
BILL NO: House Bill 268
TITLE: **Criminal Trials - Spousal Privilege - Exception**
COMMITTEE: Judiciary
HEARING DATE: January 14, 2020
POSITION: **SUPPORT**

House Bill 268 would narrow in a small way circumstances when spousal privilege can be invoked in a criminal trial. The Women's Law Center (WLC) supports House Bill 268 because perpetrators of crimes should not be able to shield themselves by marrying a relevant witness to the state to avoid having them testify. We are particularly concerned about someone being coerced into marriage just so a criminal defendant can invoke spousal privilege.

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. HB 268 would disallow the ability to invoke spousal privilege if the parties marry after the time the crime for which the defendant is on trial was allegedly committed. This narrow broadening of the exception to spousal privilege is appropriate.

The WLC is aware that a person can be coerced, either explicitly, or through a power and control dynamic, into marrying, despite it not being in that person's best interests, or there not being a 'genuine' reason to marry. There was a fairly well known case in Baltimore County several years ago where the trial judge married the parties during a recess of the criminal case so that the defendant could then invoke spousal privilege. This should not be allowed. HB 268 would fix this problem. A bright line rule such as this is better than any law that would require judges to determine the genuineness of a marriage.

Although the Court of Appeals addressed this issue somewhat in *State v Wilson*, No. 64, September Term, 2019, as the fiscal note states, it did not specifically announce a bright line rule such as HB 268 does, rather narrowly holding to the facts of that case.

Therefore, the Women's Law Center of Maryland, Inc. urges a favorable report on House Bill 268.

The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change.