



Working to end sexual violence in Maryland

P.O. Box 8782
Silver Spring, MD 20907
Phone: 301-565-2277
Fax: 301-565-3619

For more information contact:
Lisae C. Jordan, Esquire

www.mcasa.org

2018 Legislative Priorities – Final Report

The Maryland Coalition Against Sexual Assault (MCASA) supports legislation that promotes justice for survivors of sexual violence, accountability for offenders, and protection for the general public. The 2018 legislative session brought continued progress for survivors of sexual assault.

Thank you to everyone who made calls, sent emails, testified in Annapolis, and donated to MCASA to support our public policy efforts. You make a difference for survivors.

Here is MCASA's Final Report on the 2018 session:

With the support of the Legislature's presiding officers, Speaker Mike Busch and President Mike Miller, the **Rape Survivor Family Protection Act**, was passed and enacted early in session. Delegate Kathleen Dumais continued to lead this effort and never gave up. Senator Brian Feldman took on leadership in the Senate after Jamie Raskin departed for Congress. Early passage of this bill helped survivors immediately and also allowed MCASA to focus time and energy on other important legislation.

Our work paid off. After decades of advocacy, the **Past Bad Acts** bill passed and will allow jurors to hear about evidence of past acts of sexual assault when there is a consent defense or an assertion that a child fabricated an allegation. Special thanks to Scott Shellenberger, State's Attorney for Baltimore County, who was a leader and partner in these efforts for many years.

Maryland will lead the nation with a model for providing **Fair Process in College Sexual Assault cases** with the passage of SB607/HB913. This bill was sponsored by Chair Joan Carter Conway in the Senate and Delegate Aruna Miller in the House, with the help of sub-committee chair and long-time women's rights advocate Delegate Ben Barnes. This bill

provides basic access to information for students, protects students against inquiries into their sexual histories or mental health treatment, holds the line against the roll-back of protections for victims at the federal level, limits the use of mediation to appropriate cases, and provides students with access to counsel paid for by the Maryland Higher Education Commission.

#MeToo prompted a number of bills regarding **sexual harassment**. A bill was enacted to survey employers regarding secret sexual harassment settlements and settlements against the same offender (the Harvey Weinsteins of Maryland). Others require education for state employees; will gather information about sexual harassment complaints in the State workforce; and revise workplace harassment rules for incidents at the General Assembly. Delegates Kris Valderrama, Ariana Kelly, and Shelly Hettleman, and Senator Craig Zucker, were among the leaders of these efforts. Delegate Luke Clippinger assisted with a successful conference committee on the Disclosing Sexual Harassment in the Workplace Act of 2018. The General Assembly's Commission on Workplace Harassment met and will continue work in this area. MCASA looks forward to seeing more bills about sexual harassment in the private sector next session.

Criminal laws were expanded and improved. A bill to make sextortion a crime passed 15 minutes before the end of session. Perpetrators are using technology for sexual exploitation and the sextortion bill, SB769, will give prosecutors more tools to respond. A law to make it a crime for law enforcement to have sex with someone in their custody passed, HB1292. Programs working with sex workers helped advocate for this bill to help prevent sexual exploitation. A minor, but important, change was made to the definition of a "crime of violence" removing a requirement that sexual abuse of a child under 13 be under the clothing. This affects penalties for these offenders and will make it easier to terminate their parental rights. Finally, it will be a crime to violate a criminal stay-away order; this will be especially helpful for sexual assault survivors who do not have children or property with an offender because they will no longer need a protective order to increase safety. Delegate Aruna Miller continued her passionate leadership on behalf of survivors. Delegates Brooke Lierman and Kathleen Dumais, and Senator Bobby Zirkin all helped make this progress possible.

As always, one of MCASA's top priorities is **funding** for sexual assault programs. Last session the General Assembly enacted dedicated funding for rape crisis centers and created new position in the Attorney General's Office to staff the Committee on Sexual Assault Evidence Kit Policy and Funding. The increased rape crisis center funding was included in the Governor's original budget and, after advocacy, the 3rd supplemental budget added funding the new position for the Attorney General's Committee. Also of interest, the General Assembly has asked GOCCP to report on barriers to distribution of VOCA funds, their contact with the Access to Justice office in the courts, and on how many victims of domestic violence are unrepresented in divorce and custody cases. The

Women's Caucus, Senator Nancy King, and Delegates Michael Jackson, and Mark Chang all kept their eyes on these important funding issues.

Partnering with our colleagues at the Maryland Network Against Domestic Violence, the **permanent protective order** bill passed. This bill, sponsored by Delegate Vanessa Atterbeary and Senator Delores Kelley, will let survivors of some of the most serious crimes obtain long-time relief. Special thanks to attorney Blaine Hoffmann, legal director at MCASA member program Heartly House, for bringing this issue forward. **Revenge porn** was also added to the list of acts that provide the basis for a protective order.

One outstanding disappointment was the **failure of the bills to provide medicine to prevent HIV for rape survivors**. Rape survivors are currently provided with emergency medical treatment after an assault free of charge as part of the Sexual Assault Forensic Evidence kit process. Health General §15-127 (commonly called "rape kits" or "SAFE kits"). HIV n-PeP prevent HIV infection if it is administered within 72 hours of exposure to HIV. The state of Maryland refuses to pay for HIV n-PEP for rape survivors except in limited cases. The Maryland Department of Health does not view n-PEP as emergency treatment. Even in the limited cases where the Department will provide nPEP, the state will not provide the full 28 days of treatment, but only a "starter pack". The State justifies its limited distribution of n-PEP by pointing to dated guidelines and cost. HB639/SB731, introduced by Delegate Aruna Miller and Senator Brian Feldman, would have changed this, but the bill was killed when the Department of Health provided inflated cost estimates. Another bill, HB247, creates a Victim Services Unit under GOCCP and will have responsibility for this issue in the future. We are hopeful this new unit will take a fresh look at the issue and look forward to working together to prevent HIV infection for rape survivors.

Sex trafficking bills are part of MCASA's legislative work. This session saw several bills almost, but not quite, make it, including the bill to vacate convictions of survivors. We are confident that work over the interim will resolve issues and the bill will be reintroduced next year. A complicated bill to revise the human trafficking statute also ran out of time session, but has promise for next year. Thank you to Senator Susan Lee for sponsoring these bills and continuing to be one the General Assembly's strongest advocates for women. Thank you also to MCASA member agency, TurnAround, for continuing to be a leader in these efforts.

Public policy advocacy is one of MCASA's primary responsibilities and we are grateful for the opportunity to lead efforts to improve Maryland's laws and make them more responsive to sexual assault survivors and the programs that serve them. We are grateful to our colleagues in the advocacy community and the Legislature for all of their efforts. The sponsors of survivor-centered legislation are listed below with each bill; please take a moment to reach out and thank them for their efforts. President Mike Miller helped lead

efforts this session to pass the College Sexual Assault Fair Process bill and to enact the Rape Survivor Family Protection Act and we are grateful for his support. Speaker Michael Busch deserves special acknowledgement for his consistent support and attention to issues involving women's rights and to helping survivors of sexual and domestic violence. There are a thousand ways to kill a bill and the Speaker helps make sure bills affecting survivors get the attention they deserve and pass.

MCASA partners with many advocates and lobbyists. This session we are especially appreciative of our colleagues at the Women's Law Center of Maryland and the Maryland Hospital Association for their expertise and collaboration. Community groups also played an important role. Many were first time advocates and their excitement and commitment helped with the successes of the session. Speak up, speak out, be feisty!!

The details of bills that passed and failed, including their lead sponsors, are listed below. Thank you again to everyone who took the time to read emails, make calls, contact legislators and persuade others to become active. Together we will continue to make progress towards our vision of a Maryland free from sexual violence.

Best regards,

Lisae

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

MCASA 2018 Legislative Priorities and Bills of Interest – Final Report

Top Priorities

Rape Survivor Family Protection Act – HB1/SB2 – ENACTED AS LAW

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 continues 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. Lead Sponsors: Delegates

Kathleen Dumais, Michael E Busch, and Nick Kipke; Senators Brian Feldman, Susan Lee, and Mike Miller.

Past Bad Acts – HB301/SB270 -- PASSED

This bill expands admissibility of prior acts of sexual abuse or sexual assault in later sex crimes cases when the defense is consent and in cases involving minors where the defense is fabrication. This bill has been introduced on and off for decades. Special thanks to Scott Shellenberger, State's Attorney for Baltimore County and John Cox, his Deputy State's Attorney, for fighting for this bill for decades. Lead Sponsors: Delegate Vanessa Atterbeary, Senator Jim Brochin.

College Sexual Assault – Fair Process – SB607/HB913 -- PASSED

A bill codifying fair process in college sexual assault proceedings, preventing roll-back of protections for victims of sexual assault, and providing students with access to counsel in formal title IX cases. This bill also includes rape shield protections for students and provisions to protect students' mental health treatment histories. With this bill, Maryland helps lead the nation with state-level protections for fair process in college sexual assault proceedings. Lead Sponsors: Senator Joan Carter Conway and Delegate Aruna Miller.

Access to HIV Prophylaxis for Rape and Child Sexual Abuse Survivors – HB639/SB731 – FAILED as a result of inflated fiscal note. Maryland currently pays for medical expenses of sexual assault survivors related to the assault, but refuses reimbursement for HIV prophylaxis beyond the first packet of medication. This creates significant barriers for survivors. This bill would have clarified that n-PEP must be provided when medically appropriate. The Department of Health provided cost estimated based on assumptions that every single survivor who reported a rape would get an exam within 72 hours, would be medically appropriate for n-PeP, and would choose to take the full course of medication. When challenged, the Department refused to revise the estimated cost and, as a result, the bill died. However, the General Assembly has asked the for a report regarding costs of n-PeP as part of the budget process (through the Joint Chairman's Report) and the Attorney General's Committee on Sexual Assault Evidence Kit Policy and Funding will continue to partner with MCASA to find a way to give rape survivors access to medication to prevent HIV infection. Lead Sponsors: Delegate Aruna Miller and Senator Brian Feldman.

Funding for Sexual Assault Programs. Last session the General Assembly enacted dedicated funding for rape crisis centers and created new position in the Attorney General's Office to staff the Committee on Sexual Assault Evidence Kit Policy and Funding. The increased funding was included in the Governor's original budget and, after advocacy, the 3rd supplemental budget funding the new position for the Attorney General's Committee. Also of interest, the General Assembly has asked GOCCP to report on barriers to distribution of VOCA funds, their contact with the Access to Justice office in the courts, and on how many victims of domestic violence are unrepresented in divorce and custody cases. The Women's Caucus, Senator Nancy King, and Delegates Michael Jackson, and Mark Chang all kept their eyes on these important funding issues.

#MeTooMaryland – Disclosing Sexual Harassment in the Workplace Act of 2018 – SB1010/HB1596 -- PASSED Prohibiting employers from requiring employees to waive

substantive or procedural rights addressing sexual harassment and making such agreements void as against public policy unless prohibited by federal law. Requiring two surveys (in 2020 and 2022) of larger employers regarding the number of sexual harassment settlements, the number that contain non-disclosure agreements, and the number that involved repeat offenders during the preceding 10 years. Lead Sponsors: Senator Craig Zucker and Delegate Kris Valderrama.

Priorities and Bills of Interest by Subject Matter

Sexual Assault & Education

College Sexual Assault – Fair Process – SB607/HB913 -- PASSED

A bill codifying fair process in college sexual assault proceedings, preventing roll-back of protections for victims of sexual assault, and providing students with access to counsel in formal title IX cases. This bill also includes rape shield protections for students and provisions to protect students' mental health treatment histories. With this bill, Maryland helps lead the nation with state-level protections for fair process in college sexual assault proceedings. Lead Sponsors: Senator Joan Carter Conway and Delegate Aruna Miller.

Middle and High School Students - Education About Boundaries and Consent – HB251/SB402 - PASSED Providing age-appropriate education to middle and high school students about the importance of obtaining consent before touching someone else. Lead Sponsors: Delegate Ariana Kelly and Senator Craig Zucker

Child Sexual Abuse – Training – SB131/HB600 (did not pass), HB1071 - PASSED

Several bills addressed the issue of training about child sexual abuse, or child abuse generally, for professionals who work with children. House Bill 1071 was amended substantially and passed. It will require annual training for school employees about child sexual abuse prevention, identification, and reporting. Lead Sponsors: Senator Bobby Zirkin and Senator Susan Lee, Delegate Susan McComas, Delegate CT Wilson.

College Sexual Assault – Transfer Students – SB1027/HB713 – Unfavorable in EHEA

Requiring colleges to check the disciplinary records of incoming transfer students to impose conditions upon students who have committed sexual misconduct at their previous school. This bill was unfavorably reported by the Senate EHEA Committee. Lead Sponsors: Senator Rich Madeleno and Delegate Marice Morales.

College Sexual Assault – Training – HB1238/SB1203 – Withdrawn

Requiring training regarding sexual assault, trauma-informed responses, and legal rights and remedies for college personnel. This bill would have created a grant fund administered by the Maryland Higher Education Commission. The bill was withdrawn after it became apparent that the schools believed the funds should be used to assist both survivors of sexual assault and accused students; whatever the merits of this idea, the purpose of the bill was to address ending sexual violence. Lead Sponsors: Delegate Shelly Hettleman and Senator Cheryl Kagan.

Funding

Budget. Last session the General Assembly enacted dedicated funding for rape crisis centers and created new position in the Attorney General's Office to staff the Committee on Sexual Assault Evidence Kit Policy and Funding. The increased funding was included in the Governor's original budget and, after advocacy, the 3rd supplemental budget funding the new position for the Attorney General's Committee. Also of interest, the General Assembly has asked GOCCP to report on barriers to distribution of VOCA funds, their contact with the Access to Justice office in the courts, and on how many victims of domestic violence are unrepresented in divorce and custody cases. The Women's Caucus, Senator Nancy King, and Delegates Michael Jackson, and Mark Chang all kept their eyes on these important funding issues.

Indirect Costs – SB1045 - PASSED

Requiring that state grants pay for indirect costs when a grant is awarded. Current practices force non-profit agencies to subsidize government expenditures. Indirect costs such as rent for common areas like hallways and general administration are necessary to provide victim services. Lead Sponsor: Senator Cheryl Kagan.

Criminal Law and Investigations

Sextortion and Revenge Porn – SB769 - PASSED

Creating the crime of sextortion (causing sexual activity or creation of sexual images by threat) and updating Maryland's revenge porn statute. This will provide prosecutors with a significant and helpful new tool to respond to sexual coercion. Lead Sponsor: Senator Bobby Zirkin.

Sexual Exploitation and Law Enforcement – HB1292 - PASSED

This bill will have sponsor amendments that will make it a crime for law enforcement officers to have sex with a person in their custody. Lead Sponsor: Delegate Brooke Lierman.

Pre- and Post-trial Stay Away Orders - Penalties for Violations – SB170/HB388 – PASSED

Currently, a defendant who violates an order to stay away from a victim pending trial or sentencing does not face criminal penalties unless the case involves sex crimes against a minor. This bill will expand criminal penalties to also include all crimes violence, and crimes against "persons eligible for relief" under the Protective Order statute. This bill had a "dream team" of leaders on women's rights, Delegate Aruna Miller and Senator Susan Lee. Lead Sponsors: Senator Susan Lee and Delegate Aruna Miller.

Child Sexual Abuse – Crime of Violence – PASSED

A minor, but important, change was made to the definition of a "crime of violence" removing a requirement that sexual abuse of a child under 13 be under the clothing. This affects penalties for these offenders and will make it easier to terminate their parental rights. This was included in a

larger crimes bill and Vice-Chair Kathleen Dumais led the effort to remove the very troubling “under the clothing” requirement from the law.

Local Sexual Assault Investigation – Audits – SB583/HB520 – Died in Judicial Proceedings Committee. Permitting local government to have audits of sexual assault investigations by sexual assault victim services programs; requiring audits when the locality reaches a threshold number of unfounded sexual assault cases; imposing confidentiality requirements on audits. Lead Sponsors: Delegate Pam Queen and Senator Victor Ramirez.

Body Cameras and Protection for Victims of Sexual Assault – SB788/HB1638 – Died in Committee; Withdrawn in House. Amending the Public Information Act and providing protections for victims of sexual assault, domestic violence, and child abuse whose images are collected on body cameras and drones used by law enforcement. Lead Sponsors: Senator Cheryl Kagan and Delegate Charles Sydnor.

Child Sexual Abuse – Continuing Course of Conduct – SB316 – Died in Judiciary Committee
This bill was introduced to address a court decision in *State v Bey*, 452 Md. 255 (2017), which found the statute was ambiguous as to whether a defendant could be convicted for multiple uninterrupted 90 day periods of continuing course of sexual crimes against a child. As a result of this ambiguity, the Court found the rule of lenity applied and did not permit multiple charges. Lead sponsor: Senator Susan Lee.

Sexual Assault and Abuse of Animals – SB800/HB1134 – Unfavorable in Both Committees
Modernizing and improving Maryland’s law regarding sexual activity with animals, including by giving the court authority to limit a convicted offender’s contact with animals in the future. Lead Sponsors: Senator Susan Lee and Delegate Vanessa Atterbeary.

Evidence and Sexual Assault Cases

Past Bad Acts – HB301/SB270 -- PASSED

This bill expands admissibility of prior acts of sexual abuse or sexual assault in later sex crimes cases when the defense is consent and in cases involving minors where the defense is fabrication. This bill has been introduced on and off for decades. Special thanks to Scott Shellenberger, State’s Attorney for Baltimore County and John Cox, his Deputy State’s Attorney, for fighting for this bill for decades. Lead Sponsors: Delegate Vanessa Atterbeary, Senator Jim Brochin.

Child Sexual Abuse – Out of Court Statements – HB192/SB781 w/Amendment - Withdrawn
Permitting a child’s first statement regarding child sexual abuse, physical abuse, or neglect to be admitted into evidence if the statement is made to an adult, reported to authorities, and recorded. MCASA strongly supports the intent of the bill, but has concerns that requiring that a statement be recorded may lead to inappropriate and harmful coaching. Lead Sponsors: Delegate Vanessa Atterbeary and Senator Anthony Muse.

Mandatory Waiver of Privilege – HB1628 – OPPOSE - Withdrawn

This bill will automatically waive a minor patient's mental health privilege if there has been a report of suspected child abuse. Current practice provides for individualized determination of whether waiving privilege is in the minor's best interests and includes consideration of the child's opinion. MCASA believes an automatic waiver will disempower victims of sexual abuse and deprive some victims of their therapeutic relationship. Lead Sponsor: Delegate Shelly Hettleman.

DNA Evidence – Rape Kits – HB1124 – Rejected by Judicial Proceedings Committee

This bill would have permitted prosecutors to introduce DNA evidence from rape kits using the same streamlined process currently used in drug prosecutions for chemical analysis. Defendants would continue to have the right to cross-exam lab personnel upon request. Lead Sponsor: Delegate Shelly Hettleman.

Sex Trafficking

Confidential Deeds – Human Trafficking & Domestic Violence – HB633/SB578 - PASSED

Permits shielding of real estate records for survivors of human trafficking and domestic violence. Lead Sponsors: Senator Susan Lee and Secretary of State.

U Visas - Certification of Victim Helpfulness – U Visas – SB581/HB461 – Did Not Pass

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. Lead Sponsors: Senator Victor Ramirez and Delegate Marice Morales.

Human Trafficking – Crime of Violence – HB346/SB297, HB6 – Did Not Pass

Classifying human trafficking against minors or using force as a “crime of violence”; this increases the actual time a convicted trafficker is imprisoned and has other legal effects. Lead Sponsor: Administration; Delegate Chang.

Human Trafficking – Re-Codification – SB881/HB1276 – Died in Committee

Re-codifying Maryland's human trafficking laws, clarifying sex trafficking provisions, extending the statute of limitation for civil human trafficking actions, creating the crime of labor trafficking, and improving the ability to prosecute traffickers. Lead Sponsors: Senator Susan Lee and Delegate Mark Chang.

Human Trafficking – Motion to Vacate – SB869/HB1267 – Died in Committee

Expanding the types of crimes that may be vacated because the defendant committed the crime as a result of being a victim of human trafficking. Amendments were needed to prevent vacatur of crimes such as production of child pornography and sexual abuse of a minor over the age of 12. Lead Sponsors: Senator Susan Lee and Delegate Kathleen Dumais.

Protective Orders and Family Law

Permanent Protective Orders – SB491/HB1303 - PASSED

Expanding the availability of permanent protective orders.

Lead Sponsors: Delegate Vanessa Atterbury and Senator Delores Kelley

Protective Orders – Definition of Abuse – Revenge Porn – SB121/HB328 - PASSED

Adding the following to the definition of abuse providing the basis for a protective order: misuse of telephone facilities and equipment, misuse of electronic communication or interactive computer service, revenge porn, and visual surveillance. This passed in an amended form adding only revenge porn. Lead Sponsors: Senator Bobby Zirkin and Delegate Kathleen Dumais.

Rape Survivor Family Protection Act – HB1/SB2 – ENACTED AS LAW

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 continues 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. Lead Sponsors: Delegates Kathleen Dumais, Michael E Busch, and Nick Kipke; Senators Brian Feldman, Susan Lee, and Mike Miller.

Custody Factors – HB1032/SB684 – Unfavorable by Judicial Proceedings Committee

This fair and balanced bill developed by the Child Custody Commission includes protects for survivors of domestic violence, sexual assault, and child abuse. Lead Sponsors: Delegate Kathleen Dumais and Senator Susan Lee.

Emancipation of Minors/Marriage Age – HB1304, SB670/HB191 – Did Not Pass

These bills together would raise the minimum age of marriage and create a process for minors to marry. MCASA believes both issues must be addressed together in order to create protections against exploitation of minors and also preserve the autonomy of mature minors. Lead Sponsors: Delegate Vanessa Atterbeary and Senator Bobby Zirkin.

Sexual Assault Forensic Evidence Kits (Rape Kits)

SAFE Kit Tracking – HB1124 - PASSED

This bill requires the Attorney General's Committee on Sexual Assault Evidence Kit Policy & Funding to make recommendations regarding creating and operating a statewide sexual assault evidence collection kit tracking system that is accessible to victims and law enforcement. Lead Sponsor: Delegate Shelly Hettleman.

DNA Evidence – Rape Kits – HB1124 – Rejected by Judicial Proceedings Committee

This bill would have permitted prosecutors to introduce DNA evidence from rape kits using the same streamlined process currently used in drug prosecutions for chemical analysis. Defendants would continue to have the right to cross-exam lab personnel upon request. Lead Sponsor: Delegate Shelly Hettleman.

Rape Kit Reimbursement – Criminal Injuries Compensation – HB247/SB963 - PASSED

Moving reimbursement for Sexual Assault Evidence Kits to the Criminal Injuries Compensation funding to permit capture of federal funds. This bill also creates a Victim Services Unit under the Governor’s Office of Crime Control & Prevention to address restitution and other victim services. The Director of the Victim Services Unit is mandated to consult with MCASA regarding administration of rape kit reimbursements and other issues related to sexual assault. Lead Sponsor: Administration.

Other SAFE issues

A number of other bills addressing sexual assault forensic exams (SAFEs) were introduced but either withdrawn or failed in committee. MCASA appreciates the continuing interest in this area, and also appreciates that the legislature is giving the Attorney General’s Committee on Sexual Assault Evidence Kit Policy & Funding time to develop recommendations.

Child Sexual Abuse

Past Bad Acts – HB301/SB270 -- PASSED

This bill expands admissibility of prior acts of sexual abuse or sexual assault in later sex crimes cases when the defense is consent and in cases involving minors where the defense is fabrication. This bill has been introduced on and off for decades. Special thanks to Scott Shellenberger, State’s Attorney for Baltimore County and John Cox, his Deputy State’s Attorney, for fighting for this bill for decades. Lead Sponsors: Delegate Vanessa Atterbeary, Senator Jim Brochin.

Child Sexual Abuse – Training – SB131/HB600 (did not pass), HB1071 - PASSED

Several bills addressed the issue of training about child sexual abuse, or child abuse generally, for professionals who work with children. House Bill 1071 was amended substantially and passed. It will require annual training for school employees about child sexual abuse prevention, identification, and reporting. Lead Sponsors: Senator Bobby Zirkin and Senator Susan Lee, Delegate Susan McComas, Delegate CT Wilson.

Child Sexual Abuse – Out of Court Statements – HB192/SB781 - Withdrawn

Permitting a child’s first statement regarding child sexual abuse, physical abuse, or neglect to be admitted into evidence if the statement is made to an adult, reported to authorities, and recorded. MCASA strongly supports the intent of the bill, but had concerns that requiring that a statement be recorded may lead to inappropriate and harmful coaching. Lead Sponsors: Delegate Vanessa Atterbeary and Senator Anthony Muse.

Mandatory Waiver of Privilege – HB1628 – OPPOSE - Withdrawn

This bill would automatically waive a minor patient’s mental health privilege if there has been a report of suspected child abuse. Current practice provides for individualized determination of whether waiving privilege is in the minor’s best interests and includes consideration of the child’s opinion. MCASA believes an automatic waiver will disempower victims of sexual abuse and deprive some victims of their therapeutic relationship. Lead Sponsor: Delegate Shelly Hettleman

Child Sexual Abuse – Crime of Violence – PASSED

A minor, but important, change was made to the definition of a “crime of violence” removing a requirement that sexual abuse of a child under 13 be under the clothing. This affects penalties for these offenders and will make it easier to terminate their parental rights. This was included in a larger crimes bill and Vice-Chair Kathleen Dumais led the effort to remove the very troubling “under the clothing” requirement from the law.

Sexual Harassment

#MeTooMaryland – Disclosing Sexual Harassment in the Workplace Act of 2018 – SB1010/HB1596 -- PASSED Prohibiting employers from requiring employees to waive substantive or procedural rights addressing sexual harassment and making such agreements void as against public policy unless prohibited by federal law. Requiring two surveys (in 2020 and 2022) of larger employers regarding the number of sexual harassment settlements, the number that contain non-disclosure agreements, and the number that involved repeat offenders during the preceding 10 years. Lead Sponsors: Senator Craig Zucker and Delegate Kris Valderrama.

General Assembly – Discrimination and Sexual Harassment – HB1342/1138 - PASSED

Codifying procedures for responding to sexual harassment in the General Assembly and for specified state officials; requiring independent investigators unless a complainant objects; prohibiting lobbyists from engaging in sexual harassment and discrimination and creating protections for legislative staff, credentialed members of the press, and lobbyists; and prohibiting use of public funds for discrimination settlements filed against public officials in their personal capacity. Lead Sponsors: Delegate Ariana Kelly and Senator Joan Carter Conway.

Sexual Harassment and State Employees – HB1423 and HB1228 - PASSED

HB1423 requires education for state employees regarding sexual harassment. HB1228 creates reporting requirements regarding sexual harassment policies, prevention training, and complaints within the state workforce. Lead Sponsors: Delegate Shelly Hettleman and Delegate Ariana Kelly.

Other Subject Areas

Earned Safe & Sick Leave – Veto Overridden 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 was vetoed by Governor Hogan in 2017 and the General Assembly overrode the veto this session. Lead Sponsors: Delegate Luke Clippinger and Senator Mac Middleton.

Inappropriate Sexual Behavior in Residential Treatment Centers – HB1130 – PASSED

Extending current laws regarding mandatory reporting of inappropriate sexual behavior to private residential treatment facilities. Thank you to our colleagues at Disability Rights Maryland for championing this bill. Lead Sponsor: Delegate Geraldine Valentino-Smith.

Extreme Risk Protective Orders – HB1302 - PASSED

Establishing a process for removing guns from a person who poses an immediate and danger to themselves or others. The process is similar to that used in civil protective order proceedings. Lead Sponsor: Delegate Geraldine Valentino-Smith.

Access to HIV Prophylaxis for Rape and Child Sexual Abuse Survivors – HB639/SB731 – FAILED as a result of inflated fiscal note. Maryland currently pays for medical expenses of sexual assault survivors related to the assault, but refuses reimbursement for HIV prophylaxis beyond the first packet of medication. This creates significant barriers for survivors. This bill would have clarified that n-PEP must be provided when medically appropriate. The Department of Health provided cost estimated based on assumptions that every single survivor who reported a rape would get an exam within 72 hours, would be medically appropriate for n-PeP, and and would choose to take the full course of medication. When challenged, the Department refused to revise the estimated cost and, as a result, the bill died. However, the General Assembly has asked the for a report regarding costs of n-PeP as part of the budget process (through the Joint Chairman’s Report) and the Attorney General’s Committee on Sexual Assault Evidence Kit Policy and Funding will continue to partner with MCASA to find a way to give rape survivors access to medication to prevent HIV infection. Lead Sponsors: Delegate Aruna Miller and Senator Brian Feldman.

YOUR VOICE MATTERS

Interested in keeping up with the latest MCASA news and learning how you can help survivors? Sign up to join MCASA or get our emails at mcasa.org.

Speak Up, Speak Out

