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January 14, 2025

The Honorable Will Smith  
Chair, Judicial Proceedings Committee  
11 Bladen Street  
Annapolis, MD 21401

Dear Chair Smith and Committee Members:

On behalf of the Montgomery County State's Attorney's Office and the Maryland State's Attorneys' Association, I write in support of SB142—Marriage—Confidential Communication—Criminal Charge. I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office. I am also the co-chair of the MSSA Special Victims Committee and a member of the Governor's Family Violence Council.

Section 9-105 of the Maryland Courts and Judicial Proceedings Article currently states: "One spouse is not competent to disclose any confidential communication between the spouses occurring during their marriage." The law includes no exceptions.

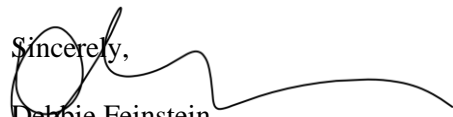
Senate Bill 142 creates a needed exception: "A spouse who is the alleged victim is competent to disclose a confidential communication between spouses occurring during their marriage in a criminal action in which one spouse is charged with a crime against the other spouse." At the same time, the bill does not require a spouse to disclose a marital communication: "A spouse may not be compelled to testify to a confidential communication under this subtitle."

The proposed law preserves a spouse's right not to disclose the information; this preservation is important because even if the General Assembly enacts Senate Bill 142, a court cannot compel a spouse to disclose marital communication. The victimized spouse can choose to disclose or not, and the defendant spouse cannot use this privilege as a protective cloak.

Maryland is one of the few states without an exception to the marital communications privilege for crimes committed against a spouse. Senate Bill 142 aligns our state with the vast majority of the country.

I strongly urge this Committee to issue a favorable report on Senate Bill 142.

Sincerely,

  
Debbie Feinstein  
Chief, Special Victims Division  
Senior Assistant State's Attorney