
By: Senators Roesser, Forehand, Hafer, Hoffman, Hogan, Hollinger, Kelley, Lawlah, Ruben, Stone, and Teitelbaum ~~Teitelbaum, Ferguson, Green, and Middlebrooks~~

Introduced and read first time: January 31, 1996

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 20, 1996

CHAPTER _____

1 AN ACT concerning

2 **Child Abuse - Out of Court Statements - Licensed Registered Nurses**

3 FOR the purpose of allowing certain out of court statements concerning alleged offenses
4 against a child victim under a certain age to be admitted in certain court
5 proceedings under certain circumstances if the statements were made to and are
6 offered by a licensed registered nurse; and generally relating to the use of out of
7 court statements concerning certain alleged offenses in court proceedings.

8 BY repealing and reenacting, without amendments,
9 Article - Courts and Judicial Proceedings
10 Section 9-103.1(a) and (c)
11 Annotated Code of Maryland
12 (1995 Replacement Volume and 1995 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Courts and Judicial Proceedings
15 Section 9-103.1(b)
16 Annotated Code of Maryland
17 (1995 Replacement Volume and 1995 Supplement)

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

20 **Article - Courts and Judicial Proceedings**

21 9-103.1.

22 (a) In this section "statement" means:

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1 (1) An oral or written assertion; or

2 (2) Nonverbal conduct, if it is intended as an assertion, including sounds,
3 gestures, demonstrations, drawings, or similar actions.

4 (b) (1) Subject to the provisions of paragraphs (2) and (3) of this subsection, if
5 a court finds that the requirements of subsection (c) of this section are satisfied, a court
6 may admit into evidence in a juvenile court proceeding or in a criminal proceeding an out
7 of court statement, to prove the truth of the matter asserted in the statement, made by a
8 child victim under the age of 12 years, who is the alleged victim or the child alleged to
9 need assistance in the case before the court, concerning an alleged offense against the
10 child of:

11 (i) Child abuse, as defined under Article 27, § 35A of the Code;

12 (ii) Rape or sexual offense, as defined in Article 27, §§ 462 through
13 464B of the Code, inclusive;

14 (iii) Assault with intent to commit rape or sexual offense, as defined in
15 Article 27, § 12 of the Code; or

16 (iv) In a juvenile court proceeding, abuse or neglect as defined in §
17 5-701 of the Family Law Article.

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

19 (i) The statement was made to and is offered by:

20 1. A licensed physician, as defined under § 14-101 of the
21 Health Occupations Article;

22 2. A LICENSED REGISTERED NURSE, AS DEFINED UNDER §
23 8-101(G) OF THE HEALTH OCCUPATIONS ARTICLE;

24 [2.] 3. A licensed psychologist, as defined under § 18-101 of
25 the Health Occupations Article;

26 [3.] 4. A licensed social worker, as defined under § 19-101 of
27 the Health Occupations Article; or

28 [4.] 5. A teacher; and

29 (ii) The individual described under item (i) of this paragraph was
30 acting in the course of the individual's profession when the statement was made.

31 (3) An out of court statement may be admissible under this section only if
32 the statement possesses particularized guarantees of trustworthiness.

33 (c) (1) Under this section, an out of court statement by a child may come into
34 evidence to prove the truth of the matter asserted in the statement:

35 (i) If the child's statement is not admissible under any other hearsay
36 exception; and

37 (ii) Regardless of whether the child testifies.

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1 (2) If the child does not testify, the child's out of court statement will be
2 admissible only if there is corroborative evidence that:

3 (i) The defendant in a criminal proceeding had the opportunity to
4 commit the alleged offense; or

5 (ii) The alleged offender in a juvenile court proceeding had the
6 opportunity to commit the alleged abuse or neglect.

7 (3) In order to provide the defendant with an opportunity to prepare a
8 response to the statement, the prosecutor shall serve on the defendant in a criminal
9 proceeding or on the alleged offender in a juvenile court proceeding and the alleged
10 offender's attorney, a reasonable time before the juvenile court proceeding and at least 20
11 days before the criminal proceeding in which the statement is to be offered into evidence,
12 notice of:

13 (i) The State's intention to introduce the statement; and

14 (ii) The content of the statement.

15 (4) (i) The alleged offender shall have the right to take the deposition of
16 a witness who will testify under this section;

17 (ii) Unless the State and the defendant or respondent agree, or the
18 court orders otherwise, the defendant in a criminal proceeding shall file a notice of
19 deposition at least 5 days before, or in a juvenile court proceeding within a reasonable
20 time before, the date of the deposition; and

21 (iii) Except where inconsistent with this paragraph, the provisions of
22 Maryland Rule 4-261 shall apply to a deposition taken under this paragraph.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 1996.