

**Department of Legislative Services**  
Maryland General Assembly  
2005 Session

**FISCAL AND POLICY NOTE**

House Bill 1136

(Delegate Dumais, *et al.*)

Judiciary

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**Sexual Offenses - Physical Resistance Not Required**

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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.

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**Fiscal Summary**

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

**Local Effect:** None.

**Small Business Effect:** None.

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**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)]

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**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  
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