

Bill Number: SB 589
Scott D. Shellenberger, State's Attorney for Baltimore County
Opposed

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN OPPOSITION TO SENATE BILL 589
POLICE OFFICERS – STOP PROCEDURES (KNOW YOUR RIGHTS ACT)

I write in opposition to Senate Bill 589 as an unnecessary overbroad attempt to legislate police behavior that is already governed by the United States Constitution and case law.

In the United States the right of people to be secure in their persons, papers, and effects is governed by the Fourth Amendment to the Constitution. There are hundreds of Supreme Court and Maryland Appellate cases that dictate the proper interaction between the police and citizens. This includes the rules on stops and traffic stops. Trying to put these complex rules from constitutional case law into a statute is unworkable.

This bill would require an officer after a traffic stop to tell the driver of the car that he can refuse to speak to the officer and that the individual can “terminate the interaction”. This is simply incorrect. Can you imagine a police officer pulling over a drunk driver and then telling the driver that he can refuse to cooperate and drive away? Officers have a duty to assure the safety of the roads. This includes ascertaining the identity of persons driving on the roads if they have a basis to stop the person. Telling someone they can refuse to interact could cause an uncontrollable scenario to play out.

In addition, the Bill proposes to prohibit a police officer from seizing any personal item from an individual without a warrant. This is directly contrary to existing search and seizure law. If the person possesses an item which is contraband and/or evidence of a crime, the officer may very well be able to seize it due to the exigency of the situation. To take this to an extreme, what if the item is a gun or a bomb? Are we to wait for a warrant to be prepared, presented to a Judge, signed and then taken to the scene of the traffic stop? Will the individual still be there since the officer has already told them that they can “terminate the interaction”?

Clearly this cannot be the intention or purpose of the Bill but it clearly is what it says.

I urge an unfavorable report.