

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 141
Judiciary

(Delegate Pippy, *et al.*)

Judicial Proceedings

Criminal Procedure - Child Victims - Testimony in Child Abuse Cases

This bill alters statutory provisions that authorize, in certain cases, a court to order the testimony of a child abuse victim to be taken outside the courtroom and shown in the courtroom by closed circuit television. Specifically, the bill repeals a requirement for the court, in regard to a determination that testifying in the presence of a defendant or child respondent will result in the child victim suffering serious emotional distress, to find that the child will be unable to reasonably communicate.

Fiscal Summary

State Effect: The bill is generally procedural in nature and does not materially affect State finances or operations.

Local Effect: The bill is generally procedural in nature and does not materially affect local government finances or operations.

Small Business Effect: None.

Analysis

Current Law: A court may order that the testimony of a child victim be taken outside the courtroom and shown in the courtroom by closed circuit television under specified circumstances. The provisions are applicable in cases of child abuse under Title 5, Subtitle 7 of the Family Law Article (generally, the physical or mental injury of a child under specified circumstances or sexual abuse) or §§ 3-601 or 3-602 of the Criminal Law Article (Child Abuse and Sexual Abuse of a Minor).

Specifically, a court may order that the testimony of a child be taken outside the courtroom and shown in the courtroom by closed circuit television if (1) the court determines that the testimony by the child victim in the presence of a defendant or child respondent will result in the child victim suffering serious emotional distress *such that the child victim cannot reasonably communicate* and (2) the testimony is taken during the proceeding.

In making the aforementioned determination, the court may observe and question the child victim inside and outside the courtroom and hear testimony of a parent or custodian of the child victim or other person, as specified. Each defendant/child respondent, one attorney for a defendant/child respondent, one prosecuting attorney, and one attorney for the child victim may be present when the court hears testimony on whether to allow a child victim to testify by closed circuit television. However, if the court observes or questions the child victim in connection with the determination, it must do so without the defendant or child respondent present. Attorneys (for the defendant/child respondent, prosecution, and child victim) may be present for the observation or questioning, as specified.

When the child victim testifies by closed circuit television, the only persons who may be in the room with the child are (1) one prosecuting attorney; (2) one attorney for each defendant or child respondent; (3) one attorney for the child victim; (4) the operators of the closed circuit television equipment; and (5) subject to the Maryland Rules, any person whose presence, in the opinion of the court, contributes to the well-being of the child victim, including a person who has dealt with the child victim in a therapeutic setting concerning the abuse. The court (judge) and the defendant/child respondent must stay in the courtroom, communicating with the child victim by any appropriate electronic method. Statute further restricts who may question the child victim, as specified.

These provisions (1) do not apply if a defendant or child respondent is without counsel; (2) may not be interpreted to prevent a child victim and a defendant/child respondent from being in the courtroom at the same time a child victim is asked to identify the defendant or child respondent; and (3) do not allow the use of two-way closed circuit television or other procedure that would let a child victim see or hear a defendant or child respondent. (The bill specifies that the court *may not order* the use of two-way closed-circuit television or other procedure that would let child victim see or hear a defendant/child respondent.)

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of Legislative Services

Fiscal Note History: First Reader - January 19, 2024
km/jkb Third Reader - March 18, 2024
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Analysis by: Amanda L. Douglas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510