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2017 POST SESSION NEWSLETTER

CONSTITUENT COMMUNICATIONS

During the recent 90-day Session of the General Assembly, I was contacted by hundreds of my constituents, as well as by Marylanders of other districts, urging either support or opposition to various bills that were under consideration, as well as about line items in the state budget. In general, those Marylanders who had a better understanding of the bill(s) they supported or opposed were much more persuasive than those advocates who simply shared mass emails, letters, flyers or phone messages about which they had little or no knowledge. I co-sponsored and/or supported over 100 bills this session, including the Protect Our Schools Act (SB 871/HB 978), Hunger Free Schools Act (SB 361/HB 287), and the Hydraulic Fracturing Ban (SB 740/HB 1325).

To look up legislation interesting to you, visit the Maryland General Assembly website at <http://mgaleg.maryland.gov>, and use the search options under the “Legislation by Session” tab. One is able to search by sponsor (legislator, department, or board/commission), broad subject, narrow subject, and committee.

SUMMARY OF SOME OF MY SUCCESSFUL BILLS

SB 217: Criminal Law – Sexual Offenses – Physical Resistance (passed by the Senate and the House)

Now that Senate Bill 217 has passed, perhaps Maryland can come out of the stone ages when it comes to defining and prosecuting rape. Jury instructions in Maryland require that: “force is an essential element of the crime. To get a conviction, the evidence must show either that the victim resisted and that resistance was overcome by force or by threat to the victim’s safety.” In other words, a rape victim’s response to the crime (whether or not she fought back) carries more weight in Maryland courts than the behavior of the perpetrator.

Given that victims of rape also increase their chances of being maimed or killed when trying to physically resist their rapists, this bill will clarify in Maryland law that a victim of rape does not have to fight the perpetrator or put up physical resistance in order for the court to hand down a guilty verdict. This bill was a 2017 legislative priority of both the Maryland Legislative Agenda for Women (MLAW), and for the Maryland Coalition Against Sexual Assault (MCASA).

SB 272: Guardianship and Child in Need of Assistance Proceedings – Jurisdiction and Authority of Juvenile Court

(passed by the Senate and the House)

Foster youth with significant developmental disabilities often experience a life-threatening gap in essential health services and other requirements of daily life when they reach the age of 18 and therefore, age out of services provided by the State Department of Human Resources, as ordered by the Juvenile Court.

Prior to a 2015 ruling by the Maryland Court of Appeals in the case of a gravely disabled foster youth who aged out of care, the Juvenile Court was no longer able to order healthcare and other essential requirements of daily life for the wards of the state beyond their 18th birthdates. These foster youth often experience a disruption in their living arrangements, as well as a loss of certain essential health services until adult guardianships are established for them many months later by the Maryland Department of Health.

Senate Bill 272 codifies into state law the requirement that the Juvenile Court continue to order needed housing and health services for these youth during the transitional period between their 18th birthdates and the establishment of their adult guardianships, so as to avoid any lapse in essential services. This bill only applies to the relatively small number of aging-out foster youth with Child in Need of Assistance or guardianship cases whose developmental disabilities will require them as adults, to receive comprehensive health and other services through the Maryland Department of Health.

SB 348: State Compensation for Erroneous Conviction and Imprisonment – Certification of Error

(passed by the Senate and the House)

The National Registry of Exonerations lists 24 Maryland inmates exonerated between 1991 and 2014. The earliest conviction of those listed occurred in 1991. Only two of the 24 exonerated Marylanders have received any compensation from the State of Maryland for their wrongful convictions and their many years of incarceration.

Senate Bill 348 eliminates the unfair and debilitating requirement in the State Finance and Procurement Article that an individual wrongfully convicted, sentenced and confined, and subsequently exonerated must then obtain a pardon from the Governor (a discretionary act) before the wrongfully convicted individual is eligible to apply to the Board of Public Works for compensation for his/her damages. Senate Bill 348 also creates a Task Force to study the State’s current process for establishing whether a conviction was made in error, the processes and standards in other states for designating an erroneous conviction, as well as for the Task Force to make recommendations for improvements to the Governor and to the Maryland General Assembly.

An individual who has been exonerated by the Court, after having been wrongfully convicted and incarcerated is in need of immediate social services, employment, housing, legal services, and often is in need of even family counseling and mental health services. Such a needy individual, after having been wrongfully convicted and incarcerated should not have to petition a governor or any other officer for a pardon, as a passport for them petitioning for compensation to meet emergency and other critical human needs as they re-enter society. To make matters even worse, current law doesn’t require the governor to act at all, or to do so in a timely manner. An exonerated, but indigent person needs swift and comprehensive assistance which is out-of-reach under current Maryland law.

SB 505: Civil Actions – Child Sexual Abuse – Statute of Limitations and Required Findings
(passed by the Senate and the House)

Senate bill 505 expands the statute of limitations for the filing of an action by a victim of child sexual abuse against the alleged perpetrator of the abuse. Prior to 2003, a victim could file such an action only until his/her 21st birthday (that was for three years upon attaining the age of majority).

In 2003, I successfully sponsored Senate Bill 68, which increased the statute of limitations until the victim's 25th birthdate. Senate Bill 505, additionally, permits a child abuse victim to file a cause of action against the alleged perpetrator of the abuse at any time within three years of the perpetrator's conviction for the incident or incidents which comprised the abuse.

Senate Bill 505 also permits child sexual abuse victims to file an action against certain non-perpetrators of child sexual abuse, that is if a person or governmental entity had actual knowledge of the abuse and negligently failed to do anything to prevent the incident or incidents that form the basis of the victim's action. Think about the Penn State case where athletic staff members of the University observed a colleague abusing young boys on University property, but did nothing to either prevent or to report the issue.

Why, you might ask, should Maryland further extend the statute of limitations for filing an action against a perpetrator of child sexual abuse beyond the date of the victim's 25th birthdate? Few, if any, young adults have knowledge of their legal right in Maryland to file an action against the perpetrator of their abuse. They also lack the financial means and the sophistication to file an action in a court of law to seek damages for crimes which they suffered as minors. Many young adults are still dependent upon the authority figures in their lives, some of whom still provide food, shelter, tuition and healthcare (as per the provisions of the Affordable Care Act), even beyond the young adult's 25th birthdate (a later timeline than the current insufficient statute of limitations).

In addition, victims of sexual assaults fear unfair judgment and public humiliation if they air their pain and suffering in public; thus they often need much more time than the current 7 years from the age of majority to seek any legal remedy so that their healing may begin.

SB 674: Juvenile Services – Services and Programs for Females
(passed by the Senate and the House)

Senate Bill 674 requires the Department of Juvenile Services to provide girls in the system with the range and quality of services that meet their specific needs.

Girls are a relatively small minority of the youth in the systems, and in general, they pose little or no public safety risks. In fact, most girls served by the juvenile court and by the Department are victims of child abuse, sexual abuse, neglect, and significant trauma (circumstances against which many of them strike out by repeatedly committing status offenses, which would not be a crime if committed by adults – drinking alcohol, violating curfews, or running away from home).

Senate Bill 674 requires that programs for girls be community-based wherever feasible, rather than in lock-ups which often leave girls further traumatized, and their mental health needs unmet. This bill directs the Department to adapt its programming and practices to adequately meet the needs of girls. Maryland's current resources and programs for girls in the system are grossly inadequate.

MY OTHER SUCCESSFUL 2017 BILLS

SB 216: Maryland Caregivers Support Coordinating Council – Renaming and Altering Membership and Duties

SB 562: Health Care Decisions Act – Advance Directives and Surrogate Decision Making – Disqualified Individuals

SB 671: Department of Human Resources – Public Assistance Eligibility – Financial Records

SB 676: Requirements for Filial Support - Repeal

SB 875: Residential Property – Notice of Foreclosure

All of these pieces of legislation take effect on October 1, 2017, with the exception of SB 875, which takes effect October 1, 2018. The Governor has scheduled bill signings for April 18th at 10am, May 2nd at 2pm, and May 4th at 2pm. Visit <http://governor.maryland.gov/bill-signings/2017-bill-signings/> the day prior to the signing date, for the list of bills to be signed.

TWO OF MY 2017 BILLS REFERRED TO A LEGISLATIVE TASK FORCE FOR STUDY

SB 675: Criminal Procedure – Petition for Writ of Actual Innocence – Nontrial Convictions
This bill responded to the request of the Maryland Court of Appeals regarding its need for clarity as to whether it is the intent of the General Assembly that the Court hold post-conviction writ of innocence hearings when relevant new evidence becomes available in a case where the defendant earlier accepted a guilty plea or an Alford plea. This bill offered greater clarity to the Courts' request for additional legislative advice.

SB 677: DNA Testing – Postconviction Review

The Maryland Court of Appeals currently bars any consideration of newly available DNA evidence which might exonerate a person who earlier accepted a guilty plea or an Alford plea in the absence of DNA evidence. This bill was offered in response to advice by the Court of Appeals of its need for clarity on this issue by the General Assembly. Nationally 25% to 30% of DNA exonerations involves defendants who earlier pled guilty (including 2 such exonerations in Maryland).

MY OFFICIAL DUTIES AS SENATOR

1. Vice Chair, Senate Judicial Proceedings Committee
2. Vice Chair, Committee on Executive Nominations
3. Member, State Commission on Criminal Sentencing
4. Member, Joint Committee on Ending Homelessness
5. Member, Medicaid Advisory Committee
6. Member, Court Improvement Project on Foster Care
7. Member, Executive Committee, National Conference of State Legislatures (NCSL)
8. Member, Legislative Committee, Interstate Insurance Product Regulation Commission (IIPRC)
9. Consultant, Court of Appeals Standing Committee on Rules of Practice and Procedure, General Court Administration

SENATORIAL SCHOLARSHIP APPLICATIONS

Many students in the 10th Legislative District compete annually for about 25 available Senatorial Scholarships, which may be used for education at any accredited college, university, or post-secondary trade school, including for undergraduate, graduate, and professional programs. These scholarships cannot be used at a non-Maryland institution unless the Maryland Higher Education Commission rules that a student's proposed major is not available in Maryland.

In a few weeks, my Senatorial Scholarship Committee will evaluate and make recommendations regarding 2017 scholarship applications submitted by current and prospective certification and degree-seeking students from the district. While our deadline has passed, please contact our office in January 2018 for application information for the 2018-2019 academic year.

Senatorial Scholarships may be awarded to both full-time and part-time students who enroll for at least six credits per semester. Other state scholarships available to Maryland residents can be found on the Maryland Higher Education Commission website: <http://www.mhec.state.md.us>.

COMMUNITY OUTREACH

My staff and I continually do community outreach in order to identify organized community groups which include residents of the 10th Legislative District. If we have missed your organization, please call 410-841-3606 or send an email to delores.kelley@senate.state.md.us, with the name of the community organization, name of the President, contact information (email, mailing address, phone number), and pertinent information regarding community meetings.

If your organization would like to request my presence at a meeting or event, I would appreciate an invitation 3 to 4 weeks in advance. Since there is only one of me and many of you, I may not be available at your preferred date, but will do the very best that I can.