

BILL NO: House Bill 5
TITLE: Criminal Law - Indecent Exposure Within the Presence of a Minor
COMMITTEE: Judiciary
HEARING DATE: January 24, 2024
POSITION: **SUPPORT**

House Bill 5 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. The Women's Law Center supports this bill as a necessary and reasonable response to this repulsive behavior.

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. HB5 recognizes the serious nature of indecent exposure to child by increasing the penalty from 3 years/\$1000 fine to 5 years/\$10,000 fine.

House Bill 5 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. 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. We are hope it will make it over the finish line this year.

The Women's Law Center of Maryland is a non-profit legal services organization whose mission is to ensure the physical safety, economic security, and bodily autonomy of women in Maryland. Our mission is advanced through direct legal services, information and referral hotlines, and statewide advocacy.