



Bill No: HB147
Title: Criminal Law – Sexual Crimes – Repeal of Spousal Defense (Love Is No Defense to Sexual Crimes)
Committee: Judiciary
Hearing: January 14, 2021
Position: SUPPORT

The Maryland Legislative Agenda for Women (MLAW) is a statewide coalition of women’s groups and individuals formed to provide a non-partisan, independent voice for Maryland women and families. MLAW’s purpose is to advocate for legislation affecting women and families. To accomplish this goal, MLAW creates an annual legislative agenda with issues voted on by MLAW members and endorsed by organizations and individuals from all over Maryland. **HB147 a priority on the 2021 MLAW Agenda and we urge your support.**

HB147 seeks to repeal the current statute that makes marriage a defense to some sex crimes. Criminal Law §3-318 provides that marriage is a defense to certain sex crimes. We have made some progress: Spouses can be prosecuted for any sex crime if they have a limited divorce. Additionally, if the parties have been separate and apart and “without cohabitation” (meaning without having sexual relations) and they have been separated for three months or have a written separation agreement, then they can be prosecuted for sex crimes that are not based on age or capacity. Finally, if the rape involved actual force or threat of force, marriage is not a defense. For other sex crimes, marriage is a complete defense. This bill repeals Criminal Law §3-318. Marriage should never be a defense to a sex crime.

Sexual assault disproportionately affects women. Like many states, Maryland’s laws were based on the premise that marriage was consent to sex and that, therefore, a man could not rape his wife. Unlike many states, Maryland has not yet firmly rejected that antiquated and fundamentally disrespectful concept. For these reasons, MLAW strongly urges the passage of HB147.