

Bill Number: SB 146

**Scott D. Shellenberger, State's Attorney for Baltimore County
Support**

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN SUPPORT OF SENATE BILL 146
CRIMINAL PROCEDURE – ADMISSION OF OUT-OF-COURT STATEMENTS –
ASSAULT IN THE SECOND DEGREE

I write in support of Senate Bill 146 Admission of Out-of-Court Statements as a much needed expansion of Courts and Judicial Proceedings Article 10-901.

CJ 10-901 is an exception to the hearsay rule for when a defendant is charged with a felony and the person charged has engaged in conduct intended to make the witness unavailable.

This situation most often occurs in domestic violence cases. Many domestic violence cases are charged with Assault and Battery in the Second Degree which is not a felony. By expanding CJ 10-901 to include Assault and Battery it will give prosecutors another tool to deal with these very difficult cases. Please look closely at subsection (c) and the requirements that the statement was previously made under oath, in writing or recorded by electronic means. This will most often happen when an officer arrives and has a body camera.

The most likely scenario that this will occur in are a call to 911 and an officer responding. The officer meets the victim and the victim tells what happened. This will be recorded on the body camera and can be played in court should the other requirements of 10-901(a) be met.

A DV prosecutor is constantly faced with the reality that either through threats or manipulation, DV offenders continue to pull the strings, even when they are incarcerated pending trial. Many of these cases are charged with misdemeanor assault, and as the law currently stands, Defendants benefit from procuring a victim's absence simply because they are not charged with a felony.

Victims of domestic violence are faced with many challenges when a case is brought for prosecution – they often rely on the offender for financial support, share children and a home with them, and are otherwise entangled in the cycle of abuse. It is challenging enough to convince a DV victim to hold their abuser accountable, but when that abuser is able to use threats and manipulation as a means to escape prosecution, it becomes an almost impossible feat for the State to secure participation.

It defies logic to allow a Defendant to benefit from his meddling in the justice system. And in fact, this State agreed when it enacted Courts & Judicial Proceedings

§10-901. Why should we limit this law to only apply to felonies, when thousands of domestic violence cases are charged with misdemeanor assault?

I ask you to please consider how we not only protect victims who *do* come forward and testify, but also how we protect those who are too frightened or too entrenched in the cycle to do so.

I urge a favorable report.