

Unfavorable Response to SB-134

Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations

Families Advocating Intelligent Registries (FAIR) seeks rational, constitutional sexual offense laws and policies for persons accused and convicted of sexual offenses. We oppose SB-134 on a number of grounds.

There are no definitions of terms.

- A.** SB-134 strikes the use of definitions of sexual abuse from Family Law 5-701 and instead drops in a list of terms with no clarifying definition at all. What is “obscene?” There are many interpretations. What would “pornographic” include? Total nudity? Suggestive poses even clothed? What does “similar activity” mean? Prostitution, incest and rape are defined elsewhere in statutes but not referenced here.
- B.** The other place where unnatural or perverted sexual practices are listed in our statutes includes homosexual behaviors which are protected by a supreme court decision, so it is unlikely we would want to define that here in the same way. As spoken in *MD Trapasso v. Lewis, 2020* “...interpretation should be given to the statutory provisions that do not lead to absurd consequences.”¹

Eliminating statutes of limitations flies in the face of solid research.

- A.** Faulty memories becomes troublesome as more time elapses between alleged actions and the time of a trial.
- B.** Witnesses, records, and any evidence that may have been initially available may be lost, making credibility more challenging for all parties involved.

Repressed memory testimony is unreliable and therefore inadmissible.

- A.** Repressed memory therapists' malpractice claims initiated by their clients or SAO criminal charges are rising. Scientific research does not support that memory can be repressed and later recovered intact.²

¹ <https://law.justia.com/cases/maryland/court-of-special-appeals/2020/2843-18.html>

² Elizabeth Loftus, Ph.D. <https://faculty.sites.uci.edu/eloftus/>

Probative value of prior acts must outweigh the danger of unfair prejudice

- A. Maryland Evidence Rule 5-609, the probative value of prior acts must outweigh the danger of unfair prejudice which is particularly high if the witness sought to be impeached is the accused.³ This is also referenced in *MD King v. State*, 2008.⁴
- B. With so many tangled memories, there is a high likelihood of unfair prejudice.

There is already a strong and clear process by which a person can accuse someone of abuse.

Although FAIR might wish it otherwise, the fact is that Maryland already has no criminal statutes of limitations for child sexual abuse. Thus there is already a strong and clear process by which a person can accuse someone of abuse **no matter how long ago**. Our current law is NOT in any way lenient towards abuse victims.

Consider for a moment what YOU would do if someone you knew twenty or more years ago suddenly filed a civil suit against you for child sexual abuse - an event you categorically deny or only dimly remember any details. What would you do? What COULD you do?

Please vote NO on SB-134.

Sincerely,



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³ <https://govt.westlaw.com/mdc/Document/N5C595E909CEB11DB9BCF9DAC28345A2A?transitionType=Default&contextData=%28sc.Default%29#:~:text=For%20the%20purpose%20of%20attacking,crime%20relevant%20to%20the%20witness's>

⁴ <https://caselaw.findlaw.com/md-court-of-appeals/1646108.html>