

HOUSE BILL 192

E2
HB 483/17 – JUD

8lr2214
CF 8lr2415

By: **Delegates Atterbeary and Wilson**

Introduced and read first time: January 18, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Victims and Witnesses – Out of Court Statement of Child**
3 **Victim**

4 FOR the purpose of expanding a certain evidentiary rule to render admissible a certain
5 statement made by a certain child victim to a certain adult describing a certain
6 offense; and generally relating to out of court statements of child victims.

7 BY repealing and reenacting, without amendments,
8 Article – Criminal Procedure
9 Section 11–304(a) and (b)
10 Annotated Code of Maryland
11 (2008 Replacement Volume and 2017 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Procedure
14 Section 11–304(c)
15 Annotated Code of Maryland
16 (2008 Replacement Volume and 2017 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Criminal Procedure**

20 11–304.

21 (a) In this section, “statement” means:

22 (1) an oral or written assertion; or

23 (2) nonverbal conduct intended as an assertion, including sounds, gestures,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 demonstrations, drawings, and similar actions.

2 (b) Subject to subsections (c), (d), and (e) of this section, the court may admit into
3 evidence in a juvenile court proceeding or in a criminal proceeding an out of court statement
4 to prove the truth of the matter asserted in the statement made by a child victim who:

5 (1) is under the age of 13 years; and

6 (2) is the alleged victim or the child alleged to need assistance in the case
7 before the court concerning:

8 (i) child abuse under § 3–601 or § 3–602 of the Criminal Law Article;

9 (ii) rape or sexual offense under §§ 3–303 through 3–307 of the
10 Criminal Law Article;

11 (iii) attempted rape in the first degree or in the second degree under
12 §§ 3–309 and 3–310 of the Criminal Law Article; or

13 (iv) in a juvenile court proceeding, abuse or neglect as defined in §
14 5–701 of the Family Law Article.

15 (c) An out of court statement may be admissible under this section only if:

16 (1) the statement was made to and is offered by a person acting lawfully in
17 the course of the person's profession when the statement was made who is:

18 [(1)] (I) a physician;

19 [(2)] (II) a psychologist;

20 [(3)] (III) a nurse;

21 [(4)] (IV) a social worker;

22 [(5)] (V) a principal, vice principal, teacher, or school counselor at a public
23 or private preschool, elementary school, or secondary school;

24 [(6)] (VI) a counselor licensed or certified in accordance with Title 17 of the
25 Health Occupations Article; or

26 [(7)] (VII) a therapist licensed or certified in accordance with Title 17 of the
27 Health Occupations Article; **OR**

28 (2) **THE STATEMENT:**

1 **(I) DESCRIBES THE CHARGED OFFENSE;**

2 **(II) WAS MADE TO THE FIRST ADULT OTHER THAN THE**
3 **DEFENDANT TO WHOM THE CHILD VICTIM MADE A STATEMENT ABOUT THE**
4 **OFFENSE;**

5 **(III) WAS PROMPTLY REPORTED IN ACCORDANCE WITH § 5-704**
6 **OR § 5-705 OF THE FAMILY LAW ARTICLE; AND**

7 **(IV) WAS DOCUMENTED IN WRITING OR BY AUDIO OR VIDEO**
8 **RECORDING.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2018.