



Working to end sexual violence in Maryland

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2020 Legislative Priorities & Bills of Interest **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 supports legislation that promotes justice for survivors of sexual violence, accountability for offenders, and protection for the general public. **Thank you to everyone who called, emailed, testified and advocated to improved Maryland laws and policies to end sexual violence and support survivors. You are appreciated.**

Maryland's 2020 legislative session was cut short by the COVID virus, but we still made progress for sexual assault survivors. To the very end, MCASA continued to advocate on behalf of survivors of all types of sexual assault: child sexual abuse, sex trafficking, sexual harassment, rape, and other forms of sexual exploitation. Our goal is to improve systems at every level. Survivors should have access to justice, services, and support without regard to their immigration status, gender identity, class, race, age, or choice to participate in the criminal or civil justice systems. Sexual assault must be condemned no matter who the assailant is. The law should stop sexual violence without regard to whether the offender is a spouse, a co-worker, a family member, or clergy.

This year's state legislative session continued important progress for sexual assault survivors. Legislation is one of the ultimate collaborative efforts, and this session was no exception. Legislators are the stars of the show and we continue to be grateful to the elected officials who are devoted to prioritizing bills to end sexual violence. **Three of MCASA's top bills were successful**, and we are so appreciative of the legislators who shepherded them through. First term Delegate Sandy Bartlett continues to be a strong voice for survivors, passing bills to protect survivor privacy, expand access to SAFE exams, and prohibit law enforcement from asking survivors to sign waivers of further investigation. Senator Jeff Waldstreicher and Senator Shelly Hettleman were strong and capable lead sponsors of these bills in the Senate. The law providing sex trafficking survivors with the ability to vacate convictions of minor crimes passed after several sessions with the able leadership of Senator Susan Lee and Delegate Vanessa Atterbeary. The bill to repeal marriage as a defense to sex crimes was caught in the efforts to get to an early *sine die*, but Delegate Charlotte Crutchfield passed the bill easily through the House. Senator Susan Lee was a fierce advocate in the Senate, valiantly fighting off attempts to weaken the bill with amendments. We look forward to passing a **full** repeal of marriage as a defense to sex crimes in the future.

Policy issues are of enormous importance, but **services for sexual assault survivors** are also critical. Senator Guy Guzzone, the new chair of the Budget & Tax Committee, was enormously helpful with efforts to support continuity of victim services funding and everyone working in the field owes him a debt of gratitude. The chairs of the public safety subcommittees, Senator Cory McCray and Delegate Keith Haynes, helped ensure that the impact of VOCA cuts received needed attention from their subcommittees. Delegate Gabriel Acevero was key to efforts in the House and Senator Sarah Elfreth monitored budget hearings even though she does not sit on the public safety committee. Chair Maggie McIntosh ensured that the strategy for continued funding for services was strong. Together these legislators helped ensure there is oversight of Victims of Crime Act funds and sent the clear message: continuity of services is necessary. Continuity of services is even more important in the face of the pandemic. We are confident that Governor Hogan's administration will heed the Legislature and support stability for all victim services, including those for survivors of domestic violence, child abuse, and sexual assault.

Over the past 20 years, violence against women has moved from being an issue that handful of legislators paid attention to, to an issue that legislators come to Annapolis wanting to work on. This session was a milestone in that progress. Last year, Delegate Luke Clippinger, an MCASA Visionary Award recipient and lead sponsor of several anti-sexual violence bills, became Chair of the House Judiciary Committee. This session, Senator Will Smith became Chair of the Judicial Proceedings Committee. Senator Smith has also been a long-time ally of the women's community, is an associate member of the Women's Caucus, and has been lead sponsors of bills to help survivors, such legislation mandating testing of rape kits. Neither legislator is inclined to pass bad bills on any topic, but it is safe to say that both care about the issue of ending sexual violence and that both recognize that survivors have been treated very poorly by the justice system in the past. MCASA appreciates the progress made in the General Assembly and looks forward to continuing to work with both new Chairs to pass fair and effective policies to help sexual assault survivors.

Top Priorities

SAFE Exams – Reimbursement and Confidentiality – SB406/HB425 - PASSED

This bill will prevent the government from requiring that hospitals share graphic, private details of sexual assault in order to be reimbursed, and ensure that reimbursement policies are based on current science. Reimbursement for testing cervical swabs in appropriate cases will be expanded to up to 15 days after an assault. Thank you to our partners at the Maryland Hospital Association, Jennifer Witten and Jane Krienke, for our work together to pass this bill. Lead sponsors: Delegate Sandy Bartlett and Senator Jeff Waldstreicher.

Human Trafficking – Vacating Convictions – HB242/SB206 - PASSED

Current law permits a survivor of human trafficking to vacate a conviction for prostitution when the underlying activity was caused by trafficking. This fails to include many other crimes that are related to trafficking, such as loitering, indecent exposure, and drug possession. This re-introduced bill will expand the types of crimes that a human trafficking survivor can seek to vacate and mean more survivors of human trafficking can rebuild their lives. Special thanks to Professor Jessica Emerson for her passionate leadership on this issue. Lead sponsors: Senator Susan Lee and Delegate Vanessa Atterbeary.

Marriage Should Not Be a Defense to Sex Crimes – Love is No Defense Act – SB230/HB590 – PASSED the House, Died in Senate Judicial Proceedings Committee

Maryland allows marriage to be a defense to some sex crimes. It is past time to remove this archaic law from the books. Discussions surrounding this bill were a bleak reminder that there is still much work to be done. This bill passed the House easily, but met opposition in Committee in the Senate and then ran out of time when COVID ended session early. We will be back to fight for this important legal principle next session. Lead sponsors: Delegate Charlotte Crutchfield and Senator Susan Lee.

Rape Crisis Centers – Budget – Response to Budget Cuts

One of MCASA's most important duties is to advocate and monitor continued budgetary support for rape crisis centers. Local comprehensive rape crisis programs are the backbone of Maryland's response to survivors. They provide direct services for survivors, participate in Sexual Assault Response Teams, and help educate their local communities. At the beginning of session, drastic cuts in federal Victims of Crime Act (VOCA) funds were announced and the State indicated grants for services would be cut by as much as 33%. When additional information was obtained, this action seemed premature and the General Assembly enacted budget language to provide for continuity of services and help ensure rape survivors continue to have the services they need. The full budget language is appended.

Additional Priorities and Bills of Interest **Crime Victim Rights**

Prohibition of Waiver of Rights – Sexual Assault Investigations – SB807/HB1575 -- PASSED

As a result of the heroic advocacy of sponsors Senator Shelly Hettleman and Delegate Sandy Bartlett, this bill passed on the last day of the abbreviated legislative session. It will prohibit law enforcement from asking sexual assault survivors to sign a waiver of rights to further investigation. This practice is now widely viewed as outdated and harmful, but continued to crop up in some jurisdictions. Lead sponsors: Senator Shelly Hettleman and Delegate Sandy Bartlett.

Dogs in the Courtroom – SB101/HB311 – PASSED

This bill will expand an existing pilot program permitting therapy dogs to support child witnesses during court proceedings, including during child sexual abuse prosecutions. Lead sponsors: Delegate Michael Malone and Senator Bryan Simonaire.

Privacy of Crime Victim Information – HB76/SB213 – PASSED with Amendments

This bill expands privacy protections for victims of non-felony crimes to include victims of domestically related crimes. As introduced, the bill would have covered all crime victims, including, for example, victims of stalking. While the introduced bill was stronger, the language that passed is still a step forward. Lead sponsors: Delegate Robin Grammer and Senator Susan Lee.

Victims Paying for SAFE Kit Analysis – HB1248 – OPPOSED – Did not pass

This bill would have permitted rape survivors to pay for testing of their own rape kits. MCASA opposed moving this function out of government's responsibilities. Lead sponsor: Delegate Frank Conaway.

DNA Reports – Admission into Evidence – HB1096 – No vote in House Judiciary Committee

This bill would create a standard “Notice and Demand” provision covering DNA reports, similar to the one already in place for Controlled Dangerous Substance reports. Lead sponsor: Delegate Wanika Fisher.

Restitution Reform – HB358/SB268 – Supported with Amendments – No Votes in Committee.

This would have created a wholesale reform of Maryland’s criminal restitution system. While reform is badly needed, the bill did not address future costs, such as costs for counseling, and needed amendment. Lead sponsor: Administration.

Criminal Laws

Sexual Solicitation of a Minor – HB246/SB231- PASSED

Amends Maryland’s current law to permit prosecution when someone solicits sex from a minor through a third party, such as by asking the child’s parent. Lead sponsors: Senator Susan Lee and Delegate Jesse Pippy.

Strangulation - Assault in the First Degree – HB233/SB212 – PASSED

This bill will ensure strangulation is treated as a serious first degree assault, a felony. Amendments struck adding suffocation to the law. Lead sponsors: Delegate Jesse Pippy and Senator Susan Lee.

Sodomy – Repeal – HB081/SB735 – PASSED with Amendments

Repeals archaic statutory provisions making “sodomy” a separate crime. Historically this law was used to prosecute members of the LGBT+ community. This bill was introduced to eliminate criminalization of all consensual sexual activity between adults, but was amended in the Senate to retain the crime of “unnatural and perverted sexual practices”. Unfortunately, this amendment weakens the bill. Lead sponsors: Delegate David Moon and Senator Clarence Lam.

Sexting – HB501/SB365, SB45, HB931, HB1245, HB272 – No votes in Committee

There were at least four bills to address the recent *In re: SK* opinion allowing a 16 year old girl to be prosecuted for sending a picture of herself to two friends. There seemed to be general consensus that good policy would balance the need to prevent creation and distribution of child pornography, protect minors from being coerced into sending images of themselves, and prevent minors from being criminally prosecuted for what has become a common practice. Progress on this bill fell victim to COVID and the early *sine die*. Lead sponsors: Delegate David Moon, Senator Susan Lee, Senator Jeff Waldstreicher Chairman Luke Clippinger, Delegate CT Wilson.

Human Trafficking – Affirmative Defense – HB459 – Did not pass

Clarifying that human trafficking is an affirmative defense to specified minor crimes. This bill passed the House but was not considered by the Senate Judicial Proceedings Committee as a result of the early *sine die*. Lead sponsor: Delegate Alice Cain.

Prohibition on Sexual Activity by Law Enforcement During the Course of Investigations or Assistance – HB764 – Did not pass

Current law prohibits law enforcement from sexual activity with people in custody or who are incarcerated. This bill would have extended this prohibition to include sexual activity with someone law enforcement is investigating or assisting. Lead sponsor: Delegate Nicole Williams.

Protective Orders & Family Law

Protective Orders - Relief Eligibility - Rape and Sexual Offenses – HB248/SB210 – PASSED with Amendment. This bill moves rape and sexual assault out of the peace order statute and ensure that survivors receive the more robust response of a protective order. Senate amendments require that the sexual assault have occurred within the past 6 months. Lead sponsor: Delegate Vanessa Atterbeary and Senator Jeff Waldstreicher.

Peace and Protective Orders – Extension – SB227/HB250 – PASSED

A technical fix to automatically extend protective and peace orders until the date of a hearing on a motion to extend the order. Lead sponsors: Delegate Vanessa Atterbeary and Senator Jeff Waldstreicher.

Family Law Services for Sustained Safety Fund – HB170/SB581 - Withdrawn

This bill would have required the State to devote an additional \$3 million of Victims of Crime Act (VOCA) funding for legal services in custody and divorce cases for victims of domestic violence, sexual assault, and child abuse. It was withdrawn after cuts to VOCA were announced. Lead sponsors: Delegate Brooke Lierman and Senator Charles Sydnor.

Workplace Violence – Peace Orders – HB126/846 – Died on Senate Floor after passing House.

This bill would have given employers the ability to seek a peace order on behalf of an employee. MCASA worked with our strong ally, the Women’s Law Center of Maryland, and helped develop language to ensure employees will not face retaliation if they refused to participate in the proceedings. Lead Sponsor: Delegate Vanessa Atterbeary and Senator Charles Sydnor.

Violation of Protective Order – Spousal Privilege – HB289 – No Vote in House Judiciary

This bill would have eliminated spousal privilege in cases involving a violation of a protective order. Lead Sponsor: Delegate Mary Lehman.

Findings of Abuse in Custody Cases – SB594 – Did not pass

This bill would require that if a court permits unsupervised visitation after a finding of abuse, the judge will state the reasons for the decision. Lead sponsor: Senator Susan Lee.

Emancipation of Minors, Marriage Age – Several Bills – Did not pass

MCASA continues to join others in the women’s rights community to encourage policies that ensure that mature minors and their decision making autonomy be protected. While there are a range of ways to accomplish this, establishing a path to emancipation is a strong option. MCASA also supports efforts to eliminate the ability of 15 year olds to marry and to impose a maximum age difference between minors prior to their marriage.

Civil

Statute of Limitations – Civil Child Sexual Abuse – HB974 – Passed House, No Vote in Senate Judicial Proceedings Committee

This bill will expand or eliminate the statute of limitations in civil suits based on child sexual abuse. Lead sponsor: Delegate CT Wilson.

Name Changes – Prohibition of Publishing – HB427 – Did not pass

A bill to eliminate publication of name change requests upon motion of a party. MCASA has handled several name changes for children of sex offenders, and for survivors of domestic violence and their children. This bill passed the House but was not considered by the Senate Judicial Proceedings Committee as a result of the early *sine die*. Lead sponsor: Delegate Emily Shetty.

Charitable Immunity – Sexual Assault – HB201 - Did not pass

A bill to eliminate charitable immunity in cases involving sexual assault and abuse. Sponsor amendments were proposed to clarify and improve language. Lead sponsor: Delegate Brian Crosby.

Public Information Act – Access to Information Regarding Sexual Harassment & Law Enforcement – HB1221/SB1029 – Did not pass

This bill would have permitted discovery of certain complaints against law enforcement, including regarding sexual assault and sexual harassment. Lead sponsors: Delegate Luke Clippinger and Senator Jill Carter.

Schools, Education, and Training

Non-Discrimination in Pre-K through 12 Schools – HB1204/SB993 – Did not pass

A bill to prohibit discrimination in pre-kindergarten programs and schools, including prohibition against sex discrimination and sexual assault. This bill passed the House, but had no vote in the Senate Judicial Proceedings Committee. Lead sponsors: Senator Cory McCray and Delegate Jheanelle Wilkins.

Hear Our Voices - Title IX Policies in Primary & Secondary Schools – HB1536 – Did not pass

A bill to improve access to Title IX remedies for survivors of sexual assault in primary and secondary schools. This bill did not receive a vote in Committee. Lead sponsor: Delegate Jazz Lewis.

On-line Child Abuse Prevention Training – HB460 – Did not pass

A bill to require the Department of Human Services to post an on-line training on child abuse prevention. This bill passed the House but was not considered by the Senate Judicial Proceedings Committee as a result of the early *sine die*. Lead sponsor: Delegate Emily Shetty.

Other Issues

Women and Pre-release Services – SB684/HB801 – PASSED

Over 85% of incarcerated women have experienced sexual violence in their lifetime. This bill provides critical pre-release services to incarcerated women, including survivors. Lead Sponsors: Delegate Charlotte Crutchfield and Senator Mary Washington.

Prescription Drug Registry – SB752/HB1486 – OPPOSED – Did not pass

A bill to create another registry of prescriptions. MCASA opposed this bill because it raises concerns about privacy for survivors, particularly for those who may have been prescribed HIV-prevention drugs. There was also concern that this duplicates the CRISP database. Lead sponsors: Delegate Steve Johnson and Senator Jim Rosapepe.

Residential Treatment Centers and Facilities – Sexual Abuse and Harassment – Reporting and Prevention – HB1558/SB818 – Did not pass

This bill would have expanded protections for victims of sexual assault and sexual harassment in state residential treatment facilities to cover private residential treatment facilities. As important, it would have also mandated creation of a written “protection plan” as part of a patient’s treatment plan, and mandates consideration of a patient’s risk of being a victim of sexual or physical abuse or being a sexual or physical abuser. Lead sponsors: Delegate Geraldine Valentino-Smith and Senator Katherine Klausmeier.

Thank you to everyone who called, emailed, testified and advocated to improved Maryland laws and policies to end sexual violence and support survivors. You are appreciated.

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MCASA Legislative Priorities

Appendix I

Excerpt from SB190 – Maryland Budget FY2021 (2020) – pages 16-18 Regarding continuity of VOCA funds and victim services

GOVERNOR’S OFFICE OF JUSTICE, YOUTH, AND VICTIM SERVICES

Provided that \$45,500,000 in federal crime victim assistance funding provided through the Governor’s Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) shall be allocated in fiscal 2021 for the purpose of continuing victims of crime services.

Further provided that GOCPYVS is authorized to process a budget amendment recognizing additional federal funds to reach the mandated \$45,500,000 threshold.

Further provided that \$250,000 of the general fund appropriation for GOCPYVS may not be expended until GOCPYVS submits a report by November 1, 2020, regarding the federal Victims of Crime Act (VOCA) funding. The report should include:

- (1) total active VOCA grant awards as of January 1, 2020, including grant number, implementing agency, project title, start date, end date, amount of award, jurisdiction of implementation, and the brief description/abstract of the grant;
- (2) for each VOCA grant award in item (1) and for any other VOCA grant awards made subsequently, a description of whether for the federal fiscal year beginning October 1, 2020, the award was continued, awarded, or otherwise funded, including the grant number, implementing agency, project title, start date, end date, amount of award, jurisdiction of implementation, and the brief description/abstract of the grant; and
- (3) identification of any decrease or other change in victim services funding between items (1) and (2), the justification for each grant award change, and the impact on the continuity of crime victim services.

The budget committees shall have 45 days from the receipt of the report to review and comment. Funds not expended for this restricted purpose may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted.

Further provided that it is the intent of the budget committees that the primary purpose of the programs funded through the VOCA grant awards be to ensure continuity of trauma-informed, high-quality services for victims of crime.

D21A01.01 Administrative Headquarters

General Fund Appropriation, provided that \$100,000 of this appropriation to the Governor's Office of Crime Prevention, Youth, and Victim Services' (GOCPYVS) Administrative Headquarters may not be expended until the GOCPYVS and the Victim Services Unit submit a report detailing the allocation of the Victims of Crime Act (VOCA) funding for the federal fiscal 2015, 2016, and 2017 fund cycles. This report should identify funds expended for the purpose of the direct provision of services, administration, and funds that went unobligated. The report should also evaluate the success of Maryland's VOCA funding program using performance metrics to detail how these funds have translated to improved outcomes for victims of crime. This report shall be submitted no later than December 1, 2020. The budget committees shall have 45 days from the date of the receipt of the report to review and comment. Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted

Appendix II

Bills Passed – Quick List – 2020 Session (see above for descriptions and lead sponsors)

Budget – SB190 – including language regarding continuity of victim services
SAFE Exams – Reimbursement & Confidentiality – HB425/SB406
Human Trafficking – Vacating Convictions – HB242/SB206
Prohibition of Waiver of Rights – Sexual Assault Investigations – SB807/HB1575
Dogs in the Courtroom – SB101/HB311
Privacy of Crime Victim Information – HB76/SB213
Sexual Solicitation of Minors – HB246/SB231
Strangulation – HB233/SB212
Sodomy Repeal – HB81/SB735
Protective Orders – Relief Eligibility – Rape & Sexual Offenses – HB248/SB210
Peace and Protective Orders – Extension - HB227/SB250
Women & Pre-release Services – SB684/HB801

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