



THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

**HB496**

**Judiciary - Criminal Law - Sexual Crimes - Definition of Consent and Repeal of Force  
Testimony in SUPPORT**

Chair Clippinger, Vice Chair Bartlett, and esteemed members of the House Judiciary Committee, thank you for the opportunity to provide favorable testimony in support of House Bill 496, aimed at establishing a clear definition of consent for engaging in sexual activity.

Unlike half of the states in the US, the state of Maryland still has no legal definition of consent and instead relies on victims to prove that they resisted or were afraid to do so, due to the threat of force<sup>1</sup>. This frequently becomes a barrier to justice for victims of sexual crimes, and excludes numerous scenarios in which a victim may experience a non-consensual sexual act, but are fearful of other retaliation or consequences.

HB 496 would address this issue by requiring certain facts to be considered when determining whether consent was given and by altering the elements of second-degree rape by removing the requirement of the use of force. It goes a step further by revising the criteria for second-degree rape, eliminating the prerequisite of force. Explicitly, the bill shifts the burden from the victim to substantiate resistance or fear, asserting that individuals coerced, under threat, or experiencing fear are unable to provide genuine consent. This legislative initiative strives to narrow the existing gap between how consent is understood in educational contexts and the prevailing legal framework. Importantly, it is crucial to clarify that this legislation does not alter the legal requirements for affirmative consent. In other words, it does not mandate an explicit yes. Instead, it considers a broader spectrum, including words, actions, and the ability to withdraw consent at any point. Additionally, the bill does not require a written agreement or assume that a current or prior relationship inherently implies consent.

As of 2022, 44% of Maryland's women and more than 23% of Maryland's men reported experiencing sexual violence. Women, people with disabilities, and members of the LGBTQ+ community face particular vulnerability. More than 21% of women have reported experiencing attempted or completed rape, people with disabilities are sexually assaulted at nearly 3x the rate of people without disabilities, and 21% of non-gender conforming individuals have experienced

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<sup>1</sup> Lawson, "Half of the Country Doesn't Have a Legal Definition of Consent." *Vice*.  
<https://www.vice.com/en/article/bj3p35/state-definition-of-consent-legislation>

sexual assault. Montgomery County, Prince George's County, Baltimore City, Baltimore County, and Anne Arundel have consistently reported the highest number of rapes in the state.<sup>2</sup> Particularly concerning is the number of underage girls who have experienced sexual violence. According to recently released data from the CDC, at least one of every ten high school-age girls has reported being forced to have sex at some point. Unsurprisingly, three out of five girls reported feeling hopeless in 2021, and nearly one-third considered suicide.<sup>3</sup>

Sexual crimes cause physical, mental, and economic consequences. After trauma, the brain remains overactive as it comes down from "fight or flight" mode, causing the survivor to experience behavioral and cognitive dysfunction. The monetary cost remains a lifetime burden as survivors take time off of work or seek medical and mental support. According to the Maryland Coalition Against Sexual Assault, the lifetime cost to recover from rape per victim is \$122,461, and the cost to the state is \$3.1 trillion<sup>4</sup>.

Many survivors choose not to report out of fear of ostracization, retaliation from the perpetrator, or perception of insufficient evidence. The lack of a clear definition of consent offers another barrier to their coming forward. Victims of these horrific crimes should be supported by law and society in their decision to seek justice, particularly when what we are teaching in schools on consent is so drastically different.

I urge you to pass this common-sense legislation to allow victims of sexual crimes to seek justice.

**Thank you for the committee's consideration, and I respectfully request a favorable report on HB 496.**

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<sup>2</sup> Maryland Coalition Against Sexual Assault, "Sexual Assault in Maryland."  
<https://mcasa.org/stats-info/statistics>

<sup>3</sup> Muller, "Teen Girls Report Most Distress, Sexual Violence in a Decade." *Bloomberg*.  
<https://www.bloomberg.com/news/articles/2023-02-13/teen-girls-report-most-distress-sexual-violence-in-a-decade--cdc-says>

<sup>4</sup> Maryland Coalition Against Sexual Assault, "Sexual Assault in Maryland."  
<https://mcasa.org/stats-info/statistics>