



State of Maryland
Office of the Attorney General

January 11, 2021

TO: The Honorable Luke Clippinger, Chair, Judiciary Committee
FROM: Carrie J. Williams, Assistant Attorney General
RE: Attorney General's Support for HB 147

The Attorney General urges the Judiciary Committee to report favorably on House Bill 147. House Bill 147 repeals Criminal Law Article, Section 3-318, which provides that, with exceptions, a person cannot be charged for sexually assaulting his or her legal spouse.

Under current law, a person can engage in non-consensual “sexual contact” with his or her spouse without fear of prosecution. Likewise, a person can have vaginal intercourse or engage in a “sexual act” with his or her spouse, even if the spouse is substantively cognitively impaired, mentally incapacitated, or physically helpless, and the State cannot prosecute that act.

“Spousal defense” laws are archaic. They stem from the 18th century belief that “marriage constituted permanent consent that could not be retracted.”¹ That belief has since been rightly rejected. People do not sacrifice their bodily autonomy when they marry. A relationship with the victim should not be a defense to sexual assault. The Attorney General urges the Judiciary Committee to report favorably on House Bill 147.

cc: Members of the Committee

¹ Rothman, Lily, “When Spousal Rape First Became a Crime in the U.S.”, *Time Magazine*, July 28, 2015, available at time.com/3975175/spousal-rape-case-history/ (last visited Jan. 29, 2020).