



Working to end sexual violence in Maryland

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Testimony Supporting House Bill 138
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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 Judiciary Committee to report favorably on House Bill 138.

House Bill 138 – Third Degree Sex Offense – Burglary

House Bill 138 adds burglary in the first, second, or third degree to the list of aggravating factors in cases involving forcible sexual contact. While technical, this change is important to victims who suffer nonconsensual sexual contact in connection with these burglaries. There are a startling number of cases where people committing burglaries fondle people during the crime. This disturbing and harmful practice should be treated seriously.

Maryland's sex crimes laws use "aggravating factors" when classifying the seriousness of forcible sex crimes. Hence, rape or sexual offense in the 2nd degree becomes rape or sexual offense in the 1st degree when a perpetrator commits a non-consensual sexual act or vaginal intercourse with AND an aggravating factor. See Criminal Law Article 3-303(a)(2)(i)-(v). Similarly, sexual offense in the 4th degree becomes sexual offense in the 3rd degree when sexual contact is committed and an aggravating factor is present. See Criminal Law Article 3-307(a)(1).

Aggravating factors applicable all forcible cases include:

- (i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;
- (ii) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;
- (iii) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;

(iv) commit the crime while aided and abetted by another.

Oddly, a fifth aggravating factor, **commit the crime in connection with a burglary in the first, second, or third degree**, applies only in cases involving sexual acts and vaginal intercourse, but **not** to cases involving sexual contact. House Bill 138 would correct this omission and make Maryland's sex crimes law respond more fairly to victims and more appropriately to sex offenders.

**The Maryland Coalition Against Sexual Assault urges the
Judiciary Committee to
report favorably on House Bill 138**