



Working to end sexual violence in Maryland

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Testimony Supporting Senate Bill 41 with Amendments
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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 Judicial Proceedings Committee to report favorably on Senate Bill 41 with Amendments.

Senate Bill 41 – Custody and Visitation in Cases involving Abuse

Senate Bill 41 continues and elaborates upon important protections for survivors of child sexual and physical abuse and child neglect. This bill maintains and recodifies the current §9-101 which currently require that judges consider prior abuse of a child. If a court has reasonable grounds to believe that a child has been abused or neglected, the court must determine whether the abuse or neglect is likely to occur again. Unless the court specifically finds that there is no likelihood of further abuse or neglect, then the court is required to deny custody or visitation rights except for a supervised parenting time arrangement that assures the safety and physiological, psychological, and emotional well-being of the child. Senate Bill 41 adds requirements that judges make specific findings regarding the likelihood of further abuse, clarifies the standard of proof, and adds provisions regarding the type of abuse committed. While these provisions are arguably already in place through Rule or caselaw, this clarification is needed. Far too often, courts are ignoring the current law and minimizing the impact of abuse. Additionally, the clarity in statute will help the Bar and assist unrepresented litigants.

Senate Bill 41 also contains language designed to address historical bias against litigants, primarily mothers, who take steps to protect their children from abuse and neglect. While MCASA fully supports the intent of this language, we are concerned that the language on page 2, lines 30-33 is somewhat confusing and also respectfully suggest that any statutory provisions regarding this issue also be harmonized with §9-306 regarding parents who violate court orders because of a clear and present danger to a child.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to
report favorably on Senate Bill 41 with Amendments**