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Testimony in **Support** of

HB 0004 – Criminal Law – Sexual Crimes – Repeal of Spousal Defense

Dear Chairman Clippinger, Vice Chairman Moon, and Members of the Committee:

I am writing to show my strong support for House Bill 0004 on behalf of State's Attorney Aisha Braveboy and the MSAA, and to urge a favorable report. I am the Chief of the Special Victims & Violence Unit in the State's Attorney's Office for Prince George's County and a member of our Sexual Assault Response Team, a multidisciplinary group that works to formalize interagency guidelines that prioritize victims' needs, hold offenders accountable, and promote public safety.

As a result of my work, I am very familiar with the methods employed by domestic abusers to dominate and control their victims, including within a marriage. Unfortunately, the use of sexual assault within an abusive relationship is not uncommon. The Spousal Rape Defense allows abusers to sexually assault their unconscious or incapacitated victims, as long as they are married, without consequences. This includes sexual abuse that is facilitated by the use of drugs or alcohol, physical helplessness such as paralysis, cognitive impairments such as dementia or Alzheimer's, and mental health issues that render a victim unable to consent.

What is particularly egregious is that if precisely the same abuse occurs between an abuser and a victim who are not legally married, no blanket defense is provided under the law. Thus, the Spousal Rape Defense denies equal protection to married victims from rape and sexual assault. These victims are not entitled to the same protections and access to justice as unmarried victims who have suffered the exact same abuse.

HB0004 corrects this injustice and extends protections under Maryland law to all victims, regardless of whether they are married to their abusers. Passage of this bill would allow my office to prosecute domestic abusers who employ sexual assault as a weapon fairly and equally regardless of the marital status of the victim.

I urge a full repeal of the Spousal Rape Defense. Abusers should not have the right to rape their spouses, nor to engage in any type of sexual touching without consent. Sexual offense in the fourth degree under CR 3-308 prohibits sexual contact without consent. Notably, the law specifically states that touching that is a common expression of familial or friendly affection, or for an accepted medical purpose, is not criminal under the statute. Because this type of conduct is already protected, full repeal of the Spousal Rape Defense does not endanger individuals who engage in loving and common expressions of affection with their spouses.

The Spousal Rape Defense prevents the fair and equitable prosecution of some of the worse offenses that a victim can suffer, at the hands of the person that she or he should be able to trust the most. It is time for our married victims to have the same rights as our unmarried victims. The current law is outdated, unfair, and unnecessary.

For the foregoing reasons, I respectfully urge a favorable report, and ultimately passage, on HB0004.

Sincerely,



Jessica L. Garth
Chief, Special Victims & Family Violence Unit
State's Attorney's Office for Prince George's County