



Working to end sexual violence in Maryland

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Testimony Supporting Senate Bill 744 with Amendments
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February 9, 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 Judiciary Committee to report favorably on Senate Bill 744 with Amendments.

Senate Bill 744 – Juvenile Justice –
3d Degree Sexual Offense; Juvenile Sex Offenders in Schools

This bill contains a wide range of provisions continuing Maryland's efforts to reform its juvenile justice reform. The majority of these provisions are outside or tangential to MCASA's scope of expertise, however, two issues involve responses to sexual violence. This testimony comments only on those provisions.

- 1) **Third degree Sex Offense.** SB744 provides the court with jurisdiction over 3rd degree sexual offenses. Criminal Law §3-307. Third degree sexual offenses include sexual contact, defined by the code as “an intentional touching of the victim’s or actor’s genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party” (with certain exceptions) PLUS an aggravating factor such as dangerous weapons or threats of death, suffocation, strangulation, disfigurement, serious physical injury, kidnapping or multiple assailants. These are very violent offenders and jurisdiction is appropriate. Third degree sex offense also includes some age-based crimes, but these are either only applicable to offenders over 21, so juveniles are not involved by definition, or involving children under 14 and offenders at least 4 years older. Again, jurisdiction is appropriate.
- 2) **Suggested Amendments regarding agency coordination – juvenile sex offenders and education.** Current law requires juvenile sex offenders over the age of 14 to be on a separate registry. Registration is only required for offenders found responsible or convicted of first or second degree rape or third degree sexual offenses involving

aggravating factors. Currently, only law enforcement has access to this registry. MCASA respectfully requests that school superintendents also be provided with access to the juvenile sex offender registry so that they may comply with Criminal Procedure §11-722 providing for alternative educational settings for juvenile sex offenders. This will help keep other children safer. Proposed amendments are attached.

**The Maryland Coalition Against Sexual Assault urges the
Judiciary Committee to
report favorably on Senate Bill 744 with Amendments**

§11–704.1.

(a) In this section, “juvenile registrant” means a person who is required to be included in the registry of juvenile sex offenders under subsection (b) of this section.

(b) A person shall be included in a registry of juvenile sex offenders that is maintained by the Department separately from the sex offender registry if:

(1) the person has been adjudicated delinquent for an act that, if committed by an adult:

(i) would constitute a violation of § 3–303, § 3–304, or § 3–307(a)(1) or (2) of the Criminal Law Article; or

(ii) would constitute a violation of § 3–305 or § 3–306(a)(1) or (2) of the Criminal Law Article as the sections existed before October 1, 2017; and

(2) the person was a minor who was at least [14] 10 years old at the time the delinquent act was committed.

(c) The registry of juvenile sex offenders shall be accessible only by

**(1) law enforcement personnel for law enforcement purposes; AND
(2) THE SUPERINTENDENT OF SCHOOLS WHERE THE JUVENILE REGISTRANT ATTENDS SCHOOL FOR PURPOSES OF COMPLIANCE WITH §11-722 OF THIS ARTICLE.**

(d) When the juvenile court’s jurisdiction over a juvenile registrant terminates under § 3–8A–07 of the Courts Article, the juvenile registrant shall be removed from the registry.

(e) A juvenile registrant shall appear in person at a location designated by the Department of Juvenile Services every 3 months to:

(1) update and verify with the Department of Juvenile Services the information included in the registry of juvenile sex offenders under this section; and

(2) allow the Department of Juvenile Services to take a digital image of the juvenile registrant.

For reference
§11–722.

(a) (1) In this section the following words have the meanings indicated.

(2) “County board” has the meaning stated in § 1–101 of the Education Article.

(3) “State Board” has the meaning stated in § 1–101 of the Education Article.

(b) This section does not apply to a registrant who enters real property:

(1) where the registrant’s child is a student or receives child care, if:

(i) within the past year the registrant has been given the specific written permission of the Superintendent of Schools, the local school board, the principal of the school, or the owner or operator of the registered family child care home, licensed child care home, or licensed child care institution, as applicable; and

(ii) the registrant promptly notifies an agent or employee of the school, home, or institution of the registrant’s presence and purpose of visit; or

(2) for the purpose of voting at a school on an election day in the State if the registrant is properly registered to vote and the registrant’s polling place is at the school.

(c) Except as provided in subsection (e) of this section, a registrant may not knowingly enter onto real property:

(1) that is used for public or nonpublic elementary or secondary education; or

(2) on which is located:

(i) a family child care home registered under Title 5, Subtitle 5 of the Family Law Article;

(ii) a child care home or a child care institution licensed under Title 5, Subtitle 5 of the Family Law Article; or

(iii) a home where informal child care, as defined in child care subsidy regulations adopted under Title 13A of the Code of Maryland Regulations, is being provided or will be provided to a child who does not reside there.

(d) A person who enters into a contract with a county board or a nonpublic school may not knowingly employ an individual to work at a school if the individual is a registrant.

(e) (1) A registrant who is a student may receive an education in accordance with State law in any of the following locations:

(i) a location other than a public or nonpublic elementary or secondary school, including by:

1. participating in the Home and Hospital Teaching Program for Students; or
2. participating in or attending a program approved by a county board under paragraph (2) of this subsection;

(ii) a Regional Institute for Children and Adolescents; or

(iii) a nonpublic educational program as provided by § 8–406 of the Education Article if:

1. the registrant has notified an agent or employee of the nonpublic educational program that the registrant is required to register under this subtitle; and

2. the registrant has been given specific written permission by an agent or employee of the nonpublic educational program to attend the nonpublic educational program.

(2) Each county board shall develop and adopt a policy that enables a registrant who is a student to receive an education as described under paragraph (1) of this subsection.

(3) The State Board shall develop and adopt guidelines and a model policy to assist a county board with the development of a policy under paragraph (2) of this subsection.

(f) A person who violates subsection (c) or (d) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.