

Bill number: SB 424

Jacey Smith, Assistant State's Attorney for Baltimore County

Support

**WRITTEN TESTIMONY OF JACEY SMITH ASSISTANT STATE'S ATTORNEY FOR
BALTIMORE COUNTY, IN SUPPORT OF SENATE BILL 424**

I write in support of Senate Bill 424.

In contemplation of this bill, consider the following set of facts that Assistant State's Attorney Madison Frank and I were confronted with last year.

We were assigned a second degree assault domestic violence case in which the Defendant was on probation for assaulting the same victim when he picked up our new case. He had a long and violent record with an extensive history of domestic violence. In our new case, he was charged with beating the victim while she was pregnant with his child, leaving extensive injury to her face and body. Collectively between the time he was facing in our case and the time he was backing up on his probation case, he was facing sixteen years of incarceration.

Pending trial, the State collected jail calls between this Defendant and this victim, in which he instructed her to avoid service and that her non compliance with service would result in his acquittal. The State spent weeks trying to get her to come out of the house to be served to no avail. The State even secured a body attachment for the victim. She still refused to leave her house to be served.

The defendant and his family even facilitated the shipment of groceries to her house to keep her indoors, and he even had his family walk their children to school to keep her indoors. After weeks of trying the State was unable to serve her with the body attachment.

She failed to appear for trial. We were unable to use her statement to police, identifying the Defendant as the individual who beat her, recorded on body worn camera because the current forfeiture by wrong doing statute, codified in Courts and Judicial Proceedings 10-901 applies to felonies only.

If this violent Defendant procures her unavailability by wrongful means, why does he get to benefit from the hearsay rule designed to protect him just because it is a misdemeanor? If a second degree assault would have been included in the statute, the defendant would not have had the opportunity to benefit from his unlawful conduct in his trial.

I urge a favorable report for senate bill 424.