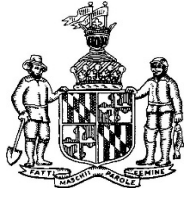


# **Feinstein Letter of Support SB68.pdf**

Uploaded by: Debbie Feinstein

Position: FAV



STATE'S ATTORNEY  
JOHN J. MCCARTHY

## State's Attorney for Montgomery County

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DEPUTY STATE'S ATTORNEYS  
PETER A. FEENEY  
RYAN S. WECHSLER

January 17, 2022

The Honorable William Smith & Members of the Senate Judicial Proceedings Committee  
Chairperson, Senate Judicial Proceedings Committee  
11 Bladen Street  
Annapolis, MD 21401

Dear Chairperson Smith and JPR Committee Members:

I write in support of SB68, Sexual Offenses—Crime of Violence and Lifetime Supervision. I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office. I also serve on the Montgomery County Child Advocacy Center's Multidisciplinary Team, a group that reviews cases involving child abuse and neglect.

The crime of Sexual Abuse of a Minor, set forth in section 3-602 of the Criminal Law Article, criminalizes sexual molestation or exploitation of a minor by a parent, household member, family member, or any other person who has permanent or temporary care or responsibility for the supervision of a minor. Sexual molestation or exploitation includes rape and other sexual offenses. Currently, the crime of Sexual Abuse of a Minor only constitutes a crime of violence under section 14-101 of the Criminal Law Article if the victim is under the age of thirteen. SB68 will make Sexual Abuse of a Minor a crime of violence when the offender is at least twenty-one years of age, and the victim is under the age of sixteen.

Several months ago, in Montgomery County, a middle school teacher was sentenced to jail time for sexually abusing two fourteen year old students. This defendant is eligible for parole after serving a quarter of his time. Had SB68 been law, the defendant would have first been eligible for parole after serving half of his time. A tangible and significant difference.

Fourteen and fifteen year old minors who are sexually abused should receive the same protection as other victims of serious crime, and perpetrators should be subjected to the same enhancements and penalties as other violent offenders. Categorizing sexual abuse of a minor as a crime of violence for victims under the age of sixteen sends a strong message to our community about the seriousness of this offense and serves as a deterrent to would-be offenders.

Maryland law should delineate Sexual Abuse of a Minor as a crime of violence for victims under the age of sixteen where the offender is over the age of twenty-one. I urge a favorable report on SB268.

Sincerely,

Debbie Feinstein  
Chief, Special Victims Division  
Senior Assistant State's Attorney

# **SenatorBailey\_FAV\_SB68.pdf**

Uploaded by: Jack Bailey

Position: FAV

JACK BAILEY  
Legislative District 29  
Calvert and St. Mary's Counties

Judicial Proceedings Committee



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

Annapolis Office  
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11 Bladen Street, Room 402  
Annapolis, Maryland 21401  
410-841-3673 • 301-858-3673  
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Jack.Bailey@senate.state.md.us

District Office  
Dorsey Professional Park  
23680 Three Notch Road, Unit 101  
Hollywood, Maryland 20636  
240-309-4238

January 19, 2022

**Senate Bill 68 – Sexual Offenses – Crime of Violence and Lifetime Supervision**

Dear Chairman Smith and Members of the Committee,

I am writing to introduce Senate Bill 68 – Sexual Offenses – Crime of Violence and Lifetime Supervision. This bill resolves an inconsistency in current Maryland law and ensures that offenders who commit sexual abuse of a minor are subject to existing penalties and supervision to decrease the risk of recidivism.

Under current law, an offender who commits sexual abuse of a minor in violation of §3-602 of the Criminal Law Article against a minor under the age of 13 is considered to have committed a crime of violence under certain circumstances, while an offender who violates §3-602 against a minor under the age of 12 is subject to lifetime supervision. This inconsistency means that a person who commits this crime against a victim who is 12 years old has committed a crime of violence but is not subject to lifetime supervision. This bill makes these provisions consistent by requiring lifetime supervision for offenders who violate §3-602 against a minor under the age of 13.

The other provisions of the bill address instances of §3-602 where the victim is 13, 14, or 15 years old. These victims deserve the same protections as those who are under the age of 13. This bill specifies that in cases where the victim is between the ages of 13 and 15, the crime of violence statute and lifetime supervision will only apply to offenders who are 21 or older. This bill makes no other changes to the circumstances already in law for when a violation of §3-602 is considered to be a crime of violence.

Senate Bill 68 is narrowly targeted to protect Marylanders from a relatively small but significant number of offenders who have committed these very serious crimes. This bill is prospective and does not apply to any conviction before the bill's effective date. This bill is nearly identical to Senate Bill 268 from last session, which passed the Senate 46-0. Senate Bill 68 is designed to protect our most vulnerable citizens from some of the most heinous crimes, specifically felony sexual assaults.

I respectfully request a favorable report on Senate Bill 68. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bailey", written over a horizontal line.

Senator Jack Bailey

# **SB68 Written Testimony (J. Garth) -signed.pdf**

Uploaded by: Jessica Garth

Position: FAV

**AISHA N. BRAVEBOY**  
STATE'S ATTORNEY



**JASON B. ABBOTT**  
PRINCIPAL DEPUTY STATE'S ATTORNEY

**State's Attorney for Prince George's County**  
14735 Main Street, Suite M3403  
Upper Marlboro, Maryland 20772  
301-952-3500

January 17, 2022

## **MEMORANDUM**

**TO:** Maryland Senate Judicial Proceedings Committee  
William C. Smith, Jr., *Chair*  
Miller Senate Office Building, 2 East Wing  
11 Bladen St., Annapolis, MD 21401 – 1991

**THRU:** Aisha N. Braveboy  
State's Attorney for Prince George's County

**FROM:** Jessica Garth, Chief  
Special Victims & Family Violence Unit

**RE:** **Senate Bill 068**

**CC:** Judith Danso, Chief of Staff

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Dear Chairman Smith and Members of the Committee:

I am writing to show my strong support for SB68 on behalf of State's Attorney Aisha Braveboy, my office, and the MSAA. Passage of SB68 would serve to further provide justice for some of our most vulnerable victims in two important ways.

First, current Maryland law marks sexual abuse of a minor as a crime of violence if the victim is under the age of 13 years and the offender is an adult at the time of the offense. SB68 would expand the lifetime supervision statute to include cases in which the victim is under the age of 16 years and the offender is over the age of 21 years.

Explaining to a minor victim's family that their case is not being treated the same way as the case of a younger victim is one of the many difficult conversations that we have as prosecutors, and it is just one more injustice suffered by some of our most vulnerable victims. If you consider that 15% of all sexual assault victims are between the ages of 12 and 17 and that 90% of children who are victims of sexual abuse know their abuser, 30% are abused by a family

member, and 60% are abused by a person the family trusts, the need to expand this protection becomes clear.

Second, SB68 serves to bring the language of the lifetime sexual offender supervision statute, Criminal Procedure 11-723, in line with other recent legislative changes. In 2017, this legislative body made the decision to treat survivors of second degree sexual assault and survivors of second degree rape equally under the law, by updating the definition of second degree rape to also include sexual acts as opposed to solely vaginal intercourse. Unfortunately, the language in the lifetime sexual offender supervision statute was not similarly updated at that time, which causes inequity when applying this important protection. I do not believe that this was the intent of the legislative body, and SB68 serves to correct this issue. Statistics show that community supervision, like that provided by the lifetime sexual offender supervision statute, reduces recidivism.

At the end of the day, reducing the amount of sexual abuse of children in our communities and providing equitable treatment to all victims are goals that we all share.

For the foregoing reasons, I respectfully urge a favorable report on SB68.

Thank you,



Jessica L. Garth  
Special Victims & Family Violence Unit, Chief

# **Crime of Violence and Lifetime Supervision.pdf**

Uploaded by: Kathryn Marsh

Position: FAV



# ANTHONY B. COVINGTON

## State's Attorney for Charles County

aJanuary 17, 2022

Maryland Senate Judicial Proceedings Committee  
William C. Smith, Jr., *Chair*  
Miller Senate Office Building, 2 East Wing  
11 Bladen St., Annapolis, MD 21401 – 1991

Re: Favorable Report for Senate Bill 68

Dear Chairman Smith and Members of the Committee:

For the past several years the Judicial Proceedings Committee has considered proposed legislation to consider sexual abuse of a minor a crime of violence when it impacts children who are over the age of 12. I appreciate the time this committee has put into this legislation and the compromises that have been made over the past couple of years, however, we are currently still failing our vulnerable victims. Sexual Abuse of a Minor occurs when a family member, household member, or a person who holds a position of care and custody over a child sexually abuses that child. This young victim has not just been sexually violated, but also had their trust ripped from them, another violation. This crime should be considered a crime of violence.

Statistically, 1 in 10 children are sexually abused before the age of 18 and 15% of all sexual assault victims are between the ages of 12 and 17. 90% of children who are victims of sexual abuse know their abuser, 30% of are abused by family member and 60% are abused by a person the family trusts. The vast majority of these cases would fall under the Sexual Abuse of a Minor Statute in Maryland, a crime that is currently only considered a crime of violence if the victim is 12 or younger.

In addition to categorizing sexual abuse of a minor as a crime of violence, this legislation would also increase Lifetime Sexual Offender Supervision. As it currently reads Lifetime Sexual Offender Supervision under Criminal Procedure Section 11-723 is only available in cases of Sexual Abuse of a Minor if the victim is 12 or younger. Further, although the Legislature determined in 2017 that there was to be no legal difference between Second Degree Rape and Second Degree Sexual Assault, Criminal Procedure Section 11-723 still categorizes them differently. As the statute reads now Lifetime Sexual Offender Supervision is available for any second degree rape but is only available for two categories of Second Degree Sexual Assault. This is clearly not what this legislative body intended in 2017. Anal penetration, fellatio and cunnilingus should all be treated the same, and provided the same protections as vaginal penetration.

I urge a favorable return of this bill.

Thank you,

*K.A. Marsh*

Kathryn A. Marsh  
Special Victims Liaison, Assistant State's Attorney



# ANTHONY B. COVINGTON

State's Attorney for Charles County

## **SO - Lifetime supervision expansion - senate testi**

Uploaded by: Lisae C Jordan

Position: FAV



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**Working to end sexual violence in Maryland**

P.O. Box 8782  
Silver Spring, MD 20907  
Phone: 301-565-2277  
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For more information contact:  
Lisae C. Jordan, Esquire  
443-995-5544  
[www.mcasa.org](http://www.mcasa.org)

**Testimony Supporting Senate Bill 68**  
**Lisae C. Jordan, Executive Director & Counsel**  
January 19, 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. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 68.

**Senate Bill 68**

**Expansion of Mandatory Lifetime Supervision of Sex Offenders and  
Definition of Crime of Violence in Criminal Law**

This bill expands the sex offenders subject to mandatory lifetime supervision by adding the age-based sex offenses in Criminal Law §3-306 (victim under 13 and offender over 18) and by expanding lifetime supervision to offenders convicted of sexual abuse of minor under §3-602 when the child was under the age of 16 and the offender was at least 21. Additionally, SB68 would expand the definition of a crime of violence under §14-101 of the criminal law article to include sexual abuse of a minor where the child is under the age of 16 and the offender was at least 21.

MCASA supports expanding lifetime supervision to these serious cases and appreciates that the sponsors included language to limit lifetime supervision to cases involving children under 16 in response to concerns raised last year about creating an overly broad requirement and the need to preserve resources and allocate funds for victim services. MCASA also supports the proposed changes to the definition of a crime of violence; we note that the Committee may wish to consider parallel changes to the definition of a crime of violence found in the Public Safety Article §5-101.

**The Maryland Coalition Against Sexual Assault urges the  
Judicial Proceedings Committee to  
report favorably on Senate Bill 68**

# **OPD Written Statement for SB 0068.pdf**

Uploaded by: Elizabeth Hilliard

Position: UNF



## POSITION ON PROPOSED LEGISLATION

**BILL:** SB 0068 - Criminal Procedure – Sexual Offenders – Lifetime Supervision

**POSITION:** Unfavorable

**DATE:** January 17, 2022

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 0068.

Specifically, we are opposed to any expansion of the lifetime sex offender registry. Sex offender registries not only fail to promote public safety, but also come at an extreme cost both to individual registrants and to the community. SB 0068 is not only ineffective but also ill-advised from both a public safety and a public policy standpoint.

Those convicted or accused of sexual offenses are some of the least likely to recidivate, yet face the most severe restrictions on their liberty following the completion of their sentences because of the registration requirements. This comes at great cost to both individual registrants (who face a lifetime of punishment on the sex offender registry) and the community, which must bear the costs of increased unemployment, homelessness, and other issues that come with the unnecessary, permanent social ostracization of this group. A 2019 Bureau of Justice Statistics report confirms that, within 9 years of release, less than 67% of people convicted of sexual assault were rearrested for any offense, making rearrest **20% less likely** for this group than all other offense categories combined (84%).<sup>1</sup> The same study also found that those convicted of rape or sexual assault were drastically less likely than other former offenders to commit the same crime again following release (7.7% as compared to 24% for property crimes, 18.5% for drug-related crimes, and 59% for “public order” crimes).

The restrictions and requirements of sex offender registration come at immense cost to individual registrants, law enforcement, and the community with minimal return. Many of those convicted of sex offenses are barred from accessing public benefits, jobs, housing, services, and even many shelters, and thus are funneled into low-income neighborhoods or outright homelessness. Sex offender registries must also be monitored and maintained at great cost to the state and to law enforcement. Registration requires in-person check-ins, oversight of social media, electronic mail, home visits and verifications, vehicle registration and monitoring, electronic database maintenance, facilitation of public access

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<sup>1</sup> Wendy Sawyer, *BJS Fuels Myths About Sex Offense Recidivism, Contradicting Its Own New Data*, PRISON POLICY GROUP, June 6, 2019, available at <https://www.prisonpolicy.org/blog/2019/06/06/sexoffenses/>.

to certain records, and much more. A 2009 study estimated that the cost to Maryland for first-year implementation and compliance with the Sex Offender Registration and Notification Act, a federal law setting baseline requirements for statewide registry systems, was \$9.1 million.<sup>2</sup> The registry does little (if anything) to prevent or treat the underlying causes of interpersonal violence, sexual abuse, and sexual assault. It comes at exorbitant cost to both law enforcement and the community. Sex offender registries are thus ineffective and ill-advised, from both a public safety and public policy standpoint.

These registries are sold as a preventive tool; however, most sex offenses are committed by first-time offenders who are not on the registry. Obviously, the existence of the registry does nothing to prevent those crimes. A 2018 study examining the effect of Megan's Law in New Jersey concluded that legislation imposing registration "does not have a demonstrable effect on future offending."<sup>3</sup> A New York study similarly found no evidence that registration and notification laws were effective at reducing future sex crimes.<sup>4</sup> A South Carolina study funded by the Department of Justice came to the same conclusion.<sup>5</sup> Registration laws can actually make communities less safe in a variety of ways. Sex offender notification laws have been shown to increase recidivism among some sex offenders.<sup>6</sup> Even for the vast majority of registrants who never commit another sex offense, the onerous restrictions described above impede stability, rehabilitation, and full reintegration into society, making them more likely to commit offenses related to survival. Finally, registration and notification laws put registrants at severe risk of becoming victims of vigilante violence and even murder.<sup>7</sup>

As public defenders, we have witnessed the lasting harms of the sex offender registry. Our office represented a man who had consensual sexual intercourse with a 13 year old when he was still a young adult. He pled guilty to 3<sup>rd</sup> degree sex offense and although he served a relatively short sentence, he was required to register as a sex offender for life. Once convicted, he could no longer reside with his family and struggled to find permanent housing. His status on the registry prevented him from working in his chosen field, even though that field required no contact with children. It also prohibited him from seeing his two children perform in the school play. More than a decade after he finished serving his sentence, he died alone in a motel of a heroin overdose.

Maryland's registration statute also criminalizes and punishes what should otherwise be considered reform-minded and productive behavior in society. Take, for example, the

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<sup>2</sup> Justice Policy Institute, available at [http://www.justicepolicy.org/images/upload/08-08\\_fac\\_sornacosts\\_jj.pdf](http://www.justicepolicy.org/images/upload/08-08_fac_sornacosts_jj.pdf).

<sup>3</sup> Kristen M. Zgoba, Wesley G. Jennings & Laura M. Salerno, *Megan's Law 20 Years Later: An Empirical Analysis and Policy Review*, 45 CRIM. JUST. & BEHAV. 1028, 1044 (2018).

<sup>4</sup> See Jeffrey C. Sandler, Naomi J. Freeman & Kelly M. Socia, *Does a Watched Pot Boil?: A Time-Series Analysis of New York State's Sex Offender Registration and Notification Law*, 14 PSYCH. PUB. POL'Y & L. 284, 284 (2008).

<sup>5</sup> Elizabeth J. Letourneau et al., *Evaluating the Effectiveness of Sex Offender Registration and Notification Policies for Reducing Sexual Violence against Women*, Med. U. S.C., at 3-4 (Sept. 2010).

<sup>6</sup> J.J. Prescott & Jonah E. Rockoff, *Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?*, 54 J.L. & Econ. 161, 192 (2011).

<sup>7</sup> Rob Csernyik, *How Sex Offender Registries Can Result in Vigilante Murder*, VICE, March 28, 2018, available at <https://www.vice.com/en/article/ne9ew7/how-sex-offender-registries-can-result-in-vigilante-murder>.

case of William.<sup>8</sup> William pled and was convicted of a third degree sexual offense which, unbeknownst to him at the time, resulted in lifetime registry as a Tier III offender. William completed a lengthy prison sentence, successfully completed a five-year term of sex offender probation (which included polygraph examinations, a year-long treatment course, and very stringent reporting requirements), and started a new life. He got a job, started a family, and got a house. He did all of the things that society would strive and demand someone achieve after satisfying the punitive aspect of a sentence.

He also started registering as a sex offender. He would check in with the police every six months, as mandated by law. Over the course of 15 years, he never missed a date: never failed to report a new car, an email address, a social media account--all of the myriad requirements that are demanded of this group. Then, one day, he got a call from his children's school, asking if he would attend a meeting regarding his daughter's academic progress. His daughter had been struggling, but of late was earning straight A's, and the teaching staff wanted to take the moment to commend her achievement while also planning for the future. William was proud, and excited to attend. On the day of the meeting, he arrived early, showed and scanned his ID at the front door, and was welcomed into the meeting. Then, within a few minutes, a man came in and told him he needed to leave. "There are certain laws," the man said, that prevented his participation in the meeting, despite his invitation to the same. William made one mistake--one mistake in 15 years--and because of that, he was charged, prosecuted, and faced a three-year maximum penalty for violating Maryland's registration laws: for doing everything we would want a good parent to do. Suddenly, everything was at risk again, his job, his home, and access to his family.

We mention William's case, not because it is an anomaly, but because it is the norm. The registration statute is overbroad, overpunitive, and overreaching. This is why we oppose SB 0068 and any effort to expand it, because people like William deserve to be good parents to their children, and to be productive members of society.

\* \* \*

For these reasons, the Maryland Office of the Public Defender respectfully urges an unfavorable report on Senate Bill 0068.

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<sup>8</sup> All names and other identifying information have been changed to protect the parties' privacy.