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By: **Delegates Goldwater, Grosfeld, and Krysiak**  
Introduced and read first time: February 6, 1998  
Assigned to: Judiciary

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A BILL ENTITLED

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.

12 BY repealing and reenacting, without amendments,  
13 Article 27 - Crimes and Punishments  
14 Section 775(a) and (c)  
15 Annotated Code of Maryland  
16 (1996 Replacement Volume and 1997 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article 27 - Crimes and Punishments  
19 Section 775(b)  
20 Annotated Code of Maryland  
21 (1996 Replacement Volume and 1997 Supplement)

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

24 **Article 27 - Crimes and Punishments**

25 775.

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

27 (1) An oral or written assertion; or

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

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

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

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

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

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

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

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

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

22 2. A [licensed] psychologist[, as defined in § 18-101 of the  
23 Health Occupations Article];

24 3. A NURSE;

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

27 [4.] 5. A teacher; and

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

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

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

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

3 (ii) Regardless of whether the child testifies.

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

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

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

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

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

17 (ii) The content of the statement.

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

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

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

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 1998.