

**Testimony of Elizabeth Tang
Senior Counsel
National Women's Law Center
In Support of Senate Bill 549
Before the Senate Judicial Proceedings Committee
February 6, 2025**

I write on behalf of the National Women's Law Center (NWLC) in support of Senate Bill 549, the Stop Silencing Survivors Act. Since 1972, NWLC has fought for gender justice in the courts, in public policy, and in our society, working across the issues that are central to the lives of women and girls. Relevant to this bill, NWLC has participated as counsel or amicus curiae in a range of federal and state cases, including defamation cases filed by abusers against sexual assault survivors.

The Stop Silencing Survivors Act is urgently needed because sexual assault is widely prevalent yet vastly underreported—often due to fear of retaliation. Increasingly, rapists and abusers are weaponizing retaliatory defamation lawsuits against their victims, and unfortunately, even the prospect of an expensive and traumatizing defamation lawsuit can extort survivors into silence. SB 549 is critical to closing this gap protecting survivors in Maryland.

Sexual assault is widely prevalent. In Maryland alone, more than 1.3 million women and more than 640,000 men will be victims of sexual violence in their lifetime.¹ More than 20% of girls ages 14-18 are kissed or touched without their consent.² In college, one in four women, one in five transgender and nonbinary students, and one in fifteen men have been sexually assaulted since enrolling.³ Anywhere from 25% to 85% of women have experienced sex harassment in the workplace.⁴

However, most survivors never come forward—often due to fear of retaliation. Reporting rates for sexual assault are only 2% in high school,⁵ 10-12% in college,⁶ and about 6-13% in the workplace.⁷ One of the biggest reasons survivors stay silent is fear of retaliation.⁸

Rapists and abusers are weaponizing retaliatory defamation lawsuits against their victims. As more survivors have been empowered to speak out, more abusers have been punishing them for daring to speak out. In 2020, an NWLC report found that being sued for defamation is the third most common form of workplace retaliation reported by survivors.⁹ In 2021, another study found that 23% of surveyed

¹ Ctrs. for Disease Control & Prevention, *National Intimate Partner and Sexual Violence Survey: 2016/2017 State Report* 24, 36 (Dec. 2023), <https://bit.ly/3CDYv7a>.

² Kayla Patrick & Neena Chaudhry, NWLC, *Let Her Learn: Stopping School Pushout for Girls Who Have Suffered Harassment and Sexual Violence* 1 (2017), <https://bit.ly/3wD6Vs4> (hereinafter *Stopping School Pushout*).

³ David Cantor *et al.*, *Report on the AAU Campus Climate Survey on Sexual Assault and Misconduct*, Westat, ix, A7-5, A7-7, A7-9 (revised Jan. 17, 2020), <https://bit.ly/3TBtQwE> (hereinafter *AAU Survey*).

⁴ Amanda Rossie *et al.*, NWLC, *Out of the Shadows: An Analysis of Sexual Harassment Charges Filed by Working Women* 5, 12 (Aug. 2018), <https://bit.ly/4g9mgT2>.

⁵ *Stopping School Pushout*, *supra* note 2, at 2.

⁶ *AAU Survey*, *supra* note 3, at A7-27, A7-30.

⁷ *Select Task Force on the Study of Harassment in the Workplace*, EEOC, II.C (June 2016), <https://bit.ly/4cgDc8l>.

⁸ *Female Victims of Sexual Violence, 1994–2010*, Dep't of Justice - Bureau of Justice Stats., 7 (revised May 31, 2016), <https://bit.ly/3IRTyXV>.

⁹ Jasmine Tucker & Jennifer Mondino, NWLC, *Coming Forward: Key Trends and Data from the TIME'S UP Legal Defense Fund* 13 (2020), <https://bit.ly/4abJog7>.

student survivors were threatened with a defamation suit by their assailant, and 19% were warned by their school of the possibility of a defamation suit.¹⁰

Even the prospect of a defamation lawsuit can extort survivors into silence. While rapists and abusers do not typically expect to win, their baseless lawsuits operate to ensure their victims remain silent or coerce their victims into withdrawing their reports of sexual assault. After all, even if an abuser's lawsuit will eventually fail, a typical meritless defamation lawsuit still costs \$21,000 to \$55,000 to defeat and can easily soar into six or seven figures.¹¹ Moreover, these lawsuits force survivors to disclose intensely private details and to repeatedly relive their trauma through invasive discovery and other litigation demands. These tremendously expensive and traumatizing lawsuits often coerce victims into silence.

NWLC has assisted numerous survivors facing defamation suits. At the request of student survivors and worker survivors, NWLC created a toolkit advising survivors on how to defend themselves against defamation lawsuits and other retaliation.¹² We have also submitted numerous amicus briefs in states like Connecticut, D.C., Illinois, Massachusetts, and New York in support of survivors who were sued for defamation after reporting sexual assault.¹³

Maryland should pass SB 549! SB 549 is critical because it would ensure that abusers can no longer weaponize the Maryland courts against their victims. Maryland survivors who make good-faith reports would be protected from defamation suits and other liability. In addition, they would receive attorney fees and court costs, which ensures that they can speak out in the first place without fear of retaliation. SB 549 is also nothing new. Across the country, states like California, New York, Rhode Island, Tennessee, Vermont, and Washington State have all passed laws in the last few years to explicitly protect survivors from being targeted by defamation and other abusive lawsuits.¹⁴ It's high time for Maryland to join them.

For all of these reasons, I ask the Committee to issue a favorable report on Senate Bill 549. Thank you.

Thank you,



Elizabeth Tang
Senior Counsel
National Women's Law Center

¹⁰ See, e.g., Sarah Nesbitt & Sage Carson, Know Your IX, *The Cost of Reporting: Perpetrator Retaliation, Institutional Betrayal, and Student Survivor Pushout* 21 (2021), <https://bit.ly/4ga86AS>.

¹¹ See, e.g., David Keating, *Estimating the Cost of Fighting a SLAPP in a State with No Anti-SLAPP Law*, Inst. For Free Speech (June 16, 2022), <https://bit.ly/3IDCPqU>.

¹² Elizabeth Tang et al., NWLC, *Survivors Speaking Out: A Toolkit About Defamation Lawsuits and Other Retaliation By and For People Speaking Out About Sex-Based Harassment* (Aug. 9, 2023), <https://bit.ly/49AypO9>.

¹³ NWLC, *Banks v. Hoffman* (Apr. 18, 2024), <https://nwlc.org/d-c-s-anti-slapp-law-is-in-peril-heres-why-its-critical-for-survivors-of-gender-based-violence>; NWLC, *Sabatini v. Knouse* (Mar. 22, 2024) <https://nwlc.org/resource/nwlc-files-amicus-brief-supporting-survivors-against-retaliatory-defamation-suits>; Legal Momentum, *Khan v. Yale Univ.* (Aug. 5, 2022), <https://www.legalmomentum.org/amicus-briefs/khan-v-yale-univ-et-al>; NWLC, *Gottwald v. Sebert* (Apr. 22, 2022), <https://nwlc.org/we-support-keshas-fight-for-justice-survivors-should-not-be-carved-out-of-legal-protections>; NWLC, *Constellation v. Dent* (May 26, 2021), https://nwlc.org/wp-content/uploads/2021/05/Dent-v.-Constellation_-Motion-for-Leave-to-File-Brief-as-Amici-Curiae-Instantan181638177.1-004-1-1.pdf; NWLC, *Sagaille v. Carrega* (Aug. 11, 2020), <https://nwlc.org/courts-must-not-carve-out-sexual-assault-survivors-from-existing-legal-protections-against-retaliatory-defamation-lawsuits>.

¹⁴ See N.Y. S.B. S52A (2020) (enacted) (extending protections against retaliatory lawsuits to include more people, including survivors); see also Cal. Civ. Code § 47.1 (2023) (creating a privilege for statements about "sexual assault, harassment, or discrimination"); R.I. Gen. Laws Ann. § 8-8.4-1 et seq. (2023) (allowing survivors to request a court order restricting abusive litigation); Vt. Stat. Ann. § 1181 et seq. (2023) (same); Wash. Rev. Code Ann. § 26.51.010 et seq. (2020) (same); Tenn. Code Ann. § 29-41-101 et seq. (2018).