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**Working to end sexual violence in Maryland**

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### **2016 Legislative Priorities - Final Report**

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes all of the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence in the State of Maryland.

One of MCASA's most important responsibilities is to advocate for effective state public policies in Annapolis. MCASA supports legislation that promotes justice for survivors of sexual violence, accountability for offenders, and protection for the general public. We work closely with the member rape crisis centers and invite all survivors and others interested in ending sexual violence to join our efforts. For more information on how to work together, please visit [www.mcasa.org](http://www.mcasa.org).

This session brought some successes and some disappointments. One of MCASA's top priorities, Erin's Law, passed and will require age-appropriate education on the awareness and prevention of sexual abuse and assault. The bill will require that the material be taught by a teacher who is trained on how to present the material and that the program be part of students' health curricula. This important prevention initiative will help address sexual abuse of children and youth, and will also help prevent college sexual assault by educating young people about healthy relationships before they attend college. Delegate Eric Luedtke, a Montgomery County teacher himself, sponsored this bill in the House. Its unofficial Senate sponsor was Senator Craig Zucker, the newly appointed senator from District 14. Senator Zucker was appointed too late in the session to officially introduce the bill, but acted as its senate ambassador.

Budget issues continue to be important and MCASA keeps close tabs on funding for rape crisis centers and other programs assisting survivors. Funding for sexual assault and domestic violence programs remained flat in next year's budget. At budget hearings, Chris Shank, former Executive Director at the Governor's Office of Crime Control & Prevention (GOCCP) and now Deputy Chief of

Staff to Governor Hogan, acknowledged that the State cannot expect to keep funding flat indefinitely. We will continue to pursue this and will look for increased support in the near future.

The Rape Survivor Family Protection Act made it through the House for the first time ever. We are grateful for the continued and outstanding advocacy by lead sponsor Delegate Kathleen Dumais, Vice-Chair of the House Judiciary Committee, and also appreciate the support of Speaker Mike Busch in this effort. We acknowledge Chairman Joseph Vallario for his decision to allow a vote in the Judiciary Committee. The bill also made it through the Senate Judicial Proceedings Committee, but died after poison pill amendments were added. More details are below. Lead sponsor Senator Jamie Raskin put up a strong fight for survivors and continues to be a true champion for women.

The bill to change evidence law and permit introduction of a defendant's past acts of sexual assault also made progress, but was ultimately unsuccessful. MCASA has supported this effort for over a decade and believes it will improve access to justice for survivors and help hold offenders accountable. Lawmakers delayed the bill in the House, citing concerns that the court Rules Committee is the proper forum to create rules of evidence. MCASA will work with other stakeholders over the interim to ask the Rules Committee to either address the issue or make it clear the that legislature should.

Several bills on this year's agenda were prompted by the experiences of rape crisis centers, forensic nurses, and community advocates. MCASA was honored to help turn their ideas into laws that address respectful language, sexual exploitation by court-ordered service providers, and strangulation. Thank you to the advocates who brought issues forward and helped create laws. Please never hesitate to contact MCASA with your ideas on how to improve policy for survivors.

MCASA's full agenda and the Legislature's actions are detailed below. We are grateful to the many survivors, program staff and directors, community members, and others who help advocate with the policy makers in Annapolis. As you read our report, please take note of the legislators and others mentioned and join us in thanking them for their support.

We look forward to continuing our work and the fight to stop sexual violence, support survivors, and hold offenders accountable.

Best regards,

*Lisae*

Lisae C Jordan, Esquire  
Executive Director & Counsel  
Maryland Coalition Against Sexual Assault

## **MCASA Top Priorities**

### **Funding for Services for Sexual Assault Survivors**

One of MCASA's top priorities is to maintain funding for rape crisis centers and prevent loss of services for victims of child sexual abuse and sexual assault. Funding for sexual assault and domestic violence programs remained flat in next year's budget. At budget hearings, Chris Shank, former Executive Director at the Governor's Office of Crime Control & Prevention (GOCCP) and now Deputy Chief of Staff to Governor Hogan, acknowledged that the State cannot expect to keep funding flat indefinitely. This session, a bill referred to as "Alicia's Law" was also passed. This creates a fund to address the high costs associated with investigating internet crimes against children, including child pornography and trafficking. Funds will support the Taskforce on Internet Crimes Against Children, and salaries, training and equipment used in these investigations. GOCCP is required to administer funds based on need, with a 25% limit on funding directed to child advocacy centers. General state funds will support the initiative.

### **SA Prevention - Elementary & Secondary Schools - HB72 - Support - PASSED**

This bill, often referred to as **Erin's Law**, will mandate age-appropriate sexual assault and abuse awareness and prevention work in elementary and secondary schools. This bill will help prevent sexual abuse of children and youth, and will also help prevent college sexual assault by helping to educate young people about healthy relationships before they attend college. This bill is referred to as "Erin's Law" to honor and acknowledge Erin Merryn, the brave survivor who has led this effort nationwide. MCASA offers a free on-line training for educators and counselors who wish to learn more about child sexual abuse, visit <http://www.mcasatrainings.org/csa-online-training/>  
Lead Sponsor: Delegate Eric Luedtke; thanks also to Senator Craig Zucker.

### **Rape Survivor Family Protection Act - HB646/SB593 - Support - Passed House, Not Senate**

Current law gives rapists who cause a child to be conceived the same rights as other biological parents. Additionally, if a rapist-parent cannot be located, current law requires that the victim's name be published in the newspaper. MCASA continued to support legislation to limit the parental rights of rapists when the child was conceived through rape and to increase protections for rape survivors who have a child conceived through rape. We stand firm in our commitment to enacting legislation with a clearing and convincing standard of evidence. This is the same standard used in other family law cases that result in the termination of parental rights.

For the first time, this bill was passed out of the House Judiciary Committee and went on to pass the full House unanimously. The Senate Judicial Proceedings Committee, however, stripped off protections for survivors and children, and added additional provisions to benefit assailants. Far more detrimentally, Senator Jim Brochin's failed evidence bill (SB235) was also attached to the bill. While MCASA fully supports SB235 and has worked on similar bills for over a decade, attaching a dead bill to HB646/SB593 helped kill them both and harms victims in the process. We are grateful to Senator Brian Feldman for standing ready to offer floor amendments that would have removed the "poison pill" of adding SB235 to the bill and restored the protections for survivors. In the end, Chairman Bobby Zirkin told his committee that he would kill the bill if any amendments were made and then "special ordered" the bill on the floor of the Senate so it could not be debated or voted on. Lead Sponsors: Delegate Kathleen Dumais and Senator Jamie Raskin.

## **Additional MCASA Priorities**

### **Access to Justice for Survivors**

#### **Perjury – Prohibition on Testimony – SB150/HB237, SB82 – Support – PASSED**

Current law prohibits a convicted perjurer from testifying. This effectively prevented a sexual assault prosecution where the victim has been convicted of perjury in the past. As amended, this bill will allow a jury to hear about a witness's perjury conviction, but the witness will be permitted to testify. Lead Sponsors: Senator Susan Lee and Delegate Wil Smith, Governor's Office of Crime Control & Prevention.

#### **Past Bad Acts – HB218/SB235 – Support – Amended and passed in the Senate, failed in House Committee.**

This bill expands admissibility of prior acts of sexual abuse or sexual assault in later sex crimes cases. MCASA worked closely with the Maryland State Attorneys Association on this issue, which has been a priority of MCASA for over a decade. We continue to believe it will have profound effect on successful prosecution of sex crimes. Progress was made in the Senate this session, where the Judicial Proceedings Committee passed out a bill that would permit introduction of past bad acts if a defendant alleged consent or if the case involved a child and the defendant alleged fabrication. The House Judiciary Committee raised concerns about whether an evidence rule should be developed by the Rules Committee of the Court of Appeals and there were suggestions that the issue be sent to the courts over the interim. This would allow the Rules Committee to act or decline to act and, if no Rule is created, the General Assembly could act. In a truly unfortunate development, less experienced advocates and politicians were angered by this approach and advocated for SB235 to be amended on to the family law bill on parental rights of rapists, ignoring repeated warnings that this would kill both bills. Senator Brochin amended his bill onto the parental rights bill and both bills died.

#### **Expanding Statute of Limitations – Civil Child Sexual Abuse Cases – SB69/HB1216 – Support – No Vote in Committee**

The current statute of limitations in civil child sexual abuse cases requires that a suit be filed by the time the survivor is 25 years old. For many survivors, this is not enough time to feel strong enough to report and go to court. This bill would expand the time limit to age 38, increasing the number of survivors who can seek justice in the civil courts. Lead sponsors: Senator Ronald Young and Delegate CT Wilson.

#### **Tort Claims Notice Act – SB356 – Passed House and Senate in Different Forms – Died in Conference Committee**

Current law requires victims of a tort to provide notice that they have been injured within one year when their claim is against a government. Victims who do not or cannot provide this notice are barred from filing suit against the government. Senate Bill 356 would have eliminated these grossly unfair notice requirements and also expanded access to justice for minors and persons with disabilities. This bill was particularly important to victims of child sexual abuse. Lead Sponsor: Senator Bobby Zirkin.

### **Sexual Harassment – HB1478 – No Vote in Committee**

This bill would have expanded application of sexual harassment liability to all employers, including those with less than 15 employees. Lead Sponsor: Delegate Meagan Simonaire.

### **S.L.A.P. Suits – HB263 – Passed House, Unfavorable Report by Senate Committee**

This bill would amend the law regarding SLAP Suits – Strategic Lawsuits Against Public Participation. Sexual assault survivors across the country are increasingly facing lawsuits brought to discourage exercising their rights in college sexual misconduct proceedings and related Title IX actions. While not all of these retaliatory suits will qualify as SLAP suits, some will and HB263 would help discourage this type of litigation abuse. Lead Sponsor: Delegate Sandy Rosenberg.

## **Child Sexual Abuse**

### **Failure to Report Child Abuse – Licensing Boards – HB245/SB310 – Support – PASSED**

This bill requires multidisciplinary teams investigating child abuse to inform professional licensing boards when a professional fails to report child abuse or neglect as required by mandatory reporting law. Lead Sponsors: Delegate Kathleen Dumais and Senator Jamie Raskin.

### **SA Prevention – Elementary and Secondary Schools – HB72 – Support – PASSED**

This bill will mandate age-appropriate sexual assault and abuse awareness and prevention work in elementary and secondary schools. This bill will help prevent sexual abuse of children and youth, and also help prevent college sexual assault by helping to educate young people about healthy relationships before they attend college. Lead Sponsor: Delegate Eric Luedtke; thanks also to new Senator Craig Zucker.

### **Child Abuse & Neglect - Expungement of Records - Time Period – SB31 – Support – PASSED**

Requiring local departments of social services to retain records of reports of child abuse and neglect, including of child sexual abuse, for 5 years when the report is unsubstantiated or ruled out. Lead Sponsors: Senators DeGrange & Ready.

## **Sexual Exploitation**

### **Sexual Exploitation by Court Ordered Services Providers – HB571– Support – PASSED**

This bill would prohibit sexual relations between counselors and others who provide court-ordered services, and litigants who have been ordered to receive those services. The bill responds to a case involving a client at one of MCASA’s member sexual assault programs where a drug treatment provider requested sexual acts from a client who had been court ordered into treatment and was unable to pay her bill. Thank you to Walden Sierra Executive Director, Dr. Kathy O’Brien, for bringing this issue forward. Lead Sponsor: Delegate Carlo Sanchez.

**Sex Offenses – Threatening to Withhold Government Services – SB504 – Support – No Vote in Committee**

This bill was prompted by the despicable practices by workers at the Baltimore City Housing Authority who demanded that tenants perform sex acts in order to have basic repairs to their housing. In one case, a woman was told that a gas leak would not be repaired unless she performed sexual favors. The bill would make it a felony sexual offense to threaten to withhold government services. Lead Sponsors: Senator Catherine Pugh and Delegate Curt Anderson.

**Sexual Exploitation of Patients – HB944 Support if Amended – No Vote in Committee**

This bill would create misdemeanor criminal sanctions for clinicians who sexual exploit patients during treatment or in the 2 years following treatment. MCASA supported with amendments to clarify that criminal sanctions would only apply in situations involving emotional dependency, joining mental health and recovery advocates in the belief that seeking counseling does not vitiate a person’s ability to consent. Lead Sponsor: Delegate David Vogt.

**Stalking**

**Criminal Law – Stalking – SB278/HB155 – Support – PASSED**

MCASA joined the efforts of the Family Violence Council and Maryland State Attorneys Association to revise the criminal stalking laws to address deficiencies and permit more effective enforcement. Intentional infliction of emotional distress was added to the stalking law. Note that, because stalking is a basis for peace and protective orders, this change will also expand access to civil protection. Lead Sponsors: Delegate Kathleen Dumais and Senator Susan Lee.

**Peace Orders – Stalking & Harassment – SB346/HB314 – Support – PASSED**

A companion to the criminal stalking bill, this will expand access to peace orders to encompass different types of harassment, including revenge porn and visual surveillance. Lead Sponsors: Delegate Vanessa Atterbeary and Senator Victor Ramirez.

**Underserved Populations**

**Respectful Language for Survivors with Disabilities – HB822 – Support – PASSED**

This bill modernizes language used in Maryland’s sex crimes law by replacing the offensive terms “mentally defective” and “mental retardation” with “substantially cognitively impaired” and “intellectual disability”. Lead Sponsor: Delegate Vanessa Atterbeary.

**Criminal Law – Extortion – Immigration Status – SB178/HB493 – Support – PASSED**

This bill prohibits extortion by threatening to reveal immigration status, a tactic used in both domestic violence and human sex trafficking cases. Lead sponsors: Senator Susan Lee and Delegate Marice Morales.

**Certification of Victim Helpfulness – U Visas – SB1023 – Support – No Vote in Committee**

Requiring public officials to respond to requests for a certification of helpfulness within 90 days. Certifications of helpfulness are used in U Visa applications, which are available to persons in the

US without status who are victims of violent crime and assist with prosecution. Survivors of rape, incest, human trafficking, and other sex crimes are among those eligible. MCASA's Sexual Assault Legal Institute (SALI) provides representation in these cases. Lead sponsor: Senator Victor Ramirez.

### **Human Sex Trafficking**

#### **Safe Harbor Policy – Youth Victims of Trafficking – HB786/SB683 – Support – PASSED**

Extends the term of a Work Group to study the issue of Safe Harbor Policy and Youth Victims of Human Trafficking; MCASA has a designated seat on this Work Group. Lead Sponsors: Senator Susan Lee and Delegate Marice Morales.

#### **Trafficking Victims & Petty Crimes – SB866/HB623 – Support – No Vote in Committee**

This bill would give courts the authority to vacate convictions for petty crimes that were committed as a result of being a victim of human trafficking. Current law limits vacating convictions to prostitution charges. Lead Sponsors: Senator Susan Lee and Delegate Kathleen Dumais.

#### **Prostitution – Fines for Services – SB865/HB1089 – Support – No Vote in Committee**

This bill increases fines on those who hire people to perform prostitution, and requires fines imposed after conviction to be used to fund services for human trafficking survivors. Lead Sponsors: Senator Susan Lee and Delegate Marice Morales.

#### **National Human Trafficking Hotline Notice – Adult Entertainment Establishments – SB1084 – Support – No Vote in Committee**

Requiring adult entertainment establishments to post information about the National Human Trafficking Hotline. Lead Sponsor: Senator Susan Lee.

### **Protective Orders & Peace Orders**

#### **Protective Orders – Notification of Service – SB924/HB534 – Support – PASSED**

Removing a sunset provision for program providing petitioners with notice that a respondent has been served with a petition for a protective order. Lead Sponsors: Senator Victor Ramirez and Delegate Sanchez.

#### **Peace Orders – Stalking & Harassment – SB346/HB314 – Support – PASSED**

A companion to the criminal stalking bill, this will expand access to peace orders to encompass different types of harassment, including revenge porn and visual surveillance. Lead Sponsor: Delegate Vanessa Atterbeary and Senator Victor Ramirez.

#### **Permanent Protective Orders – HB819 – Support – No Vote in Committee**

Requiring a court to include suspended sentences and probationary time when determining whether a permanent protective order should be issued. Lead Sponsor: Delegate Vanessa Atterbeary.

**Protective Orders – Harassment & Malicious Destruction of Property – HB1396/HB960 – Support with Amendment – Failed in Committee, added to other bill, failed in Senate**

Harassment and malicious destruction of property are currently a basis for a peace order, but not a protective order. This bill would add these acts to the protective order statute. Amendments were proposed to correct drafting errors that would have led to confusion. While this bill failed, we are hopeful the bill adding intentional infliction of emotional distress to stalking will address many cases involving these issues. Lead Sponsor: Delegate Angela Angel

**Child Custody**

**Child Custody – HB1232/SB978 – Support – No Vote in Committee**

**HB1232/SB978** would create a statute regarding child custody, including protections in cases involving child sexual abuse, child abuse, and domestic violence. It is the work-product of the highly regarded Child Custody Commission. Lead Sponsors: Delegate Kathleen Dumais and Senator Susan Lee.

**Presumption of Joint Custody – HB259/SB962 – Oppose – No Vote in Committee**

This bill would create a presumption of joint custody in contested child custody cases. MCASA, together with our colleagues in the anti-domestic violence community, has long advocated against a presumption of joint custody out of concerns this fails to address abuse and will endanger survivors. Lead Sponsors: Delegate Jill Carter and Senator Anthony Muse.

**Other**

**Contraceptive Equity Act – HB1005/SB848 – Support – PASSED**

Improving access to contraception, including emergency contraception, by eliminating co-pays, pre-authorization requirements, and improving other aspects of insurance coverage. Lead Sponsors: Delegate Ariana Kelly and Senator Delores Kelley.

**Strangulation – Lethality Screening Protocol – HB1371 – Support – PASSED**

This bill was suggested by Pam Holtzinger, a forensic nurse examiner at Frederick Memorial Hospital and frequent presenter at MCASA trainings. It will require law enforcement to receive training and screen for strangulation as part of a lethality screening protocol. MCASA appreciates Ms. Holtzinger's leadership and passion for making progress on this issue. Lead Sponsor: Delegate Bill Folden.

**Non-Resident Sex Offenders – HB166 – Support – PASSED**

Closing a loophole that permitted Commissioners to release non-resident sex offenders. Judges will be required to review these cases. Lead Sponsor: Delegate Geraldine Valentino-Smith.

**Body Worn Cameras – Support Victim-Survivor Sensitive Provisions – HB947/SB930 – Passed the House, no vote in Senate Committee.**

MCASA closely monitored plans to amend Maryland's Public Information Act as it applies to images captured by law enforcement on body worn cameras and will support efforts to protect victim privacy. The advocacy efforts on these bills were led by MACO (Maryland Association of



Counties) and MCASA appreciates their willingness to work together. As a result of this collaboration, the bill passed by the House of Delegates included several provisions to address privacy concerns of victims of sexual assault and domestic violence; unfortunately, the bill was not voted on in the Senate. Sponsors: Delegate Charles Sydnor & Frank Conaway and Senators Bill Ferguson & Gail Bates.

### **Earned Safe & Sick Leave – HB580/SB472 – Support – Passed House, Died in Senate**

This bill would create a limited right for employees who are survivors of sexual assault, domestic violence, and stalking to take earned, paid time off to address issues related to the violence. It would create a similar limited right for paid sick time. This bill made significant progress this session and almost passed, failing at the last moment on sine die (the last day of session). MCASA appreciates our colleague and advocate, Melissa Broome, for her efforts and looks forward to success in the near future. Lead Sponsors: Delegate Luke Clippinger and Senator Catherine Pugh.

### **College Policies – Affirmative Consent – HB1142 – Support with Amendments – No Vote in Committee**

This bill addressed sexual assault policies at institutions of higher learning. MCASA fully supports public policy that people (students or otherwise) should have knowing, voluntary, and mutual consent among all involved before engaging in sexual activity. MCASA's commitment to these principles is strong and unwavering. There were concerns about the approach and language in HB1142 and amendments were suggested. Lead Sponsor: Delegate Marice Morales.

### **SAFE Exams**

#### **Budget Language – Sexual Assault Forensic Exams – Mobile Teams**

Working with the Women's Caucus, budget language was included in the Joint Chairman's report directing the Secretary of the Department of Health Mental Hygiene to provide additional information by December 15, 2016:

**Mobile Sexual Assault Forensic Exam Teams:** The budget committees remain concerned about access to mobile sexual assault forensic exam (SAFE) teams throughout the State. The committees request a report containing information on the Department of Health and Mental Hygiene's (DHMH) efforts to establish mobile SAFE teams or the establishment of protocols to ensure that all hospitals with emergency departments have a plan so that sexual assault victims have access to SAFEs at hospital facilities. Efforts to establish such teams can include creating or continuing a mobile SAFE program staffed by at least one dedicated employee, or entering into an agreement with an existing SAFE program to permit mobile SAFE team members to conduct SAFEs at their facilities. The report should also detail any barriers to establishment and implementation of such plans and agreements.

#### **Budget Language – Training for Sexual Assault Forensic Nurse Examiners**

Working with the Women's Caucus, budget language was enacted restricting \$100,000 of Board of Nursing appropriations until the Board of Nursing submits a report to the budget committees containing information regarding the availability of online instruction for the nonclinical component of training for forensic nurse examiners to become certified to perform sexual assault

forensic examinations, including recommendations on improving the availability of this instruction. The Report shall be submitted by October 1, 2016, and the budget committees shall have 45 days to review and comment.