

**Bill Number: SB 250**  
**Scott D. Shellenberger, State's Attorney for Baltimore County**  
**Support**

**WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,**  
**STATE'S ATTORNEY FOR BALTIMORE COUNTY,**  
**IN SUPPORT OF SENATE BILL 250**  
**COMMON LAW OF RAPE**

I write in support of Senate Bill 250 that eliminates a law that was designed to repeal some elements of the common law of rape but only repealed some elements of the common law, and only to a limited extent.

At common law, one could not be charged with rape of their spouse even in the case of forcible rape. It was a complete defense as long as the couple was married. Criminal Law (CL) §3-318 was created to permit a spouse to be charged and convicted of rape if their separation fell under the well-defined limits of the statute. At the time CL §3-318 passed it was moving the State forward into a more modern era. Now is the time to completely move forward. Rape is rape and if the elements of the crime have been proven (i.e. force or threat of force) then the status of the parties should not matter. It should not be a bar to charging and proving rape if the parties have only legally been separated for two months thus falling 30 days short of the requirements of the statute.

This change is no different then what the Legislature did in 2017 when you passed CL §3-319.1 by eliminating the need to prove victim resistance to the crime of rape. That was a modernization of our sexual offense laws.

Passing Senate Bill 250 will modernize us once more and eliminate one more ancient remnant of the common law.