

BILL NO: House Bill 406
TITLE: Marriage – Confidential Communication – Criminal Charge
COMMITTEE: Judiciary
HEARING DATE: February 15, 2024
POSITION: **SUPPORT**

House Bill 406 would provide that a spouse may, but does not have to, reveal a confidential communication made by the other spouse if the other spouse has committed a crime against the spouse. The Women's Law Center (WLC) supports House Bill 406 as it places the power in the hands of the victim spouse if they choose to reveal a confidential communication.

Under current law, if an abusive spouse commits an act of abuse against their spouse, and then apologizes to the victim or admits to the abuse in communications with their spouse, the apology or admission is considered a private communication between the married parties and the criminal defendant can bar the victim from testifying to what the defendant said. HB 406 would allow the victim spouse to testify about the apology, etc. – any communication related to the crime committed by the abusive spouse against the victim spouse. The language makes clear to all prosecutors that the power is held in the hands of the victim, and they cannot be compelled to testify. The marital privilege remains in effect for all other confidential communications.

As drafted, the nexus is not clear that what can be testified about is only those confidential communications about the crime committed against the spouse. The spouse cannot go on to testify about the spouse's bank robbery, or extortion, for example.

Part of the cycle of abuse is when the abuser has remorse and promises not to do it again, and the abuser often asks for forgiveness or apologizes. This is evidence that the act occurred. A victim spouse should be given the choice on whether or not to testify about these communications but should not be compelled to do so.

Therefore, the Women's Law Center of Maryland, Inc. urges a favorable report on House Bill 406 as amended.

The Women's Law Center of Maryland is a non-profit legal services organization whose mission is to ensure the physical safety, economic security, and bodily autonomy of women in Maryland. Our mission is advanced through direct legal services, information and referral hotlines, and statewide advocacy.