



Working to end sexual violence in Maryland

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**Proposal to Maryland Legislative Agenda to Women (MLAW)
2020 Session, November 23, 2019 Meeting**

Bill: Eliminate Marriage as a Defense to Sex Crimes

Bill Number: TBD (2019 bill: HB958)

Synopsis: A bill to repeal the law allowing marriage as a defense to sex crimes

Committees: House Judiciary and Senate Judicial Proceedings

Legislative Sponsor(s): Delegate Charlotte Crutchfield
Senator TBA

Lead Group: Maryland Coalition Against Sexual Assault
Lisae C. Jordan, Executive Director & Counsel
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This is a bill to repeal the current statute that makes marriage a defense to some sex crimes. Sexual Assault disproportionately affects women.

Like many states, Maryland's laws were based on the premise that marriage was consent to sex and that, therefore, a man could not rape his wife. Unlike many states, Maryland has not yet firmly rejected that antiquated and fundamentally disrespectful concept.

Criminal Law §3-318 provides that marriage is a defense to certain sex crimes. We have made some progress: Spouses can be prosecuted for any sex crime if they have a limited divorce. Additionally, if the parties have been separate and apart and "without cohabitation" (meaning without having sexual relations) and they have been separated for three months or have a written separation agreement, then they can be prosecuted for sex crimes that are not based on age or capacity. Finally, if the rape involved actual force or threat of force, marriage is not a defense. For other sex crimes, marriage is a complete defense.

Marriage should never be a defense to a sex crime.

The Maryland Coalition Against Sexual Assault appreciates MLAW's past support and advocacy for sexual assault survivors and respectfully asks that this bill be included on the 2020 Agenda.

Title: Sexual Solicitation of a Minor

Bill number: OLR1062

One sentence synopsis: Expands the definition of sexual solicitation of a minor to include the solicitation of the parent, legal guardian, or custodian of a minor, or a hypothetical minor, to consent to the participation of such a minor in sexual acts.

Committee(s): Judicial Proceedings

Lead sponsor(s): Sen. Susan Lee

Lead sponsor phone: 410-841-3124 (Sen. Lee)

Lead group: Maryland State Attorney's Association (MSAA)

Lead group contact: Joyce King, Chief Counsel, Frederick County State's Attorney's Office

Lead group phone and email: JKing1@statesattorney.us

Describe the problem and how it relates to women:

Sexual solicitation of a minor often occurs via that minor's parent or guardian. Currently, such solicitation is not prohibited by Maryland Code. Further, the current Maryland Code includes no provision prohibiting the solicitation of a minor when such a minor is hypothetical (*Criminal Law, § 3-324. Sexual solicitation of minors*). For example, under current law, a person may sexually solicit a hypothetical minor via what the solicitor believes to be the parent of a minor but if no such minor exists, the act is not prohibited. This hole in Code was highlighted by a decision handed down by the Maryland Court of Special Appeals in *Vaqar Choudry v. State of Maryland*. Choudry arranged via a third party to go to a motel room to engage in sexual relations with a prepubescent girl. However, because the prepubescent girl did not actually exist (the third party had instead notified the police), Chodhury was found not guilty. While the sexual solicitation of a hypothetical minor has no immediate victim, such solicitation increases the likelihood of actual child rape and should be treated as seriously as sexual solicitation of an actual minor.

Describe the proposed solution and how it will benefit women:

The legislation would close the loopholes mentioned in the section above in order to deter and more easily prosecute the actual and the attempted sexual solicitation of a minor in Maryland. The victims of sexual solicitation and child rape include many young women, and this legislation seeks to close loopholes that allow sexual predators to escape prostitution.

Summary of the proposed legislation:

The proposed legislation expands the existing Code (*Criminal Law, § 3-324. Sexual solicitation of minors*) to affirmatively prohibit the sexual solicitation of a minor, or hypothetical minor, via a parent, guardian, or custodian. The proposed bill also doubles the maximum penalties for the second offense of sexual solicitation of a minor from not to exceed 10 years in prison to not to exceed 20 years in prison and from a fine not to exceed \$25,000 to a fine not to exceed \$50,000.

Was the bill introduced in prior session?

No.

Title: Strangulation - First Degree Assault

Bill number: 0lr0807, CF 0lr812

One sentence synopsis: Decreasing the risk of femicide by designating intentional suffocation and strangulation as Assault in the First Degree.

Committee(s): Judicial Proceedings, Judiciary

Lead sponsor(s): Senator Susan Lee, Delegate Jesse Pippy, Delegate Vanessa Atterbeary

Lead sponsor phone: 410-841-3124 (Sen. Lee)

Lead group: Maryland State Attorney's Association (MSAA)

Lead group contact: Joyce King, Chief Counsel, Frederick County State's Attorney's Office

Lead group contact email: JKing1@statesattorney.us

Describe the problem and how it relates to women:

Non-fatal strangulation is one of the most significant risk factors for femicide. Studies have shown that prior non-fatal strangulation is associated with a six-fold increase in the chances of attempted homicide and a seven-fold increase in the chances of completed homicide.

Describe the proposed solution and how it will benefit women:

Under current law, suffocation and strangulation is classified as Assault in the Second Degree (*Criminal Law §3-203*), which puts such offenses in the same legal category as a slap. This bill would reclassify suffocation and strangulation as Assault in the First Degree (*Criminal Law §3-202*.) The measure creates nuance in the Code and recognizes that suffocation and strangulation, which are heinous in their own right and a red-flag of future and more extreme violence against women, are to be treated as a serious form of assault.

Summary of the proposed legislation:

The bill redesignates intentional suffocation and strangulation from Assault in the Second Degree (*Criminal Law §3-203*) to Assault in the First Degree (*Criminal Law §3-202*).

Was bill introduced in prior session?

No.

2019 Fall Agenda Conference – Issue Proposal

Title of Bill: Protective Orders – Relief Eligibility – Rape and Sexual Offense

Bill Number:

Synopsis: Amending the definition of person eligible for relief in a protective order (PO) to include a victim of rape or sexual offense and removing it from the peace order to clarify that a victim of a rape or sexual offense is eligible for a PO, rather than a peace order.

Committee assignment: Judiciary and Judicial Proceedings

Lead Sponsors: Del Atterbeary and Senators Waldstreicher and West

Lead Sponsor phone numbers: Del Atterbeary – 410.841.3471
Sen Waldstreicher: 410.841.3137
Sen West: 410.841.3648

Lead Group: House of Ruth Maryland

Lead Group Contact: Dorothy Lennig

Lead Group Contact Phone and Email: 410.274.7773 (cell) and dlennig@hruthmd.org

Problem and how it relates to women: For many years, domestic violence and sexual assault advocates have worked to have protective orders cover victims who were in dating relationships and victims of sexual assault. One of our first attempts to add this resulted in the creation of the peace order. While these acts were covered by the PO, many victims were not eligible for a PO because of their relationship to the abuser. In 2015, the law changed to include victims in sexual relationships. Since then there have been a number of judges who believe rape victim, including date and acquaintance rape victims, do not qualify for a PO because the parties were in in a “relationship.”

Proposed solution and how it will benefit women: Currently some judges believe that not all rape and sexual assault victims qualify for a PO because, although the act of abuse involves sexual contact, the parties are not “in a relationship.” By clarifying that this group of victims is eligible for a PO, it provides them with the special protections of a PO that are not include in peace orders, e.g. longer order, removal of firearms, more robust response by law enforcement.

Summary of proposed legislation: Amend the definition of persons eligible for relief in a protective order to include victims of a rape or sexual offense or attempted rape or sexual offense and remove them from the peace order to clarify that these victims are eligible to receive all of the protections of a PO rather than a peace order.

MLAW 2019 Fall Agenda Conference– Issue Proposal Form

Bill Title: Expansion of Maryland’s Vacatur Law for Survivors of Human Trafficking

Bill Number (if known): TBD

One Sentence Synopsis of the Bill: Expanding Maryland’s current “vacating convictions” law to allow criminalized survivors of human trafficking to remove crimes *other than* prostitution from their criminal records would significantly increase the ability of these survivors to access to employment and stable housing, as well as heal from the trauma of their trafficking experience.

Committee(s) Assigned: Senate Judicial Proceedings
House Judiciary

Lead Bill Sponsor(s): Senator Susan Lee & Delegate Vanessa Atterbeary

Lead Advocacy Group (name, contact person, email, phone):

Human Trafficking Prevention Project
Contact Name: Jessica Emerson
Email: jemerson@ubalt.edu
Phone: (410) 837-4566

Describe the Problem and How It Relates to Women:

Victims of human trafficking, a significant portion of whom are female-identified, are commonly forced to engage in various criminal acts by their traffickers. Survivors who are arrested and convicted for crimes they were forced to commit often experience difficulties obtaining safe housing and gainful employment, which in turn keeps them trapped in poverty and vulnerable to continued exploitation.

Describe Your Proposed Solution and How It Will Benefit Women:

Although Maryland law already allows survivors of sex trafficking to vacate, or, set aside prostitution convictions stemming from their trafficking experience, prostitution is only one of many crimes these survivors are commonly forced to commit. Under Maryland's current “vacating convictions” law, only prostitution convictions are eligible for vacatur. As a result, the number of survivors able to access this form of legal relief is low, while the need for legal relief remains high. Additionally, the singular focus on prostitution convictions means that criminalized survivors of labor trafficking are completely ineligible for relief. Survivors who are unable to access this form of relief continue to experience stigma as well as difficulties reintegrating back into society following their victimization.

Provide a Summary of Your Proposed Legislation:

This proposed change in law will expand Maryland's current “vacating convictions” law to apply explicitly to survivors of labor trafficking, expand the number of crimes eligible for vacatur, and eliminate the requirement that the State’s Attorney consent to the motion prior to filing. Without these changes, Maryland's vacatur law will continue to leave a large number of survivors without the legal relief they so desperately need to heal from the trauma of their exploitation and become productive members of their communities. Criminalized survivors in Maryland deserve access to legal relief that reflects their lived experiences and that provides them access to the stability and independence they deserve.

Do not exceed one page.

2019 Fall Agenda Conference—Issue Proposal Form

Title of Your Bill: Background Checks for all Gun Sales in Maryland

Bill Number: Not yet assigned

One sentence synopsis of the bill: This bill would close a loophole in Maryland law to require a background check on all gun sales.

Committee(s) bill is assigned to: Judiciary/JPR

Lead Legislative Sponsor(s): Delegate Vanessa Atterbeary

Lead Sponsor(s) Phone Number: (410) 841-3471, (301) 858-3471

Lead Group: Moms Demand Action for Gunsense in America, Maryland Chapter

Lead Group Contact: Caroline Broder

Lead Group Contact Phone and Email: 703-507-1081/brodercaroline@gmail.com

Describe the problem and how it relates to women: More than half of female victims of intimate partner homicide in the US are killed with a gun. In an average month, 52 American women are shot to death by an intimate partner, and many more are injured.

The mass shooting at the Capital Gazette was a tragic reminder that a shotgun can be every bit as deadly as a handgun. The shooter used a pump-action shotgun to kill five people and injure two others. Many people have been killed with rifles and shotguns in Maryland in recent years. Between 2013 and 2017, long guns were used in at least 30 reported murders in Maryland. This is a threat to public safety for **all** Marylanders.

Describe your proposed solution and how it will benefit women: The bill would help keep rifles and shotguns out of the hands of people with dangerous histories. This would benefit the safety of all Marylanders.

Provide a summary of your proposed legislation: Maryland law prohibits the possession of any firearms—including handguns, rifles and shotguns—by people with dangerous histories, including people who have been convicted of crimes of violence, domestic abusers, and those who have been made subject to an Extreme Risk Protection order because they pose a danger to themselves or others.

Maryland law currently enforces these prohibitions by requiring a background check for all handgun sales—including sales by unlicensed sellers. But there is no such requirement for unlicensed sales of rifles and shotguns. That means that a convicted felon, domestic abuser, or any other prohibited person can avoid a background check simply by buying a rifle or shotgun from an unlicensed seller they meet online or at a gun show.

The bill would close this dangerous loophole by requiring that purchasers undergo a background check regardless of what type of gun they're purchasing and who they're purchasing it from.

If the bill was introduced in a prior year, please include a copy of last year's bill with this form. (see attached)

Title of Your Bill: Labor and Employment – Salary History Information Disclosures

Bill Number: N/A

One sentence synopsis of the bill: This bill will ensure women and people of color aren't forced to carry lower earnings and pay discrimination with them from job to job by prohibiting employers from seeking and relying on job applicants' salary history and by requiring employers to provide the salary range for a position upon a job applicant's request.

Committee(s) bill is assigned to: House Economic Matters; Senate Finance

Lead Legislative Sponsor(s): Delegate Karen Lewis Young; Senator Susan Lee

Lead Sponsor(s) Phone Number: 410-841-3436 (Rep. Young); 410-841-3124 (Sen. Lee)

Lead Group: National Women's Law Center

Lead Group Contact: Andrea Johnson, Director of State Policy

Lead Group Contact Phone and Email: 202-319-3041; ajohnson@nwlc.org

Describe the problem and how it relates to women:

"What is your current or prior salary?" is a question that many job applicants dread, with good reason. Employers' use of this information in the hiring process forces women and, especially women of color, who face conscious and unconscious discrimination and, consequently, are paid lower wages, on average, than white, non-Hispanic men, to carry lower earnings and pay discrimination with them from job to job. And job applicants who reduced their hours or left their prior job for several years to care for children or other family members are also penalized when employers set compensation based on their prior salaries which are not reflective of existing labor market conditions or applicants' current qualifications.

Likewise, when an employer asks a job applicant what his or her salary expectations are without providing the applicant any information about the rate of pay for the position, women lose out. Women often ask for less when they negotiate than men, even when they are otherwise equally qualified. But studies show that when job applicants are clearly informed about the context for negotiations, including the types of compensation and benefits, women are more willing to negotiate and more successful, and gender wage gaps are reduced.

Describe your proposed solution and how it will benefit women:

When Black women in Maryland are typically paid only 69 cents on the dollar paid to white, non-Hispanic men and Latinas are paid only 46 cents—the 4th largest wage gap for Latinas in the country—Maryland has an urgent obligation to Maryland women, Maryland families, and the Maryland economy to use all the tools we can muster to close the wage gap. Women and families literally cannot afford to wait any longer.

Stopping the practice of relying on salary history has been shown to narrow wage gaps. Since 2016 Delaware, Massachusetts, Connecticut, Vermont, New Jersey, New York, Maine, Illinois, Colorado, Washington, California, Oregon, and Hawai'i and localities from New York City to Louisville, KY, have passed legislation prohibiting employers from relying on salary history. Maryland is long overdue to join this movement and pass this simple, straightforward protection.

Provide a summary of your proposed legislation:

This bill will prohibit employers from seeking and relying on job applicants' salary history in considering an applicant for employment or in determining their wages. It will also require employers to provide the salary range for a position to a job applicant upon request.

MLAW Proposal – Time to Care: Family and Medical Leave Insurance (FAMLI) Program

Name: Time to Care: Family and Medical Leave Insurance (FAMLI) Program

Bill Number: TBD

One sentence synopsis: This legislation establishes a family and medical leave insurance fund to provide partial wage replacement for employees who take leave to care for a new child, a family member with a serious health condition, their own serious medical condition, or a family member's military deployment.

Committee: Finance & Economic Matters **Lead Legislative Sponsor:** Del. Ariana Kelly (410-841-3672)

Lead Group: Maryland Family Network **Lead Group Contact:** Clinton Macsherry (410-370-9429)

Describe the problem and how it relates to women: Many Marylanders can't take time to care because they lack paid family leave. While the Federal Family and Medical Leave Act (FMLA) provides unpaid leave and job protection to employees who work for businesses that employ 50 or more individuals, only 17% of U.S. workers have access to paid family leave and fewer than 40% have paid personal leave for short-term disabilities.

Families are dependent on working women. In Maryland, 79% of mothers are in the workforce. Nearly 25% of women take 10 or fewer days of parental leave, potentially putting themselves and their children at risk physically and emotionally. Both women and men are responsible for caregiving for elderly and ill relatives (although this burden disproportionately falls on women). The lack of a paid family and medical leave system leads to economic instability, particularly for women, and is also a major contributor to the wage gap between women and men, and women's financial vulnerability as they age.

Describe your proposed solution: Establishment of a family//medical leave insurance program which allows employees to take up to 12 weeks of paid leave under certain circumstances. This program mirrors those already in place in eight other states and Washington, D.C., and builds on legislation passed in Maryland in 2018 which established a parental leave benefit for state employees and the work of the Task Force to Study Family and Medical Leave Insurance.

Provide a summary of your proposed legislation: The "Time to Care Act" establishes a Family and Medical Leave Insurance (FAMLI) program through which employees may take up to 12 weeks of paid leave from their jobs to care for new children, other family members with serious health conditions or disabilities, or themselves. Wage replacement will be provided during the leave period ranging from \$50 to \$1000 per week and drawn from a fund pool into which employers and employees contribute. Contributions are mandatory and calculated based on the employee's wages. Experience from other states suggests that the shared contribution will total approximately 0.5% of the employee's wages. In general, the amount received by low-income employees reflects a higher percentage of their total wages.

An employee is eligible for FAMLI benefits if the employee:

- is caring for a newborn, adopted or foster care child;
- is caring for a family member with a serious health condition or disability;
- has a serious health condition that makes the employee unable to perform his or her job;
- is caring for a military service member who is next of kin; or
- has a specified need resulting from the military deployment of a family member.

For more information, please visit timetocare.net.

Similar legislation, "Labor and Employment – Family and Medical Leave Insurance Program – Establishment (Time to Care Act of 2019)" was introduced in the 2019 Session and was selected as an MLAW priority.

2019 Fall Agenda Conference—Issue Proposal Form

(You may re-create this form on a separate Word doc. Make sure to include all fields and answer completely. Do not exceed one page in length.)

Title of Your Bill: - Correctional Services – Prerelease Unit for Women –Requirement to Operate

Bill Number: TBD

One sentence synopsis of the bill: There countless Free-standing pre-release centers in the community currently help men reintegrate into society, but not women. Women in pre-release status at (MCIW) are currently housed in a maximum security unit with zero to no re-entry services.

Committee(s) bill is assigned to: TBD

Lead Legislative Sponsor(s): Delegate Crutchfield and Senator Mary Washington

Lead Sponsor(s) Phone Number: _____

Lead Group: Maryland Coalition for Women Prisoners (Out for Justice, Maryland Justice Project, ACLU of Maryland, Job Opportunities Task Force, MD Prisoner's Rights Coalition for Girls)

Lead Group Contact: Monica Cooper

Lead Group Contact Phone and Email: 443-462-6924/monicac169@gmail.com

Describe the problem and how it relates to women:

This is a title IX issue. The incarcerated male population are able to receive re-entry services such as family reunification, employment, extended housing, addictions counselling, and so much more. While on the other hand the incarcerated female population are unable to receive such assistance because they have zero Pre-Release Centers.

Describe your proposed solution and how it will benefit women: We Propose a Pre-release Center be provided for the over 200 eligible women. The benefit of having this standalone center would allow women to get the help they need before returning to the community. Women have been victims of sex trafficking, abuse and they face countless challenges that men do not face. Up to 70% of women released are mothers and without the tools they need they are unable to provide stable environment for their children. Women are in greater need of a Pre-release Unit, its needed

Provide a summary of your proposed legislation: The legislation simply ask for the Department of Corrections to Provide a standalone Pre-release Unit for Women

If the bill was introduced in a prior year, please include a copy of last year's bill with this form. The bill was introduced last year and is attached to this form