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Judicial Proceedings Committee

Joint Committee on
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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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Senate Judicial Proceedings Committee

**Senate Bill 231 - Sexual Solicitation of a Minor - Solicitation Through Parent,
Guardian, or Custodian - Prohibition and Penalties**

Senate Bill 231 fills a loophole in Maryland law. Currently, the solicitation of a parent or guardian for sexual access to a child is not a crime itself. As a result, prosecutors must charge the solicitation under other crimes or by using the agency theory. We must close this loophole and protect minors from predators lurking in our community and online.

To meet the elements of §3-324 in the Criminal Law Article, the solicitation of a minor must be made directly to a minor, or a law enforcement officer impersonating a minor. Without the presence of such a minor or officer posing as a minor, the overt predator is not charged with sexual solicitation of a minor. *Attempt* to solicit is also not covered in §3-324.

A recent Maryland case illustrates the deficiency in our law. The 2017 case of *Choudry v. State*, involved with a man who approached an acquaintance to procure a minor female with whom he sought sexual relations. Fortunately, in this instance, the acquaintance went to the police instead of following through with Choudry's request. In conjunction with the police, the acquaintance created a fictitious 12-year-old, "Chelsea." Choudry was told that Chelsea was being prepared for him over a few weeks. After the preparation, Choudry was to meet the acquaintance with the child at a local motel. Upon arrival, Choudry was arrested and charged with the sexual solicitation of a minor. However, because no minor or law enforcement officer impersonating a minor was present at the motel during the arrest, the Maryland Court of Appeals vacated Mr. Choudry's conviction.

SB 231 fixes this loophole to affirmatively prohibit the sexual solicitation of a minor or hypothetical minor via a parent, guardian, or custodian.

Many of the sex crimes involving children prosecuted in our state are committed by repeat offenders, that's why this bill also enhances the penalty for repeat violators of this statute from a maximum 10 years and \$25,000 to a maximum 20 years and \$50,000.

Prosecutors and police need this legislative fix to more effectively protect Maryland's children from being sexually assaulted. Predators should be taken off the street for approaching someone else to procure sex from a child. Today, our State's highest court says this is not illegal; we must fix the law and perhaps move up the effective date to June 1st. For these reasons, I respectfully request a favorable report on SB 231.