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Maryland Senate Judicial Proceedings Committee
William C. Smith, Jr., *Chair*
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"Child abuse and the underlying crimes [underlying sexual offenses, i.e. rape] involve separate societal evils…Child abuse is a breach of custodial or familial trust… The two crimes should be punished separately and the person who violates both laws should be exposed to a greater possible penalty." This comes from a letter from an Assistant Attorney General to the Chairman of the House Judiciary Committee in 1990, cited in *Twigg v. Maryland*, 219 Md. App 259 (2014), urging the adoption of the law that passed ensuring that sexual abuse of a minor did not merge for sentencing purposes with the underlying sexual offenses.

It was clearly the intention of the Maryland General Assembly to have the criminal justice system look at sexual abuse of a minor and rape as two separate crimes. This legislative body even ensured that sexual abuse of a minor carried a maximum penalty greater than the penalty of second degree rape and second degree sexual offense. This body recognized that the abuse of trust is a different societal evil that requires a greater possible penalty.

However, we fall woefully short of this intention, and in protecting our most vulnerable victims when it comes to categorizing sexual abuse of a minor as a crime of violence. Under Criminal Law section 14-101, as it currently reads, sexual abuse of a minor is only a crime of violence, if the victim is 12 or younger. Therefore if a family member rapes an 11 year old girl and her 14 year old sister in the exact same manor, only the sexual abuse of a minor for the 11 year old is a crime of violence with the family member subject to serving 50% of the sentence before being parole eligible. Meanwhile, her 14 year old sister is left grappling with the fact that crime committed against her, in the exact same manor, is not treated as seriously under the law. That for the crime against her the family member is eligible for parole after 25% of the sentence, not 50%. How can a 14 year old possibly understand why the law doesn't treat her abuse the same as her sister's? I can't answer that question for countless victims I have worked with because to me there is no logical answer.

Criminal Law 14-101 does not set an age limit for physical child abuse in the first degree for the abuse to be considered a crime of violence. Any minor who is physically abused in the first degree by person in a position of trust, be that victim an infant or a 17 year old teenager is considered a victim of a crime of violence. The law treats all minor victims equally in this instance. Criminal Law 14-101 already limits the way in which sexual abuse of a minor may be considered a crime of violence to sexual acts and direct sexual contact, it shouldn't limit the sexual acts of this societal evil by age as well.

Thank you for your consideration to the amendment of Criminal Law Section 14-101.

Sincerely,

Kathryn A. Marsh
Assistant Chief
Special Victims Family Violence Unit