

HOUSE BILL 141

E2

4lr0850

(PRE-FILED)

By: ~~Delegates Pippy and Simpson~~, Simpson, Arikan, Conaway, Grammer, Kaufman, Phillips, Taylor, and Schmidt

Requested: October 5, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 27, 2024

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Child Abuse Victim Victims – Testimony Taken Outside**
3 **the Courtroom in Child Abuse Cases**

4 FOR the purpose of ~~establishing a rebuttable presumption that the testimony of a certain~~
5 ~~child victim who is under a certain age shall be taken outside the courtroom and~~
6 ~~shown in the courtroom by closed circuit television; establishing a way for the~~
7 ~~defendant or child respondent to overcome the rebuttable presumption; applying a~~
8 ~~certain provision of law authorizing a court to order a certain child victim to give~~
9 ~~testimony outside the courtroom to be shown in the courtroom by closed circuit~~
10 ~~television to children who are at least a certain age; and generally relating to child~~
11 ~~abuse victim testimony~~ altering a certain requirement under which a court is
12 authorized to order that the testimony of a child victim be taken outside a courtroom
13 and shown in the courtroom by closed circuit television in certain child abuse cases;
14 and generally relating to testimony of child victims.

15 BY repealing and reenacting, with amendments,

16 Article – Criminal Procedure

17 Section 11–303

18 Annotated Code of Maryland

19 (2018 Replacement Volume and 2023 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

21 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – Criminal Procedure**

2 11–303.

3 (a) **(1)** This section applies to a case of abuse of a child under Title 5, Subtitle
4 7 of the Family Law Article or § 3–601 or § 3–602 of the Criminal Law Article.

5 **(2) THIS SECTION DOES NOT APPLY IF A DEFENDANT OR CHILD**
6 **RESPONDENT IS WITHOUT COUNSEL.**

7 (b) ~~**(1) THERE IS A REBUTTABLE PRESUMPTION THAT THE TESTIMONY**~~
8 ~~**OF A CHILD VICTIM WHO IS UNDER THE AGE OF 13 YEARS SHALL BE TAKEN OUTSIDE**~~
9 ~~**THE COURTROOM AND SHOWN IN THE COURTROOM BY CLOSED CIRCUIT**~~
10 ~~**TELEVISION.**~~

11 ~~**(2) THE PRESUMPTION IN PARAGRAPH (1) OF THIS SUBSECTION MAY**~~
12 ~~**BE REBUTTED BY CLEAR AND CONVINCING EVIDENCE THAT TESTIMONY BY THE**~~
13 ~~**CHILD VICTIM IN THE PRESENCE OF THE DEFENDANT OR CHILD RESPONDENT WILL**~~
14 ~~**NOT RESULT IN THE CHILD VICTIM SUFFERING SEVERE EMOTIONAL DISTRESS.**~~

15 ~~**(c)**~~ A court may order that the testimony of a child victim ~~**WHO IS AT LEAST 13**~~
16 ~~**YEARS OLD**~~ be taken outside the courtroom and shown in the courtroom by closed circuit
17 television if:

18 (1) the court determines that testimony by the child victim in the presence
19 of a defendant or a child respondent will result in the child ~~victim's~~ **VICTIM** suffering
20 serious emotional distress ~~such that the child victim cannot reasonably communicate~~; and

21 (2) the testimony is taken during the proceeding.

22 ~~**{(c)} (d)**~~ (1) In determining ~~**UNDER SUBSECTION (C)(1) OF THIS SECTION**~~
23 whether testimony by ~~the~~ **A** child victim ~~**WHO IS AT LEAST 13 YEARS OLD**~~ in the
24 presence of the defendant or child respondent will result in the child ~~victim's~~ **VICTIM**
25 suffering ~~such~~ serious emotional distress ~~that the child cannot reasonably communicate~~,
26 the court may:

27 (i) observe and question the child victim inside or outside the
28 courtroom; and

29 (ii) hear testimony of a parent or custodian of the child victim or
30 other person, including a person who has dealt with the child victim in a therapeutic
31 setting.

32 (2) (i) Except as provided in subparagraph (ii) of this paragraph, each
33 defendant or child respondent, one attorney for a defendant or child respondent, one

1 prosecuting attorney, and one attorney for the child victim may be present when the court
2 hears testimony on whether to allow a child victim to testify by closed circuit television.

3 (ii) If the court decides to observe or question the child victim in
4 connection with the determination to allow testimony by closed circuit television:

5 1. the court may not allow the defendant or child respondent
6 to be present; but

7 2. one attorney for each defendant or child respondent, one
8 prosecuting attorney, and one attorney for the child victim may be present.

9 ~~[(d)] (E)~~ (1) Only the following persons may be in the room with the child
10 victim when the child victim testifies by closed circuit television:

11 (i) one prosecuting attorney;

12 (ii) one attorney for each defendant or child respondent;

13 (iii) one attorney for the child victim;

14 (iv) the operators of the closed circuit television equipment; and

15 (v) subject to the Maryland Rules, any person whose presence, in the
16 opinion of the court, contributes to the well-being of the child victim, including a person
17 who has dealt with the child victim in a therapeutic setting concerning the abuse.

18 (2) During the child victim's testimony by closed circuit television, the
19 court and the defendant or child respondent shall be in the courtroom.

20 (3) ~~The~~ **SUBJECT TO SUBSECTION (F) OF THIS SECTION, THE** court and
21 the defendant or child respondent shall be allowed to communicate with the persons in the
22 room where the child victim is testifying by any appropriate electronic method.

23 (4) (i) In a juvenile delinquency proceeding or criminal proceeding, only
24 one prosecuting attorney, one attorney for each defendant or child respondent, and the
25 court may question the child victim.

26 (ii) In a child in need of assistance case, only one attorney for each
27 party and the court may question the child victim.

28 ~~[(e)] (F)~~ ~~This section does not apply if a defendant or child respondent is without~~
29 ~~counsel.~~

30 [(f)] (G) This section may not be interpreted to prevent a child victim and a
31 defendant or child respondent from being in the courtroom at the same time when the child
32 victim is asked to identify the defendant or child respondent.

1 ~~[(g)] (H) (F) This section does not allow~~ **UNDER THIS SECTION, A COURT MAY NOT**
 2 **ORDER** the use of two-way closed circuit television or other procedure that would let a
 3 child victim see or hear a defendant or child respondent.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 5 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.