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February 26, 2024

The Honorable Will Smith  
6 Bladen Street  
Annapolis, MD 21401

Dear Chair Smith and Committee Members:

I write on behalf of the Montgomery County State's Attorney's Office and the Maryland State's Attorney's Association in support of SB758—Criminal Law—Sexual Crimes—Definition of Consent and Repeal of Force. I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office, and I prosecute and supervise criminal cases involving sexual assault. I am also the Chair of Choose Respect Montgomery, an initiative that focuses on preventing teen dating abuse and sexual assault.<sup>1</sup>

In the United States, 1 in 6 women and 1 in 33 men have been or will be a victim of attempted or completed rape in their lifetime. One in 9 girls and 1 in 20 boys under the age of 18 experience sexual abuse or assault. Females ages 16-19 are 4 times more likely than the general population to be victims of rape, attempted rape, or sexual assault.<sup>2</sup>

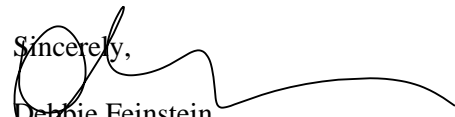
Sexual assault prevention programs aim to create a culture of consent. Through Choose Respect, we teach teenagers about healthy, consensual relationships. We explain that consent means giving permission for all sexual contact that happens. Consent is freely given, of a person's own free will, and absent of pressure. Consent is agreeing and saying yes throughout the entire act.

Maryland law requires public schools to offer age-appropriate instruction on the meaning of consent and respect for personal boundaries. Consent is defined in section 7-445 of the Maryland Education Article as "the unambiguous and voluntary agreement between all participants in each physical act within the course of interpersonal relationships, including respect for personal boundaries."

Our criminal code does not include this definition of consent. Senate Bill 758 defines consent and removes the requirement that rape must include force or threat of force. Senate Bill 758 includes a totality of the circumstances evaluation, consistent with Maryland case law. *See Martin v. State*, 113 Md. App. 190 (1996).

Senate Bill 758 aligns our criminal code with our education code and offers a clear definition for consensual sexual interaction. I urge a favorable report on SB758.

Sincerely,

  
Debbie Feinstein  
Chief, Special Victims Division

<sup>1</sup> For more information, go to [www.montgomerycountymd.gov/fjc/chooserespect/](http://www.montgomerycountymd.gov/fjc/chooserespect/) (last visited February 8, 2024).

<sup>2</sup> See [www.rainn.org/statistics](http://www.rainn.org/statistics) (last visited February 8, 2024).