

Bill Number: SB849
Scott D. Shellenberger, State's Attorney for Baltimore County
Opposed

WRITTEN TESTIMONY OF SCOTT SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY, IN
OPPOSITION TO SENATE BILL 849,
CRIMINAL PROCEDURE
MEDICAL EMERGENCY - IMMUNITY

I write in opposition of Senate Bill 849 which would expand immunity to those present when a medical emergency is called in.

First, I want to be clear that I support the general concept of what this bill is trying to do. In fact, I worked with staff last year on a version of this bill. Last year you submitted a bill regarding Criminal Procedure 1-210 which addressed a clarification to assure that the person actually suffering from the medical emergency was immune from prosecution for possession of the drug which may have caused the medical emergency. I still support that effort to make that clarification which is in Senate Bill 849. I am concerned, however, about how much further this year's bill goes from last years.

Senate Bill 849 would make a person immune from prosecution for distribution of CDS, possession with intent to distribute CDS, and any misdemeanor ascertained as a result of the police responding to the call for medical assistance. This causes me great concern. I can picture scenarios where this would cause a great miscarriage of justice. For example, if the police or medical personnel respond to learn that a person has injected a child or unconscious person with a drug or that a child has gotten into the stash of their parents drug dealer, this bill would appear to say that the drug dealer cannot be prosecuted. If, as another example, a person attempts to kill themselves by the ingestion of drugs because they were assaulted by the person who called in the medical emergency, then this bill appears to say that the person cannot be prosecuted for the assault. This could easily happen in domestic violence cases. These examples cannot be what you intend, but are the practical result of the bill.

In addition, paragraph (E) causes me concern. The police would be required to not act on their responsibility to obey an order of a court to take a person into custody if they discover an open warrant for a non-violent crime. I understand the thought process that a person may not call in a medical emergency if they know a warrant is out for their arrest. However, I think it is unrealistic that the person will go through their own thought process of knowing that this statue exists and are capable of assessing whether their warrant fits the definition of a non-violent crime under Maryland's statutory construction. I don't feel this effort will accomplish your aim.

I support your efforts in last year's bill, but I cannot support a bill which steps so much further. I look forward to working with you on this and am happy to help with amendments.

I urge an unfavorable report on Senate Bill 849.