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## POSITION ON PROPOSED LEGISLATION

**BILL:** Senate Bill 230 – Criminal Law - Third-Degree Sexual Offense – Burglary  
**FROM:** Maryland Office of the Public Defender  
**POSITION:** Unfavorable  
**DATE:** 01/27/2026 – Senate Judicial Proceedings Bill Hearing

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The Maryland Office of the Public Defender respectfully requests that the Judicial Proceedings Committee issue an unfavorable report on Senate Bill 230. This bill is unnecessary, vague in key parts, and expands sex offender registration in ways that risk disproportionate collateral consequences.

SB 230 is unnecessary because the conduct it targets is already fully criminalized under existing Maryland law. Third degree sexual offense already prohibits nonconsensual sexual contact and carries a felony, punishable by up to 10 years in prison. A person convicted of a third degree sex offense is further subject to mandatory registration on Maryland's Sex Offender Registry, including lifetime registration requirements for serious offenses. First, second, and third degree burglary also imposes felony penalties for the unlawful entry of a dwelling, storehouse, or other building with the intent to commit a crime. In cases where a burglary and a sexual offense occur together, prosecutors can already charge both offenses and seek substantial penalties. SB 230 does not create new criminal behavior; it simply repackages conduct that can already be prosecuted today.

The bill's new aggravating language, making a third-degree sex offense when committed "in connection with" a burglary a special category, raises serious concerns about vagueness and overbreadth. "In connection with" is not defined in the statute. Without clear limits on how close in time, place, or intent the burglary must be to the sexual contact, this phrase could be stretched to cover situations where the sexual contact and the burglary are loosely related (e.g., same building, same day, or same dispute) rather than part of a single, preplanned home invasion type assault.

Take for instance, a dispute between two acquaintances that turns into both a questionable "unlawful entry" and disputed touching could suddenly be framed as an aggravated sex offense "in connection with" burglary. Such open-ended language invites inconsistent application across jurisdictions and gives prosecutors undue added leverage in plea negotiations, even in cases where the facts or consent are hotly contested. Aggravating factors should be precise and narrow, not broad and elastic.

SB 230 also unnecessarily expands Maryland's sex offender registration scheme without demonstrating any clear public safety benefit. The bill amends the definitions of Tier I, Tier II, and Tier III sex offenders to include the newly created burglary linked third degree sex offense

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subsection, with tier level determined primarily by the victim's age. That means individuals who are already subject to criminal punishment and strict supervision for third degree sexual offense and burglary would now face years or even a lifetime on the sex offender registry solely because the conduct is deemed "in connection with" a burglary. Yet there is no evidence that this particular combination of offenses, as opposed to existing third degree sexual offenses, is uniquely predictive of future risk or requires separate supervision or treatment. We do know, however, that sex offender registries not only fail to promote public safety, but also come at an extreme cost to the community, to individual registrants, and to their families.<sup>1</sup> Documented collateral harms include housing instability, unemployment, and barriers to family reunification; these conditions can actually increase, not decrease, recidivism risk.

Additionally, Maryland's current tiered registration framework already captures truly serious sexual offenses and allows for higher scrutiny where there is force, threats of death or serious physical injury, weapons, multiple offenders, or very young victims. SB 230 effectively treats a property-based offense, burglary, as equivalent to those inherently violent aggravators, even though burglary can encompass a wide variety of circumstances and does not necessarily involve direct violence against a person. As a result, two people who commit essentially the same unlawful sexual contact could face drastically different lifelong consequences: one may not be required to register, while another is labeled a Tier I, II, or III offender simply because of a loosely defined connection to a burglary charge.

This raises serious proportionality and fairness concerns. The bill explicitly applies prospectively as of October 1, 2026, meaning that individuals who engaged in similar conduct before that date will not face the same registration requirements. Permanent collateral consequences and lifelong public labeling should not hinge on a loosely defined link to another offense when courts already can impose lengthy prison terms and strict supervision.

Finally, SB 230 diverts scarce resources toward unnecessary statutory enhancements instead of proven prevention and support strategies. Any expansion of registrable offenses requires new training, system changes, and ongoing monitoring and enforcement. Those resources would be better directed toward survivor services, trauma-informed investigation and prosecution, and evidence-based treatment and supervision programs that have a demonstrated impact on reducing recidivism. Without data showing that this enhancement will prevent future crimes or improve outcomes for survivors, the bill risks more harm in application and resulting collateral consequences than improving public safety.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on SB 230.**

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**Submitted by: Government Relations Division of the Maryland Office of the Public Defender.**

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<sup>1</sup> See e.g., Levenson, J. S., & Tewksbury, R. (2009). Collateral Damage: Family Members of Registered Sex Offenders. *American Journal of Criminal Justice*, 34(1-2), 54-68. <https://doi.org/10.1007/s12103-008-9055-x>.  
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