

**Bill Number: HB 268**  
**Scott D. Shellenberger, State's Attorney for Baltimore County**  
**Support**

**WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,**  
**STATE'S ATTORNEY FOR BALTIMORE COUNTY,**  
**IN SUPPORT OF HOUSE BILL 268**  
**SPOUSAL PRIVILEGE**

I write in support of House Bill 268 that closes a loophole in the spousal privilege law found in Courts and Judicial Proceeding (CJ) §9-106.

CJ §9-106 starts with a blanket prohibition of a spouse of a person on trial not being compelled to testify as an adverse witness. Over the years, the Legislature has created a number of well thought out exceptions to that blanket prohibition. For example, if the testimony is needed in a child abuse prosecution (CJ §9-106 (a)(1)).

House Bill 268 closes another loophole. It is written in response to the facts outlined in State v. Wilson, 471 Md. 136 (2020).

In State v. Wilson, the State had evidence that the Defendant on trial for murder planned to marry a key witness so that she could invoke her spousal privilege at the murder trial. The State filed a motion pre-trial to preclude this based on witness tampering by corrupt means; motion granted. The Defendant pled guilty. Then State charged him with witness tampering and obstruction of justice in the above case.

The holding in State v. Wilson was that the evidence was sufficient to support Wilson's convictions for witness tampering and obstruction of justice given the ample evidence that Wilson married Bannister with the corrupt intent of having her invoke the spousal testimonial privilege at his upcoming murder trial to prevent the State from compelling her testimony. House Bill 268 is designed to take away the spousal privilege when the marriage occurs after the crime. This is not a limited set of facts from just one county. This has happened in my county.

In Baltimore County, State v. Blair McLaurin, CR-19-1961, the Defendant was charged with first degree arson, first degree assault and related charges (she put pillows on top of the stove and turned the stove on while her boyfriend and children were in the house; she tried to stab her boyfriend with scissors and hit him in the head with a space heater). The Defendant married the victim on 2/7/20 (a Friday). Her case was on Monday, 2/10/20, and victim invoked the marital privilege. The Defendant was acquitted.

Since then, the Defendant has two additional pending cases: one in Circuit Court for stabbing the same victim, now her husband, in the hand with a screwdriver, and one in District Court for violating her release conditions for the Circuit Court case.

Perhaps if the victim had been precluded from asserting his privilege, we would not have two additional cases.

House Bill 268 closes this loophole. If a couple is married and then the crime happens the spousal privilege is preserved. If the crime happens and then the marriage happens to prevent a witness from testifying that is wrong and should be prevented.

I urge a favorable report.