

2021 NASW SB 776 Senate Side.pdf

Uploaded by: Faulkner, Rachael

Position: FAV

**Testimony on HB 0776
Out of Court Statements—Child and Vulnerable Adult Victims and Witnesses
Senate Judicial Proceedings Committee
SUPPORT
March 10, 2021**

Senator Lee and Members of the Committee,

On behalf of the National Association of Social Workers, Maryland Chapter (NASW-MD), we would like to express our strong support for Senate Bill 776 – Out of Court Statements – Child and Vulnerable Adult Victims and Witnesses. This bill proposes expanding the hearsay exception for victims set forth in Section 11-304 of the Criminal Procedure Article. Section 11-304 currently allows the State to admit statements made by children under the age of thirteen that relate to child physical and sexual abuse when those statements are made to certain individuals, including physicians, social workers, teachers, and therapists. The proposed law extends the exception to child victims of Neglect of a Minor (Criminal Law Article § 3-602.1) and Crimes of Violence (defined in Public Safety Article § 5-101). It also extends the hearsay exception to vulnerable adult victims of Abuse or Neglect of a Vulnerable Adult in the First and Second Degree (Criminal Law Article §§ 3-604, 3-605). Lastly, the proposed law will extend the exception to child and vulnerable adult witnesses to these crimes.

This bill would greatly increase accessibility in providing testimony for vulnerable victims of abuse and neglect. The majority of elder abuse is committed by a family member, a trusted person, or a caregiver. The older or vulnerable adult may still deeply love and care for the person who has hurt them. They may still fear the perpetrator and the repercussions that a legal proceeding may have on their family. This complex dynamic often leads victims to experience severe stress and anxiety when giving testimony at a trial. This emotional toll can, unfortunately, lead victims to minimize the abuse they have experienced, refuse to testify, or even recant the allegations.

In addition to the emotional toll, a court hearing can present significant physical barriers for vulnerable adults. They may no longer drive and struggle to secure safe, accessible transportation. They may have hearing and/or vision impairments. They may use an oxygen tank or require other medical equipment. They may have trouble walking, have issues with balance, or dexterity. All of these challenges can leave the victim feeling physically and emotionally drained by the time they are asked to give testimony in trial.

This bill would allow victims to make statements in a safe, comfortable environment without the perpetrator present. It would also allow the victim to make an out-of-court statement closer in time to the event when their memory is likely to be clearer.

Expanding 11-304 to include child and vulnerable adult victims and witnesses to certain crimes, will allow a judge or jury to hear a full and reliable account of what happened to a victim or what a witness saw.

The Maryland Chapter of the National Association of Social Workers urges a favorable report on Senate Bill 776!

Thank you,
NASW-Maryland
Committee on Aging

Feinstein Letter of Support SB776.pdf

Uploaded by: Feinstein, Debbie

Position: FAV



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March 8, 2021

Senator William C. Smith, Jr.
Chairman, Senate Judicial Proceedings Committee
101 House Office Building
6 Bladen Street
Annapolis, MD 21401

Dear Chairman Smith:

I write in support of SB776—Criminal Procedure—Out of Court Statements—Child and Vulnerable Adult Victims and Witnesses. I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office, Chair of the Montgomery County Domestic Violence Coordinating Council, Chair of the Montgomery County Elder/Vulnerable Adult Abuse Task Force, and a member of the Tree House Child Advocacy Center multidisciplinary team. My division prosecutes child abuse, child neglect, domestic violence, human trafficking, sexual assault, and vulnerable adult abuse cases, as well as any homicides associated with any of those crimes.

Criminal Procedure Article, Section 11-304 currently sets forth a specific statutory scheme for the admissibility of reliable out-of-court statements made by child abuse victims who are under the age of thirteen. The statute requires that the child make the statement to either a physician, social worker, teacher, or therapist. In order for the State to use the out-of-court statement at trial, the State must notify the defendant of its intent to introduce the statement at trial. The defendant is entitled to depose the statement-taker. The Court then holds a pretrial hearing to determine if the statement is trustworthy. At trial, the child must testify and be subject to cross examination. The statement-taker then testifies, and the State offers the child's out of court statement as substantive evidence.

HB1122 proposes extending the hearsay exception in section 11-304 to statements made by child or vulnerable adult victims or witnesses to: (1) child abuse and sexual offenses; (2) child neglect; (3) crimes of violence as defined by Section 5-101 of the Public Safety Article; and (4) vulnerable adult abuse. The remainder of the statutory scheme would remain the same.

The reasons that support the current 11-304 exceptions apply to statements made by child victims of, and witnesses to, other crimes. The purpose of the statute is to allow the Court to admit trustworthy statements into evidence so that the finder of fact—judge or jury—can have the best evidence of the events relating to the criminal charges. Statements made by children under the age of thirteen in a safe environment, to a trusted adult, and close in time to the commission of the crime or the initial disclosure, carry indicia of reliability. The perpetrator is not in the room, and the purpose of the statement is typically for medical treatment or support purposes, or is gathered by a forensic interviewer, who is trained to ask nonleading questions in a structured and evidence-based manner. These indicia of reliability do not change based on the nature of the crime or whether the child is a victim or witness.

Section 11-304 should also be extended to vulnerable adult victims and witnesses, particularly to those individuals with mental or other cognitive differences. Like children under the age of thirteen, a safe environment, a trusted statement-taker, and close proximity to the crime or disclosure, render these



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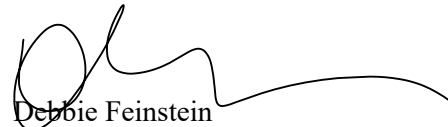
DEPUTY STATE'S ATTORNEYS
PETER A. FEENEY
RYAN S. WECHSLER

statements more trustworthy. My division has seen many cases where a vulnerable adult makes a statement to a social worker with Adult Protective Services close in time to the offense, but later has difficulty recalling what happened or is intimidated by the court process.

As noted above, before the Court admits any statement under this statutory scheme, the Court must first determine that the statement is trustworthy. The current statutory scheme includes thirteen factors that the Court may consider when making this determination. These factors include whether the child had any motive to fabricate, the inner consistency and coherence of the statement, whether the statement was suggested by the use of leading questions, the child's personal knowledge, and the timing of the statement. These factors provide a layer of protection to the defendant by creating a scheme to exclude unreliable statements, even when those statements are made to a social worker, medical professional, teacher, or therapist.

By passing SB776, the General Assembly will provide greater access to justice for those most vulnerable in our community. I urge a favorable report on SB776.

Sincerely,


Debbie Feinstein
Chief, Special Victims Division
Senior Assistant State's Attorney

2021-03-05 SB0776 (Support).pdf

Uploaded by: Hyle Marts, Lisa

Position: FAV

BRIAN E. FROSH
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CAROLYN QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

410-576-6584

March 5, 2021

TO: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

FROM: Lisa Hyle Marts, Deputy Director, Maryland Medicaid Fraud Control Unit
On behalf of The Office of the Attorney General

RE: SB0776–Criminal Procedure – Out of Court Statements – Child and Vulnerable
Adult Victims – **Support**

Chair Smith, Vice Chair Waldstreicher, and distinguished Members of the Judicial Proceedings Committee, my name is Lisa Hyle Marts, and I am here today to voice the Attorney General's support for SB 0776. I currently serve as the Deputy Director of the state's Medicaid Fraud Control Unit. This unit, which is predominantly funded by the federal government, is tasked with prosecuting both Medicaid Health Care fraud cases in our state as well as cases of abuse and neglect committed against the elderly and vulnerable adults.

I came to this unit almost 2 years ago with over 20 years of experience as a local assistant state's attorney. Much of my time as a prosecutor was trying cases of abuse and neglect against children. I served on the MD State Council on Child Abuse and Neglect, received several awards for my work and was very active in child abuse education and prevention efforts. During my years of trial work, I utilized Criminal Procedure §11-304 successfully many times in court. This statute has been a very effective tool for child abuse prosecutors throughout the state, as it helps to strengthen our cases against child abusers and helps bring justice for our minor victims.

Maryland's Medicaid Fraud Control unit would greatly benefit from this new bill as it will extend that same protection to our most vulnerable adults and the elderly. It should be noted it still requires that the victim testify at trial, as it did in my previous child abuse cases however, it will allow trusted caretakers of this growing vulnerable adult population, the doctors, nurses etc., to testify as to the victim statements made to them about their abuse. This new statute would prove to be an invaluable tool that would enable prosecutors throughout the state to provide the courts and juries a better and clearer picture of the abuse that the vulnerable adult victims suffer.

I have made a career dedicated to serving and protecting the most vulnerable in our society, the children, the elderly, and the disabled. I feel it is my duty as a public servant to speak up for those that struggle to speak for themselves. I am sure you would agree, as public servants yourselves, there is no greater honor.

For the foregoing reasons, the Office of the Attorney General urges a favorable report on SB 0776.

cc: Members of the Judicial Proceedings Committee

Hearsay - add child abuse and elder abuse - testim

Uploaded by: Jordan, Lisae C

Position: FAV



Working to end sexual violence in Maryland

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For more information contact:
Lisae C. Jordan, Esquire
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Testimony Supporting Senate Bill 776
Lisae C. Jordan, Executive Director & Counsel
March 10, 2021

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 776.

Senate Bill 776 – Out of Court Statements of Child and Elder Victims

Maryland's "tender years" exception permits a judge or jury to hear a child's statement regarding abuse or sex crimes when the child is under 13 and was made to certain professionals. This bill would expand the tender years exception to the hearsay rule to permit admission of statements by vulnerable adults, including regarding sexual abuse and physical abuse, and by children not only in sexual abuse cases, but also in neglect and physical abuse cases.

The tender years hearsay exceptions was created in recognition that most sexual assaults and sexual abuse occurs in private and that victims face significant barriers to reporting. Survivors may be embarrassed or reluctant to report what a family member or other trusted adult has done to them. Others may face coercion or threats from the perpetrator. These underlying policy considerations are also present in cases involving abuse of vulnerable adults and involving child maltreatment other than sexual abuse. Our laws should support these survivors as well.

**The Maryland Coalition Against Sexual Assault urges
the Judicial Proceedings Committee
to report favorably on Senate Bill 776**

FI Testimony (1).pdf

Uploaded by: Kulow-Malave, Sara

Position: FAV



March 2, 2021

Senator William C. Smith, Jr.
Chairperson, Senate Judicial Proceedings Committee
11 Bladen Street
Annapolis, MD 21401

Dear Senator Smith:

I am writing in support of SB0776- Criminal Procedure – Out of Court Statements – Child and Vulnerable Adult Victims. My name is Sara Kulow-Malavé and I am the dedicated forensic interviewer for The Tree House Child Advocacy Center of Montgomery County, MD. As a clinical social worker and a forensic interviewer, I am frequently called upon to testify in criminal court cases involving child sexual and physical abuse regarding statements made to me by a child during the course of a forensic interview. The new statute would expand the hearsay exception to include victims of child neglect, vulnerable adult abuse, and victims of/witnesses to crimes of violence.

As a specially trained forensic interviewer, I also meet with alleged victims of child neglect and child witnesses to violent crimes. I have interviewed vulnerable adults who may be victims of abuse and/or neglect as well. The statements made during a forensic interview of a vulnerable adult and/or an alleged victim of child neglect or witness to a violent crime should be included in the already existing 11-304 tender years hearsay exception to crimes.

Forensic interviewers receive extensive, specialized training in one or more nationally accredited forensic interview protocols. Forensic interviewers must participate in on going peer review and continuing education within the field of child maltreatment. All forensic interviews, regardless of the protocol used, are specifically designed to elicit reliable information from a child or vulnerable adult about an event or events they may have experienced and/or possibly witnessed. Although referred to by different names, each protocol follows the same basic semi-structured process, uses developmentally sensitive language and focuses on using open ended, non-leading questions. All forensic interview protocols can be modified to account for developmental and/or cognitive challenges such as allowing the alleged victim/witness additional time to answer questions and breaking questions down into smaller parts.

A significant portion of training for forensic interviews is focused on structuring questions so that they are not suggestive. Open ended questions invite the alleged victim to discuss the allegations in a narrative fashion. This reduces suggestibility and inaccurate information. Leading questions, on other hand, suggest the answer to the alleged victim and, therefore, are unreliable. All interview protocols include instructions for the alleged victim. For example, one rule is that we only talk about events that truly happened. Another rule is that the alleged victim or witness must correct the interviewer if he/she/they get information wrong. This is another technique used to reduce suggestibility and/or false information. Forensic interviews can be used to aide law enforcement and child protective services during the course of an investigation. The interview can assess for safety concerns for the alleged victim or witness and substantiate or rule out abuse and/or neglect. Although forensic interviewers consult with law enforcement and child protective services during the interview, forensic interviewers are not involved in determining the outcome of an investigation. Further, forensic interview training dictates exploring alternative hypotheses to the allegations. Thus, the interviewer is considered to be a neutral party.

During a forensic interview, the only parties in the room are the interviewer and the alleged victim/witness. This reduces outside influences such as the presence of a parent or law enforcement. The comfort of the child/vulnerable adult is paramount. The interview is video recorded to capture an accurate picture of the alleged victim's statement as well as the questions posed by the interviewer. Forensic interviews are designed to withstand the scrutiny of the judicial system and are the most accurate way to collect information from an alleged victim of abuse and/or neglect or witness to a violent crime.

Thank you in advance for your time. I strongly urge this Committee to favorably consider this bill aimed to assist the most vulnerable members of our community.

Sincerely,

Sara Kulow-Malavé, LCSW-C

Forensic Interviewer

The Tree House CAC of Montgomery County

SB776outofcourtstmts.pdf

Uploaded by: Leache, Tammy

Position: FAV



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DATE: March 8, 2021

BILL NUMBER: SB 776

POSITION: Favorable

The Frederick County State's Attorney's Office supports SB 776.

SB 776 allows for out of court statements of vulnerable adults to be introduced in trial, as well as, adds the crimes of neglect of a minor, abuse or neglect of a vulnerable adult and crimes of violence. It also allows for introduction at trial of out of court statements of children or vulnerable adults who witness these crimes.

Criminal Procedure 11-304 recognizes that children under 13 have unique challenges to being able to testify in a case in which they are a victim of abuse. These challenges include, but are not limited to, a lesser ability to recall as time goes by, fear of being in a courtroom setting, and fear of having to be near their abuser.

A vulnerable adult faces similar challenges as those stated above. Particularly if the vulnerable adult is in a state of mental decline. By the time a case goes to trial, they may no longer possess the ability to recall the abuse they experienced or witnessed, or their ability may be very limited or even inaccurate. Just as very young victims can often recount what they experienced or witnessed shortly after the event, but maybe not so much a year or two down the road, the same holds true for a vulnerable adult whose health is deteriorating.

All of these reasons why Criminal Procedure 11-304 was enacted in the first place, also hold true if the child is a victim of or witness to neglect or a crime of violence. There is no distinction for why the exception should apply only in cases of statutory child physical or sexual abuse, rape or sexual offense. Child or vulnerable adult victims of or witnesses to neglect or crimes of violence often suffer psychological trauma, just as do victims of child abuse. The challenges to being able testify further down the road are the same.

Additionally, witnesses to abuse or violence can often be just as traumatized as a result of having witnessed such horrific acts, as if they had experienced it, themselves. This particularly holds true in situations where children witness crimes of violence and abuse between their parents or other members of their household. They are very much victims in those situations, as much so as the victims whose abuse they witnessed.

SB 776 would help to further protect those in our society who are most vulnerable and who, because of their vulnerability, are easy targets of crime. It would help ensure that these victims are protected from further victimization and receive justice and that criminals who perpetrate crimes against them do not escape accountability, simply because of their vulnerability.

For these reasons, the Frederick County State's Attorney's Office requests a favorable report on SB 776.

SB766 CPMC out of court FAV.pdf

Uploaded by: Lombardi, J

Position: FAV

THE COALITION TO PROTECT MARYLAND'S CHILDREN

Our Mission: To combine and amplify the power of organizations and citizens working together to keep children safe from abuse and neglect. We strive to secure the budgetary and public policy resources to make meaningful and measurable improvements in safety, permanence, and well-being.

Testimony to the House Judiciary Committee

**SB766 Criminal Procedure – Out of Court Statements – Child and Vulnerable Adult Victims
March 10, 2021**

**** SUPPORT ****

The Coalition to Protect Maryland's Children (CPMC) is a consortium of Maryland organizations and individuals formed in 1996 to promote meaningful child welfare reform.

CPMC supports SB776 which would help the court to admit into evidence out of court statements made by a child victim or a vulnerable adult victim.

The bill would extend Maryland's current tender years hearsay exception to cover out of court statements of children in very serious neglect cases and to cover out of court statements of vulnerable adults, some of whom may be victims of sexual, physical or financial abuse by families or caregivers, or others.

Under the hearsay exception, children and vulnerable adults still have to testify in court in criminal cases to allow defendants to confront them. This bill would simply help allows some of a victim's additional out of court statements, once deemed admissible, to also be allowed in court. Those out of court statements are only admissible if made to a professional and if they have the indicia of reliability and guarantee of trustworthiness provided for in the statute.

Ideally, the out of court statements in the child abuse context covered by the tender years exception are made to trained forensic interviewer social workers at a children's advocacy center, and are elicited in trauma-informed manner. The out of court statements can help provide additional evidence that a frightened child cannot provide in a traumatic court setting.

We urge a favorable report on SB776.

**Advocates for Children and Youth | Associated Catholic Charities | Board of Childcare
| Center for Hope, LifeBridge Health | Child Justice, Inc | Citizens Review Board | Court
Appointed Special Advocates | Family Tree | Maryland Coalition Against Sexual Assault |
Md Coalition Against Domestic Violence | MD Chap. National Association of Social Workers |
Diana Philip | State Council on Child Abuse and Neglect**

SB766 Center for Hope out of court FAV.pdf

Uploaded by: Lombardi, Joyce

Position: FAV



SB776 Criminal Procedure – Out of Court Statements – Child and Vulnerable Adult Victims
Senate Judicial Proceedings Committee – March 10, 2021
Testimony of Joyce Lombardi, Director of Government Relations and Legal Services
Position: **SUPPORT**

Center for Hope (CFH) writes in support of SB776, which would help the court admit into evidence in criminal cases some out of court statements made by a child in serious neglect cases and by a vulnerable adult victim. Current law does not extend to either of those two groups.

Center for Hope, a subsidiary of LifeBridge Health, helps clients heal from acute violence such as child abuse, domestic violence, street violence and elder abuse through integrated, evidence-based programs that extend beyond hospital walls. Center for Hope now includes the Baltimore Child Abuse Center, one of the state's oldest and largest children's advocacy centers. Children's advocacy centers engage multidisciplinary teams of experts to respond to allegations of child abuse. Md. Cts and Jud Proc §11-928. Trained forensic interviewers are trained to ask neutral open-ended questions to elicit narrative responses in the victim's own words. These interviews are admissible in some circumstances.

Center for Hope Elder Justice Program was created to provide an evidence-based approach to the growing -- but often overlooked -- problem of serious harm caused to older and vulnerable adults by family, caregivers and other trusted adults. The project convenes a multi-disciplinary team of experts, including forensic interviewers, law enforcement, medical and mental health professionals to review cases to identify gaps in services and systemic improvements.

Under current Maryland's "tender years" exception to the hearsay rule, out of court statements made to, eg one of our forensic interviewers, may be admissible in court proceedings for certain child abuse cases. This bill would extend that law to include serious child neglect cases (such as medical neglect in which children face near-fatal consequences) and cases involving vulnerable adults. Vulnerable adults include elderly or mentally or physically challenged adults.

Under Maryland law, children and vulnerable adults still have to testify in court to allow defendants to confront them. This bill would help allows a victim's additional out of court statements, once deemed admissible, to also be allowed in court. Those out of court statements, which are elicited in trauma-informed manner and places, may help provide evidence that a frightened child or vulnerable adult cannot provide in a traumatic court setting.

We urge a favorable report on SB776.

LifeBridge Health is a regional health system comprising Sinai Hospital of Baltimore, Levindale Geriatric Center and Hospital in Baltimore; Northwest Hospital; Carroll Hospital and Grace Medical Center (formerly Bon Secours). At LifeBridge Health and Center for Hope, we are committed to convening national best practice and trauma experts to respond to violence, abuse and exploitation of our area's most vulnerable populations.

SB 776 - Out of Court Statements.pdf

Uploaded by: Shellenberger, Scott

Position: FAV

Bill Number: SB 776
Scott D. Shellenberger, State's Attorney for Baltimore County
Support

WRITTEN TESTIMONY OF SCOTT SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN SUPPORT OF SENATE BILL 776,
OUT OF COURT STATEMENTS – CHILD AND VULNERABLE ADULT VICTIMS

I write in support of Senate Bill 776 that makes a logical extension of a hearsay statute written for child abuse cases and applies it to the abuse of vulnerable adults.

Back in the late 1980's this legislature was ahead of the times when it codified what was known as the "Tender Years" exception to the hearsay rule found at common law. Criminal Procedure §11-304 was adopted to create a comprehensive statute that balanced a defendant's right to a fair trial with the need to protect the youngest and most vulnerable among us... children.

Criminal Procedure §11-304 applies to:

- Children under 13;
- Limited to special witnesses;
- Notice to a defendant;
- A copy must be supplied of what will be used;
- Must show the testimony is trustworthy.

To demonstrate trustworthiness the law requires a Judge to consider thirteen factors that need to be analyzed.

Much has been made over the confrontation clause and unless another hearsay exception is present, the child usually will have to testify at trial but Criminal Procedure §11-304 is valuable in allowing the out of court hearsay to come in to supplement and show consistency.

Senate Bill 776 does one very logical thing. It takes this hearsay exception that applies to the youngest and most vulnerable and extends it to the oldest and most vulnerable.

Our population is aging. 1 in 4 residents in Baltimore County is over 60 years old. Baltimore County is not alone. Because of that increase we are seeing more instances of financial exploitation and physical elder abuse. I have an experienced, well trained prosecutor who reviews and prosecutes these cases.

Senate Bill 776 takes a statute with a strong statutory framework that has applied to children for decades and would let it be applied to vulnerable adults.

It is a logical expansion whose time has come. I urge a favorable report.

Lee_FAV_SB776_2021_mw.pdf

Uploaded by: Lee, Susan

Position: FWA

SUSAN C. LEE
Legislative District 16
Montgomery County

MAJORITY WHIP

Judicial Proceedings Committee

Joint Committee on
Cybersecurity, Information Technology,
and Biotechnology

Chair Emeritus
Maryland Legislative Asian American
and Pacific Islander Caucus

President Emeritus
Women Legislators of the
Maryland General Assembly, Inc.



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

March 10, 2021

Senate Judicial Proceedings Committee

Senate Bill 776 - Criminal Procedure – Out of Court Statements – Child and Vulnerable Adult Victims

SB 776 has been introduced in various forms in past sessions. This version proposes expanding the hearsay exception for more children and vulnerable adults under § 11-304 of the Criminal Procedure Article. This existing statute is an exception to the hearsay rule, and currently allows the State to admit statements made by children under the age of thirteen that relate to child physical and sexual abuse when those statements are made to certain individuals, including physicians, social workers, teachers, and therapists. The proposed law extends the exception to child victims of Neglect of a Minor (Criminal Law Article § 3-602.1) and Crimes of Violence (defined in Public Safety Article § 5-101). It also extends the hearsay exception to vulnerable adult victims of Abuse or Neglect of a Vulnerable Adult in the First and Second Degree (Criminal Law Article §§ 3-604, 3-605). Another provision of the bill will extend the hearsay exception to children and vulnerable adult witnesses to crimes of violence, face similar intimidation factors.

Under current law, § 11-304 has a specific scheme to admit certain out-of-court statements. The State must first notify the defendant of its intent to introduce the statement at trial, and the defendant is entitled to depose the statement-taker. The Court then holds a pretrial hearing to determine if both the statement is trustworthy and the child is competent to testify. At trial, the child must testify and be subject to cross examination. The statement-taker then testifies, and the State offers the child's out of court statement as substantive evidence.

It is my contention that the 11-304 exceptions should be applicable to statements made by victims of child neglect, crimes of violence, and vulnerable adult victims, as well as certain witnesses to those serious crimes. These victims and witnesses often have similar relationships to their perpetrators and face similar challenges when it comes to testifying, including their

ability to recall specific events and their susceptibility to intimidation. A victim's or witness's memory of an event is much stronger closer in time to the precipitating event, which is when most of the statements admissible under §11-304 are disclosed.

Moreover, cases of this nature often involve complex family dynamics that may, over time, result in a child or vulnerable adult becoming reluctant to speak about the abuse they experienced or witnesses, trivializing the nature of the abuse, or even recanting their allegations altogether. A child or vulnerable adult's out-of-court statement made close in time to the event, in a safe, comfortable environment out of the presence of the perpetrator, and before being subjected to the pressures of other family members, may be reliable than his or her testimony at trial.

Expanding § 11-304 to include child and vulnerable adult victims and witnesses to certain crimes will allow a judge or jury to hear a full and reliable account of what happened to a victim or what a witness saw. The rigorous trustworthiness test in place with the right to confront the witness provide the due process protections for defendants, while allowing this evidence to be brought forward in a credible manner. The statement taker also is able to be cross examined at trial. The process is more reliable, more complete and more unearths more important details for all sides to consider.

For these reasons I respectfully request a favorable committee report on SB 776, as amended.

SB0776-683425-01 (002).pdf

Uploaded by: Lee, Susan

Position: FWA



SB0776/683425/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

02 MAR 21
11:33:12

BY: Senator Lee

(To be offered in the Judicial Proceedings Committee)

AMENDMENTS TO SENATE BILL 776

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after “**Victims**” insert “**and Witnesses**”; in line 5, strike “victim”; in line 6, after “victim” insert “**or witness**”; and in line 8, after “victims” insert “**or witnesses**”.

AMENDMENT NO. 2

On page 2 in line 7, on page 3 in lines 9, 14, 16, 20, and 21, on page 4 in lines 23 and 28, on page 5 in lines 3, 17, 20, 27, and 31, and on page 6 in lines 1 and 4, in each instance, after “victim” insert “**OR WITNESS**”.

On page 2, in line 9, strike the first “the” and substitute “**AN**”; in the same line, after “victim” insert “**, WITNESS,**”.

On page 3, in line 21, strike the second “child” and substitute “**CHILD’S**”; and in the same line, strike “victim’s”.

On page 4, in line 3, after “section” insert “**REGARDING THE CHILD OR VULNERABLE ADULT VICTIM’S OR WITNESS’S OUT OF COURT STATEMENT**”; in line 27, after “VICTIM” insert “**OR WITNESS**”; and in line 32, after “VICTIM’S” insert “**OR WITNESS’S**”.

On page 4 in lines 13, 19, 28, 29, and 32, and on page 5 in lines 7, 23, and 26, in each instance, after “victim’s” insert “**OR WITNESS’S**”.

UNfavorable for SB776.pdf

Uploaded by: mcavoy, vince

Position: UNF

UNfavorable for SB0776

vince mcavoy po box 41075 baltimore md

Dear Committee,

This bill is a Trojan horse tied to Senator Lee's recently completed taskforce.

The child abuse taskforce, which just completed, included a person/persons who has - for years - advocated for out-of-court testimony by toddlers....

for the non-lawyers that thing is called HEARSAY....

hearsay of toddlers and young children to be allowed as testimony.

This bill was sparked by that taskforce, not "vulnerable adults".

I ask you to look through this shellgame.

There is a reason this HEARSAY is not used. There is a reason that it's not used in particular in child cases. Toddlers as a group don't have the consistency, temerity and clarity to provide detail for court testimony. DSS and CPS already work a multitude of cases against people suspected of harming children and prosecute as evidence provides. If a particular case is tough, we do not suspend our legal system so the person investigating the suspected abuse DISREGARDS the law to "enforce" the law. We especially do not do so when this person (or persons) has a known bias against parents. It is unbelievable that you can hear testimony where he denigrates with broad brush (and no statistics) a certain gender, certain race...unbelievable.

The bias is rife. This bill is a Trojan horse. Toddlers and young children can provide information

to stop and prosecute abusers. Court testimony has a different standard.

Committee, please ignore these bills with an agenda, one I spoke to from the start of this taskforce. . As I insisted upon the Senate bill SB567 hearing in JPR this taskforce would spur agendized bill drafting.

<http://mgahouse.maryland.gov/mga/play/c9f0c69c-af92-4fb0-9986-ddc376c224a2/?catalog/03e481c7-8a42-4438-a7da-93ff74bdaa4c&playfrom=4450000>

Once the bill passed, I did what I could to ameliorate that concern by contacting JPR immediately upon finding that an amendment passed to include a fathers rights advocate,

2Re: (2019 Term) SB567 with Amendment // Other • Child Custody Proceedings Involving Child Abuse or Domestic Violence Allegations, Workgroup...

From: Vince McAvoy (vince.mcavoy@yahoo.com)

To: bobby.zirkin@senate.state.md.us; jill.carter@senate.state.md.us; Bob.Cassilly@senate.state.md.us; michael.hough@senate.state.md.us; justin.ready@senate.state.md.us; chris.west@senate.state.md.us; mary.washington@senate.state.md.us; susan.lee@senate.state.md.us

Date: Saturday, July 6, 2019, 12:41 PM EDT

Hello Senators,

I understand that [SB567](#) will begin meetings this Tuesday. I am hopeful that I have the support of all of you in being a representative of a fathers' rights group as per 1(b)(5)(xi), namely "one representative of a fathers' rights group".

http://mgaleg.maryland.gov/2019RS/Chapters_noln/CH_52_sb0567t.pdf

I have also reached out to the Governor's appointing committee.

If there are any further steps to take regarding this appointment, I would appreciate one of you reaching out to me;

I've applied for several but never served on an Annapolis taskforce.

In case the bill is not fresh in your minds, I was the only fatherhood expert testifying on this bill.

Thank you for your consideration.

humbly

~vince

On Friday, March 22, 2019, 12:27:56 PM EDT, Vince McAvoy <vince.mcavoy@yahoo.com> wrote:

Dear Senators~

As SB567 was just passed with Amendment to include at least one advocate from a "Fathers' Rights" group, I would appreciate your consideration of appointing me to the group to study/alleviate Child Abuse.

Thank you for your consideration,

Vince

I told dads who I know could succeed in the role, I contacted various senators, the Secretary of State and the appointments director for the taskforce appointments.

I offered to volunteer for the role, since I knew so few fathers who know law and will advocate for fatherhood rather than profiteer their knowledge base. Yet no one was chosen – the taskforce proceeded without a fathers rights advocate. And the agendized bills are those you are now reviewing.