
Planned Parenthood of Maryland

Committee: House Judiciary Committee

Bill Number: Senate Bill 129 - Criminal Law - Sexual Crimes - Repeal of Spousal Defense

Hearing: March 28, 2023

Position: Support

Planned Parenthood of Maryland supports *Senate Bill 129 – Criminal Law - Sexual Crimes - Repeal of Spousal Defense*. Sexual acts committed without complete, freely given consent from all parties constitute assault, regardless of marital status. While we no longer live in a society where a wife is property of her husband, Criminal Law §3-318 continues to provide that marriage is a defense to certain sex crimes. The spousal defense enshrines an antiquated, dangerous understanding of consent and marriage in Maryland law and denies justice to survivors of marital rape. It is time to bring Maryland into the twenty-first century and ensure our understanding of bodily autonomy is reflected in state law.

Assault, stalking, homicide, and other crimes against a person may be prosecuted without regard to the marital status of the parties. There is no reason for sexual violence to be singled out as an act that is treated differently based on marital status. Doing so 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.

Removing the spousal defense entirely from our criminal law will bring Maryland into line with the majority of states around the country and demonstrate Maryland’s commitment to justice for survivors of sexual assault regardless of the perpetrator. All persons are deserving of bodily autonomy and having sexual intercourse if, where, when, and with whom they so choose. Marital status should have no impact on this essential human right.

We ask for a favorable vote on this legislation. If we can provide any additional information, please contact Robyn Elliott at (443) 926-3443 or relliott@policypartners.net.