

HOUSE BILL 141

E2

4lr0850

(PRE-FILED)

By: **Delegates Pippy and Simpson**

Requested: October 5, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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

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.

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Procedure
14 Section 11–303
15 Annotated Code of Maryland
16 (2018 Replacement Volume and 2023 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 11–303.

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

23 (b) **(1) THERE IS A REBUTTABLE PRESUMPTION THAT THE TESTIMONY**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 OF A CHILD VICTIM WHO IS UNDER THE AGE OF 13 YEARS SHALL BE TAKEN OUTSIDE
2 THE COURTROOM AND SHOWN IN THE COURTROOM BY CLOSED CIRCUIT
3 TELEVISION.

4 (2) THE PRESUMPTION IN PARAGRAPH (1) OF THIS SUBSECTION MAY
5 BE REBUTTED BY CLEAR AND CONVINCING EVIDENCE THAT TESTIMONY BY THE
6 CHILD VICTIM IN THE PRESENCE OF THE DEFENDANT OR CHILD RESPONDENT WILL
7 NOT RESULT IN THE CHILD VICTIM SUFFERING SEVERE EMOTIONAL DISTRESS.

8 (C) A court may order that the testimony of a child victim WHO IS AT LEAST 13
9 YEARS OLD be taken outside the courtroom and shown in the courtroom by closed circuit
10 television if:

11 (1) the court determines that testimony by the child victim in the presence
12 of a defendant or a child respondent will result in the child victim's suffering serious
13 emotional distress such that the child victim cannot reasonably communicate; and

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

15 [(c)] (D) (1) In determining UNDER SUBSECTION (C)(1) OF THIS SECTION
16 whether testimony by [the] A child victim WHO IS AT LEAST 13 YEARS OLD in the
17 presence of the defendant or child respondent will result in the child victim's suffering such
18 serious emotional distress that the child cannot reasonably communicate, the court may:

19 (i) observe and question the child victim inside or outside the
20 courtroom; and

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

24 (2) (i) Except as provided in subparagraph (ii) of this paragraph, each
25 defendant or child respondent, one attorney for a defendant or child respondent, one
26 prosecuting attorney, and one attorney for the child victim may be present when the court
27 hears testimony on whether to allow a child victim to testify by closed circuit television.

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

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

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

34 [(d)] (E) (1) Only the following persons may be in the room with the child

1 victim when the child victim testifies by closed circuit television:

2 (i) one prosecuting attorney;

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

4 (iii) one attorney for the child victim;

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

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

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

11 (3) The court and the defendant or child respondent shall be allowed to
12 communicate with the persons in the room where the child victim is testifying by any
13 appropriate electronic method.

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

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

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

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

24 ~~[(g)]~~ (H) This section does not allow the use of two-way closed circuit television
25 or other procedure that would let a child victim see or hear a defendant or child respondent.

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