

HB268_JPR_MNADV_FAV.pdf

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Position: FAV



BILL NO: House Bill 268
TITLE: Criminal Trials - Spousal Privilege – Exception
COMMITTEE: Judicial Proceedings
HEARING DATE: March 18, 2021
POSITION: **SUPPORT**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue a favorable report on HB 268.**

Not all intimate partner violence is physical. Intimate partner violence can manifest in a variety of ways including physical abuse, sexual abuse, emotional or verbal abuse, coercion, and economic abuse. According to the 2019 National Domestic Violence Hotline Maryland State Report, 97% of the victims that called reported experiencing emotional or verbal abuse.¹ A person can be coerced either explicitly or through a power and control dynamic into marriage. HB 268 prohibits the spousal privilege from being invoked in the limited circumstance when a marriage takes place after the date on which the alleged crime that the person is on trial for occurred. This could interrupt a pattern of threats and coercion suffered by a victim of intimate partner violence with the hopes of silencing them and preventing them from testifying. Allowing for the invocation of the spousal immunity after a crime but prior to the trial could perpetuate the abusive coercion and control.

Currently, the spouse of a person on trial for a crime may not be compelled to testify against that person unless the charge involves the abuse of a child younger than age 18, or when the charge is assault in any degree, and if the spouse was the victim in the following circumstances: the person on trial was previously charged with assault in any degree or assault and battery of the spouse; the spouse was sworn to testify at the previous trial; and the privilege has previously been invoked. House Bill 268 will prevent a victim of intimate partner violence from being coerced and compelled to marry by their abuser for the purpose of silencing them as a witness.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report on HB 268.**

¹ *Statistics*, The National Domestic Violence Hotline, Retrieved January 11, 2021 from <https://www.thehotline.org/stakeholders/impact-and-state-reports/>

HB 268 - Spousal Privilege.pdf

Uploaded by: Shellenberger, Scott

Position: FAV

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.

UNfavorable Vote for HB0268.pdf

Uploaded by: mcavoy, vince

Position: UNF

Vote UNfavorable for HB0268

vince mcavoy po box 41075 baltimore md

Senators,

HB268 would incentivize using the allegation of a crime of any kind - state or federal, actual or contrived, solved or unsolved - as a marital matter, ensnaring a presumably innocent person into a court appearance under the threat of contempt. Remember, this is not a voluntary submission - this is the state wedging itself into a familial & lifetime bond for the purposes of a gathering (not a conviction) of mere evidence or testimony. There's no mandate to use said evidence or testimony for the case; so the result is wasted time, wasted testimony, unwarranted intrusion.

But the State could force its way into the marital chamber.

And, though timeframe of the crime is mentioned in the bill, neither allegations of such crime nor scope of the allegations will be firmly respected once the investigation takes root amidst a married couple's personal life.

Is there cause for this bill? That is, are there many crimes left un-prosecuted because a spouse is effectively hiding evidence?

No. There are other means of obtaining evidence in marital cases.

https://en.wikipedia.org/wiki/Jack_B._Johnson

Is there a climate in Maryland where spouses (particularly wives) are reluctant to approach the courts

No. Women file 80% of divorces.

<https://www.divorcesource.com/blog/why-women-file-80-percent-of-divorces/>

As with many of these bills, there is no way to calculate the **UNintended consequences**.

Indeed, as was testified in the January House Judiciary hearing, they don't even know how many people this bill would help.

That's because this is an agenda piece by radicals.

They wrongfully point to

UNdocumented,

UNsubstantiated,

UNcalculable "coercion" & jail-house weddings as cause to annihilate the spousal privilege.

Thankfully, Sen. Mary Washington was prescient in noting that lobbyists from the Domestic Violence Industry (which receives 100's of thousands of dollars from the state and more from fed governments) would devise ways to inject volatility into Maryland families.

http://mgaleg.maryland.gov/mgawebsite/Committees/Media/false?cmte=jpr&ys=2019RS&clip=JPR_2_12_2019_meeting_1&url=http%3A%2F%2Fmgahouse.maryland.gov%2Fmga%2Fplay%2Fe857c1c3-5503-4334-8595-1341f3b34e23%2F%3Fcatalog%2F03e481c7-8a42-4438-a7da-93ff74bdaa4c%26playfrom%3D12441000

Vote UNfavorable for HB0268

vince mcavoy po box 41075 baltimore md

Marital privilege is internationally respected. I really encourage you to listen to what JPR Chairman Bobby Zirkin had to say on the issue & the various remedies he & others on JPR offered as currently available outside the messy provision this bill would enable.

http://mgaleg.maryland.gov/mgawebsite/Committees/Media/false?cmte=jpr&ys=2019RS&clip=JPR_2_12_2019_meeting_1&url=http%3A%2F%2Fmgahouse.maryland.gov%2Fmga%2Fplay%2Fe857c1c3-5503-4334-8595-1341f3b34e23%2F%3Fcatalog%2F03e481c7-8a42-4438-a7da-93ff74bdaa4c%26playfrom%3D12049000

**** The Un-married Ignoring the Practice of Marriage ****

HB268 ignores the EXPLICIT bi-directional assumption involved with married couples, sleeping in the same bed, each wearing bedroom garb, in a consummated marriage and all the familiarity that goes along with that. What this involves is throwing out the **spousal privilege**.

HB268 could turn every marriage into a criminal case whenever things get stressful in a marriage setting. Radical feminists wish to destroy marriage.

<https://www.foxnews.com/opinion/feminists-want-women-to-be-liberated-from-men-marriage-and-children-no-wonder-they-never-use-the-word>

**** Senatorial Respect for Marriage ****

The sanctity of marriage & the respect for the marriage contract & the societal benefit of marital harmony are persistently under attack in Maryland. Marital privilege is internationally respected. Thank you for your time & attention to reducing false allegations, preserving family & eliminating the monetization of family discord.

Thank you for your votes & your consideration.

humbly

~vince