



BILL NO: Senate Bill 230

TITLE: Criminal Law – Sexual Crimes – Repeal of Spousal Defense

COMMITTEE: Judicial Proceedings

HEARING DATE: January 30, 2020

POSITION: SUPPORT

Senate Bill 230 would repeal certain prohibitions on prosecuting someone for rape of their spouse. The Maryland Network Against Domestic Violence (MNADV) supports Senate Bill 230 because the idea that rape or sexual assault, unwanted touching, forcible sex or anything else of that nature is okay because the parties are married is arcane and insulting, a relic of another era that has no place in Maryland law.

Currently, a person cannot be prosecuted under Criminal Law Code §3-303, §3-304, §3-307, or §3-308 if the alleged victim is the defendant's spouse, except under certain circumstances. If for at least three months prior to the act, the spouses are separated and not cohabiting (having sexual relations), and have a separation agreement, then the person can be prosecuted if they used force of threat and did not have consent (or if they had a limited divorce). These Codes sections comprise the crimes of rape in the first and second degree, and sexual offense in the third and fourth degree. SB 230 would eliminate the bar to prosecution for sexual offense against ones' spouse.

The MNADV believes this lack of protection is archaic and must be brought into current thinking and protections. Maryland is behind the work of other states by retaining a law that allows a spouse to force sex with no consequences. This is an unacceptable view of marital relations and the devastation of rape on the victim regardless of relationship. In fact, marital rape can be even more traumatic and damaging than stranger rape. The betrayal of trust and safety in a marital relationship can additional trauma and damage to the victim. Marital rape happens far too frequently and we must take a stand.

Therefore, the Maryland Network Against Domestic Violence strongly urges a favorable report on Senate Bill 230.