

Bill Number: SB807  
Scott D. Shellenberger, State's Attorney for Baltimore County  
Support with Amendments

**WRITTEN TESTIMONY OF SCOTT SHELLENBERGER,**  
**STATE'S ATTORNEY FOR BALTIMORE COUNTY, IN**  
**OPPOSITION TO SENATE BILL 807,**  
**CRIMINAL PROCEDURE**  
**VICTIMS OF SEXUALLY ASSAULTIVE BEHAVIOR**  
**WAIVERS OF RIGHTS – PROHIBITION**

I write in opposition of Senate Bill 807 which would outlaw a written waiver of rights from being presented to victims of sexual assault.

It unfortunately has been a common practice among law enforcement for years that if the victim of a sexual assault did not want to go forward with charges, they would be asked to sign a waiver form documenting that fact.

Unfortunately, until last year, Baltimore County followed that procedure. Baltimore County stopped that policy and I support Senate Bill 807 prohibiting such written forms. However, as written I oppose this bill.

I believe there would need to be two amendments made to this bill for it to be appropriate.

First, I believe subsection (e) may be unconstitutional. It states: “ a form or verbal agreement identified under subsections (b) and (c) of this section which is signed or agreed to by a victim may not be enforced or used as evidence in a criminal, civil, or administrative proceeding.

If a victim had previously said she did not want to go forward with charges and later changes her mind and the case goes forward, the Court would permit the fact that she did not want to go forward as admissible in cross examination or through another means of admissibility. Prohibiting it would be a violation of the Confrontation Clause.

I believe at a minimum the word criminal needs to come out of section (e).

I am concerned about (c) that prohibits a “verbal agreement” which would be like the form. Often a victim will tell the police they do not want to go forward with a charge or even have the offense investigated. The Detective will often write that fact in the police report. There is a strong argument that this an agreement prohibited by the bill. Doing so would possibly be a violation of the Violence Against Women Act which gives victims control over their investigation and prosecution. We need to document it because if the victim changes her mind we don't want accusations of why nothing was done. Also sometimes close family and friends may be some type of witness and the

victim may ask that they not be contacted. If the police agree (which they usually do) that could also be a problem.

I think we need to add that documenting the victim wishes does not constitute an agreement or something to that effect.

I look forward to working with the committee on some amendments.