



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable Luke Clippinger Chairman and
Members of the Judiciary 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 18, 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 engaging in sexual relations. As amended, it includes a person who is a victim, witness, or suspect during the course of an investigation that the law enforcement officer is conducting, supervising, or assisting with if the law enforcement officer knew or should have known that the person is a victim, witness, or suspect in the investigation. The amendments also make the language in the bill pertaining to when a certain relationship is acceptable more clear. SB 43 is a reasonable approach to address this issue.

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, with respect to the Officers authority over the in-custody individual. For an 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. It is very difficult to define these types of relations in statute.

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.

However, with this bill and its House cross-file being voted favorably out of their respective Chambers in a different posture, MCPA and MSA believe the approach outlined in SB 43 to be more reasonable.