



MONTGOMERY COUNTY, MARYLAND  
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

[www.womensdemocraticclub.org](http://www.womensdemocraticclub.org)

**House Bill 0412**  
**Criminal Law-Sexual Crimes-Consent and Second-Degree Rape**  
**Judiciary Committee – February 21, 2023**  
**FAVORABLE**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2022 legislative session. WDC is one of Maryland's largest and most active Democratic Clubs, with hundreds of politically active women and men, including many elected officials.

**WDC urges the passage of HB412.** 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.” HB412 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.

WDC urges the passage of HB412 because 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 likely no WDC members) who believe that rape can only occur when force, or a threat of force, is used to coerce a sexual act. HB412 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 affirmative consent.

According to RAINN (Rape, Assault & Incest National Network), 90% of victims of sexual assault are female.<sup>1</sup> 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.<sup>2</sup> The highest percentage of victims are women aged 18-34.<sup>3</sup> Rape and sexual assaults are under-reported, under-prosecuted, and convictions are hard to win, particularly if a victim who clearly did not

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

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

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



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consent to the sexual act must prove that the sexual act was performed under force or threat of force.

If Maryland enacts this legislation, it will join a growing number of jurisdictions that require “affirmative, voluntary consent” as a matter of statutory or case law. As of March 2020, RAINN reported that CA, DC, FL, HI, IL, MN, NH, NJ, OH, UT, VT, WA, and WI require “affirmative, voluntary consent” to sexual contact.<sup>4</sup> It is time for Maryland to join this list.

On a final note, the vast majority of WDC members are parents who have had to educate our children about rape and sexual assaults. We teach our daughters 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, we teach our sons that they must ask for, and receive, a prospective intimate partner’s affirmative consent before they engage in sexual acts. We teach them that a prior sexual encounter or sexy clothing does not constitute consent, and we also teach them that consent is only valid if the person is fully capable of giving it. We teach our sons that if the person withdraws consent at any time, the sexual act must stop. We do not teach our 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, we teach them what is set forth in HB412.

**We ask for your support for HB412 and strongly urge a favorable Committee report.**

Respectfully,

Diana Conway  
President

Beth Tomasello  
WDC Advocacy Committee

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<sup>4</sup> <https://www.rainn.org/public-policy-action>