



BILL NO: Senate Bill 146
TITLE: Criminal Procedure - Admission of Out-of-Court Statements - Assault in the Second Degree
COMMITTEE: Judicial Proceedings
HEARING DATE: January 16, 2025
POSITION: **Support**

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 146.**

Currently, under § 10-901 of the Courts and Judicial Proceedings Article, a statement is not excluded by the hearsay rule and is admissible during the criminal trial of a defendant charged with a *felony* violation if the statement is offered against a party that has engaged in, directed, or conspired to commit wrongdoing that was intended to and did render the witness unavailable.

Senate Bill 146 would expand the existing hearsay exception to include second degree assault charged in a criminal trial. A court must find by a preponderance of the evidence that the party against whom the statement is offered has engaged in specified activities that rendered the witness unavailable.

Second degree assault is commonly charged in domestic violence cases. Due to the ongoing power and control dynamics present in domestic violence, an abuser could threaten or coerce a victim into not testifying in a criminal proceeding. The law would require that a party's wrongdoing be proven by a preponderance of the evidence. Senate Bill 146 allows the victim to testify through their prior statements, statements that were made at a time they were safe and able to state what happened to them, so long as they were contemporaneously recorded, made under oath and subject to the penalties of perjury at a proceeding or in a deposition, or were written and signed by the declarant (victim). Too many times, by the time the criminal matter is litigated, the victims/survivor has been influenced to not want to testify against their abuser. Prosecutors cite this as a common reason to end up dismissing or reducing charges against an abuser. Senate Bill 146 would allow prior statements (e.g., statements to responding officers that are signed by the victim) to be used as evidence.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report on SB 146.**

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