

WDC 2024 Testimony SB758_FINAL.pdf

Uploaded by: Beth Tomasello

Position: FAV



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

Senate Bill 758
Criminal Law-Sexual Crimes-Definition of Consent and Repeal of Force
Senate Judicial Proceedings Committee – February 27, 2024
SUPPORT

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2024 legislative session. WDC is one of Maryland's largest and most active Democratic clubs, with hundreds of politically active members, including many elected officials.

WDC urges the passage of SB758. Under current Maryland law, a person may only be convicted of second-degree rape if the prosecution can prove that the sexual act was committed "*by force, or threat of force.*" Senate Bill 758 removes this evidentiary requirement and re-defines second-degree rape as a sexual act committed "*without consent.*" This bill further defines "*consent*" to be the "*clear and voluntary agreement by an individual to engage in vaginal intercourse, a sexual act, or sexual contact.*" This bill also defines certain facts and circumstances that constitute consent—and certain facts and circumstances that do not. This change to Maryland law is long overdue.

The current definition of second-degree rape is outmoded and does not comport with society's understanding of what constitutes "rape." We would be hard-pressed to identify many Marylanders (and any WDC members) who believe that rape can only occur when force, or a threat of force, is used to coerce a sexual act. Senate Bill 758 conforms the law to society's evolved understanding that rape or other criminally actionable sexual acts occur when they are done to another person without their consent.

According to RAINN (Rape, Assault & Incest National Network), 90% of victims of sexual assault are female.¹ Girls and young women between the ages of 12-34 are the most likely victims of sexual assault, with numbers approaching 70% of all victims.² The highest percentage of victims are women aged 18-34.³ Rape and sexual assaults are under-reported, under-prosecuted, and convictions are hard to win, particularly if a victim who clearly did not consent to the sexual act must prove that the sexual act was performed under force or threat of force.

On a final note, many WDC members are parents or family caregivers who have had to educate their children about rape and sexual assaults. Parents teach their daughters

¹ <https://www.rainn.org/statistics/scope-problem>

² <https://www.rainn.org/statistics/victims-sexual-violence>

³ <https://www.rainn.org/statistics/victims-sexual-violence>



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that they have a right to say “no” to any sexual act, and that if they have not affirmatively and voluntarily consented to sexual intimacy, or if they withdraw their consent at any time during the sexual encounter and are nonetheless subjected to a sexual act, then they have been the victim of a sexual assault. Similarly, parents teach their sons that they must ask for, and receive, a prospective intimate partner’s affirmative consent before they engage in sexual acts. Parents teach them that a prior sexual encounter or sexy clothing does not constitute consent, that consent is only valid if the person is fully capable of giving it, and that the sexual act must stop immediately if consent is withdrawn. Parents do not teach their sons that it is acceptable for them to perform a sexual act with another person so long as they do not use force or the threat of force, and we do not teach our daughters that they have only been assaulted if someone has used force or a threat of force with them. In short, SB758 should be the law in Maryland, so that the law reflects what parents are teaching their children about what constitutes the act of “rape”.

We ask for your support for SB 758 and strongly urge a favorable Committee report.

Tazeen Ahmad
WDC President

Beth Tomasello
WDC Criminal Justice
Reform Subcommittee

Cynthia Rubenstein
Chair, WDC Advocacy

SB758_HB496 GOCPP Supports (1).pdf

Uploaded by: Bethany Young

Position: FAV

WES MOORE
Governor

ARUNA MILLER
Lieutenant Governor



DOROTHY LENNIG
Executive Director

TESTIMONY IN SUPPORT OF SENATE BILL 758

February 27, 2024

Bethany Young, Director of Policy and Legislation

The Governor's Office of Crime Prevention and Policy's (GOCPP) role is to advise the Governor on criminal justice strategies, coordinate across public safety agencies, and allocate resources Statewide to support public safety.

Senate Bill 758 defines consent, lists elements that establish consent or the lack thereof, and establishes nonconsensual sex, even absent force or the threat of force, as second-degree rape. Current law requires proof of force or threat of force to establish second-degree rape. Requiring prosecution to establish force or a threat of force creates a barrier to accountability for sexual predators and justice for survivors.

Rape is one of the most cruel and damaging acts one human can commit against another. It undermines an individual victim's feeling of safety and bodily autonomy. By eliminating the elements of force or threat, SB758 will send a clear message to would-be perpetrators that there is no gray area – sex without clear and voluntary agreement is a crime.

GOCPP urges the Senate Judicial Proceedings Committee to favorably report on Senate Bill 758.

SB 758 - WLCMD - FAV.pdf

Uploaded by: Catherine OMalley

Position: FAV

BILL NO: Senate Bill 758
TITLE: Criminal Law – Sexual Crimes – Definition of Consent and Repeal of Force
COMMITTEE: Judicial Proceedings
HEARING DATE: February 27, 2024
POSITION: **SUPPORT**

The Women's Law Center of Maryland is dedicated to ensuring the physical safety, economic security, and bodily autonomy of women throughout the State. We support systemic changes to our current policies and practices that disproportionately negatively affect women. Senate Bill 758 is a step towards establishing these systemic changes for victims of sexual assault. The Women's Law Center of Maryland urges a favorable report on SB 758.

SB 758 would bring Maryland's current rape law up to date by removing the antiquated force and threat of force standard. That standard places the onus on a victim to stave off a rapist. Under SB 758 the focus would be whether there was a clear and voluntary agreement between the individuals involved. In order to make this determination, SB 758 provides a logical and concise definition of consent, as well as outlines acts and circumstance that do not qualify as consent. This analysis keeps the fact finder focused on asking the right questions – if consent was sought and the circumstances under which consent was given. This analysis keeps the fact finder away from wrong and harmful questions that have historically been used to blame victims of sexual assault – what the victim was wearing, did the victim have a prior consensual sexual experience with the perpetrator, etc. As a result, SB 758 provides a straightforward approach to prosecuting and determining sex crime cases.

Currently 28 jurisdictions throughout the country have updated their rape statutes to define consent in terms of behavior. For instance, the Vermont statute defines consent as, "unambiguous, and voluntary agreement to engage in a sexual act, which can be revoked at any time." According to the American Law Institute, "neither verbal nor physical resistance is required to establish that consent is lacking, but their absence may be considered, in the context of all the circumstances, in determining whether there was consent." Further, the majority of states across the country have already updated their rape and sexual assault statutes to eliminate a requirement of force or the threat of force. It is time for Maryland to do the same.

Women experience sexual assault at disturbing rates, especially Black women and women of color. In Maryland roughly 18% of white women and 22.3% of non-Hispanic Black women have been raped. Additionally, 44% of Maryland women have experienced other forms of sexual violence. These statistics are alarming. The legislature must make changes to properly support victims of sexual assault when they are seeking legal recourse. For these reasons, the Women's Law Center of Maryland urges a favorable report on Senate Bill 758.

The Women's Law Center of Maryland is a non-profit legal services organization whose mission is to ensure the physical safety, economic security, and bodily autonomy of women in Maryland. Our mission is advanced through direct legal services, information and referral hotlines, and statewide advocacy.

SB0758 Sexual Crimes Definition of Consent MLC FAV

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0758
Criminal Law - Sexual Crimes Definition of Consent
and Repeal of Force

Bill Sponsors: Senator Kelly
Committee: Judicial Proceedings
Organization Submitting: Maryland Legislative Coalition
Person Submitting: Aileen Alex, co-chair
Position: FAVORABLE

I am submitting this testimony in favor of SB0758 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of individuals and grassroots groups representing every district in the state and serving well over 30,000 members.

SB0758 aims to clarify consent standards and strengthen protections against sexual crimes in Maryland. This legislation narrows the definition of consent to exclude the basis of a previous sexual relationship or manner of dress. It also allows consent to be withdrawn and may not be interpreted as given if the victim is frozen from fear.

Current Maryland law requires proof that the survivor tried to stop the rape. This contradicts what we teach students, that consent means the unambiguous and voluntary agreement between adults. Yet, our criminal law requires more – effectively creating a duty to affirmatively *refuse* sex. Maryland’s current law fails to protect victims who freeze when faced with an assault.

Rape can cause physical and emotional harm to the victim and may have long-term effects on their health and well-being. Rape can happen to anyone, regardless of gender, age, or sexual orientation and is underreported, especially by minorities. The U.S. Department of Justice estimates that for every white woman that reports her rape, at least five white women do not report theirs; and yet, for every African American woman that reports her rape, at least fifteen African American women do not report theirs.

Strengthening protections against sexual crimes and narrowing the definition of consent improves the chances for prosecution and may cause more victims to report this violent crime. This will help with treatment and long-term solutions to this repugnant crime.

We support this bill and recommend a **FAVORABLE** report in committee.

sb0758 cdr testimony in support001.pdf

Uploaded by: Christine Rickard

Position: FAV



STATE'S ATTORNEY FOR QUEEN ANNE'S COUNTY

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February 23, 2024

The Honorable William C. Smith
Chairman, Senate Judicial Proceedings
11 Bladen Street
Annapolis, MD 21401

Dear Chairman Smith:

Please accept this written testimony to respectfully request a favorable report on **SB0758**, Criminal Law—Sexual Crimes—Definition of Consent and Repeal of Force. I am a Deputy State's Attorney for Queen Anne's County, a leadership member of the Queen Anne's County CARE (Child Abuse Recognition and Evaluation) Team, and a member of the Queen Anne's County SART (Sexual Assault Response Team). In these roles, I assist in the supervision and prosecution of sexual crimes against children and adults. Additionally, I participate as a member of the Maryland State's Attorney's Association's Legislative Committee and Special Victims Subcommittee.

In my role as a prosecutor in a largely rural and close-knit community for over 16 years, I have had too many conversations with victims of sexual assault. Unfortunately, in a lot of these conversations, I have had to tell victims who have been sexually violated that the crimes that have been committed against them, because there was no force, are not rape, even though they said no or did not consent to the conduct.

My most recent case involved a 17-year-old female who was being sexually abused through both oral and anal penetration by her father. The construct of her household was one in which her father was the supreme authority. The children, especially the female children, did not disobey. My victim did not disobey. On August afternoon in 2022, this victim was instructed by her father to perform oral sex on him. She did. Her other choices would have been to say no, resist, run away. But that is not how she was raised. She also knew that there would be consequences for disobedience. She was fearful of being physically disciplined. She was fearful of not being able to attend school. She was fearful he would do it to her other sisters. So, she did it. She gave him oral sex. Ultimately, this victim's father was charged. He was tried by a jury. They hung. There was a retrial. She was cross-examined to the point of victim shaming: Why didn't you resist? Why didn't you run? Ultimately, this man was convicted of sexual abuse of a minor. However, he was acquitted of rape because there was no force. That is not fair.

The rape statute, as currently constructed, requires the element of force. It is as if this statute puts the onus on a victim to resist a sexual assault in order for force to occur. Again, that is not fair. Taking someone sexually... penetrating them without their consent is already too much of a violation. Asking for the

additional element of force is not fair. The statute equates vaginal, anal, and oral penetration without consent to fondling. And it is not... it is so much more. It should be rape.

I am mom. I talk to my daughter about her rights all the time because it is so important for her to know that no one can touch her without her consent. Our children are being educated in school about consent. We are doing this because we believe that our children should have the ownership of their own bodies. And no one should be touching them without their consent.

No is more than enough. A victim should not be expected to give more. For these reasons, I respectfully request a positive report on **SB0758**.

Thank you for your time and consideration.

Very truly yours,

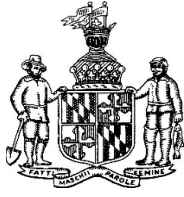
Christine Dulla Rickard

Christine Dulla Rickard

Feinstein Letter of Support SB758 Consent and Repe

Uploaded by: Debbie Feinstein

Position: FAV



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DEPUTY STATE'S ATTORNEYS
PETER A. FEENEY
RYAN S. WECHSLER

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.¹

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.²

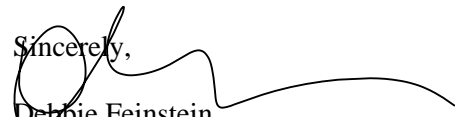
Sexual assault prevention programs aim to create a culture of consent. Through Choose Respect, we teach teenagers about healthy, consensual relationships. We explain that consent means giving permission for all sexual contact that happens. Consent is freely given, of a person's own free will, and absent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

¹ For more information, go to www.montgomerycountymd.gov/fjc/chooserespect/ (last visited February 8, 2024).

² See www.rainn.org/statistics (last visited February 8, 2024).

2024_0227_SB0758_EzraTowne_Favorable.pdf

Uploaded by: Ezra Towne

Position: FAV

Ezra Towne

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Favorable Testimony on Bill SB0758: Criminal Law - Sexual Crimes - Definition of Consent and Repeal of Force

February 25, 2024

Chair Senator William C. Smith, Jr., Vice-Chair Jeff Walstreicher, and esteemed members of the Judicial Proceedings committee,

I write to you today as a transmasculine nonbinary adult invested in the well-being of transgender and nonbinary survivors of sexual harassment and assault. I am also a facilitator of a trans-led peer support group in Montgomery County. **My testimony on this bill is favorable, and I urge you to move this bill promptly through committee with a favorable vote.**

SB0758 would rewrite outdated portions of criminal law in the state of Maryland pertaining to sexual assault and harassment by expanding the different ways in which an individual can indicate that they do not consent to sexual advances or assault.

I'm proud to be a resident of the state of Maryland for 20 years, but I am terribly embarrassed that my state does not have an adequate definition of a lack of consent when someone experiences sexual assault or harassment. I am also horrified to learn that Maryland's criminal law exempted a rapist from persecution because of an already existing sexual relationship.

I learned in high school in the 1990s that there was indeed a legal gray area in what is defined as rape, sexual assault, and harassment in criminal law. However, even a teenager like myself knew that consent does not and should not require verbal actions, like the words "no" or "stop." Body movements and language are more than enough to indicate that someone is not consenting to the behavior of an individual exerting power over another human being.

The gender identities of assaulter/harasser and assaultee/harassée are also irrelevant when it comes to these matters. As a facilitator of peer-led support group for trans and nonbinary people in Montgomery County, I can speak from the experience of listening to support group attendees that harassment, assault and rape are just as, if not more, likely to happen to trans and nonbinary people.

I informed the body of folks who attend the support group about this bill with great discomfiture that our state has been failing to protect them via codified law, and asked them to contact their Senators and Delegates to share their unconditional support for this long overdue piece of legislation. I also informed some friends and neighbors and asked them to do the same. Each and every person I spoke to was horrified to learn that Maryland had not yet updated their legal code

Ezra Towne

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concerning sexual assault and harassment. Each and every one of them told me that they would take action in some way, and I firmly believe that you will hear from some of them.

How can, and why is, Maryland's legal understanding of consent and lack thereof still so backwards and behind the times? Maryland law is usually a step or three ahead of the rest of the United States.

I urge a quick, favorable report on SB0758 - Criminal Law - Sexual Crimes - Definition of Consent and Repeal of Force from the Judicial Proceedings committee so that this bill makes it to the Senate Floor for a vote as soon as possible.

Sincerely,



Ezra Towne
District 18

Testimony Supporting Senate Bill 758.pdf

Uploaded by: Holly Murphy

Position: FAV

Testimony Supporting Senate Bill 758

Holly Murphy

February 23, 2024

My name is Holly Murphy. I am a second-year student majoring in Women's Studies at Community College of Baltimore County. I completed an internship with the Maryland Coalition Against Sexual Assault (MCASA) from October 5th, 2023, to December 5th, 2023. MCASA is a federally recognized state organization that was initially established by the 13 rape crisis centers in Maryland. Its mission is to prevent sexual assault and advocate for accessible, compassionate care for survivors of sexual assault.

Senate Bill 758 aims to reform Maryland's rape law by emphasizing the presence of clear and voluntary agreement between individuals involved. The proposed definition of consent encompasses the following key points:

- Clear and voluntary agreement.
- Recognition of the right to withdraw consent at any point.
- Communication of consent through verbal expression or actions.
- Exclusion of factors such as clothing worn by an individual, prior relationship between parties, or consent obtained through fear, threat, or coercion as valid forms of consent.
- Not mandating documentation as a requirement for establishing consent.

This bill seeks to provide a more comprehensive and victim-centered approach to addressing issues of sexual consent within the legal framework of Maryland.

As a survivor of rape and an advocate, I was deeply disturbed to discover that Maryland's current law requires more than just the absence of consent to establish rape. The lack of a clear definition of consent in Maryland creates significant ambiguity and allows for too much discretion when attempting to hold offenders accountable. Furthermore, it re-traumatizes victims by forcing them to prove that their consent was not already given and should not be assumed as an automatic agreement. This ambiguity undermines the pursuit of justice for survivors and perpetuates a system that fails to adequately protect and support victims of sexual assault.

I strongly urge the Judiciary Committee to report favorably on Senate Bill 758.

Support Testimony for SB0758.pdf

Uploaded by: Ivan Bates

Position: FAV



OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY

February 27, 2024

The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee
Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

RE: Support of SB0758 – Sexual Crimes – Definition of Consent and Repeal of Force

Dear Chairman Smith and Committee Members,

I am writing to express my strong support of **SB0758 Sexual Crimes – Definition of Consent and Repeal of Force**. As Baltimore City State's Attorney and an advocate for justice and equality I believe that this bill is a crucial step towards ensuring the protection and rights of individuals in our community, which aims to redefine consent and amend certain provisions related to sexual crimes in Maryland.

SB0758 proposes essential changes to the definition of consent and the considerations for determining the absence of consent in cases of sexual crimes. By explicitly defining consent as a clear and voluntary agreement, the bill establishes a necessary standard for sexual interactions. Moreover, the inclusion of various factors to consider when assessing consent, such as the absence of consent in cases of fear, threat, or coercion, underscores the importance of respecting individual autonomy and agency.

One of the most significant amendments proposed by this bill is the removal of the requirement for force or threat of force in cases of sexual crimes. Instead, the focus is rightly placed on the presence or absence of consent, regardless of the use of physical force. This shift in perspective acknowledges that consent cannot be coerced and reinforces the principle that sexual activity must be based on mutual agreement and respect.

Furthermore, SB0758 addresses the issue of sexual violence against vulnerable populations by expanding protections for individuals who are substantially cognitively impaired, mentally incapacitated, or physically helpless. By recognizing the vulnerability of these individuals and prohibiting sexual acts without their consent, the bill strengthens safeguards against exploitation and abuse.



OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY

In addition to these substantive changes, SB0758 clarifies that a previous or existing relationship does not imply consent and emphasizes that consent may be withdrawn at any time. These provisions are essential for dispelling harmful misconceptions about consent and ensuring that individuals have the right to control their own bodies and sexual experiences.

The urgency of enacting SB0758 is underscored by the data provided by the Maryland State Commission on Criminal Sentencing Policy. According to their report for fiscal 2023, 76 individuals were sentenced to 111 total counts of second-degree rape in violation of § 3-304 (all provisions). These statistics highlight the prevalence of sexual violence in our state and the pressing need for legislative measures to address this issue effectively.

Overall, SB0758 represents a significant advancement in the fight against sexual violence and the promotion of consent culture in our state. By enacting this legislation, Maryland will send a clear message that sexual consent is non-negotiable and that perpetrators of sexual crimes will be held accountable for their actions.

I urge you to support SB0758 and work towards its swift passage into law. Together, we can create a safer and more just society for all Marylanders.

Sincerely,

Ivan J. Bates

Ivan J. Bates
State's Attorney for Baltimore City

02.20.2024.pdf

Uploaded by: Jennifer Johnson

Position: FAV

Good afternoon Chairmen and Members of the Committee. My name is Jennifer Johnson and I am speaking on behalf of my daughter Rylee who at the age of eighteen was a victim of sexual assault by her pediatrician.

Rylee was a patient of the pediatrician since she was one week old and sought his mentorship in her pursuit to become a Physician Assistant. When Rylee developed anxiety she sought his advice and treatment as she felt comfortable and trusted him.

On April 26, 2019 Rylee was scheduled for a quick prescription check however I was unable to attend with her.

Unfortunately, the appointment lasted over an hour and unbeknownst to Rylee all the staff were sent home for the day leaving Rylee and the doctor alone in the office. The appointment started routinely with vital checks and questions about how the prescription was making her feel and then the doctor told Rylee to lay down on the examination table. Rylee was uncomfortable and did not expect this and she started to experience an anxiety attack. The doctor put his ungloved hands in her pants and touched her lower abdomen and then lower to her vagina where he stood over her and digitally penetrated her. The assault lasted 2-5 minutes during which time Rylee was hysterically crying, choking and hyperventilating. He only stopped assaulting her because Rylee told him she couldn't breathe.

Rylee never at any point gave the pediatrician consent nor did she deserve to be sexually assaulted.

During the trial the judge found Rylee extremely credible but could only find the pediatrician guilty on 2nd Degree Assault and 4th Degree Sex Offense. The judge found the doctor not guilty of 2nd Degree Rape because under Maryland law in order to find guilt there needed to be proof of actual force.

I am here because Rylee is no longer mentally able to discuss the trauma she experienced. As she now has fear of going to doctor's offices and of doctors, Rylee is no longer pursuing a career in the medical field and struggles with panic and anxiety attacks on a daily basis.

Please remove the force aspect and codified consent and please vote favorably for SB758 to pass to give my daughter and other rape victims hope for justice in the future.

Thank you.

SB758_ProChoiceMD_FAV.pdf

Uploaded by: Jennifer Mercer

Position: FAV

Pro-Choice Maryland Action

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TESTIMONY IN SUPPORT OF SENATE BILL 758: Criminal Law - Sexual Crimes - Definition of Consent and Repeal of Force

TO: Chair William Smith and Members of the Senate Judicial Proceedings Committee

FROM: Pro-Choice Maryland Action

DATE: February 27, 2024

Pro-Choice Maryland Action 501(c)(4) is an independent, nonprofit organization that develops and advocates for policies that protect reproductive freedom and that advance reproductive justice, including support and services for those who have children. Pro-Choice Maryland Action **strongly supports Senate Bill 758 as an urgently-needed revision to Maryland’s criminal statutes regarding rape and sexual assault.**

Pro-Choice Maryland Action emphatically believes in the sovereignty of each individual over their own body. To that end, consent to sexual activity must be given freely and voluntarily. Acquiescence to sexual activity due to threats, pressure, or coercion is not consent. Consent is given affirmatively and cannot be assumed based on relationship status, attire, or prior consent to other sexual activity. Consent may also be withdrawn, as no one is obligated to participate in or to continue sexual activity.

Unfortunately, current Maryland law does not provide for a definition of “consent” to sexual activity for the purposes of sexual offenses under Title 3 of the Criminal Law Article. The current definition of second-degree rape as codified at Criminal Law Article § 3-304 requires force or threat of force in addition to an undefined lack of consent. This definition means that even if someone does not consent to sex, there is no crime of rape unless force or threat thereof is used in the perpetration of the act. To make matters worse, second-degree rape is the only rape charge available to prosecutors absent certain aggravating yet less-common factors such as the use of a weapon. As a consequence of this archaic law, survivors are told by the State that sex without consent is not “really” rape on its own. This is inexcusable and must be rectified immediately.

Survivors know of the trauma the legal process can inflict given these circumstances. The current law creates a void which a judge or jury can easily fill with outdated and misogynistic ideas regarding consent – such as using clothing or prior consent as a way to blame survivors and allow perpetrators to walk freely. Because of this, many survivors decide, quite reasonably, that they would rather not report their rape or sexual assault. This void in our law therefore not only

Pro-Choice Maryland Action

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causes untold harm to survivors, but also greatly benefits perpetrators of rape and sexual assault. Not only do they escape accountability, but they also remain free to terrorize others and contribute to undermining the safety of our communities. For survivors seeking justice, their loved ones, and the community at large, this must cease. Senate Bill 758 provides an important step to making Maryland a better and safer place for all.

We affirm the human dignity of every individual when we require consent to sexual activity. Maryland's criminal law regarding rape must recognize this basic principle. For the aforementioned reasons, **we urge a favorable report on Senate Bill 758.**

2024-02-27 SB 758 (Support).pdf

Uploaded by: Jer Welter

Position: FAV

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February 27, 2024

TO: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

FROM: Jer Welter, Assistant Attorney General
Division Chief, Criminal Appeals Division, Office of the Attorney General

RE: SB 758 – Criminal Law – Sexual Crimes – Definition of Consent and
Repeal of Force – **SUPPORT**

The Office of the Attorney General supports Senate Bill 758 and urges a favorable report. Senator Kelly's bill would prescribe pertinent considerations for how "consent" to sexual activity is determined, and would repeal the requirement of "force or threat of force" for second-degree rape, such that second-degree rape would include having vaginal intercourse or committing a "sexual act" (i.e., oral sex, anal sex, or penetration with a body part or object) with a person without the person's consent. (Force or threat of force would remain an element of first-degree rape.)

Senate Bill 758 would eliminate a longstanding gap in Maryland sexual offense law where currently, there is no criminal offense that simply consists of subjecting a person to sex without that person's consent. Rape in any degree additionally requires either the use or threat of force, or a scenario where consent is legally impossible, *i.e.* statutory rape/incapacitation. Fourth-degree sex offense includes "sexual contact" without consent, but "sexual contact" is defined under the statute as intentional touching of intimate areas of the body, not vaginal

intercourse or other penetrative sex acts. *Travis v. State*, 218 Md. App. 410, 464–65 (2014). Marylanders understand that subjecting someone to sex without their consent is rape, and our State’s criminal law should reflect that understanding.

The bill’s prescribed considerations for how “consent” is determined are consistent with existing state law. *See, e.g., State v. Baby*, 400 Md. 220 (2008) (holding that rape includes the continuation of sex after consent has been withdrawn).

For these reasons, the Office of the Attorney General urges a favorable report on Senate Bill 758.

cc: Committee Members

HPP SB 758 Testimony- FAV.pdf

Uploaded by: Jessica Emerson

Position: FAV

Testimony of the Human Trafficking Prevention Project

BILL NO: Senate Bill 758
TITLE: Criminal Law – Sexual Crimes – Definition of Consent and Repeal of Force
COMMITTEE: Judicial Proceedings
HEARING DATE: February 27, 2024
POSITION: FAVORABLE

Senate Bill 758 would define consent or lack of consent for certain sexual crimes and sexual acts. [The Human Trafficking Prevention Project](#) supports this bill because would eliminate a longstanding gap in Maryland sexual offense law where currently, there is no criminal offense that simply consists of subjecting a person to sex without the person’s consent.

Under current Maryland law, a person may only be convicted of second-degree rape if the prosecution can prove that the sexual act was committed “by force, or threat of force.” SB 758 would change Maryland's rape law by repealing language that focuses on whether a victim resisted the sexual act and whether there was force or threat of force by the alleged perpetrator. Instead, the legality of the interaction would turn on whether there is a clear and voluntary agreement between the people involved. Additionally, SB 758 codifies the right to *withdraw* consent before or during the sexual act, as well as communicating or expressing consent through words or conduct. SB 758 also defines what does not constitute consent, including what someone is wearing, acquiescing as a result of fear, threat, or coercion, or having had a current or previous dating, social, or sexual relationship.

SB 758 creates important protections for victims of rape and sexual assault by clarifying that victims may employ a variety of means to express their lack or withdrawal of consent to a sexual act – by saying “no,” through other verbal communication, by moving their body in a certain way, by physically resisting, or by other means. SB 758 provides a framework for determining whether consent to sexual activity has been granted, denied or withdrawn that takes into account both a victim’s words and actions. In addition, it also clarifies that a victim does not consent to rape by virtue of being in a relationship with the assailant, by dressing a certain way, or by submitting as a result of fear or duress.

[The prevalence and impact of sexual assault and rape is wide-ranging and exceptionally alarming](#); in cases of trafficking into both the commercial sex industry and into other forms of labor, [sexual assault is a common tool used by traffickers to maintain control over their victims](#). SB 758 would bring Maryland’s current rape law up to date by removing the antiquated force and threat of force standard, a standard which places the onus on a victim to physically fight off their assailant. For these reasons, the Human Trafficking Prevention Project supports Senate Bill 758 and respectfully urges a favorable report.

The Human Trafficking Prevention Project is dedicated to ending the criminalization of sex workers and survivors of human trafficking through access to civil legal services and support for policies that dismantle harmful systems and increase access to basic human rights and legal relief.

*For more information, please contact:
Jessica Emerson, LMSW, Esq.
Director, Human Trafficking Prevention Project
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MLAW Testimony - SB758 - Criminal Law - Sexual Cri

Uploaded by: Jessica Morgan

Position: FAV



Bill No: SB758
Title: Criminal Law - Sexual Crimes - Definition of Consent and Repeal of Force
Committee: Judicial Proceedings
Hearing: February 27, 2024
Position: SUPPORT

The Maryland Legislative Agenda for Women (MLAW) is a statewide coalition of women’s groups and individuals formed to provide a non-partisan, independent voice for Maryland women and families. MLAW’s purpose is to advocate for legislation affecting women and families. To accomplish this goal, MLAW creates an annual legislative agenda with issues voted on by MLAW members and endorsed by organizations and individuals from all over Maryland. **SB758 - Criminal Law - Sexual Crimes - Definition of Consent and Repeal of Force** is a priority on the [2024 MLAW Agenda](#) and we urge your support.

SB758 would require clear and voluntary agreement and could be by words or conduct (affirmative consent is not proposed). The bill also clarifies that consent may be withdrawn, and that consent may not be constituted by a prior relationship by itself, or by manner of dress. Submission as a result of fear, threat, or coercion would not constitute consent. Documentation of consent explicitly would not be required.

Sex without consent is not enough to prove rape under Maryland’s criminal law. Maryland also requires proof of “force, or the threat of force”. Proof of “force” requires that the survivor tried to stop the rape. Proof of “threat of force” requires that the survivor feared bodily harm so much that she did not try to stop the rape.

Maryland’s rape law deprives many women and others of control over their own bodies. Of all adult women residing in Maryland, 19%, or about 457,000 adult women, have experienced some form of completed or attempted rape in their lifetime. About 44%, or 1,058,000 of Maryland’s women, and more than 23% of Maryland’s men, about 520,800, have experienced other forms of sexual violence. (Bureau of Justice Statistics, Crime Victimization Survey, 1992-2015). Improving Maryland’s rape and sexual assault laws to give victim/survivors control over their own bodies will help all survivors and most survivors are women.

Maryland’s current law also contradicts what we teach students. Maryland enacted legislation to mandate consent education in 2018, including that consent means the unambiguous and voluntary agreement between all participants to engage in each physical act within the course of interpersonal relationships. Our criminal law requires more – effectively creating a duty to affirmatively refuse sex. This is effectively bait and switch – we teach our kids one thing, and the criminal law requires something else.

Finally, Maryland’s current law fails to protect victims who freeze when faced with an assault. While a case can be prosecuted if the assailant takes action that a jury can find is objectively a threat to life or serious bodily harm, if a victim freezes up without that type of threat, the law fails them. Freezing is a physiological response and can be a result of things like child sexual abuse, being a victim of crime, or experiencing war.

For these reasons, MLAW strongly urges the passage of SB758.

Maryland Legislative Agenda for Women
102 W. Pennsylvania Avenue, Suite 100 • Towson, MD 21204 • 443-519-1005 phone/fax
mdlegagenda4women@yahoo.com • www.mdlegagendaforwomen.org

MLAW 2024 Supporting Organizations

The following organizations have signed on in support of our 2024 Legislative Agenda:

1199 SEIU United Healthcare Workers East
AAUW Anne Arundel County
AAUW Garrett Branch
AAUW Kensington-Rockville Branch
AAUW Maryland
Adolescent Single Parent Program (PGCPS)
Anne Arundel County Commission for Women
Anne Arundel County NOW
Baltimore County Commission for Women
Black Women for Positive Change, Baltimore Chapter
Bound for Better, Advocates for Domestic Violence
Bound for Better, advocates for Domestic Violence
Business & Professional Women/Maryland
Center for Infant & Child Loss
Child Justice, Inc.
Church Women United, Inc.
Climate XChange Maryland
Court Watch Montgomery
CTLDomGroup Inc
DABS Consulting, LLC
Engage Mountain Maryland
Frederick County Commission For Women
If/When/How at University of Baltimore School of Law
Lee Law, LLC
Les Etoiles in Haiti
Maryland Coalition Against Sexual Assault
Maryland Legislative Coalition
Maryland Network Against Domestic Violence
Maryland WISE Women
Miller Partnership Consultants
MomsRising
Montgomery County Alumnae Chapter, Delta Sigma Theta Sorority, Inc.
Montgomery County NOW
National Coalition of 100 Black Women, Inc., Anne Arundel County Chapter
National Organization for Women, Maryland Chapter
Rebuild, Overcome, and Rise (ROAR) Center at UMB
REHarrington Plumbing and Heating
Reproductive Justice Maryland
Stella's Girls Inc
The Federation of Jewish Women's Organizations of Maryland
The Hackerman Foundation
The Relentless Feminist
The Salvation Army Catherine's Cottage
Top Ladies of Distinction, Inc., Patuxent River
Top Ladies of Distinction, Prince George's County
TurnAround Inc.
University System of Maryland Women's Forum
Women of Action Maryland
Women's Equity Center and Action Network (WE CAN)
Women's Law Center of Maryland
Zeta Phi Beta Sorority, Incorporate - Alpha Zeta Chapter
Zonta Club of Annapolis

Maryland Legislative Agenda for Women

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Consent - testimony - senate - 2024 - SB758 FAV.pd

Uploaded by: Lisae C Jordan

Position: FAV



Working to end sexual violence in Maryland

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Phone: 301-565-2277

For more information contact:
Lisae C. Jordan, Esquire
443-995-5544

Testimony Supporting Senate Bill 758
Lisae C. Jordan, Executive Director & Counsel
February 13, 2024

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 758.

Senate Bill 758 – Consent – Voluntary Agreement

This bill changes Maryland’s sex crimes law by defining “consent” to include clear and voluntary agreement, permitting consent by words or conduct, and clarifying that consent may be withdrawn. SB758 also provides that consent may not be constituted by a prior relationship by itself, or by manner of dress. Submission as a result of fear, threat, or coercion would not constitute consent.

Rape Law in Maryland – Lack of Agreement to have Sex is Not Rape
Maryland Rape Law Imposes a Duty to Refuse

When one person has sex with someone without consent Maryland’s second degree **rape law**, Criminal Law §3-304(a)(1) requires proof of:

Lack of consent and
Force or Threat of Force

Force = Focus on Victim, not Perpetrator

It is not enough to prove lack of agreement to have sex, Maryland’s law requires more. “Force or Threat of Force” is proven by focusing on the survivor/victim and whether they resist. While physical resistance is no longer required (Criminal Law §3-319.1), rape is only proven when in addition to lack of consent, the state can prove the victim resisted or was too scared to resist. (Note that rape prosecutions based on capacity, such as intoxication, are in other parts of the law and neither consent nor force are elements.)

Force and Threat of Force

Some degree of force is inherent in physical sexual activity. However, Maryland takes the approach that in a case involving actual, non-constructive force, the minimum of physical force that would be necessary to satisfy the “force” element is “the application of force beyond that which is part of the sexual act itself.” *State v. Mayers*, 417 Md. 449, 476 (2010); *see also Martin v. State*, 113 Md. App. 190, 241 (1996) (stating that the “force” element “means more than the mere physical exertion required to engage in a sexual act ‘against the will and without the consent of the other person’”).

While force may be by threat without actual violence, it is still more than a failure to have agreement. Case law explains: constructive force, [are] “acts and threats of the defendant” that reasonably create in the mind of the victim “a real apprehension, due to fear, of imminent bodily harm[.]” *Brown v. State*, 252 Md. App. 197, 213 (2021) (quoting *Hazel v. State*, 221 Md. 464, 469 (1960)).

Maryland law fails to protect victims who freeze.

Human beings have [involuntary physical responses to traumatic situations, like rape](#). Many people have heard of the fight or flight response, but the body actually has three modes of trauma response: fight, flight, or **freeze**. The freeze response, known as tonic or collapsed immobility, is a survival reflex that is a common response by rape survivors and counselors and advocates often hear stories about wanting to scream but being unable to speak, or wanting to fight back, but being unable to move. People who have experienced past trauma, such as gun violence, child sexual abuse, other crimes against their person, or combat, often have heightened trauma responses and their fight/flight/freeze response is more easily triggered. Wilson, C., Lonsway, K.A., Archambault, J. (2020). Understanding the Neurobiology of Trauma and Implications for Interviewing Victims. End Violence Against Women International. While prosecution can proceed if an assailant made a threat of bodily harm or death, if the survivor had a freeze response and did not refuse or otherwise resist, **the law does not protect the rape victim.**

Senate Bill 758 changes the law away from force and to a focus on whether there is clear and voluntary agreement. This bill strikes “force or threat of force” from the second degree rape statute, leaving “without the consent of the other” and provides a definition of “consent”.

The **definition of CONSENT** proposed by SB758 includes:

- Clear and voluntary agreement;
- The right to withdraw consent;
- Communication through words or conduct (NOT affirmative consent) and based on the totality of the circumstances;
- Consent is not:
 - what someone is wearing,
 - a prior relationship, or

- as a result of fear, threat, or coercion;
- documentation is not required.

Senate Bill 758 does not create an affirmative consent standard. Under SB758 consent can be “INFERRED FROM WORDS OR CONDUCT AND IS BASED ON THE TOTALITY OF THE CIRCUMSTANCES” (page 2, lines 8-10). There is no mandate in SB758 to ask permission and obtain a response throughout a sexual interaction. Agreement could be given without uttering a word.

Current law does not reflect what we teach students about consent.

Maryland requires age-appropriate instruction on the meaning of “consent” and respect for personal boundaries as part of the Family Life and Human Sexuality curriculum in every grade in which the curriculum is taught in public schools in the county. “Consent” is defined in Maryland’s education law as: “the unambiguous and voluntary agreement between all participants in each physical act within the course of interpersonal relationships, including respect for personal boundaries.” Education Article §7-445.

Students feel misled when they learn that criminal law does not view lack of agreement as rape. Standards used in college student judicial conduct proceedings do not require force, they focus on whether there was agreement. A 2016 survey of institutions of higher education found 16 with affirmative consent policies (including the University of Maryland system), 32 using “knowing”, “voluntary” or both, 13 including “mutually understandable”, and even one requiring “intelligent” as part of consent.

Other states. Comparisons between state sex crimes laws are imperfect because of the variety of approaches that states use. However, at least nine states and the District of Columbia have reformed their definitions of consent to focus on agreement. These are attached as Appendix I.

Senate Bill 758 changes Maryland law to prohibit having sex with another person without their consent. This is recognition of fundamental control and autonomy a person should have over their own body and it should be the law.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to
report favorably on Senate Bill 758**

Appendix I.
Examples of Consent Definitions from other states.

California. “Consent” is defined to mean positive cooperation in act or attitude pursuant to the exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. California Penal Code § 261.6.

Colorado. “Consent” means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act. A current or previous relationship is not sufficient to constitute consent. Submission under the influence of fear does not constitute consent. Colorado Revised Statutes Annotated § 18-3-401(1.5).

District of Columbia. “Consent” means words or overt actions indicating a freely given agreement to the sexual act or contact in question. Lack of verbal or physical resistance or submission by the victim, resulting from the use of force, threats, or coercion by the defendant shall not constitute consent. D.C. Code § 22-3001(4).

Illinois. “Consent” means a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent. 720 ILCS 5/11-0.1. A person who initially consents to sexual penetration or sexual conduct is not deemed to have consented to any sexual penetration or sexual conduct that occurs after he or she withdraws consent during the course of that sexual penetration or sexual conduct. 720 ILCS 5/11-1.70.

Minnesota. "Consent" means words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act. Further:

- A person who is mentally incapacitated or physically helpless as defined by this section cannot consent to a sexual act.
- Corroboration of the victim’s testimony is not required to show lack of consent.

Minn. Stat. § 609.341(4).

Montana. The term “consent” means words or overt actions indicating a freely given arrangement to have sexual intercourse or sexual contact and is further defined, but not limited by the following:

- An expression of lack of consent through words or conduct means there is no consent or that consent has been withdrawn;
- A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent; and

- Lack of consent may be inferred based on all of the surrounding circumstances and must be considered in determining whether a person gave consent.

Mont. Code Ann. § 45-5-501(1).

Oklahoma. The term “consent” means the affirmative, unambiguous and voluntary agreement to engage in a specific sexual activity during a sexual encounter which can be revoked at any time.

Consent cannot be given by an individual who:

- is asleep or is mentally or physically incapacitated either through the effect of drugs or alcohol or for any other reason, or
- is under duress, threat, coercion or force

Consent cannot be inferred under circumstances in which consent is not clear including, but not limited to:

- the absence of an individual saying “no” or “stop”, or
- the existence of a prior or current relationship or sexual activity.

Okla. Stat. tit. 21, § 113

Vermont. “Consent” means the affirmative, unambiguous, and voluntary agreement to engage in a sexual act, which can be revoked at any time. 13 Vermont Stat. Ann. §3251(3).

Washington. Consent requires that there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact at the time of the act. Wash. Rev. Code Ann. § 9A.44.010(7).

Washington. “Consent” means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact. Wash. Rev. Code Ann. § 9A.44.010(2).

Wisconsin. “Consent” means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. Wis. Stat. Ann. § 940.225(4).

SB0758_FAV_mgoldstein 2024.pdf

Uploaded by: Mathew Goldstein

Position: FAV



Secular Maryland

<https://secularmaryland.dorik.io> secularmaryland@tutanota.com

February 27, 2024

SB 758 - FAV

Criminal Law - Sexual Crimes - Definition of Consent and Repeal of Force

Dear Chair Smith, Vice-Chair Waldstreicher, and Members of the Judicial Proceeding Committee,

This bill applies a standard secular definition of consent to sexual crime. There is a need to clarify and standardize the law and provide judges, lawyers, plaintiffs, and defendants clear definitions. Secular Maryland favors enacting this bill.

Mathew Goldstein
3838 Early Glow Ln
Bowie, MD

SB 758_MNADV_FAV.pdf

Uploaded by: Melanie Shapiro

Position: FAV



BILL NO: Senate Bill 758
TITLE: Criminal Law - Sexual Crimes - Definition of Consent and Repeal of Force
COMMITTEE: Judicial Proceedings
HEARING DATE: February 27, 2024
POSITION: **SUPPORT**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue a favorable report on SB 758.**

Senate Bill 758 improves Maryland law by defining consent and repealing language that focuses on whether a victim resisted the sexual act and whether there was force or threat of force by the alleged perpetrator. The definition of consent in SB 758 changes the focus to whether there is a clear and voluntary agreement between the people involved. Consent, as defined in SB 758, includes a clear and voluntary agreement, the right to withdraw consent, and communication through words or conduct and based on the totality of the circumstances. The definition also includes what is not consent including what someone is wearing, a prior relationship, or as a result of fear, threat, or coercion. No documentation is required for consent.

The prevalence and devastating impact of sexual assault and rape is alarming. Instead of determining whether there was consent based on whether a victim resisted, SB 758, by removing force or threat of force, changes the focus to whether there is a clear and voluntary agreement between the people involved. SB 758 provides clear language on what consent is and how it can be communicated through words or conduct, and that consent can be withdrawn at any time.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report on SB 758.**

Danica C. Consent Bill Testimony.docx.pdf

Uploaded by: Minseo Choi

Position: FAV

Testimony Supporting House Bill SB758
[Danica Choi - SGA Sexual Misconduct Prevention Committee]
February 27th, 2024

Danica Choi

I am a senior at the University of Maryland, College Park and I am also the Director of Sexual Misconduct Prevention in our Student Government Association. Our committee is open to all students at UMD and strives to tackle the pervasive issue of sexual misconduct on college campuses. The Sexual Misconduct Prevention committee works with organizations on and off campus to push for a better culture and environment in Maryland. For example, SMP recently hosted its annual Reclaim the Red Event to bring awareness to the Red Zone, the time from the first day of classes in the fall to winter break where there is a spike of sexual misconduct cases. We hope to bring awareness to resources for students, promote consent and health relationships, and tackle rape culture.

Senate Bill 0758 would change Maryland's rape law to focus on whether there is **clear and voluntary agreement** between the people involved.

The definition of consent proposed includes:

- Clear and voluntary agreement
- The right to withdraw consent
- Communication through words or conduct
- Consent is not:
 - what someone is wearing,
 - a prior relationship, or
 - as a result of fear, threat, or coercion
- Documentation is not required

I was shocked to learn that Maryland law requires more than a lack of consent to prove rape. Through my extensive experience working with issues related to sexual misconduct as well as being a Peer Advocate for students experiencing sexual misconduct, I know that force or threat of force is not required to experience rape. I believe this difference must be rectified to provide survivors ample support through the legal process. This law differs drastically from what I have learned in school and what I share with my fellow students. Consent should be required for any sexual penetration or sexual act. Without it, regardless of force or threat of force, it is rape. This bill is essential to our campus as a whole. The way consent is currently defined, invalidates the experiences of many college students and restricts access to help. Our committee strives to promote a comprehensive definition of consent that validates the experiences of students. However, when the current Maryland definition of consent does not match with what is being taught and promoted, it leaves a barrier of access for students to pursue any legal help. This bill would mean a definition of consent that encompasses the experiences of many students. This bill would mean our campus community can continue to strive for better response for sexual misconduct on campus.

I urge the Judicial Proceedings Committee to report favorably on Senate Bill 0758 and ensure that survivors are provided ample support through our system.

MD SB0758 Letter.docx.pdf

Uploaded by: Mollie Montague

Position: FAV



9 February, 2024

The Honorable William C. Smith Jr.
Chair
Committee on Judicial Proceedings
Maryland General Assembly
2 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

The Honorable Jeff Waldstreicher
Vice-Chair
Committee on Judicial Proceedings
Maryland General Assembly
2 East Miller Senate Office Building
11 Bladen Street
Annapolis MD, 21401

Dear Chair Smith and Vice-Chair Waldstreicher:

We are writing to you today regarding S.B. 0758, which removes the requirement of use of force as an element of second degree rape and expands the definition of consent. This provides expanded protections against sexual violence and removes limits to justice for survivors. We ask for your support in favor of this legislation.

As you may be aware, RAINN is the nation's largest anti-sexual assault organization. Founded in 1994, RAINN created and operates the National Sexual Assault Hotline (800.656.HOPE and hotline.rainn.org). Every 68 seconds, someone in the United States is sexually assaulted¹, and authorities find evidence that a child in America has been the victim of sexual abuse every nine minutes.² 75% of sexual assaults are not reported to the police,³ and 975 perpetrators will walk free out of every 1,000 sexual assaults.⁴ RAINN works tirelessly to develop state and federal policies to ensure that survivors have access to justice and healing in the aftermath of violence.

¹ Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, National Crime Victimization Survey, 2019 (2020). Note: RAINN applies a 5-year rolling average to adjust for changes in the year-to-year NCVS survey data.

² United States Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. Child Maltreatment Survey, 2016 (2018).

³ Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, National Crime Victimization Survey, 2018.

⁴ Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, National Crime Victimization Survey, 2015-2019 (2020).



Leading the National Effort to End Sexual Violence

In Maryland, there were 1,891 reported rapes in 2020.⁵ Further, an estimated 420,000 women in Maryland have experienced sexual violence in their lifetime.⁶ The limited definition of consent obscures the true numbers as many crimes go unprosecuted under current language. Further, a requirement of force in the definition of second degree rape ignores the unique experiences of survivors. Rape does not always entail the use of force and by using this in the definition the trauma of individuals is dismissed. This also limits the ability of courts to adjudicate crimes of rape and sexual violence.

S.B. 5708 provides an expanded definition of consent that would benefit survivors of rape and sexual violence. It also takes away the requirement of force in regard to second degree rape, allowing for relevant prosecution for crimes and preventing the proliferation of sexual violence by more effectively criminalizing perpetrators.

As such, we urge you to support this bill and pass it out of committee. Thank you for your continued leadership and for supporting victims of sexual violence in Maryland.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Berkowitz".

Scott Berkowitz
President

⁵ Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS). (n.d.). *Crime dashboard (2020)*

⁶ Center for Disease Control and Prevention, National Intimate Partner and Sexual Violence Survey: 2010-2012 State Report, 2017

Written Testimony - HB758.pdf

Uploaded by: Natalia Isabal

Position: FAV

Testimony Supporting House Bill 758
Natalia Isabal - CARE To Stop Violence
3983 Campus Dr, College Park, MD 20742
February 27, 2024

My name is Natalia Isabal and I am currently a junior studying criminology and criminal justice at the University of Maryland. I am a part of CARE to Stop Violence, an on campus entity designed to help survivors of intimate partner violence, where I serve as a Peer Advocate under the supervision of a licensed therapist.

More often than not, peer advocates have been the first to console survivors of rape. Through weekly advocacy appointments, we connect with clients to provide resources for reporting options, how to obtain a protective order, manage emotional responses, and even get medical care if needed.

This bill defining consent can help our clients seeking justice for the heinous crimes committed against them. Sex without consent is defined as rape - and should be written into law as such. With this phrasing, I can confirm that our tireless pursuit of justice can be achieved and the protections in place for our clients will become even more thorough.

When a legal definition focuses on the victim and whether they resist, the blame is placed upon them. House Bill 758 changes the focus to whether there is clear and voluntary agreement between the people involved. It clarifies that coercion is not consent, and neither is anything but a clear and voluntary agreement. CARE at the University of Maryland strongly urges the Judiciary Committee to report favorably (FAV) on House Bill 758. Thank you.

S Godinez (FAV) of SB758 .pdf

Uploaded by: Samantha Godinez

Position: FAV

Written Testimony in Favor (FAV) of SB 758

Samantha Godinez

February 26, 2024

I am a Bystander Intervention Trainer (BIT) at Johns Hopkins University. Although I do not represent the university or the BIT program's views on this bill, being a part of this program has shaped so much of what I understand about consent. At BIT, instead of saying "no means no" we emphasize the saying, "yes means yes." If someone is mature enough to have sex, they are also mature enough to obtain consent, or in other words, a "yes."

But "yes means yes" is not just a slogan; it's a fundamental concept that fosters mutual respect and understanding. I like to think that this bill codifies "yes means yes." It tells everyone participating in sexual encounters that consent is non-negotiable. Consent must be **actively** sought out by both parties in **every** sexual encounter. By emphasizing clear and voluntary agreement in sexual encounters, **regardless of gender**, we create a safer environment for all individuals to navigate intimate relationships. It acknowledges the inherent dignity and autonomy of every person, affirming their right to freely express their desires and boundaries.

Moreover, by explicitly stating that consent cannot be inferred from clothing, prior relationships, or coercion, the bill sends a powerful message that consent is something that cannot be accidentally given. Consent is purposeful and affirmative, not allusive and implied. Without this bill, non-consensual sex—otherwise known as rape—is legally permissible. **I urge my representatives to report favorably on Senate Bill 758.**

SB758 Senator Kelly FAV Testimony.pdf

Uploaded by: Senator Ariana Kelly

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 27th, 2024

Testimony in Support of SB758

Criminal Law - Sexual Crimes - Definition of Consent and Repeal of Force

Dear Chair Smith, Vice Chair Waldstreicher, Members of the Committee,

I am before you today to bring Senate Bill 758 to the committee for consideration.

Thank you Chair Smith for being the lead cosponsor on this bill and thank you to the 7 other members of this committee for joining us.

This bill stands for the very basic principle that no one should have sex with you without your agreement. Currently, this principle is not held up in Maryland law. The use of the word “Force” in current statute essentially creates a duty to refuse, and until someone refuses, “force” is not proven and there can not be a prosecution for rape.

There are at least 3 problems with this. First, human beings should be able to control who has sex with them and the law should focus on what the assailant did, not on whether the victim resisted.

Second, our state law requires us to teach students about consent and the criminal law is inconsistent with what we teach our children. In 2018, at the suggestion of my daughter, Maeve, I was proud to help enact a law that requires consent education. “Consent” is defined in Maryland’s education law as: “the unambiguous and voluntary agreement between all participants in each physical act within the course of interpersonal relationships, including respect for personal boundaries” under Education Article §7-445. Students learn this in school and are then betrayed when the criminal law requires more than a lack of consent before rape can be prosecuted.

Finally, the current rape law does not protect victims who freeze. Many of us have heard of the “fight or flight” response. But it’s not just fight or flight – it’s fight, flight or *freeze*. You’ll hear from experts about this physiological response and you’ll hear about cases where a survivor froze and there could not be a prosecution. Let me be crystal clear: if the assailant threatens bodily harm or death, that can be prosecuted. But absent that, force requires refusal.

Let me also be clear: this is not “affirmative consent”. This bill requires consideration of words and actions and – importantly – requires consideration of the totality of the circumstances

Today, you'll hear from experts and you'll hear the stories of survivors.

At the end of this hearing, I believe you will be confident that SB758 should become law.

I urge a favorable report on SB758.

SB758_PSA_FAV.pdf

Uploaded by: Shivani Sidh

Position: FAV

Committee: Judicial Proceedings
Testimony on: SB0758
Position: Favorable

27 February, 2024

Chair Smith, Vice Chair Waldstreicher, and the members of the Judicial Proceedings Committee, thank you for the opportunity to testify before you.

Preventing Sexual Assault (PSA) is a student-created and run organization at the University of Maryland in College Park that advocates for survivors and students. PSA does so by spreading awareness, hosting educational sessions, and implementing action to prevent sexual assault on our campus and beyond.

The Executive Board members of Preventing Sexual Assault at UMD support SB0758 because the focus on defining consent in the state of Maryland is necessary to help survivors of sexual assault get the justice they deserve. By providing a logical and concise definition of consent, the focus in such cases is on whether there was a clear and voluntary agreement between the individuals involved.

At the University of Maryland, the definition of consent is found on a webpage. The institution shares that consent is “a voluntary and affirmatively communicated willingness to participate in a particular sexual activity or behavior.”¹ Given that this information is to be widely promoted, we begin our on-campus education programs by sharing that consent is freely given, informed, and reversible. While UMD has independently defined consent on campus, the state lacks a standardized definition. This difference creates a disparity in understanding and addressing consent-related issues between the university and the broader state.

On average, there are 463,634 victims (age 12 or older) of rape and sexual assault each year in the United States.² Within this unfortunately large population, the demographic breakdown is diverse. This bill reduces the barriers that intersecting identities can create. Certain identities already feel unheard when reporting, but facing the daunting requirement of proof of force often turns a significant portion of the estimated 463,634 survivors away. This bill would be instrumental because it would alleviate the burdensome obligation that survivors currently hold to provide proof. This is especially the case for those often oppressed by how certain identities are adversely and disproportionately impacted by power-based violence. By emphasizing the core issue at hand — supporting survivors and holding perpetrators accountable — the bill ensures that attention remains on what truly matters: providing support, validation,

¹<https://umd.edu/raise-your-voice/get-informed#:~:text=%E2%80%9CConsent%E2%80%9D%20means%20a%20knowing%2C,reasonable%20judgment%20can%20give%20Consent>

² <https://www.rainn.org/statistics/victims-sexual-violence>

and pathways to justice for all survivors. SB0758 serves as a unifying measure, bringing UMD and the state onto the same page regarding the definition of consent. This alignment not only enhances the university's ongoing efforts but also strengthens the statewide approach to preventing sexual assault and supporting survivors.

Given that this bill would result in no longer requiring survivors to provide proof of use of force or threat of force, Preventing Sexual Assault at UMD respectfully urges the Judiciary Committee to report favorably on SB0758.

Thank you,

Brandee Kaplan and Shivani Sidh

Co-Presidents 2023-2024

Kaity Deaner and Shelby O'Brien

Vice Presidents 2023-2024

Preventing Sexual Assault (PSA)

psapresidentumd@gmail.com

Consent 2024 Legislative Session.pdf

Uploaded by: Tondalayo Royster

Position: FAV



Consent

Background

Sex without consent is not enough to prove rape under Maryland's criminal law. Survivors are required to provide proof of force or proof of threat of force in rape cases. The 2015 Data Debrief from the National Intimate Partner and Sexual Violence Survey revealed just about 1 out of every 5 American Women have been a victim of at least one attempted or completed rape in her lifetime. Revising the law to reflect voluntary consent could mean the absence of sexual assault and domestic violence crimes.

Bill Summary

The purpose of the bill is to focus on consent as the starting point to determine if a sexual crime has occurred. It will clearly define what consent entails and what it does not. Consent is voluntary, it's delivered with enthusiasm and all parties are fully informed. More importantly, consent can be withdrawn at any moment and time. This law speaks to honor and respect. It's a call to respect your partner by honoring their wishes. It can be communicated through verbal and non-verbal cues. Consent is not based on relationship status, one's attire or perceived flirty behavior. It's not based on past experiences either.

What We Are Asking of Legislators

Support the bills in the house and senate.

We are asking legislators to seize the opportunity to create a new standard – a culture of consent. A culture where parties involved in sexual activities are properly educated and can freely discuss and enjoy the parameters of their intimacy. This revision in law will be a high alert that consent is non-negotiable. Survivors will know that their consent matters because of the change in law. They will no longer have to prove a traumatic experience because of the absence of clear consent.

Key Messages

- Empower – Know Your Rights. Expect Respect. Healthy People and Relationships.
- Standard –No blurred lines. Eliminate Taboo Topic. Create Safe Spaces. Encourage connection and conversations.
- Action -Consent is non-negotiable. Laws Support Consent. Promotes Safety.
- Clear consent is not a thing of the past; it's a choice that operates in the here and now.

TESTIMONY IN SUPPORT OF BILL SB0758 consent.pdf

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Position: FAV

TESTIMONY IN SUPPORT OF BILL SB0758 - FAVORABLE

Criminal Law - Sexual Crimes - Definition of Consent and Repeal of Force

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Wendy Novak, Carroll County, Maryland

February 26, 2024

I'm the mother of three children. Almost 8 years ago, my oldest became one of the 1 in 6 women that were the victim of an attempted or completed rape in her lifetime. Through my daughter's experience, I learned more than I ever wanted to know about the legal system and sexual assault. Our laws are out of date along with the public's understanding of sexual assault.

My family's world forever changed on May 6, 2016, when we got the call from the emergency room that our child had been assaulted. On the way there, I remember praying that it was something minor, like a slap. When we got to the hospital, I was prepared to be delayed by administrative issues, like HIPAA, or maybe they would be too busy to help us, they wouldn't know where she was. When we were immediately sent back, I knew it must be serious. When they brought us to her, we could only look at her through the glass wall, we couldn't touch her yet. Imagine that your child is covered in dirt, crying and in a hospital gown, obviously the victim of violence, and you can't touch her. When I saw her, I knew what had happened. After what seemed like forever, we were allowed into the room with her. Despite how gentle the detectives were with her; it was still hard to hear her description of what happened. My daughter thought it was a student at the local private college. My reaction was to jump ahead to how horrific the trial would be if the defendant was a student at a private college. I had to keep reminding myself to focus on that moment and simply hold my daughter's hand. When I walked with my daughter to the SAFE room, a volunteer escort from Care Healing Center was there, and surprised to see my daughter was not alone. Survivors are typically alone in the hospital. While my daughter was being examined, I was able to learn more details. The perpetrator was not a student, but a 38-year-old that had been released from serving a 19 year sentence the prior month, he had let his ankle monitor battery go dead. I felt more hopeful about a trial then. Surely, he would be on trial, not my daughter. My daughter was walking down the street with friends when he jumped out claiming he had a gun. He then kidnapped my daughter. The police found him on top of her. We were with my daughter during the meetings with the prosecutor about the case. My family was naïve enough to initially believe that any court case would be easy, he was a three-time offender that had continued to sexually assault people while in prison. Yet, the prosecutor was concerned about the trial. He was concerned because jurors have so many wrong beliefs about sexual assault. The perpetrator's previous criminal history would not have been admissible for trial, but my daughter's sexual history would have been. People ignore the juror instructions; they blame the victim if they were drinking. People that knew my daughter, even loved her, would say to me, "well if she hadn't been drinking", or "if she hadn't been out that late" it wouldn't have happened. Our legal system is broken. The police witnessed the crime, and we still could not be sure of the conviction.

The removal of the word force from the definition recognizes all that we have learned about trauma. We understand that it is not the survivor's responsibility to prevent the assault from happening. In my training with Healing Cares Center, I learned that the response to danger is not just "flight or fight", but

“freeze” is another response. The current bill ignores the fact this fact that “freeze” is also a response to danger. People may shut down, they cannot move or speak, they may disconnect from emotions, or possibly pass out. This bill defines consent in a way that is necessary for understanding assault, without it, my daughter and other survivor’s response is on trial, not the perpetrator’s attack. Many of the people in the prospective jury pools received formal sexual education instruction decades ago, if at all. They may not have been taught that consent can be withdrawn at any time, that consent should not be assumed based on prior encounters. A clear definition of consent is needed. There should be a focus on whether there is a clear and voluntary agreement.

Society has a long way to go in understanding sexual assault. The current rape law reflects a time when we believed that a victim’s dress counts as “asking for it” and a sexual encounter on a date without consent was simply considered “a bad date”. We need to stop putting survivors on trial and hold the rapists accountable. We need the removal of “force or threat of force” and clear definitions for consent. It is not enough to simply have it in the jury instructions, the definition of consent should be in the law.

I urge for a favorable report for SB0758.

SB 0758_HoCoStatesAttorney_FavorablewithAmendment_

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Position: FWA



SENATE BILL 0758

Criminal Law - Sexual Crimes - Definition of Consent and Repeal of Force

Jennifer Ritter, Senior Assistant State's Attorney, Howard County State's Attorney's Office

POSITION: FAVORABLE WITH AMENDMENT

February 27, 2024

Ladies and gentleman of the Senate Judicial Proceedings Committee:

Thank you for this opportunity to address you today. My name is Jennifer Ritter. I am a Senior Assistant States Attorney in Howard County. I have been with the office for over 18 years, the last 15 of which I have specialized in the prosecution of sexual assault and child abuse cases. I am here today on behalf of State's Attorney Richard Gibson and the Howard County State's Attorney's Office. I want to first express our office's unwavering support of victims of sexual assault. These are some of the most difficult to prove and emotionally challenging cases in the criminal justice system, with the consequences for both the victims and perpetrators lasting a lifetime. To that end, I am here to support Senate Bill 0758 but to call for an amendment to section (B)(5) addressing the definition of submission.

Senate Bill 0758, proposes to add definitions of consent to the current definition section of 3-301 of the Criminal Law Article addressing sexual crimes. For the most part, it codifies judicially recognized definitions of consent. We are in support of these addition. Our concern, however, is with section (5) addressing submission as a result of fear, threat, or coercion. Caselaw recognizes that submission as a result of fear of force or threat of force is not consent. In evaluating questions of submission, the caselaw requires both conduct, either through words or circumstances created by the perpetrator reasonably calculated to instill fear in the victim, and a finding that the victim's fear was objectively reasonable. This analysis, requiring intentional

behavior on the part of the perpetrator and a finding that the victim's fear is objectively reasonable, ensures that the behavior being punished by the statute is criminal.

Our concern is that the caselaw addressing submission discusses the action in light of the rape statute requiring proof of "force or threat of force." With the proposed bill deleting "force or threat of force" and only referring to lack of consent, it is not clear that the precedence established by caselaw would apply to the definition of submission. On its face, the definition does not require any proof of intentional actions on the part of the perpetrator to cause the submission, thus showing intent to commit a rape. Nor does the current definition require a showing that the victim's belief is objectively reasonable. Sadly, we see many instances of regrettable sexual interactions but regrettable does not equate to criminal. Rape is a felony carrying up to 20 years in prison and lifetime registration as a sex offender. The behavior punished by the rape statute must clearly be intentional and worthy of the very serious punishment.

We propose that section (B)(5) be amended to read: "Submission as a result or fear, threat, or coercion does not constitute consent *when based on actions of the perpetrator reasonably calculated to overcome the will of the victim and where the victim's fear is objectively reasonable in light of the totality of the circumstance.*" This language incorporates the current state of the law and ensures that the behavior being punished rises to the level of criminality.

Thank you for your consideration and I appreciate the opportunity to speak to you today. We all share the goal of protecting victims of sexual assault and making our communities safer.

SB758 FAIR UNFAV.pdf

Uploaded by: Brenda Jones

Position: UNF

Unfavorable Response to SB758

Criminal Law – Sexual Crimes – Definition of Consent and Repeal of Force

Families Advocating Intelligent Registries (FAIR) seeks rational, constitutional sexual offense laws and policies for persons accused and convicted of sexual offenses. FAIR agrees that a clear and reasonable definition of “consent” should be considered for Maryland’s criminal law. However, we have significant concerns with the definition of Consent proposed in this Bill.

Our primary concern is over the proposed penalty for the offense after removal of the element of force. Under current law, a conviction for 2nd degree rape requires a finding of “force, or threat of force” AND a lack of consent. The potential punishment for violation of Criminal Law Section 3-304(a)(1) is incarceration for up to 20 years. FAIR believes that removal of the “force” element is a critical change of existing law and that the legislature should consider the offense of engaging in a sexual act without consent (without force or threat of force) to be a separate and distinct offense with a lesser potential punishment. This would be consistent with laws in some other States where a sexual offense based on lack of consent alone carries with it a lower potential penalty than a sexual offense where both a lack of consent and force (or threat of force) are required to be established.¹

Second, we understand that some proponents believe that the bill is saved from imposing an “affirmative consent” standard because of its language that consent can be “inferred from words or conduct and is based on the totality of the circumstances.” The suggestion appears to be that to qualify as an “affirmative consent” law or policy, consistent verbal permission and response is required throughout the sexual interaction. We disagree. The bill’s language appears to have been taken largely from “affirmative consent” policies developed for use in U.S. colleges and universities. Although the language of SB758 may appear at first inspection to be straightforward, an independent analysis of affirmative consent policies in support of another state’s legislature points out:

“Affirmative consent is different from simple consent.... Affirmative consent policies mandate ongoing, affirmative consent prior to and during sexual activities. **Such affirmative consent can be expressed verbally or nonverbally.”**² (Emphasis added).

Therefore, the Bill is not saved from “affirmative consent” status because of the addition of proposed Criminal Law Statute 3-301.1(B)(1).

Finally, statutory language analogous to SB758 has been passed by some states, but largely as part of their Education Codes for use in university settings. Violation of these policies may commence a disciplinary action, but University disciplinary action is a far cry from incarceration potential of up to 20 years. In the context of a university policy,

all students would be made aware of the policy, and go through an orientation or training on how to communicate clearly, consistently, and effectively their consent throughout their sexual interactions. The reality in the context of a criminal law statute with potential penalty of up to 20 years in prison presents different and more pressing challenges.

For these reasons, FAIR asks the committee to vote no on SB758.

Sincerely,



Brenda V. Jones, Executive Director
Families Advocating Intelligent Registries

¹ Minnesota – Sexual penetration with no force - Criminal Sexual Conduct in the Fifth Degree – punishable by up to 2 years in prison. Minn. Statute 609.3451, Subdivision 3. Sexual penetration with coercion or force/threat of force - Criminal Sexual Conduct in the Third Degree – punishable by up to 15 years in prison. Minn. Statute 609.344, Subdivision 1.

Wisconsin – Sexual intercourse with no force element - Third Degree Sexual Assault - punishable by up to 10 years in prison. Wisc. Statute 940.225(3)(a). Sexual intercourse with force or threat of force element - Second Degree Sexual Assault - punishable up to 40 years in prison. Wisc. Statute 940.225(2)(a).

² [The Vermont Legislative Research Service \(VLRS\) | Department of Political Science | The University of Vermont \(uvm.edu\)](#), “Affirmative Consent Policies at the Federal, State, and University Levels” (March 27, 2019). The UVM Vermont Legislative Research Service (or VLRS, formerly the Vermont Legislative Research Shop) is a university group, the purpose of which “is to provide objective and factual information to [Vermont] legislators as they deliberate on complex policy issues.”

SB0758 - INFO.pdf

Uploaded by: Anne Kirsch

Position: INFO



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SB0758 - Criminal Law - Sexual Crimes - Definition of Consent and Repeal of Force - INFO

Try to imagine what kind of refusal or withdrawal of consent does not use words or language, but also does not require force to overcome. Can you think of a specific example? And if you can, how effectively do you think that refusal or withdrawal of consent is communicated to another person?

So often we focus on the maximum or most egregious conduct that falls under a statute. In this case, I would like to have a conversation about the minimum conduct. It is important not to lose sight that a second degree rape conviction carries with it up to a 20-year sentence of incarceration and a lifetime on the sex offender registry. This is an extremely severe punishment, so it is important that the crime be equally severe. So under SB0758, what would that minimum threshold be?

SB0758 removes force from the statute and changes the definition of consent in a way that I find to be worrisome, because I cannot imagine a specific type of communication that does not involve words or language or physical resistance of any kind, but would also effectively communicate a refusal or objection. And I do not think that the punishment for misreading social cues should be 20 years in prison, nor do I think the sex offender registration should be populated by individuals who failed to read someone's mind. Rape is a serious and stigmatizing crime, and the most basic element of it is ignoring a clearly communicated objection to sexual conduct or obvious inability to object such as unconsciousness or mental impairment. That is the core of the violation, and without clear communication or incapacitation, I would argue that no crime occurred. This bill goes out of its way to argue that it does not require written consent to sexual activity, however I would argue that is exactly what it does. In fact, because somebody could claim coercion in a signature, perhaps it even requires video evidence of consent.

I understand the urge to take swift and decisive action, particularly in the wake of a high profile case, however the clear legacy of such action can be seen in the disastrous life means life policy produced by Governor Glendening. I interact with those impacted by life means life in my daily work, and I fear if SB0758 passes, in another decade, I will be working with people who failed to get clearly documented consent before engaging in

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what they believed to be consensual sexual behavior. I agree that the way in which we handle sex offenses needs review, but I think that we must gather all the information, speak to important stakeholders such as impacted people, victims, clinicians, executive departments, and community organizations, and then come to the table in order to implement an evidence-based course of action with regular review that provides meaningful opportunity for rehabilitation, support for victims, and protection for the community by reducing future crime.