

BILL NO: Senate Bill 177
TITLE: Law Enforcement Officers – Sexual Contact with Person in Custody – Penalty
COMMITTEE: Senate Judicial Proceedings Committee
HEARING DATE: February 1, 2024
POSITION: **SUPPORT**

In 2021 the Maryland General Assembly passed House Bill 43 – Criminal Law – Law Enforcement Officers – Prohibition on Sexual Activity. This important piece of legislation ensured that law enforcement officers could not engage in sexual conduct with victims, witnesses, or suspects in open investigations.

Senate Bill 177 seeks to move that recently passed law into the previously existing statute prohibiting sexual offenses in the third degree. In so doing, a person violating the law would be guilty of felony of a instead of a misdemeanor, and the penalty for such a crime would increase from “imprisonment of 3 years or a fine not exceeding \$3,000 or both”, to “imprisonment not exceeding 10 years”. As the Women’s Law Center of Maryland firmly believes in all sexual activity being mutual, respectful, and consensual, and that anything else would be rape and should be treated as such, we support the changes to SB177.

The Center for Disease Control recognizes that sexual violence includes “non-physically forced penetration which occurs after a person is pressured verbally or through intimidation or misuse of authority to consent or acquiesce”¹. When power or authority is involved, it is not possible to give true consent. Relationship dynamics where consent cannot be given include any relationship where a person might feel compelled to say yes because of the power that the authority figure holds over them or the trusted position that the person in authority holds. Given the positional authority of law enforcement officers over victims, witnesses, and suspects, there is no time during an investigation where an individual could realistically provide consent freely and without intimidation. The very real possibility of physical violence, retaliation, and abuse of authority, places those individuals in situations where they feel they have no choice but to “consent”, which is of course, not actual consent.

For all those reasons state above, the Women’s Law Center of Maryland urges a favorable report for SB 177.

*The Women’s Law Center of Maryland is a non-profit legal services organization whose mission is to ensure the physical safety, economic security, and bodily autonomy of women in Maryland.
Our mission is advanced through direct legal services, information and referral hotlines, and statewide advocacy.*

¹ <https://www.cdc.gov/violenceprevention/sexualviolence/definitions.html>