

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 807
Criminal Procedure – Victims of Sexually Assaultive Behavior –
Waivers of Rights - Prohibition
DATE: February 26, 2020
(3/5)
POSITION: Oppose as drafted

The Maryland Judiciary opposes Senate Bill 807 as drafted. This bill prohibits a criminal justice unit from presenting certain victims of sexually assaultive behavior with forms or verbal agreements purporting to limit the obligations of the criminal justice unit to the victim or limit the rights of the victim.

This bill incorporates by reference the definition of “criminal justice unit” from Criminal Procedure Article § 10-201 which, at subsection (f)(2)(iv), explicitly includes: the Administrative Office of the Courts, the Court of Appeals, the Court of Special Appeals, the circuit courts, the District Court of Maryland, and the offices of the clerks of these courts in the definition when they are exercising jurisdiction over criminal matters. The Judiciary opposes the inclusion of this definition of criminal justice unit as this provision would allow individuals to file declaratory judgment actions against judges.

Among other requirements, the bill states that each “criminal justice unit” shall adopt a policy to enforce prohibitions on seeking waivers from sexual assault victims and to provide a copy of the policy to the Maryland Sexual Assault Evidence Kit Policy Funding Committee, but the Judiciary does not seek such waivers from victims, nor is it in a position to do so, so it is not clear how the Judiciary could comply with this requirement.

cc. Hon. Shelly Hettleman
Judicial Council
Legislative Committee
Kelley O’Connor