



Working to end sexual violence in Maryland

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Testimony Supporting Senate Bill 859 **Lisae C. Jordan, Executive Director & Counsel** March 1, 2023

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. MCASA urges the Judicial Proceedings Committee and the Finance Committee to issue a favorable report on Senate Bill 859.

Senate Bill 859 – Reproductive Health Protection Act

This bill will protect rape crisis center staff, health care providers, rape survivors and other patients, and the people who support others as they make reproductive health care decisions by limiting their exposure to out of state criminal charges, civil litigation, and administrative penalties.

Access to abortion care and information about reproductive options are vital to survivors of rape.

The CDC reports that almost 3 million women in the U.S. experienced Rape-Related Pregnancy (RRP) during their lifetime. <https://www.cdc.gov/violenceprevention/sexualviolence/understanding-RRP-inUS.html>

A three year longitudinal study of rape-related pregnancy in the U.S., published in the American Journal of Obstetrics and Gynecology (1996, vol. 175, pp. 320-325), found:

5% of rape victims of reproductive age (age 12-45) became pregnant as a result of rape, with the majority of pregnancies in adolescents. Of these, half terminated the pregnancy, 5.9% placed the child for adoption, and 32.2% kept the child.

These survivors need to be able to speak with their health care providers without risking civil or criminal prosecution.

Survivors of Reproductive Coercion Need Access to Abortion Care without Fear of Prosecution

Reproductive coercion is a form of intimate partner violence where a woman's partner tries to control reproductive decisions by preventing access to or tampering with birth control, or forcing sexual intercourse with the intent of causing pregnancy. Of women who were raped by an intimate partner, 30% experienced a form of reproductive coercion by the same partner. Specifically, about 20% reported that their partner had tried to get them pregnant when they did not want to or tried to stop them from using birth control. About 23% reported their partner refused to use a condom.

<https://www.cdc.gov/violenceprevention/sexualviolence/understanding-RRP-inUS.html>

These survivors need to be able to speak with rape crisis center staff, health care providers, and others without risking civil or criminal prosecution. Likewise, rape crisis center staff, health care providers, and others should have confidence that they can do their jobs and provide survivors with a full range of

reproductive options without fear of out of state prosecution, civil suits, or losing their Maryland license to practice their profession.

Senate Bill 859 – Bill provisions.

Senate Bill 859 creates a definition of “legally protected health care” which “means all reproductive health services, medications, and supplies related to the direct provision or support of the provision of care related to pregnancy, contraception, assisted reproduction, and abortion that is lawful in the state.” Certain interstate proceedings are excepted.

The bill goes on to create the following protections for people receiving, providing, or helping others access that care:

Summons & Subpoenas

Maryland courts may not issue out-of-state subpoenas or summonses for cases involving legally protected health care.

Foreign Judgments

Maryland will not honor a foreign judgment if it arises from a claim related to legally protected health care.

Extradition

The Governor SHALL NOT honor another state’s extradition request for someone who committed an act in Maryland, or a third state, if it relates to legally protected health care and would not be a crime in Maryland.

Interstate Investigations

No state funds, personnel, property, or other resources may be used to further an interstate investigation or proceeding seeking to impose civil, criminal, or administrative liability related to legally protected health care.

Provider Licenses

Health Occupation Boards cannot take adverse actions against a provider because of the provision of, or disciplinary action related to, otherwise lawful legally protected health care.

Malpractice Insurance

Insurance providers cannot raise premiums or refuse to renew insurance against a provider because of the provision of, or disciplinary action related to, otherwise lawful legally protected health care.

These provisions do not apply to conduct that is subject to criminal, civil, or administrative liability under Maryland law; a claim brought by a patient who received legally protected health care; or investigations where the subject of the investigation provides written consent.

Rape survivors and others in Maryland will only have access to the full range of reproductive care if the State acts to create a shield from the threats and intimidation tactics of other states.

Fourteen states and the District of Columbia have already taken action to shield patients and providers from liability related to legally protected health care. Maryland should do the same.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee and the Finance Committee to
report favorably on Senate Bill 859**