

BILL NO: House Bill 496
TITLE: Criminal Law – Sexual Crimes – Definition of Consent and Repeal of Force
COMMITTEE: Judiciary
HEARING DATE: February 13, 2024
POSITION: **SUPPORT**

The Women’s Law Center of Maryland is dedicated to ensuring the physical safety, economic security, and bodily autonomy of women throughout the State. We support systemic changes to our current policies and practices that disproportionately negatively affect women. House Bill 496 is a step towards establishing these systemic changes for victims of sexual assault. The Women’s Law Center of Maryland urges a favorable report on HB 496.

HB 496 would bring Maryland’s current rape law up to date by removing the antiquated force and threat of force standard. That standard places the onus on a victim to stave off a rapist. Under HB 496 the focus would be whether there was a clear and voluntary agreement between the individuals involved. In order to make this determination, HB 496 provides a logical and concise definition of consent, as well as outlines acts and circumstance that do not qualify as consent. This analysis keeps the fact finder focused on asking the right questions – if consent was sought and the circumstances under which consent was given. This analysis keeps the fact finder away from wrong and harmful questions that have historically been used to blame victims of sexual assault – what the victim was wearing, did the victim have a prior consensual sexual experience with the perpetrator, etc. As a result, HB 496 provides a straightforward approach to prosecuting and determining sex crime cases.

Currently 28 jurisdictions throughout the country have updated their rape statutes to define consent in terms of behavior. For instance, the Vermont statute defines consent as, “unambiguous, and voluntary agreement to engage in a sexual act, which can be revoked at any time.” According to the American Law Institute, “neither verbal nor physical resistance is required to establish that consent is lacking, but their absence may be considered, in the context of all the circumstances, in determining whether there was consent.” Further, the majority of states across the country have already updated their rape and sexual assault statutes to eliminate a requirement of force or the threat of force. It is time for Maryland to do the same.

Women experience sexual assault at disturbing rates, especially Black women and women of color. In Maryland roughly 18% of white women and 22.3% of non-Hispanic Black women have been raped. Additionally, 44% of Maryland women have experienced other forms of sexual violence. These statistics are alarming. The legislature must make changes to properly support victims of sexual assault when they are seeking legal recourse. For these reasons, the Women’s Law Center of Maryland urges a favorable report on House Bill 496.

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.