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**To:** Members of the House Judiciary Committee

**From:** Richard A. Montgomery III  
Director of Legislative Relations

**Date:** February 9, 2017

**Re:** House Bill 428: Family Law – Child Conceived Without Consent -  
Termination of Parental Rights (Rape Survivor Family Protection  
Act)

**Position:** Support

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The Maryland State Bar Association (MSBA) supports House Bill 428: Family Law – Child Conceived Without Consent – Termination of Parental Rights (Rape Survivor Family Protection Act). House Bill 428 authorizes a court, after a trial, to terminate the parental rights of a respondent if the respondent has been served in a manner specified in the bill, and if the respondent was either convicted of or found by clear and convincing evidence to have committed an act of nonconsensual sexual conduct against the other parent which resulted in the conception of the child. The court must also find by clear and convincing evidence that it is in the best interests of the child to terminate the parental rights of the respondent.

The Maryland State Bar Association (MSBA) worked with the sponsor and advocates over the interim to fashion a bill which meets all the constitutional requirements that guarantee the rights of both the victim of sexual assault and respondent to the complaint. This bill also grants the court authority to act in the best interests of the child conceived as a result of nonconsensual sex. The MSBA has worked with the sponsor and advocates for the last two years to craft legislation which fulfills Maryland Common Law that requires the court to be guided by the best interest of the child as well as being vigilant in protecting the rights of victims of sexual assaults and the constitutional rights of a respondent accused of sexual assault in a legally sound manner.

Accordingly, the Maryland State Bar Association (MSBA) supports House Bill 428 and urges a favorable report.