

SB 43- PGCEX-Support - 1.21.2021.pdf

Uploaded by: Alsobrooks, Angela

Position: FAV



THE PRINCE GEORGE'S COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

BILL: Senate Bill 43 - Criminal Law - Law Enforcement Officers - Prohibition on Sexual Activity

SPONSOR: Senator Elfreth, *et al.*

HEARING DATE: January 21, 2021

COMMITTEE: Judicial Proceedings

CONTACT: Intergovernmental Affairs Office, 301-780-8411

POSITION: SUPPORT

The Office of the Prince George's County Executive **SUPPORTS Senate Bill 43 - Criminal Law - Law Enforcement Officers - Prohibition on Sexual Activity** which expands the list of individuals a law enforcement officer is prohibited from engaging in sexual activity. The list includes a victim, witness, or suspect during an investigation the officer is conducting and a person requesting help from or responding to the officer in the course of their official duties. These additional prohibitions do not apply if the officer had a prior existing legal sexual relationship with the individual, unless an interim, temporary, or final protective order between the parties is in effect at the time of the sexual contact, vaginal intercourse, or sexual act.

Under current state law, law enforcement officers are prohibited from engaging in sexual activity with individuals in their custody.¹ Law enforcement have significant power over those in their custody, so it is imperative to put into place restrictions to guard against officers who would abuse that power to sexual exploit those over which they have power. It is not just those in custody that police have power over though; there is also a significant power imbalance between police and those calling for help and the victims, witnesses, and suspects that they interact with, during the course of their duties. It is prudent to apply consistent restrictions on police to prevent the sexual exploitation of those they have power over.

For these reasons, the Office of the Prince George's County Executive **SUPPORTS Senate Bill 43** and asks for a **FAVORABLE** report.

¹ Chapter 500 of 2018

SB0043 - Prohibition of Sexual Activity.pdf

Uploaded by: Bock-Singleton, Natasza

Position: FAV

January 19, 2021

Testimony in Support of SB0043 – Criminal Law – Law Enforcement Officers – Prohibition of Criminal Activity

Honorable Members of the Judicial Proceedings Committee:

I submit this testimony in support of SB0043 as a youth group leader, mediator, former community leader, and a longtime Baltimore City resident.

During the past three years I have advocated on behalf of victims of police harassment, including victims of sexual harassment and assault. There is a pattern of misconduct within some Maryland law enforcement agencies of officers using their authority to create circumstances that victimize individuals, and then attempt to coerce sex or other benefits from that victim. In two cases, an officer responding to a call for service at a hospital emergency department attempted to use his position and authority to coerce a sexual relationship with the victim of a crime. In one case an officer escalated an incident, instead of de-escalating, making the victim even more vulnerable. Under current law, despite being vulnerable and under duress, those victims were not protected from sexual predation by the responding law enforcement officers.

While defendants detained by law enforcement are protected from sexual predation by law, victims, witnesses and others who call for assistance are not currently protected. I strongly urge you to support SB0043 to expand the current protection to victims, witnesses and others who call for assistance.

Respectfully submitted,

Natasza Bock-Singleton,

President and Founder, Bloom and Grow

SB0043 cross filed as HB0411 Criminal Law.pdf

Uploaded by: Britt, Adiena

Position: FAV

SB0043 cross filed as HB0411 Criminal Law - Law Enforcement Officers - Prohibition on Sexual Activity

Stance: Support

Testimony: My name is Adiena C. Britt and I am writing to support both SB0043 and cross-filed HB0411. I understand that this bill is written in politically correct terms, but the reality is that this bill describes the act of Sexual Assault, Sexual Misconduct, and potentially Rape by a police officer. I can't even believe that this needs to be stated that this should not be permitted. Even in the event that a Law Enforcement officer should try to coerce or extort sexual encounters with a person under their purview during an investigation is unlawful, and should be considered as such.

There isn't much more that needs to be said on the topic. This should be passed through the full Senate and House and passed into Law.

Thank You.

Adiena C. Britt

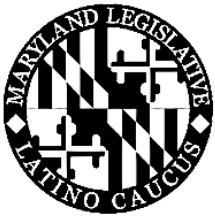
6014 Old Harford Rd.

Baltimore, MD 21214

SB43_LatinoCaucus_FAV.pdf

Uploaded by: Caucus, MD Latino

Position: FAV



MARYLAND LEGISLATIVE LATINO CAUCUS

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TO: Senator William C. Smith, Jr., Chair
Senator Jeff Waldstreicher, Vice Chair
Judicial Proceedings Committee Members

FROM: Maryland Legislative Latino Caucus (MLLC)

DATE: January 21, 2021

RE: SB43 Criminal Law - Law Enforcement Officers – Prohibition on Sexual Activity

The MLLC supports SB43 Criminal Law - Law Enforcement Officers - Prohibition on Sexual Activity.

The MLLC is a bipartisan group of Senators and Delegates committed to supporting legislation which improves the lives of Latinos throughout our state. The MLLC is a voice in the development of public policy affecting the Latino community and the state of Maryland. Thank you for allowing us the opportunity to express our support of SB43.

According to the Rape, Abuse & Incest National Network (RAINN), about every [73 seconds](#) someone is sexually assaulted. The yearly average of victims is 433,648 in the United States and most of these assaults go unreported to law enforcement. Moreover, it is extremely unlikely that a victim will report their sexual abuse to the group that the assistant is a member of.

In [2016](#), the Department of Justice's investigation into the Baltimore City Police Department reported that officers sexually assaulted individuals in exchange for avoiding arrest, cash, and even narcotics. The investigation also stated that these officers took advantage of "vulnerable populations," that often are sex workers, women of color, immigrants, people with disabilities, and people suffering from mental illness. In [2018](#), a Prince George's County police officer was charged with sexually assaulting a woman during a traffic stop. These are only a few incidents that have come to light. Law enforcement holds a certain power and authority over our communities. These acts of sexual violence are abuse of power and must be stopped.

SB43 expands the list of individuals a police officer is prohibited from engaging in sexual acts with to include a victim, witness, or suspect in an investigation they are working and a person requesting assistance. Law enforcement is supposed to be a trusted authority in our communities and this legislation is a step to prevent any more abuse of power.

The MLLC supports this bill and urges a favorable report on SB43.

Testimony In Support of SB 43 Sexual Activity Poli

Uploaded by: Ceruolo, Rich

Position: FAV

January 19, 2021

RE: SB 43
Maryland Senate / Miller Senate Office Building
11 Bladen Street
Annapolis, MD. 21401
Attn: Judicial Proceedings

Support for SB 43 – Criminal Law - Law Enforcement Officers – Prohibition of Sexual Activity.

Good day members.

I am writing to you today to support of increasing accountability in policing, guidelines, policies and procedures.

Our police officers are public servants to all of us, and they are in service to the law that they swear to uphold. Recent cases of abuses within police departments have given many of us reason to pause and reconsider the levels of accountability around law enforcement policies, procedures and officer training.

As part of their roles as officers of the law, there is also laws in place that protect the citizenry from abuses of the system by the members of law enforcement.

As citizens, this is how we enact change into the policing of our communities. We want better police procedures and transparency, we want better trained police officers, and we want safer communities. By working together with our police departments, we can make the system of community policing better and safer for all. This change is one step in the right direction toward increased accountability to one's community, which our officers have sworn to protect.

We hope that we can count of the members support for these changes to police guidelines and policies.

Please vote in favor of SB 43.

Thank you for your considering my testimony today.
Mr. Richard Ceruolo

SenElfreth_FAV_SB0043pdf.pdf

Uploaded by: Elfreth, Sarah

Position: FAV

SENATOR SARAH ELFRETH
Legislative District 30
Anne Arundel County

Budget and Taxation Committee

Subcommittees

Education, Business and Administration

Chair, Pensions

Senate Chair

Joint Committee on Administrative,
Executive, and Legislative Review

Joint Committee on the Chesapeake and
Atlantic Coastal Bays Critical Area



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

January 21, 2021

Testimony in Favor of SB0043
Criminal Law - Law Enforcement Officers - Prohibition of Sexual Activity

Chairman Smith, Vice-Chairman Waldstreicher, and Members of the Judicial Proceedings Committee,

I respectfully request a favorable report of Senate Bill 43, legislation which would prohibit law enforcement officers from engaging in sexual conduct with a victim, witness, or suspect in an investigation in which the officer is involved. Additionally, officers would be further prohibited from sexual conduct with individuals requesting the assistance of law enforcement whilst responding in the course of their official duties.

This legislation, introduced by Delegate Nicole Williams last session, passed the House unanimously but unfortunately was not able to be heard in this Committee because of the shortened session.

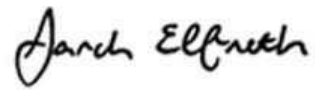
Not only is this legislation simply the correct course of action to ensure that our most vulnerable are protected from those we entrust to protect us, but there are also specific instances in Maryland of law enforcement officers using their authority to coerce women into sexual acts. This legislation would protect against such coercive actions.

As a recent example of such an incident, in 2018 Officer Ryan Macklin of Prince George's County pulled a young woman over in the course of his duty and thereafter forced her to engage in sexual acts. While Mr. Macklin is not representative of the vast majority of law enforcement officers who protect and serve our community, we should take action on a State level to ensure that criminal acts such as this will simply not be tolerated. This legislation also ensures a reasonable exception for those who are already in a pre-existing legal sexual relationship with an officer, unless there is an active protective order between the parties to protect against any instances of officer involved domestic violence.

Lastly, I would like to thank the members of this Committee for your long and continued work to ensure public trust in our public safety system. In that vein, I believe we are at a critical opportunity to ensure that our criminal justice system protects those that are most vulnerable -- and I believe

that this bill does just that. Thank you and again I respectfully request a favorable report of Senate Bill 43.

Sincerely,

A handwritten signature in black ink that reads "Sarah Elfreth". The signature is written in a cursive, flowing style.

Sarah Elfreth

Legislative Testimony SB43.pdf

Uploaded by: Elliott, Richard DeShay

Position: FAV

Legislative Testimony:
SB43

I support Senate Bill 43 to prevent law enforcement from sexually assaulting and raping individuals in their custody.

**RICHARD
ELLIOTT**
FOR MARYLAND

The logo for Richard Elliott For Maryland features the name 'RICHARD ELLIOTT' in a bold, red, outlined font. A red rose is positioned between the 'L' and 'I' of 'ELLIOTT'. Below this, the words 'FOR MARYLAND' are written in a smaller, solid red, outlined font.

By Authority: Rich Elliott For Maryland Keanu Smith-Brown, Campaign Chair Christian Hillian, Treasurer

FAV SB 43 2021 Testimony Jeffrey Harrison.pdf

Uploaded by: Harrison, Jeffrey

Position: FAV

Jeffrey A. Harrison

Bill Number: **SB 43 / HB 411**

Date: January 19, 2021

Bill Title: Criminal Law - Law Enforcement Officers
- Prohibition on Sexual Activity

Committee: Judicial Proceedings

Position: **Support / Favorable**

Sponsors: Senators Elfreth and Hettleman

Dear Committee Chair Smith, Committee Vice-Chair Waldstreicher, and Committee Members:

I strongly support SB 43.

SB 43 clarifies current legal ambiguities and protects vulnerable human beings in Maryland.

These vulnerable human beings are our family members, friends, and neighbors: incarcerated individuals; institutionalized individuals; individuals interfacing with law-enforcement officers; individuals dependent on life-sustaining service providers; and minors.

With few exceptions, a vulnerable person is unable to give their consent to sexual activity in situations where there is a large difference in power between the vulnerable individual and someone in authority, such as a corrections officer, a law-enforcement officer, or various kinds of service providers for adults and minors.

Without consent, sexual activity between a person in authority and a vulnerable person is sexual assault, a crime.

A search of news media reveals that sexual activity between vulnerable individuals and people in authority is disturbingly prevalent. Injustice often occurs because of ambiguities in existing laws or because prosecutors, judges, and juries interpret existing laws in favor of those in authority, without regard for the vulnerable. Because vulnerable people are rarely heard, many more cases do not reach the news media.

SB 43 will reduce the number of times a vulnerable human being in Maryland will be involved in sexual activity with corrections officers, law-enforcement officers, service providers, and other authorities. Vulnerable individuals will suffer less trauma as a result. In addition, less institutional corruption will result.

For the public, for the vulnerable, for those with a duty to intervene and report, for those in authority, and for prosecutors and other stakeholders in the criminal-justice system in Maryland, SB 43 clarifies any confusion there may be in the existing state law.

For those reasons, please **support SB 43** and report it as **Favorable** from the committee.

Thank you.

Jeffrey A. Harrison
(a member of Greenbelt People Power)
6835 Damsel Ct
Greenbelt MD 20770
(District 22)
Jeff6836@gmail.com

Cops and sex inc BPD report - testimony - senate -

Uploaded by: Jordan, Lisae C

Position: FAV



Working to end sexual violence in Maryland

P.O. Box 8782
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For more information contact:
Lisae C. Jordan, Esquire
443-995-5544
mcasa.org

Testimony Supporting Senate Bill 43 Lisae C. Jordan, Executive Director & Counsel January 21, 2021

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 Judicial Proceedings Committee to report favorably on Senate Bill 43.

Senate Bill 43 – 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. Senate Bill 43 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. SB43 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. The US Department of Justice investigation of the Baltimore City Police Department (BPD) provides an example of why this legislation should be enacted in Maryland:

[W]e found evidence that some BPD officers engage in criminal behavior that BPD does not sufficiently address. We heard complaints from the community that some officers target members of a vulnerable population—people involved in the sex trade—to coerce sexual favors from them in exchange for avoiding arrest, or for cash or narcotics. This conduct is not only

criminal, it is an abuse of power. Unfortunately, we not only found evidence of this conduct in BPD's internal affairs files, it appeared that the Department failed to adequately investigate allegations of such conduct, allowing it to recur. For example, BPD investigators became aware of one officer's alleged misconduct in March of 2012 when they conducted a "prostitution initiative" "for the purposes of gathering intelligence and obtaining confidential informants relating to police corruption." One of the women interviewed informed BPD investigators that she met with a certain officer and engaged in sexual activities in the officer's patrol car once every other week "in exchange for U.S. Currency or immunity from arrest." U.S. Department of Justice, Civil Rights Division, *Investigation of the Baltimore City Police Department*. 149-150 (2016). <<https://www.justice.gov/crt/file/883296/download>>. See also, https://www.washingtonpost.com/outlook/how-some-cops-use-the-badge-to-commit-sex-crimes/2018/01/11/5606fb26-eff3-11e7-b390-a36dc3fa2842_story.html, citing the BPD investigation report.

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. MCASA respectfully disagrees that bans on sexual interactions can be enforced through policy alone. Those policies are already in place and they are not working. Moreover, the current distinction between being in custody and being under investigation or requesting help is a very thin one that does not take into account power dynamics in the real world. MCASA notes that SB43 does include a provision providing an exception for law enforcement with a previous legal relationship with the other person. This would not apply to people in custody, only those who are under investigation or requesting assistance. This was drafted to address legal relationships such as marriage or dating, but to exclude illegal relationships, such as those involving prostitution. This was included after negotiations with our law enforcement colleagues and included in the spirit of compromise. Some have recently suggested it is too broad and could be abused. MCASA defers to the Committee on this point, but does support the bill as written.

SB43 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 enact meaningful police reform.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to report favorably on Senate Bill 43**

HB411 - SB43 - Law Enforcement - Prohibition on S

Uploaded by: Niemann, Doyle

Position: FAV



St., Baltimore, MD 21201
800-492-1964
| tdd 410-539-3186

To: Members of The House Judiciary Committee and Senate Judicial Proceedings Committee

From: Doyle Niemann, Chair, Legislative Committee, Criminal Law and Practice Section

Date: January 19, 2021

Subject: **HB411 and SB43 – Criminal Law – Law Enforcement Officers – Prohibition on Sexual Activity**

Position: **Support**

The Legislative Committee of the Criminal Law & Practice Section of the Maryland State Bar Association (MSBA) **Supports HB411 and SB43 – Criminal Law – Law Enforcement Officers – Prohibition on Sexual Activity.**

This bill extends the ban on sexual acts, sexual contact or intercourse by a law enforcement officer during the course of an investigation that the officer is conducting, supervising, or assisting with, who is a victim, witness, suspect, requestor of assistance or an individual responding to the law enforcement officer during the course of the officer's official duties.

This is an extension of the current law, which applies to law enforcement officers, including correctional officials and employees, prohibiting sexual conduct with someone in the custody of the officer.

There is an exception for individuals with whom the officer had a prior legal relationship with.

This is a useful extension of the law.

For the reasons stated, we **Support HB411 and SB43 – Criminal Law – Law Enforcement Officers – Prohibition on Sexual Activity.**

If you have questions about the position of the Criminal Law and Practice Section's Legislative Committee, please feel free to address them to me at 240-606-1298 or at doyleniemann@verizon.net.

Should you have other questions, please contact The MSBA's Legislative Office at (410)-269-6464 / (410)-685-7878 ext: 3066 or at Richard@MSBA.org.

SB0043 MD NARAL SUPPORT.pdf

Uploaded by: Philip, Diana

Position: FAV



SB0043 Criminal Law - Law Enforcement Officers - Prohibition on Sexual Activity
Presented to the Hon. Will Smith and Members of the Senate Judicial Proceedings Committee
January 21, 2021 11:00 a.m.

POSITION: SUPPORT

NARAL Pro-Choice Maryland **urges House Judiciary Committee a favorable report on SB0043 Criminal Law - Law Enforcement Officers - Prohibition on Sexual Activity**, sponsored by Senators Sarah Elfreth and Shelly Hettleman.

Our organization is an advocate for reproductive health, rights, and justice. We work to protect every person's freedom to decide if, when, and how to build their families. This freedom relies on respecting the sexual and reproductive agency of every individual. Every person has the right to decide where, when, how, and with whom they have sex. Accordingly, we support banning coercive sexual interactions between police and civilians.

Current Maryland law only bans sexual activity between law enforcement officers and those in their custody. SB0043 extends this ban to include people requesting assistance from a police officer, as well as victims, witnesses, and suspects in investigations in which an officer is involved, unless the officer previously had a legal sexual relationship with that person. SB0043 represents a major step toward eliminating sexual misconduct perpetrated by law enforcement officers.

Sexual misconduct is a widespread problem in American police departments and not limited to officers' interactions with those in their custody. Across the country, an accusation of sexual misconduct or assault is levelled at a police officer once every five days.ⁱ Reported incidents include officers harassing women in false traffic stops, fondling prisoners, and leveraging immunity from arrest for sexual favors.ⁱⁱ A federally funded nationwide study of arrests of police officers from 2005 to 2011 identified over 400 rape and 350 forcible fondling cases and found that half of sexual misconduct arrests were for incidents involving minors.ⁱⁱⁱ Sexual misconduct and assault occur during traffic stops, arrests, and job shadowing programs and most often involve crime victims, police informants, drivers, and teenagers. About half of police sexual misconduct cases involve incidents that occurred while the officer was on duty; police officers who engage in sexual misconduct while off-duty frequently use their badge or service weapon to pressure victims.^{iv} Existing statistics likely only capture a fraction of cases of police sexual misconduct and assault. Three quarters of all sexual assault cases go unreported,^v and 15 percent of women who do not report assault do so because they believe the police could not or would not do anything.^{vi} These fears are likely to be stronger in cases in which the police are the perpetrators. It becomes even harder for survivors of sexual assault to seek justice when the people they would turn to for help are the ones responsible for the violation.

Police sexual misconduct has a disproportionate impact on vulnerable populations, such as LGBTQ people, teenagers, homeless individuals, sex workers, people impaired by drugs or alcohol, and survivors of domestic violence. Police officers tend to target people with limited power who would be less likely to be believed if they tried to make a report.^{vii} In 2016, the U.S. Department of Justice found in an investigation of the Baltimore Police Department (BPD) that officers routinely pressure vulnerable people into sex.^{viii} The investigation found evidence that BPD officers engaged in sexual coercion by threatening sex workers with arrest or offering them money or drugs in exchange for sexual favors, and that the BPD failed to conduct any meaningful investigations of misconduct allegations or reports of sexual assault made by sex workers.^{ix}

Police officers who initiate sexual activity with civilians take advantage of an extreme power imbalance. When a police officer threatens, intimidates, or otherwise pressures someone into sexual activity, that is an abuse of their power and a violation of their community's trust. Police are the third most trusted institution in the country, behind only the military and small businesses.^x Sexual misconduct takes advantage of this trust and undermines the legitimacy of law enforcement officers and their ability to effectively protect their communities. It also taints the reputations of the majority of police officers who respect the power and responsibilities of their positions.

SB0043 would help hold officers accountable for sexual misconduct and strengthen trust between police and the communities they serve by making it clear that this behavior is not acceptable under any circumstances. It leaves no room for police to claim such encounters were consensual, recognizing that there can be no true consent when the power imbalance between two people is as strong as it is in a police-civilian interaction. Banning police-civilian sexual activity will help protect vulnerable populations from sexual coercion and strengthen the legitimacy of Maryland's law enforcement officers. For these reasons, NARAL Pro-Choice Maryland **urges a favorable committee report on SB0043**. Thank you for your time and consideration.

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- ⁱ Ritchie, Andrea J. "How Some Cops Use the Badge to Commit Sex Crimes." *Washington Post*, January 12, 2018. https://www.washingtonpost.com/outlook/how-some-cops-use-the-badge-to-commit-sex-crimes/2018/01/11/5606fb26-eff3-11e7-b390-a36dc3fa2842_story.html.
- ⁱⁱ Stamper, Norm. *Breaking Rank: A Top Cop's Exposé of the Dark Side of American Policing*. PublicAffairs, 2009.
- ⁱⁱⁱ Philip Matthew Stinson, Sr., John Liederbach, and Steven P. Lab. "Police Integrity Lost: A Study of Law Enforcement Officers Arrested." Bowling Green, OH: Bowling Green State University, January 2016. <https://www.ncjrs.gov/pdffiles1/nij/grants/249850.pdf>.
- ^{iv} Stinson, Philip Matthew, John Liederbach, Steven L. Brewer, and Brooke E. Mathna. "Police Sexual Misconduct: A National Scale Study of Arrested Officers." *Criminal Justice Policy Review* 26, no. 7 (October 2015): 665–90. <https://doi.org/10.1177/0887403414526231>.
- ^v Morgan, Rachel E., and Barbara A. Oudekerk. "Criminal Victimization, 2018." U.S. Department of Justice, Bureau of Justice Statistics, September 2019.
- ^{vi} Planty, Michael, Lynn Langton, Christopher Krebs, Marcus Berzofsky, and Hope Smiley-McDonald. "Female Victims of Sexual Violence, 1994-2010." U.S. Department of Justice, Bureau of Justice Statistics, March 2013. <https://doi.org/10.1037/e528212013-001>.
- ^{vii} Ritchie, Andrea J. "How Some Cops Use the Badge to Commit Sex Crimes." *Washington Post*, January 12, 2018. https://www.washingtonpost.com/outlook/how-some-cops-use-the-badge-to-commit-sex-crimes/2018/01/11/5606fb26-eff3-11e7-b390-a36dc3fa2842_story.html.
- ^{viii} "Investigation of the Baltimore City Police Department." U.S. Department of Justice, Civil Rights Division, August 10, 2016. <https://www.justice.gov/crt/file/883296/download>.
- ^{ix} "Investigation of the Baltimore City Police Department." U.S. Department of Justice, Civil Rights Division, August 10, 2016. <https://www.justice.gov/crt/file/883296/download>.
- ^x Gallup. "Military, Small Business, Police Still Stir Most Confidence," June 28, 2018. <https://news.gallup.com/poll/236243/military-small-business-police-stir-confidence.aspx>.

SB43_MNADV_FAV.pdf

Uploaded by: Shapiro, Melanie

Position: FAV



BILL NO: Senate Bill 43
TITLE: Criminal Law - Law Enforcement Officers - Prohibition on Sexual Activity
COMMITTEE: Judicial Proceedings
HEARING DATE: January 21, 2021
POSITION: **SUPPORT**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue a favorable report on SB 43.**

Senate Bill 43 expands on existing law that prohibits sexual contact between a law enforcement officer and a person in custody to include in that prohibition a victim, witness, or suspect. This prohibition is limited to the time of the investigation and provides exception for law enforcement that was already engaged in a “legal sexual relationship” with an individual who subsequently became a victim, witness, or suspect so long as there is not a protective order in effect at the time of the sexual act in question. In any situation, a police officer, likely uniformed and armed, empowered with the authority to arrest wields an extraordinary amount of power and control over others. There cannot be true consent to sexual contact during a police investigation due to the imbalanced power and control that police have over victims, witnesses, and suspects.

Survivors of domestic violence frequently do not report the violence they suffer to the police. It is one of the most underreported crimes. A 2015 study conducted by the National Domestic Violence Hotline found that 80% of the survivors of domestic violence surveyed who had never called the police before indicated that they were “somewhat or extremely afraid to call them in the future.”¹ Of the survivors surveyed that had called the police because of the domestic violence, 1 out of 4 said that they would not call again.² In order to begin to end the trauma and violence suffered by survivors of domestic violence, they must feel trust and confidence in the police when calling for help, and unfortunately that trust and confidence does not currently exist. SB 43 is an important step towards achieving that goal.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report on SB 43.**

¹ National Domestic Violence Hotline, Who Will Help Me? Domestic Violence Survivors Speak Out About Law Enforcement Responses. Washington, DC (2015). <http://www.thehotline.org/resources/law-enforcement-responses>

² *Id.*

SB 43 - Criminal Law - Law Enforcement Officers -

Uploaded by: Siri, Michelle

Position: FAV

BILL NO.: Senate Bill 43
TITLE: Criminal Law – Law Enforcement Officers – Prohibition on Sexual Activity
COMMITTEE: Senate Judiciary Committee
DATE: January 21, 2021
POSITION: **SUPPORT**

Senate Bill 43 seeks to prohibit law enforcement officers from engaging in sexual conduct with a victim, witness, or suspect in an investigation in which the officer is involved. Officers are further prohibited from sexual conduct with individuals requesting the assistance of law enforcement whilst responding in the course of their official duties. As the Women’s Law Center of Maryland firmly believes in all sexual activity being mutual, respectful, and consensual, we support SB43.

The Center for Disease Control recognizes that sexual violence includes “non-physically forced penetration which occurs after a person is pressured verbally or through intimidation or *misuse of authority* to consent or acquiesce”¹. When power or authority is involved, it is not possible to give true consent. Relationship dynamics where consent cannot be given include any relationship where a person might feel compelled to say yes because of the power that the authority figure holds over them or the trusted position that that the person in authority holds. Given the positional authority of law enforcement officers over victims, witnesses, and suspects, there is no time in the course of an investigation where an individual could realistically provide consent freely and without intimidation. The very real possibility of physical violence, retaliation, and abuse of authority, places those individuals in situations where they feel they have no choice but to “consent”, which is of course, not actual consent.

Similar laws recognize the imbalance of power, such as the Prison Rape Elimination Act (PREA). PREA defines sexual abuse of an inmate by a staff member as sexual acts *with or without the consent of the inmate*. For example, if a correctional officer engages in sex with an inmate, even if the inmate “consents” to it, it is still considered sexual abuse under PREA. Consent must be given freely and unambiguously, without any threat of coercion or retaliation. As law enforcement offices hold positions of trust and authority within the community, they must not be permitted to abuse that position.

SB 43 includes what the WLC believes is a reasonable exception for law enforcement officers who already are in a pre-existing *legal* sexual relationship with an individual. Importantly, this clause includes a single caveat: the exception shall *not* apply if an active protective order exists between the parties. This secondary exception is necessary to prevent victims of “officer involved domestic violence” (OIDV) who are already more susceptible to coercion from being further harmed. Individuals who are the victims of domestic violence at the hands of police officer-batterers are often in a unique and particularly vulnerable situation. One reason why it is more difficult for a victim of OIDV to seek help is the strong bonds of loyalty within most law enforcement communities². Victims often feel their abusers’ knowledge and understanding of the legal process, coupled with the discretion granted to officers in determining how to respond to allegations of abuse, would lead to departments failing to take allegations seriously. This can be true even when the victim is also a law enforcement officer, especially if she is seen as breaking that bond of loyalty by

¹ <https://www.cdc.gov/violenceprevention/sexualviolence/definitions.html>

² STOP Violence Against Women, A Project of The Advocates for Human Rights, Officer-Involved Domestic Violence, http://www.stopvaw.org/officer-involved_domestic_violence, last viewed February 22, 2020.

reporting the abuse³. It is important to note that the exception for prior existing legal relationships **does not apply** if the party is in police custody. That exception only applies to situations where the other party is a victim of, or witness to, a crime, or is otherwise seeking police assistance.

It is an unfortunate reality that this legislation is necessary to protect vulnerable individuals from abuses of power at the hands of law enforcement officers. Victims of officer involved domestic violence require even more protections within our laws. And for all those reasons state above, the Women's Law Center of Maryland urges a favorable report for SB 43.

The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.

³ See generally, *The Misuse of Police Powers in Officer-Involved Domestic Violence*, Diana Wetendorf and Dottie L. Davis, 2003.

SB0043 - TurnAround Inc Testimony on Prohibition o

Uploaded by: Winklbauer, Kelly

Position: FAV



BILL NUMBER: SB0043

TITLE: Criminal Law - Law Enforcement Officers - Prohibition on Sexual Activity

COMMITTEE: Judicial Proceedings

HEARING DATE: January 21, 2021

POSITION: Support

TurnAround, Inc. respectfully requests a favorable report on Senate Bill 0043. This bill would protect the integrity of criminal investigations and the safety of all those involved by prohibiting law enforcement officers from engaging in sexual acts and sexual contact, including intercourse, with a victim, witness, or suspect during an investigation that the officer is conducting, supervising, or assisting with.

TurnAround, Inc. supports and advocates for survivors of sexual violence, intimate partner violence, and human trafficking. In the agency's last fiscal year, approximately half of clients were survivors of sexual violence, with 14% having a history of human trafficking or commercial sexual exploitation. These survivors already face significant hurdles to trusting and accessing the criminal justice system, paired with extensive trauma from the violence they have experienced. Law enforcement officers are in a position of power and must be held to the highest standards of professional behavior, integrity, and accountability. To ensure the participation of victims in any legal proceeding related to their case is voluntary and they are not further harmed, law enforcement officers should not engage in sexual acts or sexual contact of any kind with victims or other parties involved in their active investigations. SB 0043 is an important step in protecting victims of trafficking and other sex crimes from coercion and further trauma at the hands of the criminal justice system.

About TurnAround, Inc TurnAround, Inc. is the designated rape crisis center for Baltimore City and Baltimore County, and a comprehensive domestic violence center. The agency's mission is to educate, advocate for, and empower all people impacted by intimate partner violence, sexual violence, and human trafficking. Crisis response, victim-centered advocacy, legal referrals, trauma therapy, and community education are core components of the agency's work. TurnAround is a member of the Maryland Coalition Against Sexual Assault (MCASA) and the Maryland Network Against Domestic Violence (MNADV).

For further questions, please contact Jean Henningsen, Director of Development and Special Projects at jhenningsen@turnaroundinc.org and Angeles Evans, Community Engagement Manager at aevans@turnaroundinc.org.

MCPA-MSA_SB 43 Sexual Activity _Letter of Informat

Uploaded by: Mansfield, Andrea

Position: INFO



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith, Jr. Chairman and
Members of the Judicial Proceedings Committee

FROM: Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: January 21, 2021

RE: **SB 43 – Criminal Law – Law Enforcement Officers – Prohibition on Sexual Activity**

POSITION: **LETTER OF INFORMATION**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) provide the following information on SB 43. This bill expands the list of individuals a law enforcement officer is prohibited from having sexual relations. Under this bill it includes a victim, witness, or suspect during the course of an investigation that the law enforcement officer is conducting, supervising, or assisting with; and a person requesting assistance from or responding to the law enforcement officer in the course of the officer's official duties.

Two years ago legislation passed to criminalize sexual contact between a law enforcement officer and a person in custody. MCPA and MSA worked on this legislation with the committee, sponsor, and advocates, as due to the Officers authority over the in-custody individual, any sexual relations would be considered an abuse of that authority. The same is not true of victims, witnesses and others who encounter law enforcement officers. These relationships could be consensual sexual conduct between a police officer and a citizen under a variety of circumstances, potentially violating one's constitutional protection of free association.

Most importantly, law enforcement agencies do have policies and regulations to address such conduct, as well as other criminal laws that prohibit sexual misconduct. These policies and approaches should determine appropriate actions.