

Testimony of the Human Trafficking Prevention Project

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: FAVORABLE

House Bill 496 would define consent or lack of consent for certain sexual crimes and sexual acts. [The Human Trafficking Prevention Project](#) supports this bill because it would eliminate a longstanding gap in Maryland sexual offense law where currently, there is no criminal offense that simply consists of subjecting a person to sex without the person's consent.

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.” HB 496 would change Maryland's rape law by repealing language that focuses on whether a victim resisted the sexual act and whether there was force or threat of force by the alleged perpetrator. Instead, the legality of the interaction would turn on whether there is a clear and voluntary agreement between the people involved. Additionally, HB 496 codifies the right to *withdraw* consent before or during the sexual act, as well as communicating or expressing consent through words or conduct. HB 496 also defines what does not constitute consent, including what someone is wearing, acquiescing as a result of fear, threat, or coercion, or having had a current or previous dating, social, or sexual relationship.

HB 496 creates important protections for victims of rape and sexual assault by clarifying that victims may employ a variety of means to express their lack or withdrawal of consent to a sexual act – by saying “no,” through other verbal communication, by moving their body in a certain way, by physically resisting, or by other means. HB 496 provides a framework for determining whether consent to sexual activity has been granted, denied or withdrawn that takes into account both a victim's words and actions. In addition, it also clarifies that a victim does not consent to rape by virtue of being in a relationship with the assailant, by dressing a certain way, or by submitting as a result of fear or duress.

[The prevalence and impact of sexual assault and rape is wide-ranging and exceptionally alarming](#); in cases of trafficking into both the commercial sex industry and into other forms of labor, [sexual assault is a common tool used by traffickers to maintain control over their victims](#). HB 496 would bring Maryland's current rape law up to date by removing the antiquated force and threat of force standard, a standard which places the onus on a victim to physically fight off their assailant. For these reasons, the Human Trafficking Prevention Project supports House Bill 496 and respectfully urges a favorable report.

The Human Trafficking Prevention Project is dedicated to ending the criminalization of sex workers and survivors of human trafficking through access to civil legal services and support for policies that dismantle harmful systems and increase access to basic human rights and legal relief.

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