



Working to end sexual violence in Maryland

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Testimony Supporting House Bill 246 with Amendments
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The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes 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 which provides direct legal services for survivors across the State of Maryland. We urge the Judicial Proceedings Committee to report favorably on House Bill 246 with Amendments.

House Bill 246 – Sexual Solicitation of a Minor

This bill helps close a loophole in Maryland's bill regarding sexual solicitation of a minor. Current law requires that the defendant have directly solicited an actual minor or a law enforcement officer posing as a minor in order to be prosecuted. Crim.Law §3-324. This statute permits offenders to escape prosecution if they solicit another adult, such as a child's parent or guardian.

The Court of Special Appeals case, *Choudry v. State*, 231 Md.App.656 (2017), made it clear that the plain language of the statute did not permit prosecution in a case where the defendant sought the assistance of another person to help arrange for sexual access to a prepubescent 12 year old girl. The agent contacted police to foil this attempted crime, but the offender never spoke with a minor or law enforcement posing as a minor.

MCASA respectfully suggests that HB246 be amended to track Maryland's child abuse law, Family Law Article §5-701(b)(i) as follows. This will extend the reach of the law to include solicitation of all family members, household members, and persons with care and custody of the child such as babysitters or persons with authority over the child.

§3–324 with suggested amendments:

(a) In this section, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “AGENT FOR A MINOR” MEANS:

- (1) A PARENT;
- (2) A HOUSEHOLD MEMBER OR FAMILY MEMBER;
- (3) A PERSON WHO HAS PERMANENT OR TEMPORARY CARE OR CUSTODY OF THE CHILD;
- (4) A PERSON WHO HAS RESPONSIBILITY FOR SUPERVISION OF THE CHILD; OR
- (5) A PERSON WHO, BECAUSE OF THE PERSON’S POSITION OR OCCUPATION, EXERCISES AUTHORITY OVER THE CHILD.

(C) “S[s]olicit” means to command, authorize, urge, entice, request, or advise a person by any means, including:

- (1) in person;
- (2) through an agent or agency;
- (3) over the telephone;
- (4) through any print medium;
- (5) by mail;
- (6) by computer or Internet; or
- (7) by any other electronic means.

(b) A person may not, with the intent to commit a violation of § 3–304, § 3–306, or § 3–307 of this subtitle or § 11–303, § 11–304, § 11–305, § 11–306, or § 11–307 of this article, knowingly solicit a minor, AN INDIVIDUAL THE PERSON BELIEVES TO BE A MINOR, OR AN INDIVIDUAL THE PERSON BELIEVES IS AN AGENT FOR A MINOR [or a law enforcement officer posing as a minor], to engage in activities that would be unlawful for the person to engage in under § 3–304, § 3–306, or § 3–307 of this subtitle or § 11–303, § 11–304, § 11–305, § 11–306, or § 11–307 of this article.

**The Maryland Coalition Against Sexual Assault urges the
Judiciary Committee to
report favorably on House Bill 246 with Amendments**