



BILL NO: Senate Bill 129
TITLE: Criminal Law – Sexual Crimes – Repeal of Spousal Defense
COMMITTEE: Judiciary
HEARING DATE: March 28, 2023
POSITION: **SUPPORT**

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 on SB 129.**

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 129 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.

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

For the above stated reasons, the **Maryland Network Against Domestic Violence** urges a **favorable report on SB 129**.

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