



*Protecting Immigrant
Women and Girls
Fleeing Violence*

Testimony in SUPPORT of Senate Bill 33

(Repeal of Spousal Defense)

Judicial Proceedings Committee

Witness: Alex Goyette, Senior Policy Associate
6400 Arlington Blvd, Suite 400, Falls Church, VA 22042
January 26, 2022

Chair Smith, Vice-Chair Waldstreicher, and Honorable Members of the Senate Judicial Proceedings Committee:

The Tahirih Justice Center (Tahirih) is a non-profit legal advocacy organization that, since 1997, has been serving survivors of domestic violence, sexual assault, human trafficking, and other abuses, in Maryland and other states.

In 2011, Tahirih launched a specialized Forced Marriage Initiative. We have worked on hundreds of forced marriage cases involving girls and women nationwide, and we have unique legal and policy expertise on legislative reforms to strengthen protections against forced marriage.ⁱ

Rape and sexual assault are often part of the trauma history of forced marriage survivors, and can be both the cause and consequence of a forced marriage that has taken place. A girl may be forced to marry her rapist as a way to preserve perceived purity, protect the rapist from prosecution, or to “do the right thing” by getting married – especially if the girl has become pregnant. Rape then becomes a consequence of the forced marriage as well, as it guarantee’s the perpetrator access to the survivor for years or decades throughout the course of the marriage.

In the context of a sexual assault that occurs within marriage, a survivor’s loved ones who would in other circumstances support and advocate for the survivor may instead turn a blind eye and in some cases normalize or excuse the rape as a normal part of marriage. By providing a spousal defense to sexual offenses, Maryland’s current statute reinforces this normalization with the full weight of law.

The existing statute is particularly alarming in the context of Maryland’s statute allowing for children to marry below the age of sexual consent.ⁱⁱ In practice, Maryland provides a loophole for predators to marry children and be shielded from prosecution for what would otherwise be considered a sexual offense.ⁱⁱⁱ

Repealing the spousal defense to sexual offenses would send an important message that a person’s right to their own body does not end with marriage. This is an important public policy for any married person, but especially for those who have survived a marriage they did not want in the first place.

The Tahirih Justice Center asks this Honorable Committee to report SB 33 favorably.

ATLANTA

230 Peachtree Street NW
Atlanta, GA 30303
Suite 1960
Tel: 470-481-4700
Fax: 470-481-7400
Atlanta@tahirih.org

BALTIMORE

211 E. Lombard Street
Suite 307
Baltimore, MD 21202
Tel: 410-999-1900
Fax: 410-630-7539
Baltimore@tahirih.org

GREATER DC | NATIONAL

6400 Arlington Boulevard
Suite 400
Falls Church, VA 22042
Tel: 571-282-6161
Fax: 571-282-6162
TTY: 711
GreaterDC@tahirih.org
Justice@tahirih.org

HOUSTON

1717 St. James Place
Suite 450
Houston, TX 77056
Tel: 713-496-0100
Fax: 713-481-1793
Houston@tahirih.org

SAN FRANCISCO BAY AREA

881 Sneath Lane
Suite 115
San Bruno, CA 94066
Tel: 650-270-2100
Fax: 650-466-0006
SFBayArea@tahirih.org

tahirih.org

ⁱ A full copy of Tahirih’s 50-state report analyzing state minimum marriage age laws and exceptions, for example, and how they can either increase protections or expose children to harm, is available at www.tahirih.org/childmarriagepolicy.

ⁱⁱ See Md. Fam. Law Code Ann § 2-301, permitting minors as young as 15 to marry. See *also* Md. Code Ann., Crim. Law § 3-303.

ⁱⁱⁱ In addition to the age floor of marriage being younger than the oldest age covered by age-based sex offenses in Maryland, no judge is involved when a minor seeks to marry, and thus no one vets the underlying circumstances of the marriage to see if the minor may be marrying a school employee, for example. A clerk is authorized to issue the license to a minor upon verifying parental consent and/or evidence of pregnancy or childbirth (both parental consent and pregnancy/childbirth are required for a 15-year-old to marry; either parental consent or evidence of childbirth/pregnancy is required for 16- and 17-year-olds.).

Maryland is one of only 4 states that still have such an express pregnancy exception to a minimum marriage age of 18 (together with Arkansas, New Mexico, and Oklahoma). Most states have eliminated any such exceptions they once had, recognizing that a pregnancy at such a young age can result from rape (forcible or statutory), or can signal other coercive control elements in the parties’ relationship including re: contraception.