurse practitioner, or registered nurse who exercises*
29 *due care under the provisions of this act shall not be liable for any act or omission related to*
30 *performance of an examination in accordance with this section.*