

## Testimony Concerning SB 250

### “Criminal Law – Sexual Crimes – Repeal of Spousal Defense”

#### Submitted to the Senate Judicial Proceedings Committee

January 20, 2021

#### Position: SUPPORT

Dear Senators Lee and Waldstreicher,

I, Elizabeth Richards, strongly support SB 250. I am a graduate student in Towson University’s Clinical Psychology program, where my studies focus on gender-based violence. This testimony represents my own views based on a review of the available research and does not necessarily represent the views of Towson University.

Spousal rape was first sanctioned in English law with the Hale doctrine in 1736 and codified into United States law with the 1857 Supreme Court ruling in *Commonwealth v. Fogarty*. It took over 100 years for spousal rape laws in the United States to evolve, with all 50 states criminalizing spousal rape either in whole, or in part, by 1993. Maryland is one of 17 states that still only criminalizes spousal rape in part. SB 250 would correct that.

It has been suggested that survivors of spousal sexual violence can use available resources, such as the police and protective orders, and pre-existing laws, to prosecute their perpetrators. This perspective overlooks the barriers survivors already face in accessing resources as well as shortfalls in existing laws. A joint 2007 review of spousal rape in the United States by researchers at the National Center for Post-Traumatic Stress Disorder and Boston University identified self-blame, embarrassment, the fear of not being believed or taken seriously and the fear of retaliation by the perpetrator as common barriers to help seeking behaviors by survivors of spousal rape. These barriers are reinforced by laws that deny spousal rape is a crime. Additionally, research suggests that when spousal rape is not viewed as a legitimate crime within a society, formal resources, such as medical professionals, mental health care providers, and law enforcement, might not screen for or inquire about spousal rape and may minimize reports of it from survivors. Finally, existing laws may not be sufficient to prosecute perpetrators. This was a lesson lawmakers in Minnesota learned. In 2017, after Jenny Teeson discovered video tapes her husband made where he drugged and sexually assaulted. Though he was initially charged with third-degree criminal sexual assault, those charges were later dropped against Teeson’s husband due to the spousal rape exemption in Minnesota. He plead guilty to invasion of privacy and served 30 days in the county jail for videotaping the act, but not for the rape itself. This case motivated lawmakers in Minnesota to update their laws, and in 2019, Minnesota repealed its spousal rape exemption. Maryland should follow Minnesota’s example and do the same.

Laws reflect the values of a society. Refusing to criminalize rape that occurs within marriage minimizes the violence survivors experience. This minimization negates the seriousness of the

crime and is a barrier to help seeking for survivors. Passing SB 250 will signify that rape is a serious crime, no matter the context in which it occurs.

For these reasons, I urge your favorable consideration of SB 250.

Respectfully,

Elizabeth Richards