



**Working to end sexual**

**violence in Maryland**

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**Testimony Supporting Senate Bill 1007**  
**Lisae C. Jordan, Executive Director & Counsel**  
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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 1007

**Senate Bill 1007 – Maryland Wiretap and Electronic Surveillance –  
Allow Judges to Evaluate & Admit Evidence When Victims Record Crimes**

Maryland currently requires all parties to an audio recording (but not a video recording) to consent to the recording. Recordings obtained in violation of this law prevents admission of the recording into evidence unless the recording is of co-conspirators and one is out of state. MCASA and its members have encountered multiple cases – including rapes – where recordings of the crime can not be used as evidence.

This bill would allow judges to evaluate whether an audio recording should be admitted into evidence. It would require that judges use the same standard currently included in the Rules of Evidence, *R.5-803(24) other exceptions*, commonly referred to as the “catch-all” exception to hearsay rules. Senate Bill 1007 adds the additional restriction that the recording may NOT be “MADE AS PART OF OR IN FURTHERANCE OF AN INVESTIGATION CONDUCTED BY OR ON BEHALF OF LAW ENFORCEMENT OFFICIALS OF THIS STATE”; this is appropriate and would ensure that law enforcement must continue to obtain a court order prior to recording others. This would not permit every recording to be routinely admitted. Admission would be permitted only when they relate to a material fact, are more probative on the point than other evidence that can be reasonably obtained, and admission will serve the interests of justice. This bill also does not change the criminal prohibition against recording another person without consent. While MCASA believes the current felony classification of recording another should be changed, creating an avenue for admissibility is by far the greater concern.

This is a real issue in our state: there have been cases where rape survivors have recorded the crime and the recording was inadmissible. In the era of ubiquitous cell phones, the provisions of the code making taping of another without consent are depriving our justice system of the best evidence available in rape, sexual assault and other cases. This bill would continue to protect privacy and allow reasonable exceptions to the wiretap law to serve the interests of justice.

MCASA notes that there have been discussions of taking an incremental step forward and limiting application of this exception to criminal proceedings involving crimes against a person. This is a reasonable approach that would help victims access justice while the discussion about the all-party consent law continues.

**The Maryland Coalition Against Sexual Assault urges the  
Judicial Proceedings Committee to  
report favorably on Senate Bill 1007**

