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The Honorable Luke Clippinger
Chairperson, House Judiciary Committee
6 Bladen Street
Annapolis, MD 21401

Dear Chairperson Clippinger and Judiciary Committee Members:

I write in support of HB1418, Marriage—Confidential Communication—Criminal Charge. I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office, and I chair the Montgomery County Domestic Violence Coordinating Council. I am a member of the Governor's Family Violence Council and chair of the Maryland State's Attorneys' Association's Domestic Violence Subcommittee, which includes representatives from jurisdictions across the state.

Section 9-105 of the Courts and Judicial Proceedings Article currently prohibits one spouse from disclosing any confidential communications between the spouses occurring during their marriage. House Bill 1418 creates a limited exception to this privilege when one spouse is charged with a crime against the other spouse. This bill, however, does not compel one spouse testify against the other. It simply allows one spouse to testify about otherwise confidential communications if the other spouse commits a crime against them. This bill puts the decision to testify squarely in the hands of the person who has been victimized.

Domestic violence is about power and control. The current state of the law allows an abuser to prevent a victim of domestic violence from testifying about any communications between them. We have seen examples where one spouse assaults the other, and the assaulting spouse texts, emails, writes, or orally offers an apology or explanation. The statement of a defendant is admissible under the hearsay rules; however, under the current CJP 9-105, the victim cannot testify about those apologies.

Our law should not protect spousal communications that relate to criminal conduct. Under the proposed law, spouses still retain the right not to testify, but one spouse cannot use this privilege as a shield to protect them from criminal liability.

I urge the House Judiciary Committee to issue a favorable report on HB1418.

Sincerely,

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