

SB 111- Criminal Procedure - Protection of Identit

Uploaded by: Andrea Rafter

Position: FAV

BILL NO: Senate Bill 111
TITLE: Criminal Procedure - Protection of Identity of Minor Victim
COMMITTEE: Judicial Proceedings
HEARING DATE: February 1, 2024
POSITION: **SUPPORT**

The Women's Law Center of Maryland (WLC) is a non-profit legal services and advocacy organization dedicated to ensuring the physical safety, economic security, and bodily autonomy of women in Maryland. While our direct representation projects are limited to primarily survivors of domestic violence, our advocacy is in support of gender justice as a whole, because all women are entitled to access to justice, equality, and autonomy. We recognize that all the issues we fight for are interconnected. Women cannot have bodily autonomy unless they have physical safety. They cannot have physical safety without economic security. And they cannot have economic security without bodily autonomy.

Senate Bill 111 would require identifying information regarding a minor victim of crime be redacted in a charging document or any other filings in a criminal or juvenile delinquency case. Information necessary for the case could be filed under seal. The court may, if there is clear and convincing evidence of good cause to do so, issue an order otherwise allowing such information to be included in the pleadings.

The WLC supports SB111 as it will help protect victim privacy and identity, a matter that is of great concern to our clients. Privacy is extremely important to the majority of survivors of intimate partner violence and sexual assault. Those crimes, by their very definition, deal with the most private and intimate areas of a victim's life, and as such should be handled with sensitivity. The rise of electronic filing and easily accessible court documents makes it all too easy for others to learn the identity of survivors and to exploit that information. For children (and others) this can lead to embarrassment, harassment, bullying, discrimination, and emotional harm. Knowing there is a possibility of their identity and personal information being made available to the public has a chilling effect on survivors' willingness to cooperate with the justice system. If anything, the WLC would agree with other advocates that SB111 does not go far enough and the Committee may wish to include protection for other minors, such as witnesses, within the scope of the bill.

For these reasons, the Women's Law Center of Maryland strongly urges a favorable report on Senate Bill 111.

The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.

Final SB 111 Testimony.pdf

Uploaded by: Charles E. Sydnor III

Position: FAV

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

DEPUTY MAJORITY WHIP

Judicial Proceedings Committee
Executive Nominations Committee

Joint Committees

Administrative, Executive, and
Legislative Review

Children, Youth, and Families

Senate Chair, Legislative Ethics

Chair

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
February 1, 2024

Good afternoon, Chair Smith, and members of the Judicial Proceedings 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).

SB 111 Letter of Support Final.pdf

Uploaded by: Diana Beeson

Position: FAV



BILL NUMBER: SB 0111

TITLE: Criminal Procedure – Protection of Identity of Minor Victim

COMMITTEE: JPR

HEARING DATE: February 1, 2024

POSITION: Support

TurnAround, Inc. respectfully requests a favorable report on Senate Bill 111. This bill plays an instrumental role in protecting the identity of minor victims. TurnAround’s mission is to educate, advocate for, and empower *all* people impacted by issues of intimate partner violence, sexual violence, and human trafficking. Approximately 25-30% of the clients TurnAround currently serves are under the age of 18.

Confidentiality is critical when supporting survivors and minors are no exception. Disclosing a minor’s identity can exacerbate the existing trauma from having been victimized. The loss of anonymity has the potential to negatively impact recovery and prevent future disclosures. Protecting the identity of a minor victim should be considered a protective measure. There is also shame and stigma that can be tied to being a victim of certain crimes, including sexual assault, human trafficking and intimate partner violence. Protecting identities in these cases could minimize long-term negative effects.

Most concerning, in order to charge certain sex offenses the name of the victim is required to be included in an indictment or criminal complaint. This is ripe for potential harm to survivors and children.

With the accessibility of information on the internet, the possibility of a child’s information being disclosed is particularly significant. This information, if disclosed, will be impossible to fully scrub from the internet, thus following the child for the length of their life. Especially in the age of social media when information and rumors spread rapidly, protecting the identity of a minor victim of abuse and other crimes is imperative to both their psychological and physical safety.

We appreciate the thoughtfulness of this legislation and request a favorable report.

About TurnAround, Inc TurnAround, Inc. is the designated rape crisis center for Baltimore City and Baltimore County, and a comprehensive domestic violence center. Crisis response, victim-centered advocacy, legal referrals, trauma therapy, and community education are core components of the agency’s work. TurnAround is the designated Regional Navigator for Howard County providing services to Human Trafficking survivors. TurnAround is a member of the Maryland Coalition Against Sexual Assault (MCASA) and the Maryland Network Against Domestic Violence (MNADV).

For further questions, please contact Jean Henningsen, Senior Director of Strategic Initiatives at jhenningsen@turnaroundinc.org and/or Diana J. Beeson, Engagement and Policy Initiatives Manger at dbeeson@turnaorundinc.org.

Name of child - testimony - senate - 2024 - SB111

Uploaded by: Lisae C Jordan

Position: FAV



Working to end sexual violence in Maryland

P.O. Box 8782
Silver Spring, MD 20907
Phone: 301-565-2277
Fax: 301-565-3619

For more information contact:
Lisae C. Jordan, Esquire
443-995-5544
www.mcasa.org

Testimony Supporting Senate Bill 111
Lisae C. Jordan, Executive Director & Counsel
February 1, 2024

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 111.

Senate Bill 111 – Protection of Identity of Minor Victim

This bill would require that identifying information regarding a minor victim be redacted in a charging document or other filings in a criminal or juvenile delinquency case. Information necessary for the case could be filed under seal. Additionally, the bill proposes permitting identification of the minor if there is clear and convincing evidence of good cause to order otherwise.

MCASA strongly supports SB111 as an important tool for protecting the privacy of children and teens who are victims of sex crimes. If anything, SB111 does not go far enough and the Committee may wish to include protection for other minors, such as witnesses. Privacy is extremely important to the majority of sex crimes survivors. The rise of electronic filing and easily accessible court documents makes it all too easy for others to learn the identity of survivors. For children (and others) this can lead to embarrassment, taunting, discrimination, and emotional harm. Disclosure of a child victim's identity could also discourage survivors and families from coming forward to prosecute sex offenders.

Federal law provides significant protections for child survivors.

Privacy protections are for a "child" in the following situations: (2) the term "[child](#)" means a person who is under the age of 18, who is or is alleged to be—

- (A) a victim of a crime of physical abuse, [sexual abuse](#), or [exploitation](#); or
- (B) a witness to a crime committed against another person; 18 USC §3509(a)(2).

Some of the privacy provision in this section include:

18 U.S. Code § 3509(d)(2) Filing under seal.—All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

(A) the complete paper to be kept under seal; and

(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

(3) Protective orders.—

(A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

(B) A protective order issued under subparagraph (A) may—

(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

(ii) provide for any other measures that may be necessary to protect the privacy of the child.

MCASA commends this language to the Committee for possible amendments to SB111 or for future legislation. **As written, however, SB111 is an important and welcome step towards greater protection for child survivors.**

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to
report favorably on Senate Bill 111**

SB111 Pedone FAVORABLE.pdf

Uploaded by: Michael Pedone

Position: FAV

2024 Regular Session of the Maryland General Assembly
Testimony Before the Senate Judicial Proceedings Committee
Senate Bill 111
Criminal Procedure – Protection of Identity of Minor Victim

Witness: Michael T. Pedone

Position: **FAVORABLE**

I am a Maryland attorney. I submit this testimony on behalf of children who have been victims of crimes and who wish to remain anonymous.

- **Child victims** of sex crimes, abuse, and other serious offenses face **grave social and psychological consequences of being outed as victims**. If others learn the intimate details of the crime, a child victim may suffer further indignities including embarrassment, ridicule, or blame.
- These **risks are heightened by social media**, which permits rapid and widespread sharing of gossip.
- These risks can **deter children from reporting crimes**, thereby allowing their abusers to go un-prosecuted.
- In federal court, the names of minor victims must be redacted from court filings. See Fed. R. Crim. P. 49.1(a).
- There is no analogous statute or rule in Maryland. To the contrary, Maryland law requires disclosure of the victim's name in an indictment for rape and other sex offenses. See Md. Code, Crim. Law § 3-317.
- In other words, under current Maryland law, a child who has suffered a horrific crime like rape faces a choice: **either report the crime and be publicly outed in court filings, or let their attacker go un-prosecuted**.
- SB 111 would **end this injustice** by requiring the **redaction of identifying information about minor victims** in documents filed in Maryland courts, thereby aligning Maryland law with the Federal Rules of Criminal Procedure.
- SB 111 will not prejudice the rights of criminal defendants. Those defendants will continue to have access to information about their accusers because SB 111 would:
 - only require redaction of identifying information in court filings, and would not affect the disclosure of information to defendants and their counsel during discovery; and
 - allow any judge, for good cause, to require filing of an unredacted document.

For these reasons, I urge the Committee to issue a FAVORABLE report on SB 111.

Respectfully submitted,
Michael T. Pedone

SB 111 Criminal Procedure - Protection of Identity

Uploaded by: Scott Shellenberger

Position: FAV

Bill Number: SB 111
Scott D. Shellenberger, State's Attorney for Baltimore County
Support

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN SUPPORT OF HOUSE BILL 111
CRIMINAL PROCEDURE – PROTECTION OF IDENTITY OF MINOR VICTIM

I write in support of House Bill 111 that will automatically shield the name and identifying information of minor victims.

Now with so much court paperwork that is available and accessible from remote court kiosks it is more important now than ever to protect a minor victim's identity. It takes only a few clicks of a mouse to copy, paste and publicize the names of victims of crime. Redacting and shielding of names, addresses and personal information is easy to do this and does not interfere with the rights of a criminal defendant who will know who the victim is from discovery packet.

Attached you will find the charging document in the Gilman sexual assault case. No identifying information is contained in the document. The Defendant's rights are not affected as the identity of the victim was revealed to Defense Counsel in the discovery material turned over. However, in this case since the indictment requires a victim's name, shielding is vitally important and must happen automatically.

This is a simple yet necessary protection for the minor victims of crimes.

I urge a favorable report.



DISTRICT COURT OF MARYLAND FOR

Baltimore (City/County) RELATED CASES:

LOCATED AT (COURT ADDRESS)
120 E. Chesapeake Ave
Towson, MD 21286

DISTRICT COURT CASE NUMBER

DEFENDANT'S NAME (LAST, FIRST, M.I.)

Bendann, Christopher K



180001885103



180001885103

Form with columns for Complainant and Defendant. Includes fields for Name, Title, Agency, I.D. No., Work Telephone, Home Telephone, Address, City, State, Zip Code, Race, Sex, HT, WT, D.O.B., CC/OCA, Hair, Eyes, Other Description, Driver's License #, Work Telephone, Home Telephone, APT. No., and Address. Includes checkboxes for Domestic Violence, Hate Crime, Vulnerable Adult Abuse, and Child Abuse.

Page 1 of 2

STATEMENT OF CHARGES

IT IS FORMALLY CHARGED THAT THE DEFENDANT

Charge 1: CJIS CODE 10322, AR 2301579, ON OR ABOUT (DATE) 01/01/2016-01/01/2019, AT (PLACE) Ruxton Road And I-83; 21204. Description: did cause sexual abuse to the victim, year of birth 2001, a minor, the defendant temporarily responsible for the supervision of said child.

IN VIOLATION OF: MD. ANN. CODE ART CR 3-601(b)(1) SEC. ; COMMON LAW OF MD.; PUB. LOCAL LAW ART. SEC. PROBABLE CAUSE Y N

COMAR OR AGENCY CODE NO. MD0030100 ; ORDINANCE NO. AGAINST THE PEACE, GOVERNMENT AND DIGNITY OF THE STATE COMMISSIONER INITIALS ID NO.

Charge 2: CJIS CODE 21103, AR 2301579, ON OR ABOUT (DATE) 01/01/2016-01/01/2019, AT (PLACE) Ruxton Road And I-83; 21204. Description: did unlawfully commit a rape in the second degree upon the victim, year of birth 2001, in violation of CR 3-304 of the Annotated Code of Maryland.

IN VIOLATION OF: MD. ANN. CODE ART CR 3-304 SEC. ; COMMON LAW OF MD.; PUB. LOCAL LAW ART. SEC. PROBABLE CAUSE Y N

COMAR OR AGENCY CODE NO. MD 0030100 ; ORDINANCE NO. AGAINST THE PEACE, GOVERNMENT AND DIGNITY OF THE STATE COMMISSIONER INITIALS ID NO.

CONTINUED ON ATTACHED SHEET (FORM DC-CR-002A) APPLICANT REQUESTS REASONABLE PROTECTION FOR SAFETY OF THE ALLEGED VICTIM OR THE VICTIM'S FAMILY.

(DESCRIBE)

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE MATTERS AND FACTS SET FORTH IN THE FOREGOING DOCUMENT ARE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF. DATE 2/3/23, ISSUING PEACE OFFICER Det. [Signature], AGENCY AE, SUB-AGENCY CACU, I.D. NO. 5249



180001885103

COURT COPY

TR# 180001885103



DISTRICT COURT OF MARYLAND FOR

Baltimore (City/County)

LOCATED AT (COURT ADDRESS)
120 E Chesapeake Ave
Towson, MD 21286

DISTRICT COURT CASE NUMBER

DEFENDANT'S NAME (LAST, FIRST, M.I.)
Bendann, Christopher K

MAPIS NAME

D.O.B.
7/1/84

STATEMENT OF CHARGES (CONTINUED)

Page 2 of 2

IT IS FORMALLY CHARGED THAT THE DEFENDANT

3 CJS CODE AR ON OR ABOUT (DATE) AT (PLACE)
3 3600 2301579 01/01/2016-01/01/2019 Ruxton Road AND 1-83; 21224
... did unlawfully commit a sexual offense in the third degree upon the victim, year of birth 2001, in violation of CR 3-307 of the Annotated Code of Maryland.

IN VIOLATION OF: CR 3-307
MD ANN. CODE ART SEC.; COMMON LAW OF MD.; PUB. LOCAL LAW ART. SEC.
PROBABLE CAUSE Y N
COMAR OR AGENCY CODE NO. MD0030100; ORDINANCE NO.; AGAINST THE PEACE, GOVERNMENT AND DIGNITY OF THE STATE; COMMISSIONER INITIALS; ID NO.

4 CJS CODE AR ON OR ABOUT (DATE) AT (PLACE)
4 3600 2301579 01/01/2016-01/01/2019 Ruxton Road AND 1-83; 21224
... did engage in sexual contact with the victim, year of birth 2001, without his consent.

IN VIOLATION OF: CR 3-308(b)(1)
MD ANN. CODE ART SEC.; COMMON LAW OF MD.; PUB. LOCAL LAW ART. SEC.
PROBABLE CAUSE Y N
COMAR OR AGENCY CODE NO. MD0030100; ORDINANCE NO.; AGAINST THE PEACE, GOVERNMENT AND DIGNITY OF THE STATE; COMMISSIONER INITIALS; ID NO.

5 CJS CODE AR ON OR ABOUT (DATE) AT (PLACE)
6 3600 2301579 01/01/2016-01/01/2019 Ruxton Road AND 1-83; 21224
... did commit a certain unnatural and perverted sexual practice with the victim, year of birth 2001.

IN VIOLATION OF: CR 3-322
MD ANN. CODE ART SEC.; COMMON LAW OF MD.; PUB. LOCAL LAW ART. SEC.
PROBABLE CAUSE Y N
COMAR OR AGENCY CODE NO. MD0030100; ORDINANCE NO.; AGAINST THE PEACE, GOVERNMENT AND DIGNITY OF THE STATE; COMMISSIONER INITIALS; ID NO.

CONTINUED ON ATTACHED SHEET (FORM DC-CR-002A)
I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE MATTERS AND FACTS SET FORTH IN THE FOREGOING DOCUMENT ARE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.
DATE 2/3/23 ISSUING PEACE OFFICER [Signature]
AGENCY AE SUB-AGENCY CHAU I.D. NO. 5249

TRACKING NUMBER

sb111.pdf

Uploaded by: Linda Miller

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 111
Criminal Procedure – Protection of Identity of Minor Victim
DATE: January 10, 2024
(2/1)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 111. This blanket protection is unnecessary. Maryland Rules currently provide that a State’s Attorney or a representative for a victim may request shielding of information identifying minor victims. Moreover, shielding the information makes more sense given the due process requirement that an individual charged be on notice of the charge itself. If the victim’s information is entirely redacted from a charging document, the individual charged would not be adequately informed of the charge and able to prepare a defense. This is especially true in instances with multiple charges, offenses and alleged victims.

In addition, it is not clear how this would work logistically. It would be impossible for the court to determine whether information “could reasonably be expected to identify a minor victim” without the necessary information itself, such as a date of birth identifying the person as a minor.

Finally, it is not clear how a good cause hearing could occur before the filing of the pleading. The court cannot review a pleading until it is filed.

cc. Hon. Charles Sydnor
Judicial Council
Legislative Committee
Kelley O’Connor