

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1136
Judiciary

(Delegate Dumais, *et al.*)

Sexual Offenses - Physical Resistance Not Required

This bill provides that evidence of physical resistance by the victim of a sexual crime is not required to prove that the crime was committed. The bill also provides that this provision may not be construed to affect the admissibility of evidence of actual physical resistance by the victim.

Fiscal Summary

State Effect: None. The bill's provisions generally clarify current law.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Case law establishes that it is not necessary in a rape prosecution for it to be proved that the defendant overcame the resistance of the victim by use of actual physical force, if the victim submitted to the defendant because she reasonably feared imminent bodily harm by not doing so. [See, *e.g.*, *State v. Rusk*, 289 Md. 230 (198)]

Additional Information

Prior Introductions: None.

Cross File: SB 797 (Senator Ruben, *et al.*) – Judicial Proceedings.

Information Source(s): Department of Legislative Services

Fiscal Note History: First Reader - March 14, 2005
mp/jr

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