



Working to end sexual violence in Maryland

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Testimony Supporting Senate Bill 899 with Amendments
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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 899 with amendments.

Senate Bill 899 -- Child Pornography – Penalty Increases

This bill increases the penalties for possession of child pornography where the number of images retained exceeds 100 or the image depicts a child under or indistinguishable from a child under the age of five.

Victims of child pornography suffer long lasting a repeated harm. They initiating are sexual abused during the creation of the images, but then experience repeated harm as the pictures of their abuse are circulated. Child pornography, now often referred to as images of child sexual abuse, are typically shared electronically. The material travels the web, around the world, and shared by the sex offenders interested in exploiting children by viewing their sexual abuse.

In Maryland, possession of child pornography requires that the child depicted be under the age of 16 and the crime is a is a misdemeanor with a penalty with up to 5 years and a \$2,500 fine or both for a first offense, and up to 10 years and a \$10,000 fine or both for subsequent offenses. SB899 proposes that the penalty for possessing an image of child under 5 or more than 100 images have a potential penalty of up to 10 years. **With all respect, MCASA respectfully suggests that the available penalty be increased in all cases and that restitution be mandatory.**

MCASA concurs that depictions of the sexual abuse of children under the age of five are horrific and vile. Unfortunately, there are other horrific and vile depictions of sexual abuse of children. Without providing unnecessary detail, consider cases involving

children and bodily fluids, or with animals, or violence. Remember that the very definition of child pornography includes children who are a “subject of sadomasochistic abuse”. Consider also, whether children who are five, six, seven or more really should have less protection. MCASA believes firmly that the potential penalty should be increased for *all* cases and courts should be able to consider *all* of these factors. If there is a concern about overbreadth and prosecution of someone who obtained a low number of images due to curiosity or some other mitigating reason, consider creating mitigating factors for courts to consider during sentencing.

Additionally, MCASA respectfully suggests that courts be required to impose restitution in child pornography cases and that the legislature set a minimum level of restitution. Victims in these cases are often not able or even aware of the criminal proceedings involving the images of their sexual abuse. Maryland should automatically impose restitution judgements in these cases and these funds can be used for prevention and services.

MCASA appreciates the intent of this bill and respectfully suggests that it is unnecessarily modest in scope. Child pornography is child sexual abuse and possession of images of child sexual abuse should have stronger penalties in all cases.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to
report favorably on Senate Bill 899 with Amendments**