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POSITION ON PROPOSED LEGISLATION

BILL: SB 208 Criminal Law – Indecent Exposure Within the Sight of a Minor

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 02/13/2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 208.

Senate Bill 208 codifies the prohibition on committing the common law crime of indecent exposure and 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 Senate Bill 208.

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