



Working to end sexual violence in Maryland

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Testimony Supporting House Bill 861 with Amendments **Lisae C. Jordan, Executive Director & Counsel** March 7, 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. We urge the Judiciary Committee to report favorably on House Bill 861 with Amendments

House Bill 861 – Comprehensive CICB Reform

This bill provides for long overdue reform of the Criminal Injuries Compensation Board and reimbursement system in Maryland.

House Bill 861 improves administration of criminal injuries compensation (CICB). Applying for CICB in Maryland is administratively challenging at best. Survivors encounter repeated delays, repeated and confusing requests for documentation, lost applications, and unnecessary bureaucracy. There is no question that this has improved in recent years, but the efforts of office leadership are hampered by the current statute. HB861 helps correct the statutory deficiencies and create a more comprehensive response to survivors of crime.

Costs of Sexual Assault

The Centers for Disease Control published a study, "Lifetime Economic Burden of Rape Among U.S. Adults," in the *American Journal of Preventive Medicine* in 2017. Using mathematical modeling researchers were able to estimate the lifetime per-victim and total population economic burden of rape among adults in the US.¹

- \$122, 461 is the estimated lifetime cost per rape victim.²
- \$3.1 Trillion dollars is the cost of rape to our society.²
- Underserved populations experience additional barriers to reporting sexual assault and additional finance impact.

¹ The Resource, The National Sexual Violence Resource Center Newsletter, Fall 2018

² Peterson, C., DeGue, S., Florence, C., & Lokey, C. N. (2017). Lifetime economic burden of rape among US adults. *American journal of preventive medicine*, 52(6), 691-701.

- The National Violence Against Women Survey found that more than 19% of adult female rape survivors and more than 9% of adult male rape survivors said their victimizations caused them to lose time from work.

<p>Justice System Costs of Sexual Assault</p> <p><i>Primary Costs</i></p> <ul style="list-style-type: none"> • Legal fees • Cost of Representation <p><i>Secondary Costs</i></p> <ul style="list-style-type: none"> • Unpaid Leave, Transportation to Court • Child Care Costs 	<p>Workplace and Educational Impact of Sexual Assault</p> <ul style="list-style-type: none"> • Loss of employment • Unpaid Leave (8.1 days a year) • Loss of Productivity • Loss of Development Opportunities • Drop out or forced out of school • Transfer Schools 	<p>Intangible Expenses of Sexual Assault</p> <ul style="list-style-type: none"> • Pain and suffering • Psychological distress • Decreased quality of <p>Abusers can also inflict direct financial harm. Examples: destruction of property, fraud, workplace harassment, theft.</p>
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HB861 proposes workable changes to the time period for filing claims

Survivors of sexual assault and of child abuse currently have extended time to file for CICB. Extending the time period for filing to other victims of crime is appropriate and well within the ability of this program. In particular, as a practical matter, sexual assault survivors have not been subjected to the 48 hour reporting rule for many years. These provisions should be seen as evidence that expanded access can work.

Suggested Amendments

MCASA respectfully suggests what are hopefully a friendly amendments.

Reimbursement for Perpetrators and Accomplices

HB861 wisely proposes eliminating provisions that the Criminal Injuries Compensation Board consider “whether and to what extent the victim or claimant was responsible for the victim’s or claimant’s own injury”. This provision has historically been used to deny claims in questionable cases, including statutory rape. If this provision is eliminated, however, there is a concern that current law prohibiting compensation for perpetrators and accomplices will need clarification to ensure that a conviction is not required. In 11-808(a)(2), the law specifies "A person who commits the crime or delinquent act that is the basis of a claim, or an accomplice of the person, is not eligible to receive an award with respect to the claim." (HB861, p. 7, lines 13-15). MCASA suggests that additional language: “A CONVICTION OR FINDING OF DELINQUENCY IS NOT REQUIRED TO BAR A CLAIM UNDER THIS SUBTITLE.” or words to that effect. There are both ethical and practical reasons to prohibit perpetrators and accomplices from receiving funds for their crimes. Certainly, public support for the costs to a criminal of committing the crime is unwise. From a practical matter, victim services providers struggle every year to obtain adequate funding and the CICB fund itself has often run out of money. The legislature should prioritize helping victims.

To be clear, MCASA is not suggesting that the rule barring compensation for contributing to crime be retained. There are many cases where this has created gross unfairness and has failed to recognize the disproportionate impact of crime in communities of color and poor communities. Nonetheless, Maryland’s resources are not without limit and many of the survivors served by our member programs have inadequate housing, food, education, and other necessities. We are also mindful that most sexual

assaults, including sexual abuse of children, do not result in convictions, even when reported to law enforcement.

Victim/Survivor Privacy

HB861 omits the important privacy protections for survivors that are included elsewhere in the code. Specifically, Criminal Procedure §11-1007 prohibits services providers from submitting **narratives describing a sexual offense or photographs of the survivor** with a CICB claim. This is extremely important for survivor privacy and MCASA encourages the Committee to include similar provisions in this bill.

MCASA respectfully requests that on page 9, following line 3, the following be inserted:

(C)(1) A QUALIFIED HEALTH CARE PROVIDER MAY NOT INCLUDE IN ANY REQUEST TO OBTAIN PAYMENT UNDER THIS SUBTITLE A NARRATIVE DESCRIBING THE ALLEGED OFFENSE OF A VICTIM OR A PHOTOGRAPH OF THE VICTIM.

(2) UNLESS REQUESTED BY THE CLAIMANT OR NECESSARY IN THE INTERESTS OF JUSTICE, THE BOARD SHALL SEAL ANY HEALTH CARE RECORDS, PHOTOGRAPHS, OR NARRATIVE DESCRIPTIONS OF THE ALLEGED OFFENSE.

(3) THE BOARD SHALL NOT REQUIRE A CLAIMANT TO SUBMIT HEALTH CARE RECORDS OR PHOTOGRAPHS OF THEIR BODY UNLESS THERE IS NO OTHER EVIDENCE OR LESS INTRUSIVE MEANS TO OBTAIN MATERIAL INFORMATION NECESSARY TO DETERMINE WHETHER A CLAIM SHOULD BE GRANTED.

Medical Exams

Current law permits the Board to order a claimant to undergo a medical exam. MCASA respectfully requests that limits on this provision be added to prevent unnecessary and retraumatizing medical exams of survivors:

On page 5, line 18, following

“(5) DIRECT MEDICAL EXAMINATION OF VICTIMS”, insert “IF THERE IS NO OTHER EVIDENCE OR LESS INTRUSIVE MEANS TO OBTAIN MATERIAL INFORMATION NECESSARY TO DETERMINE WHETHER A CLAIM SHOULD BE GRANTED”

CICB Reform is Needed

MCASA reiterates its strong support for HB861 as a needed reform. This bill will help survivors of sexual assault and their loved ones recover and receive needed support.

**The Maryland Coalition Against Sexual Assault urges
the Judiciary Committee
to report favorably on House Bill 861 with Amendments**