



Working to end sexual violence in Maryland

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Testimony Supporting Senate Bill 807 with Sponsor Amendments **Lisae C. Jordan, Executive Director & Counsel** March 5, 2020

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 807 with Sponsor Amendments.

Senate Bill 807 – Prohibiting Victim Rights Waivers in Sexual Assault Investigations

This bill would prohibit law enforcement from asking sexual assault survivors to waive their rights to further investigation. Survivors would be able to sue for injunctive or declaratory relief if law enforcement violates these provisions.

Using rights waivers sends the wrong message to sexual assault survivors. The use of “waivers of investigation” forms inherently present a message to victims that when reporting a crime of sexual assault, the investigation is “all or nothing” and “now or never”. In fact, the underlying message is from law enforcement is: “Tell me everything this minute, or never call us again”. End Violence Against Women International (EVAWI), *Reporting Methods for Sexual Assault Cases*, (2014). Maryland, like all states, has a history of poor responses to sexual assault and is trying to improve its systemic response to survivors. Eliminating the use of waivers is one more step towards this goal.

Waivers do not protect victims, they protect the law enforcement agency responsible for the investigation of the crime. Evidence shows that waivers of investigations are used prematurely, often during initial interviews with the victim. Waivers force victims to make a decision regarding the prosecution of the alleged crime. The signing of such waiver sidesteps the responsibility of a law enforcement agency to conduct a thorough investigation. End Violence Against Women International explains: “**It is clear that the purpose is to protect the agency from later claims that they did not pursue an investigation of a sexual assault report when they should have**”. EVAWI. Frequently Asked Questions – Release Waivers. (2020).

Waivers create a tool that can be used by defense counsel to undermine a case and reduce the chances of successful prosecution. Many survivors choose to pursue prosecution only after a period of recovery. Waivers work to cut off an investigation and create an unnecessary barrier for victims who later change their mind. They also are a gift to the defense, making it easy to mislead a jury into thinking that if a survivor had doubts about pursuing a case, they should too.

Sponsor Amendments. Sponsor amendments are necessary to provide survivors with needed control over the scope of an investigation. Frequently survivors ask for some limits on investigations (for example, please do not tell my parents). These changes also make it clear that law enforcement should follow-up with survivors in appropriate cases. A second sponsor amendment limits the inadmissibility of evidence of a waiver to civil and administrative matters in order to respond to concerns about defendants' rights.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to
report favorably on Senate Bill 807 with Sponsor Amendments**