



Maryland Coalition Against Sexual Assault

Working to end sexual violence in Maryland

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## 2017 Legislative Priorities – Final Report

One of MCASA's most important responsibilities is to advocate for strong public policies to support sexual assault survivors and the programs that serve them. MCASA advocates with lawmakers, the Governor's office, and their staffs to ensure that the voices of survivors are heard. During the 2017 legislative session, the General Assembly passed a number of major improvements to Maryland laws and we urge Governor Hogan to sign these bills and show his support for sexual assault survivors.

Passing legislation is a bit like producing theatre: there are many people involved in creating the final result. The legislators are the actors and we have some real stars to thank. Delegate Kathleen M. Dumais, Vice-Chair of the House Judiciary Committee, continues to be one of the leaders of efforts to respond to sexual violence. This session she re-introduced and passed the "No Means No" bill to make it clear that sexual assault survivors never have to physically resist. As Vice-Chair of the Judiciary Committee, she also had a hand in virtually every bill on sexual assault, child abuse, or domestic violence that passed the General Assembly. Delegate Dumais's tireless championship of the bill to end parental rights of rapists, even in the face of unnecessary and ridiculous hurdles, is appreciated. This year she was joined in this efforts by Senator Brian Feldman, who did an amazing job testifying on the bill in the Senate.

We are delighted that Senator Delores Kelley has returned to the Senate Judicial Proceedings Committee as its Vice-Chair. Vice-Chair Kelley joined her House counter-part, Vice-Chair Dumais, in passing the physical resistance bill this session. She has long been a leading light for survivors. In 2003, Senator Kelley led efforts to expand the statute of limitations in civil child sexual abuse cases to age 25. This session, joined by the passionate and persuasive Delegate CT Wilson, the statute of limitations was expanded even further to age 38. Delegate Wilson's advocacy on this issue included his willingness to share his own experience as a survivor of child sexual abuse. MCASA is grateful to have had the chance to support him and this legislation.

Funding for rape crisis programs has long been one of MCASA's top priorities. This session, Chairman Ed Kasemeyer and Delegate Aruna Miller, led efforts to mandate dedicated funding for these vital programs. In today's political climate, it is especially critical to have the stability this bill will create. This legislation also creates a Sexual Assault Evidence Kit Policy and Funding Committee to address the many issues surrounding rape kits, access, and funding. This is a needed structural improvement to Maryland's response to sexual violence. We are grateful to these two stars for shepherding this bill through a number of challenges and are hopeful the Governor will support the Sexual Assault Victims Resources Act of 2017.

Senator Susan Lee continues to be a fierce advocate for survivors of human trafficking, child abuse, and sexual assault. As one of only two women on the Senate Judicial Proceedings Committee, she helps bring a sorely needed perspective to the committee with jurisdiction over family and criminal

law bills. Delegate Brett Wilson, who serves on the House Judiciary Committee, continues to be a true advocate for good laws for children and sexual assault survivors.

Many other legislators have contributed to success this session. The sponsors of our priority legislation are listed below and we are so very grateful for their support and leadership. Please take the time to reach out and thank these lawmakers for their efforts to end sexual violence. Let them know that you are watching their efforts and appreciate their actions.

One aspect of Annapolis is distinctly different than theater: in Annapolis, we face opponents. In the year 2017, few are willing to openly talk about their distrust of women and children and their unwillingness to support sexual assault survivors, but archaic beliefs are still around. If they were not, we wouldn't have much to do. Frederick Douglass reminded us, "Power concedes nothing without a demand. It never did and it never will." With your help, MCASA will continue to demand justice for survivors.

Thank you for commitment to ending sexual violence.

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Lisae C Jordan

Executive Director and Counsel

Maryland Coalition Against Sexual Assault

### **2017 – MCASA Legislative Priorities**

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.

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 Final Report on the 2017 Legislative Priorities follows.

### **Bills that PASSED**

**No Means No – Rape and Physical Resistance – SB217/HB429 – PASSED**

This bill, referred to as “No Means No”, clarifies and modernizes Maryland’s sexual assault statutes by making it clear that rape victims are not required to physically resist sexual assault. It creates a fundamental and important improvement in Maryland’s response to sexual assault survivors and is one of the most important changes to the criminal law in recent years. Lead Sponsors: Delegate Kathleen Dumais and Senator Delores Kelley

### **Sexual Assault Victims Resources Act of 2017 – SB734/HB1209 – PASSED**

One of MCASA’s top priorities is to expand funding for rape crisis centers and meet increasing needs for resources for victims of child sexual abuse and sexual assault across the lifespan and across the justice system. Increased attention and awareness about college sexual assault, human sex trafficking, the Prison Rape Elimination Act, child sexual abuse, and sexual assault in general have led to increased demand for services. The recent Attorney General’s Report on Sexual Assault Evidence Kits also highlighted the need for resources for access to justice. These bills create dedicated funding for rape crisis centers, a Sexual Assault Evidence Kit Policy and Funding Committee chaired by the Attorney General, and resources for the Attorney General’s office. Sponsors: Senator Ed Kasemeyer and Delegate Aruna Miller.

### **Expanding Statute of Limitations in Civil Child Sexual Abuse Cases – SB505/HB642 – PASSED.**

These bills expand the time period for a survivor of child sexual abuse to file for civil damages against a perpetrator to the survivor’s 38th birthday; suits against other responsible parties are permitted until age 25 based on negligence and to age 38 based on gross negligence if the other party had a duty of care to the victim and had some degree of control over or responsibility for the perpetrator. This bill continued the work that Senator Kelley started in 2003 when she sponsored a bill to expand the statute of limitation to age 25 and was championed by Delegate CT Wilson, who bravely shared his own experiences as a survivor of child sexual abuse. Special thanks also to Mary Ellen Russell at the Catholic Conference, and Vicki Gruber, Chief of Staff to the Senate President for their support in negotiating this bill. Lead Sponsors: Senator Delores Kelley and Delegate CT Wilson

### **HIV and HepC Testing for Rape Survivors – SB781/HB1375 – PASSED**

This bill creates a process for emergency testing of suspects in rape cases so that victims can take advantage of n-PEP medication to prevent HIV. Testing provisions are also expanded to cover testing for HepC. Other first responders including law enforcement, EMTs, and forensic nurses can also request testing. Thank you to the advocates from Wicomico County who brought this issue to MCASA including Ella Dishroon, State’s Attorney and Abby Marsh, Director of Legal Services for the Life Crisis Center. Forensic Nurses Pam Holtzinger and Eunice Esposito helped with testimony and technical assistance. Lead Sponsors: Senator Susan Lee and Delegate Susie Proctor.

### **Earned Safe & Sick Leave – HB1/SB230 – PASSED (VETOED)**

This bill creates 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. The Governor has vetoed this bill. Lead Sponsors: Delegate Luke Clippinger and Senator Mac Middleton

**Rape Kit Retention and Survivor Notification – HB255/SB349 – PASSED**

This bill will require retention of sexual assault evidence kits for at least twenty years and to provide survivors with notice regarding kit retention and destruction. Hospitals and child advocacy centers will also be required to send rape kits to law enforcement within 30 days. Lead Sponsors: Delegate Shelly Hettleman and Senator Bobby Zirkin

**Human Trafficking – Statewide Training for Law Enforcement – HB1279/SB220 – PASSED.**

Requires that law enforcement receive training on responding to human trafficking. Lead Sponsors: Delegate Marice Morales and Senator Susan Lee

**Human Trafficking of Children – Child Protective Services – HB632/SB308 and HB1219/SB912 – PASSED.**

Clarifying that child sexual abuse includes all sex trafficking of minors without regard to whether the child is in the abuser’s custody or supervision. Lead Sponsor: Administration and Judicial Conference

**Human Trafficking Adult Entertainment Establishments – National Human Trafficking Resource Center Hotline Information – SB221/HB258 – PASSED**

Requiring posting information about the Human Trafficking Hotline in strip clubs. Lead Sponsors: Delegate Marice Morales and Senator Susan Lee

**Maryland Legal Services Corporation Funding – HB972/SB811 and HB1291/SB856 – PASSED.**

Continuing and increasing funding for legal services. Several sexual assault and domestic violence programs receive MLSC funding to help survivors, including the Sexual Assault Legal Institute, HopeWorks, Heartly House, Life Crisis Center, CASA of Washington County, and SARC in Harford County. Lead Sponsors: Senator Bobby Zirkin and Delegate Kathleen Dumais; Senator Guy Guzzone and Delegate Ben Barnes.

**Conditions of Pre- and Post-Trial Relief (Amber’s Law) – HB1163/SB976 – PASSED**

As introduced, this bill would make violating a condition of pre- or post-trial relief a crime if the condition involves an order to stay away or refrain from contacting, harassing or abusing a victim and would improve administration of GPS technology as a condition of probation. A watered down version of the bill passed and will provide victims with important information regarding their right to request conditions to protect safety. MCASA looks forward to continuing work on these issues next session. Lead Sponsors: Delegate Aruna Miller and Senator Susan Lee

### **Classification of Rape – HB647/SB944 – PASSED**

Maryland law classifies “rape” as vaginal-penile intercourse. Anal rape, oral rape, and rape with an object are all classified as “sexual offenses”. This is disrespectful and insensitive to many sexual assault survivors, resulting in survivors being told that they were “not raped”. Additionally, the current definition is out of sync with the definition used by the FBI in Uniform Crime Reports. This bill will classify all rape as rape. Lead Sponsors: Delegate Kirill Reznik and Senator Will Smith

### **Child Abuse – Definition – HB1263/SB996 – PASSED**

This responds to and corrects court decisions regarding child abuse by making it clear that “mental injury” does not require that the perpetrator intended to harm the child, clarifying that accidents are not abuse, and expanding the definition of abuse to include persons who exercise authority over a child because of their position or occupation. Lead Sponsors: Delegate Kathleen Dumais and Senator Susan Lee

### **Bills that FAILED TO PASS**

#### **Rape Survivor Family Protection Act – HB428/SB574 – KILLED**

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. This bill failed on the last day of session when a conference committee was not appointed until it was too late to pass a bill. Lead Sponsors: Delegate Kathleen Dumais and Senators Brian Feldman and Susan Lee

#### **Past Bad Acts – HB369/SB316 – Supported with Amendment – NO VOTE**

This bill expands admissibility of prior acts of sexual abuse or sexual assault in later sex crimes cases. MCASA will once again join with prosecutors and legislators in asking that the Rules Committee of the Maryland Judiciary address this issue. Lead Sponsor: Administration

### **Certification of Victim Helpfulness - U Visas — SB616/HB1208 - FAILED**

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. This bill failed after elements of the Trust Act were amended onto the bill. Lead Sponsors: Senator Victor Ramirez and Delegate Marice Morales

### **Audits of Unfounded Sexual Assault Reports - HB260 /SB780 - FAILED**

Mandating audits of unfounded sexual assault cases when a jurisdiction's rate of unfounded cases exceeds the national average by 5% or more. Audit would be performed by sexual assault programs. This bill passed the House, but failed in the Senate Judicial Proceedings Committee. Lead Sponsors: Delegate Pam Queen and Senator Susan Lee

### **Sexual Assault - Statewide Training For Law Enforcement - HB213 - FAILED**

Requiring statewide training for law enforcement on best practices in sexual assault investigations. This bill passed the House but failed in the Senate Judicial Proceedings Committee, in part because some training requirements are already in the law. Lead Sponsor: Delegate Pam Queen

### **Trafficking Victims & Petty Crimes - SB480/HB502 - FAILED**

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.

### **Rape Kits - Testing and Tracking - HB1076 (testing) and HB1141 (tracking) - FAILED**

These two bills address the testing and tracking of sexual assault evidence collection kits (often called rape kits). MCASA supports policies to increase kit testing and to implement the recommendations of the Attorney General report on Statewide Accounting on Sexual Assault Evidence Kits in Maryland (2017). We appreciate that the Attorney General's recommendations are included in HB1076. We also appreciate efforts to track kits and support increasing information available to survivors about kit status. These specific bills failed because of fiscal concerns, however, SB734/HB1209 passed and includes an oversight committee to address these issues. Lead Sponsors: Delegate Shelly Hettleman and Delegate Karen Young.

**Criminal Injuries Compensation, Restitution, and Rape Kit Reimbursement – HB1428 – FAILED.**

This bill would have created a new unit under the Governor’s Office of Crime Control to coordinate restitution in criminal cases, assume responsibility over criminal injuries compensation, and move rape kit reimbursement to criminal injuries compensation. Unfortunately, as drafted the bill included provisions allowing GOCCP to share data about sexual assault survivors without their informed consent or even notice. MCASA has long supported improvements to reimbursement and to having CICB administer rape kit reimbursement in order to capture federal matching funds. We are confident drafting issues can be worked out over interim. Lead sponsor: GOCCP

**Child Pornography – Discovery in Criminal Cases – HB737 – FAILED**

Preventing repeated harm to children depicted in child pornography by limiting a criminal defendant’s ability to have a copy of a pornographic image of child but permitting the defendant to have access to metadata and redacted copies of the images. A request will be sent to the Maryland Judiciary Rules Committee to address this issue in criminal discovery rules. Lead Sponsor: Delegate Brett Wilson

**Child Abuse – Evidence of Child’s Statements – HB483 – FAILED**

This would have permitted a judge or jury to hear evidence of child’s initial statement about abuse that is made to an adult other than the offender. Current law permits introduction of this evidence when it is made close in time to the event (under the excited utterance rule) or when it is made to certain professionals (under the Tender Years statute); this is a modest expansion of these laws. Amendments in the House raised concerns about misuse in custody cases and the bill failed in the Senate Judicial Proceedings Committee. Lead Sponsors: Delegates Brett Wilson and Vanessa Atterbeary

**Child Custody – Support SB368/HB508 and Oppose SB905 – NO VOTES**

SB368/HB508 is well developed legislative to clarify Maryland’s custody law. It includes protections for victims of sexual and domestic violence and for victims of child abuse. SB905 imposes a presumption of joint custody and would endanger victims. Lead Sponsors of SB368/HB508: Delegate Kathleen Dumais and Senator Lee; Lead Sponsor of SB905: Senator Anthony Muse

**Permanent Protective Orders – HB1057 – NO VOTE**

This is a technical bill to permit the court to issue a permanent protective order when an act of abuse is committed while an order is already in place and the respondent has been sentenced to

serve at least 5 years for an act of abuse; it would also add kidnapping to the list of qualifying crimes. Lead Sponsor: Delegate Vanessa Atterbeary

**Consent Education - HB365 (Montgomery County) and HB1560 (statewide) - FAILED**

Including education about consent in middle and high school health curricula. This bill passed the House and the Senate Education and Environmental Matters Committee, but failed on the Senate floor on the last day of session. MCASA looks forward to working on this again next session. Lead Sponsor: Delegate Ariana Kelly

**Join MCASA to support this important legislation and learn more about how you can help end sexual violence in Maryland**

**Visit [www.mcasa.org](http://www.mcasa.org) to become a member.**