



BILL NO: Senate Bill 33
TITLE: Criminal Law – Sexual Crimes – Repeal of Spousal Defense
COMMITTEE: Judiciary
HEARING DATE: April 6, 2022
POSITION: **SUPPORT WITH AMENDMENT**

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 House Judiciary Committee to issue a favorable report with amendment on SB 33.**

Maryland’s laws only permit the prosecution of a legal spouse for rape or other sexual offenses pursuant to Criminal Law §3-303, §3-304, §3-307 or §3-308 with limited exceptions including if there was force or threat of force and no consent, if the parties lived apart without cohabitation and interruption under an executed written separation agreement or for at least three months preceding the rape or sexual assault. The spousal defense to rape and sexual offenses is rooted in English common law dating back to 1847 when women were considered their husband’s property and a marriage contract meant a woman consented to all marital sex, including rape.¹ SB 33 would repeal this archaic law and allow all Marylanders to know that no form of rape or sexual offense is acceptable, even if you are legally married.

While often underreported, marital rape and sexual offenses is a significant and measurable form of intimate partner violence. In 2019, 12% of the calls from Maryland citizens to the National Domestic Violence Hotline were seeking help after sexual abuse from an intimate partner.² Approximately 10-14% of married women will be raped at some point during their marriage.³ Survivors of marital rape experience both physical and psychological effects as a direct result of the violence caused by their spouse including suffering from depression and PTSD.⁴

¹ Jill Elaine Hasday, "Contest and Consent: A Legal History of Marital Rape," 88 California Law Review 1373 (2000). [Contest and Consent: A Legal History of Marital Rape \(uchicago.edu\)](#)

² *Statistics*, The National Domestic Violence Hotline, Retrieved January 11, 2021 from <https://www.thehotline.org/stakeholders/impact-and-state-reports/>

³ *Statistics*, National Coalition Against Domestic Violence, Retrieved January 11, 2021 from [sexual_assault_dv.pdf \(speakcdn.com\)](#)

⁴ Stermac, L., Del Bove, G., & Addison, M. (2001). Violence, injury and presentation patterns in spousal sexual assaults. *Violence Against Women*, 7(11), 1218- 1233.

For further information contact Melanie Shapiro • Public Policy Director • 301-852-3930 • mshapiro@mnadv.org

4601 Presidents Drive, Suite 300 • Lanham, MD 20706
Tel: 301-429-3601 • E-mail: info@mnadv.org • Website: www.mnadv.org



Any perpetrator of a rape or sexual offense should be subject to prosecution regardless of the relationship with the victim. Maryland must join the other 33 states that prohibit all forms of marital rape and repeal the spousal defense.

The Senate Judicial Proceedings Committee added amendment language that MNADV does not support. The amendment would change the legal definition of “sexual contact” and make whether someone is in a relationship relevant to whether a sexual assault occurred. This is unacceptable and would move Maryland backwards. The amendments are, in essence, “spousal defense lite”. The Senate amendment should be rejected because being part of a married couple should not change your right to control your own body. A person’s relationship status should not be relevant to determinations of consent or what is “sexual contact”.

MNADV appreciates the House Judiciary Committee passing the cross-file HB 153 unamended and ask that the Committee restore SB 33 to the original bill language.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report with amendment on SB 33.**