



Working to end sexual violence in Maryland

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Testimony Opposing Senate Bill 436
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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 an unfavorable report on Senate Bill 436.

Senate Bill 436 – Minor Victims of Sex Crimes Who Harm Their Assailants

This bill would permit a court to transfer a case out of adult court and into juvenile court for sentencing of minor if the victim-witness in the minor-defendant's case committed a sex crime or human trafficking crime against the minor-defendant within the 3 months before the minor-defendant committed the offense.

MCASA appreciates that this bill has good intent and values the desire to assist survivors, and oppose the bill only with great reluctance. However, we respectfully suggest that the language of this bill would not create sound policy.

After a guilty verdict is the wrong time to address the needs of the survivor.

A jury or judge should consider whether a defendant was a victim of a sex crime or trafficking at the hands of the alleged victim as a part of the determination of guilt. Maryland's law on duress is badly out of date and should be amended to permit introduction of this evidence. This would update the law and help incorporate the experiences of survivors of sexual assault into our justice system.

Moreover, this important information about whether defendants are themselves minor victims should be considered as part of the decision about whether to try the case in juvenile or adult court in the first place. Criminal trials are themselves very difficult and traumatic for victims. Good policy would avoid placing minor victims in adult court when they have committed against their assailants.

Finally, the bill presents several technical and scope concerns. The 3 month timeline proposed by SB436 does not recognize the needs of victims of trauma. Survivors frequently delay reporting, reacting to, and processing what has happened to them. The courts should have the discretion to evaluate whether a defendant's victimization is relevant without an arbitrary 3 month deadline. Similarly, MCASA questions whether minor victims of other crimes might also benefit from additional support in our law. Finally, MCASA respectfully suggests that minors who are victims of §3-602, sexual abuse of a minor, or of §3-709, sextortion, be added to those who would benefit from the law if the Committee chooses to move forward on the bill.

MCASA does not support vigilante actions, however, the experiences of young people who are victims of sex crimes are not sufficiently taken into account in the current justice system. We fully support efforts to address this, but cannot endorse the language of SB436.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to report unfavorably on Senate Bill 436**