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HB 193/96 - JUD

1997 Regular Session  
7r1944  
CF 7r0214

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**By: Senator Roesser**

Introduced and read first time: January 27, 1997

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

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

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

8 BY repealing and reenacting, without amendments,  
9 Article 27 - Crimes and Punishments  
10 Section 775(a) and (c)  
11 Annotated Code of Maryland  
12 (1996 Replacement Volume)

13 BY repealing and reenacting, with amendments,  
14 Article 27 - Crimes and Punishments  
15 Section 775(b)  
16 Annotated Code of Maryland  
17 (1996 Replacement Volume)

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

20 **Article 27 - Crimes and Punishments**

21 775.

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

23 (1) An oral or written assertion; or

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

26 (b) (1) Subject to the provisions of paragraphs (2) and (3) of this subsection, if  
27 a court finds that the requirements of subsection (c) of this section are satisfied, a court  
28 may admit into evidence in a juvenile court proceeding or in a criminal proceeding an out  
29 of court statement, to prove the truth of the matter asserted in the statement, made by a

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1 child victim under the age of 12 years, who is the alleged victim or the child alleged to  
2 need assistance in the case before the court, concerning an alleged offense against the  
3 child of:

4 (i) Child abuse, as defined in § 35C of this article;

5 (ii) Rape or sexual offense, as defined in §§ 462 through 464B of this  
6 article;

7 (iii) Attempted rape or attempted sexual offense in the first or second  
8 degree, as defined in § 464F of this article; or

9 (iv) In a juvenile court proceeding, abuse or neglect as defined in §  
10 5-701 of the Family Law Article.

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

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

13 1. A licensed physician, as defined in § 14-101 of the Health  
14 Occupations Article;

15 2. A licensed psychologist, as defined in § 18-101 of the Health  
16 Occupations Article;

17 3. A LICENSED REGISTERED NURSE, AS DEFINED IN §  
18 8-101(G) OF THE HEALTH OCCUPATIONS ARTICLE;

19 4. A licensed social worker, as defined in § 19-101 of the  
20 Health Occupations Article; or

21 [4.] 5. A teacher; and

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

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

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

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

30 (ii) Regardless of whether the child testifies.

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

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

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

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

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

8                   (ii) The content of the statement.

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

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

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

17                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 1997.