

## Chapter 729

**(Senate Bill 129)**

AN ACT concerning

**Criminal Law – Sexual Crimes – Repeal of Spousal Defense**

FOR the purpose of repealing a certain prohibition on prosecuting a person for rape or a certain sexual offense against a victim who was the person's legal spouse at the time of the alleged rape or sexual offense; and generally relating to sexual crimes.

BY repealing

Article – Criminal Law

Section 3–318

Annotated Code of Maryland

(2021 Replacement Volume and 2022 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

**Article – Criminal Law**

[3–318.

(a) Except as provided in subsections (b) and (c) of this section, a person may not be prosecuted under § 3–303, § 3–304, § 3–307, or § 3–308 of this subtitle for a crime against a victim who was the person's legal spouse at the time of the alleged rape or sexual offense.

(b) A person may be prosecuted under § 3–303(a), § 3–304(a)(1), or § 3–307(a)(1) of this subtitle for a crime against the person's legal spouse if:

(1) at the time of the alleged crime the person and the person's legal spouse have lived apart, without cohabitation and without interruption:

(i) under a written separation agreement executed by the person and the spouse; or

(ii) for at least 3 months immediately before the alleged rape or sexual offense; or

(2) the person in committing the crime uses force or threat of force and the act is without the consent of the spouse.

(c) A person may be prosecuted under § 3–303, § 3–304, § 3–307, or § 3–308 of this subtitle for a crime against the person's legal spouse if at the time of the alleged crime the person and the spouse live apart, without cohabitation and without interruption, under

a decree of limited divorce.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.

**Approved by the Governor, May 16, 2023.**