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The Honorable Sandy Bartlett
Chair, House Judiciary Committee
6 Bladen Street
Annapolis, MD 21401

Dear Chair Bartlett and Committee Members:

The Maryland State's Attorneys' Association (MSAA) offers this written testimony in support of House Bill 138—Criminal Law—Third Degree Sexual Offense—Burglary. I am the Chief of the Special Victims' Division for the Montgomery County State's Attorney's Office, and co-chair, along with Deputy State's Attorney for Frederick County Joyce King, of the Maryland State's Attorney Association's Special Victims Legislative Committee. In my capacity as the Chief of SVD, I supervise and handle prosecutions related to sexual assault and sexual child abuse.

House Bill 138 seeks to close a gap in the law related to Third Degree Sexual Offense. Currently, in section 3-307 of the Criminal Law Article, sexual contact is a third degree sexual offense if certain other circumstances are present. Sexual contact means 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. These other circumstances include the employment of a dangerous weapon, strangulation, suffocation, infliction of serious physical injury, certain threats, and committing the crime while aiding and abetting another person. This section, however, does not include the crime of committing sexual contact in connection with a burglary in the first, second, or third degree.

In contrast, section 3-303 of the Criminal Law Article, which codifies Rape in the First Degree, prohibits the commission of a sexual act or vaginal intercourse in connection with the same "other circumstances" as Third Degree Sexual Offense, but also includes committing the crime in connection with a burglary in the first, second, or third degree. There is no reason for the disparity. Currently if an offender commits sexual contact against an adult in connection with a burglary, the only crime prosecutors can charge is a one year misdemeanor, Sexual Offense in the Fourth Degree.

Given the other similarities between the Rape in the First Degree statute and the Third Degree Sexual Offense statute, the Third Degree Sexual Offense should be updated. Offenders who commit sexual contact in connection with a burglary should be held fully accountable. We urge the General Assembly to close this gap and ask this Committee to issue a favorable report on House Bill 138.

Sincerely,

A handwritten signature in black ink, appearing to read "Debbie Feinstein".

Debbie Feinstein

Co-Chair, MSSA Special Victims Subcommittee