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TO: The Honorable Luke Clippinger
Chair, Judiciary Committee

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

RE: HB 411 - Criminal Procedure - Violation of Pretrial or Posttrial Condition
by Incarcerated Person - Victim Contact

The Office of the Attorney General urges the Judiciary Committee to favorably report House Bill 411. Delegate Embry'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 House Bill 411.

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