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Maryland Commission for Women

A Commission of the Maryland Department of Human Services

51 Monroe Street, Ste. 1034 – Rockville, Maryland 20850

www.marylandwomen.org

February 22, 2023

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The Honorable Luke Clippinger, Chair
The Honorable David Moon, Vice Chair
House Judiciary Committee
House Office Building – Room 101
Annapolis, Maryland 21401

Re: HB 0004 – Repeal of Spousal Defense (Love is No Defense)

Dear Delegate Clippinger, Delegate Moon and Members of the House Judiciary Committee:

The Commission urges you to support HB 0004 – the Repeal of Spousal Defense (Love is No Defense to Sexual Crimes).

The MCW was established in 1965 and was set in state law in 1971. An office of the Department of Human Services, the Commission is a 25-member advisory board whose duties outlined in its enabling legislation include: study the status of women in our state, recommend methods of overcoming discrimination, recognize women's accomplishments and contributions, and provide informed advice to the executive and legislative branches of government on the issues concerning the women of our state. It is to fulfill this mandate that the Commission writes to you today.

As the current law stands, a husband cannot be prosecuted for certain sexual crimes against his wife simply because of the nature of their marital status. This idea is antiquated and is reminiscent of the ideology that women are their husband's property.

Without this repeal, a husband may commit an array of sexual offenses against his wife and not be prosecuted. The exact same act, if committed by an intimate partner that is also a co-habitant but not a spouse, could potentially carry a term of imprisonment while the husband may face no penalty. This defense takes away the most precious right a woman has: the autonomy of her own body.

The argument has been made that repealing this Defense will require a husband to obtain consent for every sexual act or touch he performs on his wife to such an extreme that would require him to ask permission for a hug. However, this argument incorrectly assumes that a woman cannot give her husband broad and ongoing consent, which is common and expected in most relationships both intimate and platonic.

This argument goes against all common sense. Two friends do not seek verbal permission before greeting each other with a hug because people in any form of a relationship are aware of each other's preferences and therefore, it is reasonable to believe that a husband can be aware of his wife's sexual preferences and boundaries. A wife who has given general consent does not need her husband to ask for permission before performing every act, however, if he begins an act and she tells him to stop, he must.

The law should allow for a person to be prosecuted for sexual misconduct regardless of marital status. All persons should feel protected against unwanted sexual acts and be able to set boundaries that they desire; marriage status should not eliminate this right. As the law stands, a non-married intimate partner has more personal rights than a married person does.

We urge you to support the Repeal of the Spousal Defense and allow all women, married or not, to make decisions about their own bodies on their own terms.

With very best regards,

A handwritten signature in black ink, appearing to read "Tawanda Bailey". The signature is fluid and cursive, with the first name being more prominent than the last.

Tawanda Bailey, Chair
Maryland Commission for Women

Please note that the positions expressed in this letter are those of the Maryland Commission for Women and do not necessarily reflect the position of the Governor or the Department of Human Services.