

**Del. Crosby HB34 Testimony.docx.pdf**

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Position: FAV

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Vice Chair  
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**Testimony for HB 34: Criminal Law - Indecent Exposure Within the Sight of a Minor**

Good afternoon Mr. Chairman, Vice Chair, and members of the committee. I'm Del. Brian Crosby and it's an honor to present HB 34, entitled Criminal Law - Indecent Exposure Within the Sight of a Minor.

In 15 states across the country, indecent exposure penalties are enhanced when committed against, or within sight of, a minor. In two of our neighboring states, for example, Virginia and Pennsylvania, the penalty for committing indecent exposure increases from a Class 1 misdemeanor to a Class 5 felony, or from a second degree misdemeanor to a first degree misdemeanor, respectively, when committed against a minor. This translates to a doubled cap on any fine or jail sentence imposed by a judge in Pennsylvania, and a jail sentence up to ten times longer in Virginia. In the remaining 13 states, this formalized penalty enhancement is similar, but Maryland has yet to make the same distinction which, in practice, creates an arbitrary and low cap of punishment for sexual crimes committed against some of our most vulnerable citizens. This bill increases the potential imprisonment cap from three to five years, and the potential fine cap from \$1,000 to \$10,000 for indecent exposure within sight of a minor with prurient intent. The bill only applies if the offender is more than 4 years older than the victim. It does not establish a floor for minimum punishment, because I recognize that extenuating circumstances may certainly warrant lesser consequences; however, I believe that our courts deserve increased flexibility when it comes to protecting our kids.

Maryland law already recognizes the importance of this issue, and provides judges the option to require perpetrators to register as sex offenders if they commit indecent exposure against a minor as a deterrent. HB 34 provides an expanded alternative, in line with that of other states, to achieve that same goal. As such, I ask for a favorable report on this bill, and will take any questions you have at this time.

# **SO - indecent exposure to minor - testimony - hous**

Uploaded by: Lisae C Jordan

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**Working to end sexual violence in Maryland**

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**Testimony Supporting House Bill 34 as Amended**  
**Lisae C. Jordan, Executive Director & Counsel**  
March 29, 2022

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 in the State of Maryland. We urge the Judicial Proceedings Committee to report favorably on House Bill 34 as amended.

**HB34 – Indecent Exposure within Sight of a Minor**

HB34 would increase the penalty for indecent exposure with the sight of a minor. Indecent exposure is currently a common law crime, described by the Court of Appeals as follows: "... indecent exposure [means] the defendant intentionally exposed his penis or other body part that should not be exhibited in a public place. Indecent exposure, to amount to a crime, must have been done intentionally. Intent may be inferred from the conduct of the accused and the circumstances and the environment of the occurrence." *Wisneski v. State*, 398 Md. 578 (2007). Legislation last year clarified that indecent exposure includes masturbation in public whether or not a person's genitals are exposed.

Indecent exposure covers a range of behavior, and when a child is the target, the behavior can be especially harmful and intimidating. Additionally, indecent exposure is often a gateway crime to more serious sex offenses. HB34 recognizes the serious nature of indecent exposure to child by increasing the penalty from 3 years/\$1000 fine to 5 years/\$10,000 fine. Amendments in the House require that the offender be at least 4 years older than the child and have acted with prurient intent for the higher penalty to apply. MCASA fully supports these amendments.

**The Maryland Coalition Against Sexual Assault urges  
the Judicial Proceedings Committee to report favorably on House Bill 34**

# **OPD Opposition to HB34.pdf**

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Position: UNF



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DIRECTOR OF GOVERNMENT RELATIONS DIVISION

**ELIZABETH HILLIARD**  
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

## **POSITION ON PROPOSED LEGISLATION**

**BILL: HB 34 – Criminal Law – Indecent Exposure Within the Sight of a Minor**

**FROM: Maryland Office of the Public Defender**

**POSITION: Unfavorable**

**DATE: 03/29/2022**

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on House Bill 34.

House Bill 34 codifies the prohibition on committing the common law crime of indecent exposure and also establishes a new offense by prohibiting a person from committing indecent exposure with prurient intent within the sight of a minor who is at least two years old and more than four years younger than the perpetrator.

The Office of the Public Defender recognizes the prerogative of the legislature to identify special classes of victims within our criminal laws, particularly as it relates to the especially vulnerable. Similarly, we recognize that the Assembly can create a sentencing scheme that, within reason and constitutional principles, penalizes an offender potentially more or less based on victim characteristics or class. However, we believe that when a differentiated sentencing scheme is sought, and the current maximum penalties in our code are already applicable to the specific class of especially vulnerable victims, that maximum penalty should remain in force, and the potential penalty for the more general cases should be reduced, unless specific data regarding increasing crime rates or recidivism related to the special class of victims can substantiate a need for higher penalties. In regards to this bill, then, we believe indecent exposure offenses involving minor victims should still be punished at the current maximum of up to 3 years, with offenses involving adult victims subject to a 1 year penalty.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on HB34.**

**Submitted by: Government Relations Division of the Maryland Office of the Public Defender.**