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February 8, 2024

The Honorable Will Smith
Chair, Judicial Proceedings Committee
11 Bladen Street
Annapolis, MD 21401

Dear Chair Smith and Committee Members:

On behalf of the Montgomery County State's Attorney's Office and the Maryland State's Attorneys' Association, I write in support of SB424—Criminal Procedure—Admission of Out-of-Court Statements—Assault in the Second Degree. I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office. I am also the co-chair of the MSSA Special Victims Committee and a member of the Governor's Family Violence Council.

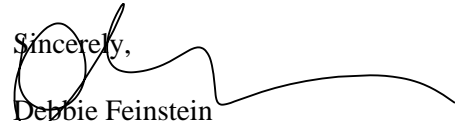
Section 10-901 of the Maryland Criminal Law Article sets forth an exception to the Rules of Evidence that govern hearsay. If the defendant on criminal trial "engaged in, directed, or conspired to commit wrongdoing" against a victim or a witness, and the defendant "intended to and did procure the unavailability of the [victim or witness]," the court can admit an out-of-court statement made by that victim or witness without live testimony in court. This section, however, only applies in criminal cases where the defendant is charged with a felony. This statute precludes the admission of such statements in trials for second degree assault, a crime we regularly see committed in domestic violence cases. Senate Bill 424 removes this barrier and allows the Court to hear from the victim or witness through their pretrial statements.

Over the past 24 years, I have handled 100s of cases involving domestic violence. Domestic abusers rely on power and control to dominate, intimate, coerce, and manipulate. Consequently, we often see that power and control dynamic dominate any court proceedings that involve the abuser and their victim. I personally have reviewed jail calls, text messages, and emails where abusers apply their power and control to prevent victims from testifying against them. The threats have varied, but the outcome is the same: Victims fear the repercussions of their testimony and elect not to participate in the criminal justice system.

Senate Bill 424 prevents the abuser from controlling the outcome of the criminal trial against them. This bill literally rights a wrong. The voices of victims and witnesses will be heard at trial, despite the abuser's best efforts to prevent them from coming to court and testifying. Defendants should not be allowed to benefit from their wrongdoing.

I strongly urge this Committee to issue a favorable report on SB424.

Sincerely,


Debbie Feinstein
Chief, Special Victims Division
Senior Assistant State's Attorney