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FROM THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES

February 18, 2020

Chair Luke Clippinger and Members of the House Judiciary Committee
Room 101, House Office Building
Annapolis, MD 21401

Re: House Bill 637: Discovery- In-Custody Witness Testimony

POSITION: Letter of Information

Dear Chair Clippinger and Members of the House Judiciary Committee,

The Governor's Office of Crime Prevention, Youth, and Victim Services is providing this letter of information for House Bill 637: Discovery- In-Custody Witness Testimony

House Bill 637 would require the Governor's Office of Crime Prevention, Youth, and Victim Services to collect certain information whenever a State's Attorney uses an In-Custody Witness. The bill defines an In-Custody Witness as: "an individual, other than an accomplice or a Co-Defendant, who: (1) is incarcerated at the time that the individual offers or provides testimony against a suspect or defendant, (2) receives, or has an expectation of receiving a benefit in return for the testimony." The bill does provide an exception for confidential informants.

Benefits are defined in the bill as: (1) recommendations for favorable release status, (2) recommendations for modifications or reduction of a sentence, (3) providing information to obtain a favorable action from the Division of Parole and Probation, (4) offering of immunity in a criminal proceeding, (5) dismissal of outstanding criminal charges, prosecutions, or parole or probation violations, (6) rendering of financial assistance, and (7) providing of assistance in the improvement of custodial conditions.

House Bill 637 requires that if a State's Attorney obtains testimony from an In-Custody Witness, the State's Attorney shall record: (1) the substance of the the testimony, even if it is not in a court proceeding, (2) the purpose for which the State's Attorney used the testimony, and (3) the benefit exchanged for the testimony. This information is to be reported to the Governor's Office of Crime Prevention, Youth, and Victim Services (" Office").

The Office does not currently have a database constructed to record this information, and the bill is unclear in how the Office is to collect and/or release information when requested. Similar legislation from last Session, SB769 of 2019, was referred to an interim study.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "V. Glenn Fueston, Jr.", with a stylized flourish at the end.

V. Glenn Fueston, Jr.

Executive Director

Governor's Office of Crime Prevention, Youth, and Victim Services

For all inquiries, please contact
Andy Baranauskas, Legislative Affairs Manager
410-855-2538
Anthony.Baranauskas@maryland.gov