



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.

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Reform Subcommittee

Cynthia Rubenstein
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