
By: ~~Delegates Goldwater, Grosfeld, and Krysiak~~ Krysiak, Redmer, T. Murphy, and Perry

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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.

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:

Article 27 - Crimes and Punishments

2 775.

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

4 (1) An oral or written assertion; or

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

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

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

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

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

19 (iv) In a juvenile court proceeding, abuse or neglect as defined in §
20 5-701 of the Family Law Article.

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

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

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

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

28 3. A NURSE;

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

31 [4.] 5. A teacher; and

32 (ii) The individual described under item (i) of this paragraph was
33 **LAWFULLY** acting in the course of the individual's profession when the statement was
34 made.

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

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

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

7 (ii) Regardless of whether the child testifies.

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

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

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

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

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

21 (ii) The content of the statement.

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

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

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

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

