Unofficial Copy D4

1998 Regular Session (8lr1520)

ENROLLED BILL

-- Judiciary/Judicial Proceedings --

Introduced by Delegates Goldwater, Grosfeld, and Krysiak Krysiak, Redmer, T. Murphy, and Perry

BY repealing and reenacting, without amendments,
 Article 27 - Crimes and Punishments

Section 775(a) and (c)

Annotated Code of Maryland

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Read and Examined by Proofreaders:				
	Proofreader.			
Sealed with the Great Seal and presented to the Governor, for his approval this day of at o'clock,M.	Proofreader.			
	Speaker.			
CHAPTER				
1 AN ACT concerning				
2 Child Abuse - Out of Court Statements - Nurses				
3 FOR the purpose of allowing out of court statements concerning alleged offenses 4 against a child victim under a certain age to be admitted in certain court 5 proceedings if the statements were made to and are offered by a nurse; repealing 6 a requirement that the out of court statements be made to and be offered by 7 certain individuals who possess certain occupational licenses; authorizing 8 certain individuals to offer the out of court statements if the individuals were 9 lawfully acting in the course of their professions when the statements were 10 made; and generally relating to the use of out of court statements concerning 11 certain alleged offenses in court proceedings.				

1	(1996 Replacement Volume and 1997 Supplement)						
2 3 4 5 6	Section 775(b) Annotated Code of Maryland						
7 8	7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 8 MARYLAND, That the Laws of Maryland read as follows:						
9	Article 27 - Crimes and Punishments						
10	775.						
11	(a) In this s	section "st	tatement" means:				
12	(1)	An oral	or written assertion; or				
13 14	(2) gestures, demonstrat		bal conduct, if it is intended as an assertion, including sounds, wings, or similar actions.				
17 18 19 20	15 (b) (1) Subject to the provisions of paragraphs (2) and (3) of this subsection, 16 if a court finds that the requirements of subsection (c) of this section are satisfied, a 17 court may admit into evidence in a juvenile court proceeding or in a criminal 18 proceeding an out of court statement, to prove the truth of the matter asserted in the 19 statement, made by a child victim under the age of 12 years, who is the alleged victim 20 or the child alleged to need assistance in the case before the court, concerning an 21 alleged offense against the child of:						
22		(i)	Child abuse, as defined in § 35C of this article;				
23 24	this article;	(ii)	Rape or sexual offense, as defined in §§ 462 through 464B of				
25 26	second degree, as de	(iii) fined in §	Attempted rape or attempted sexual offense in the first or 464F of this article; or				
27 28	5-701 of the Family	(iv) Law Artio	In a juvenile court proceeding, abuse or neglect as defined in § cle.				
29 30	(2) if:	An out o	of court statement may be admissible under this section only				
31		(i)	The statement was made to and is offered by:				
32 33	Health Occupations	Article];	1. A [licensed] physician[, as defined in § 14-101 of the				

HOUSE BILL 590

1 2	Health Occupations Article];	2.	A [licensed] psychologist[, as defined in § 18-101 of the			
3		3.	A NURSE;			
4 5	Health Occupations Article];	4. or	A [licensed] social worker[, as defined in § 19-101 of the			
	<u>COUNSELOR AT A PUBLIC</u> <u>SECONDARY SCHOOL</u> ; and	[4.] <i>OR PRIV</i>	5. A <u>PRINCIPAL, VICE PRINCIPAL,</u> teacher <u>, OR SCHOOL</u> ATE PRESCHOOL, ELEMENTARY SCHOOL, OR			
	(ii) LAWFULLY acting in the comade.		ividual described under item (i) of this paragraph was the individual's profession when the statement was			
12 13	2 (3) An out of court statement may be admissible under this section only 3 if the statement possesses particularized guarantees of trustworthiness.					
14 15	4 (c) (1) Under this section, an out of court statement by a child may come into evidence to prove the truth of the matter asserted in the statement:					
16 17	(i) hearsay exception; and	If the ch	aild's statement is not admissible under any other			
18	(ii)	Regardl	ess of whether the child testifies.			
19 20	9 (2) If the child does not testify, the child's out of court statement will be 0 admissible only if there is corroborative evidence that:					
21 22	(i) commit the alleged offense; of		endant in a criminal proceeding had the opportunity to			
23 24	(ii) opportunity to commit the all		eged offender in a juvenile court proceeding had the se or neglect.			
27 28 29	response to the statement, the proceeding or on the alleged offender's attorney, a reasona	prosecute offender i ble time b	de the defendant with an opportunity to prepare a or shall serve on the defendant in a criminal n a juvenile court proceeding and the alleged before the juvenile court proceeding and at eding in which the statement is to be offered			
31	(i)	The Sta	te's intention to introduce the statement; and			
32	(ii)	The con	tent of the statement.			
33 34	(4) (i) of a witness who will testify the state of the st		eged offender shall have the right to take the deposition section:			

HOUSE BILL 590

- 1 (ii) Unless the State and the defendant or respondent agree, or the
- 2 court orders otherwise, the defendant in a criminal proceeding shall file a notice of
- 3 deposition at least 5 days before, or in a juvenile court proceeding within a reasonable
- 4 time before, the date of the deposition; and
- 5 (iii) Except where inconsistent with this paragraph, the provisions
- 6 of Maryland Rule 4-261 shall apply to a deposition taken under this paragraph.
- 7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 8 October 1, 1998.