

CHARLES E. SYDNOR III, ESQ.
Legislative District 44
Baltimore County

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Baltimore County Senate Delegation



James Senate Office Building
11 Bladen Street, Room 216
Annapolis, Maryland 21401
410-841-3612 · 301-858-3612
800-492-7122 Ext. 3612
Charles.Sydnor@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony for Senate Bill 111
Criminal Procedure – Protection of Identity of Minor Victim
March 26th, 2024

Good afternoon, Chair Clippinger, and members of the Judiciary Committee,

Senate Bill 111 (“SB 111”) strengthens current Maryland law¹ by providing two things. First, SB 111 requires a party or nonparty redact any “identifying information”² regarding a “minor victim”³ in electronic or paper court filings unless a court finds by clear and convincing evidence that there is good cause to order its release. Second, SB 111 permits the Supreme Court of Maryland to adopt rules requiring or authorizing the person making a §11–301(B)(2) redacted filing to also file an unredacted copy under seal from general public view but available to those persons necessary or related to the cause subject to the court’s authorization. The National Crime Victim Law Institute explained the importance of privacy for child victims as follows:

“[P]rivacy is like oxygen; it is a pervasive, consistent need at every step of recovery. Within the context of the legal system, if a victim is without privacy, all other remedies are moot.” Whether one is discussing a child victim’s counseling records, Facebook, e-mails, or cell phone records, compelled disclosure of a child-victim’s private information may cause the child to feel vulnerable and unsafe. The general rule is that defendants have no constitutional right to pretrial discovery and that victims have rights that protect against disclosure of personal or private information.⁴

¹Current law states that, upon motion of the State or the request of a victim or witness, permits courts to prohibit a victim or witness’ address or telephone number from being released during a trial or a juvenile delinquency adjudicatory hearing. Md. Code Ann., Criminal Procedure §11-301.

² Identifying Information is defined under this legislation to mean “the name of, and any other information that could reasonably be expected to identify, a minor victim.” Proposed Criminal Procedure §11–301 B(1)(i).

³ The term “minor victim” is defined to mean “a victim of a crime or delinquent act who was a minor at the time that the crime or delinquent act occurred.” Proposed Criminal Procedure §11–301 B(1)(ii).

⁴ Child-Victims’ Rights Bulletin (Jan. 2013), [13513-protecting-childrens-rights-what-practitioners \(lclark.edu\)](https://www.lclark.edu/13513-protecting-childrens-rights-what-practitioners) at Page 3 (FNs omitted).

Child victims have often felt the justice system re-victimize them; thus special protections are essential to prevent future trauma.⁵ Children, like adults, have a right to privacy. Without protections, identifying information is available for public disclosure. The release of sensitive information without procedural safeguards may: endanger the child, cause the child shame and humiliation, discourage the child, and future children, from disclosing coming forward and disclosing information, lead to stigmatization, and undermine the child's trust.⁶

SB 111 is not some sort of bold original piece of legislation that courts do not know how to handle. When implementing such policies, most courts utilize standing orders and procedures to implement the policy and protection. For examine in the federal court system all court filings disclosing the name or other information concerning a child, whether a victim or a witness, "shall be filed under seal without necessity of obtaining a court order."⁷ With the policy choice made by the General Assembly to protect child victims of crime from being further traumatized and victimized, the narrow protections intended by SB 111 can be implemented by the Maryland Judiciary through standard rules and standing orders which is a common practice in the judicial system.

While the rights of accused individuals are paramount, the existence of federal law demonstrates that SB 111 does not jeopardize these rights. Indeed, SB 111 aligns Maryland with federal Law and bolsters protections of child victims by immediately redacting information that could reasonably identify the minor from public view which should be the standard policy and not a discretionary policy on a case-by-case basis.

Finally, it should also be noted that such limited, restraints to protect the identities of child victims in the judicial system have been found to be constitutionally allowed. *See e.g. United States v. Wandahsega*, 924 F.3d 868, 879 (6th Cir. 2019); *United States v. Kidd*, 385 F. Supp. 3d 250, 255 (S.D.N.Y. 2019), aff'd, No. 22-287-CR, 2023 WL 7290904 (2d Cir. Nov. 6, 2023).

As such, I respectfully request a favorable report for SB 111.

⁵ United Nations Office on Drugs and Crime, Training Programme on the Treatment of Child Victims and Child Witnesses of Crime for Prosecutors and Judges. Page iii https://www.unodc.org/documents/justice-and-prison-reform/Training_Programme_on_the_Treatment_of_Child_Victims_and_Child_Witnesses_of_Crime_-_Prosecutors_and_Judges.pdf.

⁶ *Id.* at 108—09.

⁷ 18 U.S.C. §3509(d)(2).