



SB0250 Criminal Law - Sexual Crimes - Repeal of Spousal Defense

Presented to the Honorable Will Smith and Members of the Senate Judicial Proceedings Committee
January 20, 2021 11:00 a.m.

POSITION: SUPPORT

NARAL Pro-Choice Maryland urges the Senate Judicial Proceedings Committee to issue a **favorable report on SB0250 Criminal Law - Sexual Crimes - Repeal of Spousal Defense**, sponsored by Senators Susan Lee and Jeff Waldstreicher.

Our organization is an advocate for reproductive health, rights, and justice. We seek to protect every person's freedom to decide if, when, and how to build their families. This freedom relies on respecting the sexual and reproductive agency of every individual. Every person has the right to decide where, when, how, and with whom they engage in sex. Accordingly, we support eliminating Maryland's spousal defense for sexual assault and rape.

Intimate partner violence remains a pervasive but underreported problem. Nationwide, nearly one in ten women have been raped by an intimate partner, and the majority of female victims of intimate partner violence are attacked multiple times by the same perpetrator.ⁱ According to the Centers for Disease Control and Prevention, 20.5 percent of women in Maryland are rape survivors.ⁱⁱ 16.9 percent of women in Maryland have experienced sexual violence from an intimate partner, including a spouse.ⁱⁱⁱ Just 36 percent of all rape survivors make police reports; the report rate is lowest for marital rape.^{iv} Survivors of marital rape are likely to endure additional non-sexual violence in their marriages and experience high rates of posttraumatic stress disorder, depression, gynecological problems, and other physical health issues.^v

Though marital rape has been a crime in all 50 states since 1993, Maryland is one of 17 states with remaining loopholes in its laws. Though Maryland has modified its spousal defense law to include exceptions in cases where the perpetrator uses force or the threat of force, this is not enough. Cases involving nonviolent coercion or a sleeping or otherwise incapacitated victim fall outside the scope of current criminal law if the perpetrator and victim are married. Maryland law does not include a spousal exception for assault charges; sex crimes should not be treated any differently. Removing the spousal defense entirely from our criminal law will bring Maryland into line with the majority of states around the country and demonstrate Maryland's commitment to justice for survivors of sexual assault regardless of the perpetrator.

Sexual acts committed without complete, free consent from all parties constitute assault, regardless of marital status. The spousal defense enshrines an antiquated, dangerous understanding of consent and marriage in Maryland law and denies justice to survivors of marital rape. For these reasons, NARAL Pro-Choice Maryland **urges a favorable committee report on SB0250**. Thank you for your time and consideration.

ⁱ *Statistics*. The National Domestic Violence Hotline. Retrieved January 24, 2020, from <https://www.thehotline.org/resources/statistics/>.

ⁱⁱ Black, M. C., Walters, M. L., Chen, J., Stevens, M. R., Merrick, M. T., Basile, K. C., Breiding, M. J., & Smith, S. G. (2011). *National Intimate Partner and Sexual Violence Survey: 2010 Summary Report*. https://www.cdc.gov/violenceprevention/pdf/NISVS_Report2010-a.pdf.

ⁱⁱⁱ Smith, S. G., Patel, N., Chen, J., Basile, K. C., Gilbert, L. K., Merrick, M. T., Walling, M., & Jain, A. (2017). *The National Intimate Partner and Sexual Violence Survey: 2010-2012 State Report*. <https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf>.

^{iv} National Coalition Against Domestic Violence (2017). *Domestic Violence & Sexual Assault*. https://assets.speakcdn.com/assets/2497/sexual_assault_dv.pdf.

^v Martin, E. K., Taft, C. T., & Resick, P. A. (2007). A review of marital rape. *Aggression and Violent Behavior*, 12(3), 329–347. <https://doi.org/10.1016/j.avb.2006.10.003>.