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## Working to end sexual violence in Maryland

P.O. Box 8782  
Silver Spring, MD 20907  
Phone: 301-565-2277  
Fax: 301-565-3619

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

### **Testimony Supporting House Bill 764 Lisae C. Jordan, Executive Director & Counsel February 25, 2020**

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. We urge the Judiciary Committee to report favorably on House Bill 764.

#### **House Bill 764 – Sexual Offenses – Law Enforcement**

Current law recognizes the power disparities between law enforcement and those in their “custody.” Criminal Law §3-314 prohibits a law enforcement officer from engaging in sexual contact, vaginal intercourse, or a sexual act with a person in their custody of the law enforcement officer. A similar prohibition and penalty applies to correctional employees and inmates. House Bill 764 expands this prohibition to law enforcement and people who are involved in an investigation or who have requested assistance. The law would not apply if the people involved had a prior sexual relationship that was legal (such as dating) but would apply to cases involving an officer and a sex worker.

**The unequal power between law enforcement and people who are in their custody, involved in police investigations, or who have requested assistance, makes voluntary consent difficult to assess and heightens the risk of exploitation.** HB764 recognizes that people who have requested an officer's help or who are involved in an investigation should be protected against sexual exploitation. Maryland is not alone in this concern, for example, Kansas recently prohibited sexual interactions between law enforcement and a person "during the course of a traffic stop, a custodial interrogation, an interview in connection with an investigation, or while the law enforcement officer has such person detained." CBS, May 11, 2018. Other states have focused on abuse of sex workers during the course of prostitution investigations. See, *Hawaii Police Won't Get to Have Sex With Prostitutes Anymore*, Time, March 26, 2014. People should be able to have confidence that law enforcement officers are not using their positions of authority to coerce others for sexual favors during the course of their duties.

In conversations with the Chiefs and Sheriffs, concerns were raised that this law not apply to marital or romantic relationships and MCASA fully supports carving out pre-existing legal relationships; the intent of this bill is to stop sexual exploitation and limit sexual activities while on duty or conducting official actions. However, MCASA respectfully declines to join in efforts to enforce bans on sexual interactions through policy alone. Those policies are already in place and they are insufficient. A criminal penalty is both necessary and appropriate.

HB764 would send a clear message about the serious nature of sexual exploitation. It is one part of Maryland's ongoing efforts to end sexual misconduct and abuse.

**The Maryland Coalition Against Sexual Assault urges the  
Judiciary Committee to report favorably on House Bill 764**