

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 248
(First Reading File Bill)

AMENDMENT NO. 1

On page 2, in line 2, strike “felony” and substitute “certain felony or crime of violence or a conspiracy or solicitation to commit such a crime”; strike in their entirety lines 20 through 24, inclusive; in line 27, strike “3-8A-03(d)(4)(xviii) and”; and strike in their entirety lines 30 through 34, inclusive.

AMENDMENT NO. 2

On page 4, strike beginning with “FELONY” in line 10 down through “FELONY” in line 11 and substitute “FELONIOUS VIOLATION OF TITLE 5 OF THIS ARTICLE OR THE COMMISSION OF A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THIS ARTICLE, OR A CONSPIRACY OR SOLICITATION TO COMMIT SUCH A CRIME”; and strike beginning with “FELONY” in line 33 down through the first “FELONY” in line 35 and substitute “FELONIOUS VIOLATION OF TITLE 5 OF THIS ARTICLE OR THE COMMISSION OF A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THIS ARTICLE, OR A CONSPIRACY OR SOLICITATION TO COMMIT SUCH A CRIME”.

AMENDMENT NO. 3

On page 5, strike beginning with “FELONY” in line 17 down through “FELONY” in line 18 and substitute “FELONIOUS VIOLATION OF TITLE 5 OF THIS ARTICLE OR THE COMMISSION OF A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THIS ARTICLE, OR A CONSPIRACY OR SOLICITATION TO COMMIT SUCH A CRIME”; and strike in their entirety lines 25 through 36, inclusive.

AMENDMENT NO. 4

On page 6, strike in their entirety lines 2 through 24, inclusive, and substitute:

“(A) DURING THE TRIAL OF A CRIMINAL CASE IN WHICH THE DEFENDANT IS

(Over)

CHARGED WITH A FELONIOUS VIOLATION OF TITLE 5 OF THE CRIMINAL LAW ARTICLE OR WITH THE COMMISSION OF A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, A STATEMENT AS DEFINED IN MARYLAND RULE 5-801(A) IS NOT EXCLUDED BY THE HEARSAY RULE IF THE STATEMENT IS OFFERED AGAINST A PARTY THAT HAS ENGAGED IN, DIRECTED, OR CONSPIRED TO COMMIT WRONGDOING THAT WAS INTENDED TO AND DID PROCURE THE UNAVAILABILITY OF THE DECLARANT OF THE STATEMENT, AS DEFINED IN MARYLAND RULE 5-804.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, BEFORE ADMITTING A STATEMENT UNDER THIS SECTION, THE COURT SHALL HOLD A HEARING OUTSIDE THE PRESENCE OF THE JURY AT WHICH:

(1) THE MARYLAND RULES OF EVIDENCE ARE STRICTLY APPLIED;
AND

(2) THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE PARTY AGAINST WHOM THE STATEMENT IS OFFERED ENGAGED IN, DIRECTED, OR CONSPIRED TO COMMIT THE WRONGDOING THAT PROCURED THE UNAVAILABILITY OF THE DECLARANT.

(C) A STATEMENT MAY NOT BE ADMITTED UNDER THIS SECTION UNLESS:

(1) THE STATEMENT WAS:
(I) GIVEN UNDER OATH SUBJECT TO THE PENALTY OF PERJURY AT A TRIAL, HEARING, OR OTHER PROCEEDING OR IN A DEPOSITION;

(II) REDUCED TO WRITING AND SIGNED BY THE DECLARANT;
OR

(III) RECORDED IN SUBSTANTIALLY VERBATIM FASHION BY STENOGRAPHIC OR ELECTRONIC MEANS CONTEMPORANEOUSLY WITH THE MAKING OF THE STATEMENT; AND

(2) AS SOON AS IS PRACTICABLE AFTER THE PROPONENT OF THE STATEMENT LEARNS THAT THE DECLARANT WILL BE UNAVAILABLE, THE PROPONENT NOTIFIES THE ADVERSE PARTY OF:

(I) THE INTENTION TO OFFER THE STATEMENT;

(II) THE PARTICULARS OF THE STATEMENT; AND

(III) THE IDENTITY OF THE WITNESS THROUGH WHOM THE STATEMENT WILL BE OFFERED.”.