



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

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**Senate Bill 33 Criminal Law-Sexual Crimes-Repeal of Spousal Defense
Judiciary Proceedings Committee –February 1, 2022
SUPPORT**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2022 legislative session. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

We urge the passage of SB33. This bill repeals marriage as a defense to ALL sex crimes. Your action will free the Free State from the last vestiges of 17th century English jurist Matthew Hale's pronouncement that rape could not happen in marriage because marriage vows imply ongoing sexual consent.

Currently, Criminal Law §3-318 provides that marriage is a defense to certain sex crimes: Rape or sexual offenses involving the following three categories CANNOT be prosecuted if the victim and offender are married:

- 1) rape involving capacity (victims is highly intoxicated, victim has substantial cognitive impairment, victim is physically helpless);
- 2) charges based on age;
- 3) "sexual contact" without consent.

Thus, Maryland criminal law leads to disparities between prosecution of sex crimes and other types of intimate partner violence. Homicide and assault laws, for example, make no distinction as to whether the assailant and victim are married; with NO exceptions to prosecution based on marital status.

Marriage should not reduce a person's control over their own body

As Lisae Jordan, Executive Director of the Maryland Coalition Against Sexual Assault testified in 2020, "Singling out sexual violence as a type of crime that married people should have less protection for creates striking inequalities between couples who have chosen to marry and those who have not. For example, a person who rapes their unconscious spouse could not be prosecuted for rape, but a person who raped their unconscious domestic partner could be – even if the married couple had been together for a matter of days and the domestic partners had been cohabiting for decades." **Marriage should not be a defense to sex crimes, ever.**

WDC hopes that State of Maryland will allow prosecution based on ALL sexual crimes involving married people. Full repeal of these archaic laws is a must—a **partial repeal is unacceptable. We ask for your support for SB33 and strongly urge a favorable Committee report.**

Respectfully,

Leslie Milano
President