



Maryland Coalition Against Sexual Assault

Working to end sexual violence in Maryland

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## All Male Conference Committee Fails Rape Survivors

Despite years of advocacy, legislation to create a court process for sexual assault survivors to end the parental rights of rapists when the child was conceived through rape failed again. Legislators delayed acting on the Rape Survivor Family Protection Act until it was too late to actually pass a bill. An all-male conference committee was appointed to decide the fate of the legislation and did not meet until after 10pm. Concerns are being expressed about the composition of the committee. Delegate Ariana Kelly (D-Montgomery County), incoming President of the Women's Caucus, observed "it is inexcusable that no women were appointed to a conference committee addressing rape and pregnancy." The bi-partisan Women's Caucus of Maryland Legislators strongly supported the legislation. In addition to the Women's Caucus, the bill had a huge range of support including from both the Catholic Conference and Planned Parenthood. In recent years Maryland has been ridiculed in the national media for its failure to address the issue of parental rights of rapists, and in 2016 the Chairman of the Judicial Proceedings Committee was given the "[crown for killing off legislation designed to help vulnerable women](#)" by a Washington Post editorial for failing to pass this bill.

As introduced, the Rape Survivor Family Protection Act would have prohibited courts from ordering names or personally identifying information of the rape survivor or child conceived from the rape from being published. The House of Delegates passed the bill with these provisions intact, while the Senate Judicial Proceedings Committee stripped off these provisions and would have allowed judges to order that a rape victim publish her name and the name of the child as a condition of moving forward with litigation. Theoretically, publication is to provide notice that the case exists, but few professionals believe that potential fathers actually read the small ads placed in classified sections to see if they have conceived a child. Ads are, however, included in online versions of newspapers and the names of rape victims and their children can easily be found by search engines, such as Google. The Maryland Attorney General's office analyzed the bill and confirmed that publication of names is not necessary.

The Rape Survivor Family Protection Act would have created a process to terminate the parental rights of rapists when a child is conceived as a result of rape. About 5% of women of reproductive age who are raped become pregnant as a result, with about 38% carrying a child to term. The legislation, introduced by Delegate Kathleen Dumais, Vice-Chair of the House Judiciary Committee, and Senators Brian Feldman and Susan Lee would have set up a process that permits rape survivors to file a complaint in family court and would have required a judge to hold a trial and make a prompt decision.

The bill's 2016 lead sponsor, Congressman Jamie Raskin, explained his reasons for championing the bill: "State family law should be on the side of women and their children who are working, against great odds, to recover their sense of security, dignity, and stability after the trauma of rape. Maryland should not grant sexual assailants presumptive and categorical paternity rights without giving women the chance to show by clear and convincing evidence that they were impregnated by acts of sexual assault." Other states have also reported practical concerns. In North Carolina, press reports describe cases where victims wanted to place children conceived through rape up for adoption and the rapist threatened not to terminate his parental rights unless the victim agreed not to press criminal charges.

The legislation would have required “clear and convincing evidence” that the child was conceived as a result of sexual assault and that it is in the best interest of the child to terminate parental rights. This standard of proof is higher than the normal civil standard—“by a preponderance of the evidence”—and is the standard used in all other family law contexts for the judicial termination of parental rights.

Advocates strongly object to requiring a conviction in these cases. “Only about 3.3% of rapes result in a conviction, and we don’t require a conviction in other termination of parental rights cases involving crimes,” said Lisae C. Jordan, Executive Director and Counsel for the Maryland Coalition Against Sexual Assault (MCASA). “Rape victims should have to meet the same standard used in other termination of parental rights cases- no more, no less.”

In 2017, under the leadership of the bill’s sponsors and with the support of a wide variety of organizations and individuals, this bill moved further than ever. This year the bill was on the Maryland Legislative Agenda for Women, and had the support of the Maryland Coalition Against Sexual Assault, Maryland State Bar Association, Office of the Attorney General, the National Association of Social Workers, Women’s Law Center, Planned Parenthood, the Maryland Catholic Conference, Women Legislators of Maryland, Adoptions Together, Maryland Affiliate of the American College of Nurse Midwives, and the Women’s Democratic Club. It is disappointing that the Rape Survivor Family Protection Act was not passed for the 9th time since its first introduction a decade ago, but we will continue our fight to help survivors who become pregnant as a result of rape.