Resolution supporting California State Assembly Bill No. 1171, The Repeal of the Spousal Rape Exception Act, authored by State Assembly Member Cristina Garcia, which would eliminate the “spousal rape exception” in the California Penal Code (Section 262) to ensure that “spousal rape” is treated and punished as seriously as rape of a non-spouse.

WHEREAS, California is one of 11 states that distinguish between spousal rape and other forms of sexual assault; and

WHEREAS, Under existing law, those convicted of spousal rape may be eligible for probation instead of prison or jail, unlike individuals who are convicted for other forms of sexual assault; and

WHEREAS, Although anyone convicted of rape is required to register as a sex offender, those convicted of spousal rape must register only if the act involved the use of force or violence that led to a prison sentence; and

WHEREAS, A person accused of raping an unconscious person is not able to plea bargain, however, if the person accused is married to the unconscious person, they may be able to plea bargain; and

WHEREAS, According to the National Coalition Against Domestic Violence (NCADV), between 10-14% of married women have been or may experience rape by their spouse; and

WHEREAS, State Assembly Bill No. 1171, The Repeal of the Spousal Rape Exception Act, authored by State Assembly Member Cristina Garcia and co-sponsored by California State Senator Dave Cortese, would eliminate the “spousal rape exception”
in the California Penal Code (Section 262) to ensure that “spousal rape” is treated and
punished as seriously as rape of a non-spouse; and

WHEREAS, The “spousal rape exception” is an antiquated law and effectively
allows an abuser to violate their non-consenting spouse with minimal accountability; and

WHEREAS, Repealing the “spousal rape exception” would ensure that all
abusers would be held accountable regardless of marital status; and

WHEREAS, Eliminating the distinction between spousal rape and other forms of
sexual assault is an urgent matter for victims in their pursuit of justice; and

WHEREAS, The San Francisco Board of Supervisors affirmed their support for
an earlier version of this bill, Assembly Bill No. 812, through Resolution No. 244-21;

now, therefore, be it

RESOLVED, That the San Francisco Board of Supervisors supports Assembly
Bill No. 1171, The Repeal of the Spousal Rape Exception Act, which would eliminate
the “spousal rape exception” in the California Penal Code (Section 262) to ensure that
“spousal rape” is treated and punished as seriously as rape of a non-spouse; and, be it

FURTHER RESOLVED, That the Clerk of the Board of Supervisors shall transmit
a copy of this Resolution to the Governor, the author of the Bill, and all members of the
Legislature representing the City and County of San Francisco.
Resolution supporting California State Assembly Bill No. 1171, The Repeal of the Spousal Rape Exception Act, authored by State Assembly Member Cristina Garcia, which would eliminate the "spousal rape exception" in the California Penal Code (Section 262) to ensure that "spousal rape" is treated and punished as seriously as rape of a non-spouse.

June 29, 2021 Board of Supervisors - ADOPTED

Ayes: 10 - Chan, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

Excused: 1 - Haney

File No. 210745

I hereby certify that the foregoing resolution was ADOPTED on 6/29/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without her approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

Angela Calvillo
Clerk of the Board