

Feinstein Letter of Support SB0130.pdf

Uploaded by: Debbie Feinstein

Position: FAV



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January 24, 2024

The Honorable William C. Smith, Jr.
Chairperson, Senate Judicial Proceedings Committee
11 Bladen Street
Annapolis, MD 21401

Dear Chair Smith and Members of the Judicial Proceedings Committee:

On behalf of the Maryland State's Attorney's Association, and the Montgomery County State's Attorney's Office, I write in support of SB0130—Criminal Law—Indecent Exposure in the Presence of a Minor. I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office and a member of the Montgomery County's Child Advocacy Center's Multidisciplinary Team and Sexual Assault Response Team. I also chair Choose Respect Montgomery, an initiative aimed at reducing teen dating violence and sexual assault. Lastly, I co-chair the Maryland State's Attorneys Association's Special Victims Legislative Subcommittee.

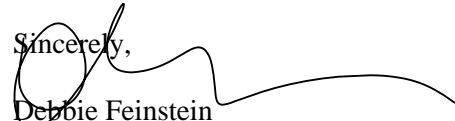
My office has prosecuted numerous cases where adults intentionally expose their genitals to children. In one case, the offender exposed his genitals to a teenager in her home. He repeatedly asked her questions that were sexual in nature while standing in close proximity and shaking his penis at her. In another case, the offender intentionally exposed himself to children at a community pool. And in yet another case, the offender exposed himself to a child in the laundry room in an apartment building. That offender had a history of indecently exposing himself to children.

Senate Bill 0130 provides an appropriate sentencing range for indecent exposure in the presence of a minor. Instead of a three year maximum penalty, the offender faces a five year maximum penalty where they knew or should have known that a minor was present and where the minor is at least two years old and is more than four years younger than the offender. The statute, as it pertains to minors, includes an intent requirement: the offender must have prurient intent when committing indecent exposure. This element protects the offender where the exposure is incidental or accidental.

Because children are among the most vulnerable in our society, Maryland law penalizes adults who commit violent crimes in the presence of a minor. Specifically, in 2014, the legislature enacted Criminal Law 3-601.1, which provides for an additional ten year penalty if the offender commits a crime of violence in the presence of a minor. Like SB0130, the child must be at least two years of age. Because indecent exposure is not a crime of violence, this statute does not apply.

The law similarly should provide a higher penalty for offenders who intentionally, and with prurient intent, expose themselves to children. I urge a favorable report on SB0130.

Sincerely,


Debbie Feinstein
Chief, Special Victims Division
Senior Assistant State's Attorney

SenatorBailey_FAV_SB130.pdf

Uploaded by: Jack Bailey

Position: FAV

JACK BAILEY
Legislative District 29
Calvert and St. Mary's Counties

Budget & Taxation Committee



THE SENATE OF MARYLAND
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January 25, 2024

Senate Bill 130 – Criminal Law – Indecent Exposure Within the Presence of a Minor

Dear Chairman Smith and Members of the Committee,

I am writing to introduce Senate Bill 130. This bill will provide for enhanced penalties for indecent exposure in cases where this act is done in the presence of a minor.

Under current law, all cases of indecent exposure are subject to a maximum penalty of three years in prison and a \$1,000 fine. Senate Bill 130 increases those to up to five years in prison and a fine of up to \$10,000 specifically when an offender commits indecent exposure with prurient intent when a person knows or reasonably should know that a minor who is at least two years old is present and where the victim is more than four years younger than the offender.

Senate Bill 130 is narrowly written to ensure that we are only capturing those who would commit this crime with the intent to cause harm to a child. At least 15 other states have enhanced penalties for indecent exposure against or within the sight of a minor. Maryland law already recognizes the importance of this issue and provides judges the option to require perpetrators to register as sex offenders if they commit indecent exposure against a minor as a deterrent.

This bill also does not require any new minimum sentences, and only gives judges the discretion to apply these higher penalties to offenders. I know that this Committee recognizes the importance of protecting our minors from sexual offenders such as those who would meet the specifications outlined in this bill.

Senate Bill 130 identical to Senate Bill 208 as amended by this Committee last year and as passed unanimously by the Senate. Identical House legislation passed in the Senate as well but did not receive a final vote in the House before the end of the session. I respectfully request a favorable report on Senate Bill 130. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bailey".

Senator Jack Bailey

SMC SA Jaymi Sterling SB0130 Letter in Favor.pdf

Uploaded by: Jaymi Sterling

Position: FAV

OFFICE OF THE STATE'S ATTORNEY

JAYMI STERLING
STATE'S ATTORNEY



CIRCUIT COURT
DIVISION

ST. MARY'S COUNTY, MARYLAND

January 24, 2024

The Honorable William C. Smith, Jr.
Chairman, Senate Judicial Proceedings Committee
11 Bladen Street
Annapolis, MD 21401

Dear Chairman Smith and Members of the Judicial Proceedings Committee:

I write in support of SB0130—Criminal Law—Indecent Exposure in the Presence of a Minor. As the State's Attorney for St. Mary's County, my office prosecutes all offenses, including crimes against children. Sexual crimes committed against children are some of the most heinous crimes in our society.

As the law stands, an offender who intentionally exposes their genitals to a child faces the same penalty for doing the same to an adult. Further, there is no sentencing enhancement for exposing oneself with a prurient intent. The Indecent Exposure statute's current three-year maximum penalty does not sufficiently penalize the nefarious intent of an offender who exposes their genitals to a child with a prurient intent.

SB0130 provides a more appropriate sentence factoring in the added egregious element of offenders exposing their genitals to a child with prurient intent. The five-year maximum sentence would only apply when an offender knows or should have known that a child over the age of two is present. The statutory language further requires a prurient intent element. This intent element is directed to appropriately sentence those who seek to sexually victimize children.

I strongly urge a favorable report on SB0130.

Respectfully,

Jaymi Sterling
State's Attorney for St. Mary's County

SO - indecent exposure to minor - testimony - sena

Uploaded by: Lisae C Jordan

Position: FAV



Working to end sexual violence in Maryland

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mcasa.org

For more information contact:
Lisae C. Jordan, Esquire
443-995-5544

Testimony Supporting Senate Bill 130
Lisae C. Jordan, Executive Director & Counsel
January 25, 2024

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 (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. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 130.

SB130 – Indecent Exposure within Sight of a Minor

SB130 would increase the penalty for indecent exposure with the sight of a minor if the person knows or reasonably should know that a minor is present and the act is committed with prurient intent.

Indecent exposure is currently a common law crime, described by the Court of Appeals as follows: "... indecent exposure [means] the defendant intentionally exposed his penis or other body part that should not be exhibited in a public place. Indecent exposure, to amount to a crime, must have been done intentionally. Intent may be inferred from the conduct of the accused and the circumstances and the environment of the occurrence." *Wisneski v. State*, 398 Md. 578 (2007). Legislation last year clarified that indecent exposure includes masturbation in public whether or not a person's genitals are exposed.

Indecent exposure covers a range of behavior, and when a child is the target, the behavior can be especially harmful and intimidating. Additionally, indecent exposure is often a gateway crime to more serious sex offenses. SB130 recognizes the serious nature of indecent exposure to child by increasing the penalty from 3 years/\$1000 fine to 5 years/\$10,000 fine.

MCASA notes that SB130 includes the reasonable limitation that there must be an age difference of at least 4 years between the people involved. This is an appropriate response to young people and similar to other sex crimes provisions. We note that offenders within 4 years older than the other person would still be subject to the common law crime of indecent exposure, simply not to the heightened penalty.

This bill has been reported favorably and made it to the floor of both chambers and within minutes of being enacted on *sine die* for the past two years. MCASA appreciates the past support for this legislation and respectfully urges prompt action this year.

**The Maryland Coalition Against Sexual Assault urges
the Judicial Proceedings Committee to report favorably on Senate Bill 130**

OPD Oppose

Uploaded by: Elizabeth Hilliard

Position: UNF



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB 130- Criminal Law - Indecent Exposure Within the Presence of a Minor

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 01/24/24

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 130.

Senate Bill 130 codifies the prohibition on committing the common law crime of indecent exposure and establishes a new offense by prohibiting a person from committing indecent exposure with prurient intent within the sight of a minor who is at least two years old and more than four years younger than the perpetrator.

This bill is unnecessary. Criminal Law 11-107 already provides that: A person convicted of indecent exposure is guilty of a misdemeanor and is subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both. As defined, the common law crime of indecent exposure is already a general intent crime that includes within its scope an innumerable variety of offenses, including acts that are reckless or negligent. This bill's attempt to enhance penalties will not serve a prophylactic purpose nor a deterrent purpose.

The Office of the Public Defender recognizes the prerogative of the legislature to identify special classes of victims within our criminal laws, particularly as it relates to the especially vulnerable. Similarly, we recognize that the Assembly can create a sentencing scheme that, within reason and constitutional principles, penalizes an offender potentially more or less based on victim characteristics or class. However, we believe that when a differentiated sentencing scheme is sought, and the current maximum penalties in our code are already applicable to the specific class of especially vulnerable victims, that maximum penalty should remain in force, and the potential penalty for the more general cases should be reduced, unless specific data regarding increasing crime rates or recidivism related to the special class of victims can substantiate a need for higher penalties. Here, there is no such data.