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Judiciary Committee

Chair, Family and Juvenile Law
Subcommittee



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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

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WRITTEN TESTIMONY IN SUPPORT

OF

HOUSE BILL 04- CRIMINAL LAW-SEXUAL CRIMES- REPEAL OF SPOUSAL DEFENSE

This legislation seeks to repeal Criminal Law Article §3-318 by eliminating the “spousal defense” which prohibits prosecution of a spouse for charges of rape and other sexual offenses.

Current Law:

- A person cannot be prosecuted for rape or certain sexual offenses under Criminal Law Articles § 3-303, § 3-304, § 3-307 and § 3-308 against a victim who is the person’s legal spouse at the time of the alleged rape or sexual offense, known as “spousal defense”.

Proposed Change to Current Law:

- Eliminates spousal defense against charges of rape and other criminal sexual offenses.
- A spouse would be exposed to prosecution against his or her legal spouse for violations of the following Criminal Laws:
 - Article § 3-303 Rape in the First Degree
 - Article § 3-304 Rape in the Second Degree (by force)
 - Article § 3-307 Sexual offense in the Third Degree (w/o consent)
 - Article § 3-308 Sexual offense in the Fourth Degree

Why support this Legislation:

- Current law provides a full legal defense against criminal sexual offenses including rape.
- Marriage is not a defense for any other violent crimes.
- Under current law, prosecution for criminal sexual offenses against a spouse only occurs when the other party does not consent or involves force/threat of force.
- The burden of proof for criminal sexual offenses is so high (“beyond a reasonable doubt”) that normal routine consensual contact/touching between spouses should never be considered as proof of a crime.

I respectfully request a favorable report for House Bill 04.

Sincerely,

Delegate Charlotte Crutchfield