

# **SB 487 FAV House of Ruth.pdf**

Uploaded by: Dorothy Lennig

Position: FAV



Marjorie Cook Foundation  
Domestic Violence Legal Clinic  
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**TESTIMONY IN SUPPORT OF SENATE BILL 487**  
March 9, 2023  
**DOROTHY J. LENNIG, LEGAL CLINIC DIRECTOR**

The House of Ruth Maryland is a non-profit organization providing shelter, counseling, and legal services to victims of domestic violence throughout the State of Maryland. House of Ruth has offices in Baltimore City, Baltimore County, Prince George's County, and Montgomery County. Senate Bill 487 clarifies that a pretrial or post trial order prohibiting the offender from contacting, harassing, or abusing the alleged victim includes incarcerated persons. **We urge the Senate Judicial Proceedings Committee to issue a favorable report on Senate Bill 487.**

In many domestic violence criminal cases, the offender is ordered not to have contact with, harass, or abuse their victim either before or after the trial. This is an important remedy for domestic violence victims, particularly those who do not also get a civil protective order against their abuser. Unfortunately, some judges have interpreted Criminal Procedure 5-213.1 to require that the offender be actually "released" from jail before the statute can be applied. Under this interpretation, a domestic violence offender who is ordered to have no contact with their victim can call their victim from jail and scare, threaten, or harass them, without concern that doing so will violate the no contact order.

SB 487 closes this loophole and clarifies that the pretrial/post-trial no contact order applies even when the offender is incarcerated. It holds all offenders accountable who violate this no contact order whether they are released or incarcerated.

**The House of Ruth urges the Senate Judicial Proceedings Committee to issue a favorable report on Senate Bill 487.**

# **SB 487 - FAV - SUPPORT.pdf**

Uploaded by: Gavin Patashnick

Position: FAV



**OFFICE OF THE  
STATE'S ATTORNEY**  
CECIL COUNTY, MARYLAND

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**JAMES A. DELLMYER**

*State's Attorney for Cecil County, Maryland*

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Circuit Courthouse • 129 East Main Street, Suite 300 • Elkton, Maryland 21921 • Office: 410-996-5335 • Fax: 410-392-7814

**DATE:**                   **March 9, 2023**

**BILL NUMBER:**    **SB 487**

**POSITION:**         **Support**

The Office of the State's Attorney for Cecil County supports SB 487.

SB 487 extends criminal sanctions that violate no-contact conditions of pre-trial release to individuals who are incarcerated either pre or post trial. Current law criminalizes the violation of pre-trial or posttrial no contact provisions issued by a judicial officer or trial judge with a 90-day maximum sentence. Recently, some judges have interpreted the elements of this crime to include a showing that the offender was actually "released" at the time the act was committed. Unfortunately, this dynamic has the effect of allowing incarcerated individuals who are subject to a no-contact conditions to escape accountability should they decide to use inmate phone privileges or mail to contact victims.

Many of these points of contact involve innocuous communications that are neither threatening or even hostile, yet the effect of that contact is devastating and can retraumatize victims or instill the unwillingness to participate in the process out of fear. This complicates prosecutions and erodes public safety simply because the interpretation of a statute that should apply, and was intended to apply, to all individuals subject to a pre-trial order apparently doesn't.

This straightforward legislation will immediately close this oversight and protect victims of violent crime and domestic violence as well as certain sexual crimes from harmful and offensive intrusions of incarcerated individuals.

The Office of the State's Attorney for Cecil County seeks a favorable report on SB 487.

## **2023-03-09 SB 487 (Support).pdf**

Uploaded by: Jer Welter

Position: FAV



**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

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March 9, 2023

TO: The Honorable William C. Smith, Jr., Chair, Judicial Proceedings Committee

FROM: Jer Welter, Assistant Attorney General  
Deputy Division Chief for Legal Affairs, Criminal Appeals Division  
Office of the Attorney General

RE: SB 487 - Criminal Procedure - Violation of Pretrial or Posttrial Condition  
(SUPPORT)

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The Office of the Attorney General urges the Judicial Proceedings Committee to favorably report Senate Bill 487. Vice-Chair Waldstreicher's bill closes a loophole that currently exists in Criminal Procedure 5-213, which prohibits defendants from contacting, harassing, or abusing an alleged victim, or going in or near an alleged victim's residence or place of employment, but which some courts have interpreted to not apply to incarcerated defendants. This bill would clarify that the conditions of pretrial or posttrial release do in fact apply to defendants who are incarcerated.

This is a very helpful amendment to the current law, and will ensure that all victims are protected, whether the defendant for whom this condition is imposed is on the street or incarcerated. It is not uncommon for defendants in jail to attempt to reach alleged victims through repeated phone calls, messages, and/or letters. In domestic violence and sexual assault cases, the contact is often an attempt to intimidate the victim out of pursuing the matter, or to retaliate against the victim for reporting the matter. This bill would hold those defendants accountable, and not allow them to take advantage of an arguable loophole in the current law.

For the foregoing reasons, the Office of the Attorney General urges the Committee to favorably report Senate Bill 487.

cc: Committee Members

*This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or sbrantley@oag.state.md.us*

# **SB 487 - FAV - Women's Law Center of Maryland.pdf**

Uploaded by: Laure Ruth

Position: FAV

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**BILL NO:** Senate Bill 487  
**TITLE:** Criminal Procedure - Violation of Pretrial or Posttrial Condition by Incarcerated Person - Victim Contact  
**COMMITTEE:** Judicial Proceedings  
**HEARING DATE:** March 9, 2023  
**POSITION:** **SUPPORT**

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Senate Bill 487 would add to existing law “an incarcerated person” may not violate a condition of pretrial or posttrial release or other pretrial or posttrial condition prohibiting the person from contacting, harassing, or abusing an alleged victim or going in or near an alleged victim's residence or place of employment. The Women’s Law Center supports SB 487 as a simple fix to clarify what many or most judges already think is covered in existing law.

In current law, under existing criminal procedure statute, a person, under certain conditions, including of the person contacts a victim as defined in the Family Law Article as a Person Eligible for Relief, i.e, a person who is the victim of intimate partner or domestic violence, may not may not violate a condition of pretrial or posttrial release, prohibiting the person from contacting, harassing, or abusing an alleged victim or going in or near an alleged victim’s residence or place of employment.

Senate Bill 361 would simply add that this includes a person who is incarcerated, and includes any other pre- or post-trial conditions, rather than just conditions of release. Apparently, some judges read the statute to not include the prohibition for persons who are incarcerated. Certainly our clients, who have been abused and filed criminal charges such that their abuser has been arrested, may not want to hear from their abuser while he is incarcerated, and under conditions of no contact with them. Communications can often be a continuation of a power and control dynamic, and can cause fear and repeat trauma.

This clarification is a simple matter that will provide additional feelings of safety for victims, and make clear that while incarcerated, abusers cannot continue to contact their victims.

Therefore, the Women’s Law Center of Maryland, Inc. strongly urges a favorable report on Senate Bill 487.

*The Women’s Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change.*



## **Pre release condition - no contact from jail - tes**

Uploaded by: Lisae C Jordan

Position: FAV



**Working to end sexual violence in**

**Maryland**

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P.O. Box 8782  
Silver Spring, MD 20907  
Phone: 301-565-2277  
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For more information contact:  
Lisae C. Jordan, Esquire  
443-995-5544  
mcasa.org

**Testimony Supporting Senate Bill 487**  
**Lisae C. Jordan, Executive Director & Counsel**  
March 9, 2023

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence in the State of Maryland. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 487.

**SB487 – Pre- and Post-Trial Conditions of Release from Jail**

Current law provides for criminal enforcement of violations of pre- and post-trial conditions of release when the condition involves prohibiting the person from contacting, harassing, or abusing an alleged victim or going in or near an alleged victim's residence or place of employment. This expands application of the law to persons who are incarcerated, so not technically "released".

A critical piece of protecting survivors of child sexual abuse, sexual assault, and other crimes is to order the defendant to refrain from contact with the victim. Some defendants have violated these types of conditions by contacting victims while they were still in jail, not yet released. Defendants should adhere to conditions of pre- and post-trial release whether they are in jail or in the community. Senate Bill 487 closes a loophole in the current law and will help victims of sexual abuse and assault.

**The Maryland Coalition Against Sexual Assault urges  
the Judicial Proceedings Committee to report favorably on Senate Bill 487**

## **SB 487.pdf**

Uploaded by: Marion Gill

Position: FAV

# The Bridge

200 Chesapeake Blvd. Suite 2550 ♦ Elkton, Maryland 21922

Phone: 410.996.0333 ♦ Fax: 410.996.0820

Marion Gill, Coordinator of Family Violence Programs  
Testimony regarding Senate Bill 487, Criminal Procedure-Violation of Pretrial or Posttrial  
Condition by Incarcerated Person-Victim Contact  
Governor's Office of Crime Prevention, Youth and Victim Services  
February 21<sup>st</sup>, 2023

The Bridge is the comprehensive program serving victims of sexual assault, domestic violence, and human trafficking in Cecil County. Services offered through The Bridge include counseling, court advocacy, hospital accompaniment and safe shelter accommodations. During calendar year 2022, nearly 220 survivors were assisted to include adults and children and 745 hotline calls were answered.

As a program that provides services to victims of violence there are often times we are faced with challenging scenarios to assist in protection of victims of intimate partner violence. Recently we were faced with a challenge when an inmate contacted their victim, who had an active protective order, through a third party while incarcerated. This contact proved to be detrimental to the success of the victim's progress in the journey forward towards safety and security from her abuser. While we will continue to face difficult scenarios in assisting with victim safety we urge the State of Maryland to assist in protecting victims of intimate partner violence with the passage of the Violation of Pretrial or Posttrial Condition by Incarcerated Person-Victim Contact Bill would provide an additional means to ensure that victims of intimate partner violence are protected from contact with their abuser while the abuser is incarcerated.

The demand for protection for victims at each stage of a protective order is essential. It is imperative that the State of Maryland provide the support and assistance that the survivors need and deserve.

# **SB 487\_MNADV\_FAV.pdf**

Uploaded by: Melanie Shapiro

Position: FAV



**BILL NO:** Senate Bill 487  
**TITLE:** Criminal Procedure - Violation of Pretrial or Posttrial Condition by  
Incarcerated Person - Victim Contact  
**COMMITTEE:** Judicial Proceedings  
**HEARING DATE:** March 9, 2023  
**POSITION:** **SUPPORT**

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The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue a favorable report on SB 487.**

Senate Bill 487 provides an important clarification to existing law regarding pretrial or posttrial conditions and would ensure that they apply to an individual whether they are in the community or remain incarcerated. Under current law it is a misdemeanor if a person violates a pretrial or posttrial condition preventing the person from contacting, harassing, or abusing an alleged victim or going in or near an alleged victim's residence or place of employment when a person is charged with a crime against a victim who is a person eligible for relief as defined in § 4-501 of the Family Law Article. This existing law protects victims of domestic violence from unwanted contact or continued abuse from a person who is alleged to have abused them.

However, this law has been interpreted by some to not apply if the individual subject to the pretrial or posttrial conditions remains incarcerated. Therefore, if a person remains incarcerated, even if they would be subject to these conditions if they were in the community, they could call, harass and threaten their victim. Senate Bill 487 makes the crucial clarification that these conditions shall apply if the individual is in the community or incarcerated.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report on SB 487.**

# **SB0487-JPR-FAV.pdf**

Uploaded by: Nina Themelis

Position: FAV



**BRANDON M. SCOTT**  
MAYOR

*Office of Government Relations  
88 State Circle  
Annapolis, Maryland 21401*

**SB 487**

March 9, 2023

**TO:** Members of the Judicial Proceedings Committee

**FROM:** Nina Themelis, Interim Director of Mayor's Office of Government Relations

**RE:** Senate Bill 487 – Criminal Procedure - Violation of Pretrial or Posttrial Condition by Incarcerated Person - Victim Contact

**POSITION: Support**

Chair Smith, Vice Chair Waldstreicher, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** Senate Bill (SB) 487.

SB 487 amends existing Maryland Code § 5-213.1<sup>i</sup> which protects victims from being contacted or harassed in any way by an incarcerated person in violation of pretrial or posttrial conditions. This legislation takes an important step in protecting victims by extending protections to include incarcerated individuals and prohibiting violation of any pretrial or posttrial condition.

Victims of criminal offenses are left in a vulnerable state often facing physical, emotional and mental concerns following an incident. In many cases, these individuals do not have the resources or luxury to remove themselves from the circumstances that they were in prior to the traumatic experience of crime. The ability to intimidate and continue contact grossly reduces the likelihood that the victim can begin their recovery. In some cases, repeated contact with a victim leads to cyclical and retaliatory crime that only further destroys our communities.

We must do everything possible to protect victims from contact, harassment or abuse – especially with respect to incarcerated individuals who violate pretrial or posttrial conditions.

For these reasons, the BCA respectfully request a **favorable** report on SB 487.

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<sup>i</sup> <https://law.justia.com/codes/maryland/2017/criminal-procedure/title-5/subtitle-2/section-5-213.1/>



## **SB 487 incarcerated pretrial orders OPD opposition**

Uploaded by: Melissa Rothstein

Position: UNF



NATASHA DARTIGUE  
PUBLIC DEFENDER

KEITH LOTRIDGE  
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN  
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD  
ACTING DIRECTOR OF GOVERNMENT RELATIONS

## **POSITION ON PROPOSED LEGISLATION**

**BILL: SB 487 Criminal Procedure - Violation of Pretrial or Posttrial Condition**

**FROM: Maryland Office of the Public Defender**

**POSITION: Oppose**

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 487. By including incarcerated persons among those who can be found guilty of the misdemeanor of violating a condition of pretrial or posttrial release, this bill will create additional punishment for people who are already incarcerated with minimal safety benefit.

No contact orders are intended to ensure that a victim is safely separated from someone accused or convicted of harming them. They are generally included as a condition of release because a defendant in the community is capable of approaching and confronting the victim. Although this is a laudable goal, the impact on an incarcerated person could be detrimental.

The circumstances while a person, either accused of an offense and pending trial or after a conviction, differ significantly from those when a person is not incarcerated. Any letters sent must clearly identify the inmate by name and commitment number on the envelope, COMAR 12.02.20.04, thereby allowing the victim to avoid opening or reading its content. Telephone calls are limited to numbers that have prepaid accounts to receive calls from the individual and are received as collect calls that identify the caller and can be rejected by the recipient before being connected. The warden can further restrict calls based on the complaint of a recipient or any security reason. COMAR 12.02.14.01(C)(3). Moreover, physical contact is not possible, particularly on the defendant's volition. The inability to initiate a face-to-face contact and the identification requirements for mail and telephone calls facilitate the victim avoiding contact from the incarcerated individual. Incarcerated persons are also less able to avoid contact that may

be initiated by the victim. To avoid the risk of violating SB 487, incarcerated individuals may have to avoid maintaining connections, particularly with other loved ones.

This bill will increase punishment for incarcerated individuals and has the potential to harm people who are merely trying to remain connected with their family, regardless of their intent to contact the victim. No contact orders are generally included in domestic disputes, and the parties often have common relatives and other loved ones with whom they may share an address and/or phone number. Incarcerated individuals are limited in where and how they can connect with their family. A person who is incarcerated may call or write to a residence to connect with one person, unaware or unable to avoid that the victim also resides at that location.

Senate Bill 487 carries the weight of increased punishment for people who are already incarcerated, whose actions are already subject to the strictest of scrutiny. In instances, where an incarcerated person is intentionally contacting the victim (or any person) with the intent to harass or abuse them, other criminal laws already address this behavior. *See, e.g.*, Crim. L. §§ 3-803 (harassment), 3-804 (misuse of telephone facilities and equipment).

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on SB 487.

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**Submitted by: Government Relations Division of the Maryland Office of the Public Defender.**

**Authored by: Melissa Rothstein, Chief of External Affairs,**  
**[melissa.rothstein@maryland.gov](mailto:melissa.rothstein@maryland.gov), 410-767-9853.**