SENATE BILL 20

E2 (2lr0762)

ENROLLED BILL

— Judicial Proceedings/Judiciary —

— Suatetai I roceeatings/Suatetary —
Introduced by Senator Lee
Read and Examined by Proofreaders:
Proofreader.
Proofreader.
Sealed with the Great Seal and presented to the Governor, for his approval this
day of at o'clock,M.
President.
CHAPTER
AN ACT concerning
Criminal Procedure - Out of Court Statements - Child Victims and Witnesses
FOR the purpose of authorizing the court to admit into evidence in certain criminal proceedings certain out of court statements made by a child victim who is under a certain age and a victim or a witness in a case concerning a crime of violence, subject to certain requirements; and generally relating to the admissibility of out of court statements of child victims <u>and witnesses</u> in criminal proceedings.
BY repealing and reenacting, with amendments, Article – Criminal Procedure Section 11–304 Annotated Code of Maryland (2018 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

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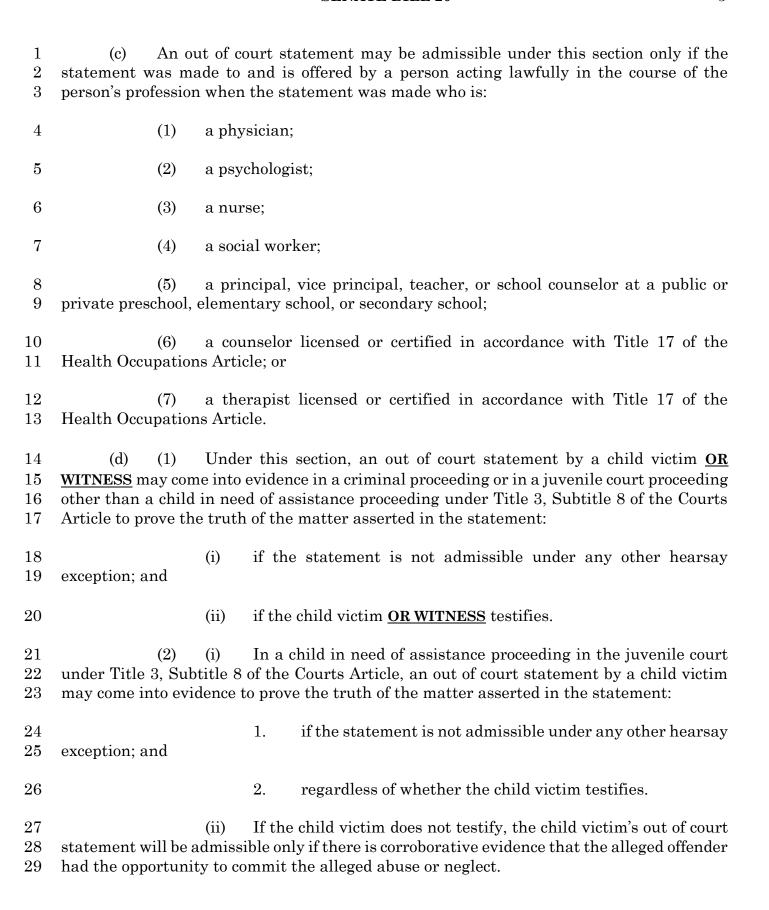
Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.

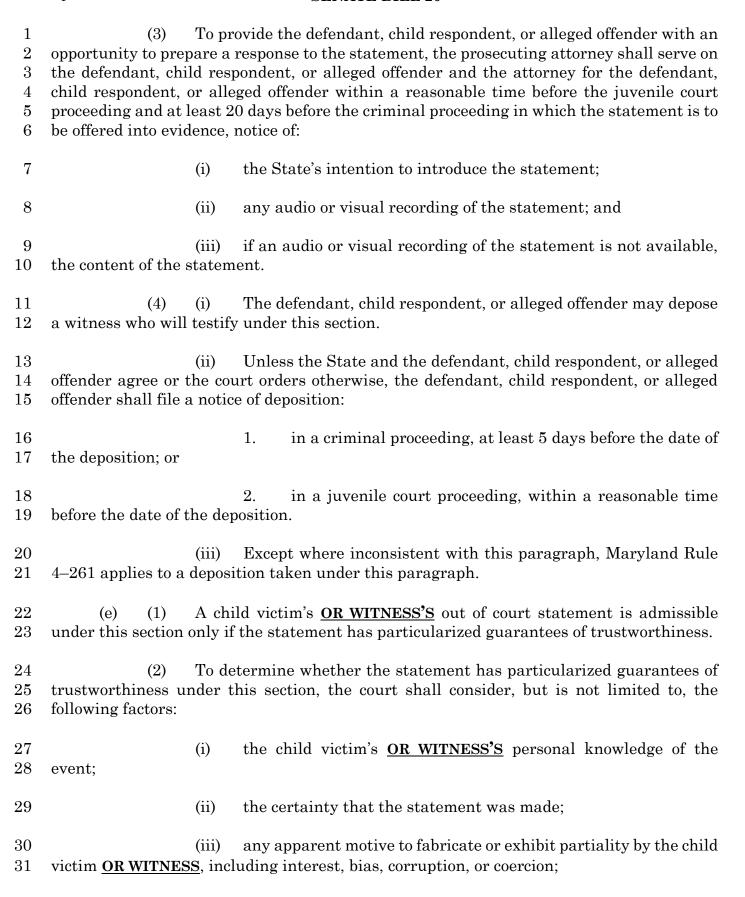
Italics indicate opposite chamber/conference committee amendments.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, 1 2 That the Laws of Maryland read as follows: 3 Article - Criminal Procedure 11-304. 4 In this section, "statement" means: 5 (a) 6 (1) an oral or written assertion; or 7 (2)nonverbal conduct intended as an assertion, including sounds, gestures, 8 demonstrations, drawings, and similar actions. 9 Subject to subsections (c), (d), and (e) of this section, the court may admit into (b) 10 evidence in a juvenile court proceeding or in a criminal proceeding an out of court statement to prove the truth of the matter asserted in the statement made by a child victim OR 11 WITNESS who: 12 13 (1) **(I)** is under the age of 13 years; and 14 is the alleged victim or the child alleged to need assistance in the 15 case before the court concerning is [the] AN alleged victim or [the] A child alleged to need 16 assistance in the case before the court concerning: 17 [(i)] **1.** child abuse under § 3–601 or § 3–602 of the Criminal Law Article; 18 19 [(ii)] **2.** rape or sexual offense under §§ 3-303 through 3-307 of the Criminal Law Article; 2021[(iii)] **3.** attempted rape in the first [degree] or [in the] second 22degree under §§ 3–309 and 3–310 of the Criminal Law Article; [or] 23 [(iv)] **4.** in a juvenile court proceeding, abuse or neglect as defined in § 5–701 of the Family Law Article; OR 2425 **5**. NEGLECT OF A MINOR UNDER § 3-602.1 OF THE CRIMINAL LAW ARTICLE: OR 2627 **(2)** IS UNDER THE AGE OF 13 YEARS; AND **(I)**

28 (II) IS THE AN ALLEGED VICTIM OR A WITNESS IN A CASE
29 BEFORE THE COURT CONCERNING A CRIME OF VIOLENCE AS DEFINED UNDER §
30 14–101 OF THE CRIMINAL LAW ARTICLE.





$\frac{1}{2}$	questions;	(iv)	whether the statement was spontaneous or directly responsive to	
3		(v)	the timing of the statement;	
4 5 6 7	·		whether the child victim's <u>OR WITNESS'S</u> young age makes it victim <u>OR WITNESS</u> fabricated the statement that represents a beyond the child victim's <u>OR WITNESS'S</u> expected knowledge and	
8 9	child victim's OR V	(vii) VITNE S	the appropriateness of the terminology of the statement to the <u>SS'S</u> age;	
10		(viii)	the nature and duration of the abuse or neglect;	
11		(ix)	the inner consistency and coherence of the statement;	
12 13	distress when mak	(x) xing th	whether the child victim <u>OR WITNESS</u> was suffering pain or e statement;	
14 15 16	respondent had an opportunity to commit the act complained of in the child victim's \overline{OR}			
17 18	questions; and	(xii)	whether the statement was suggested by the use of leading	
19		(xiii)	the credibility of the person testifying about the statement.	
20 21	(f) In a proceeding, the con		g outside of the presence of the jury or before the juvenile court ll:	
22 23	(1) trustworthiness th		a finding on the record as to the specific guarantees of in the statement; and	
24	(2)	deter	mine the admissibility of the statement.	
25 26 27		child v	aking a determination under subsection (f) of this section, the court victim <u>OR WITNESS</u> in a proceeding in the judge's chambers, the itable location that the public may not attend unless:	
28		(i)	the child victim OR WITNESS :	
29			1. is deceased; or	

1 2 3	2. is absent from the jurisdiction for good cause shown or the State has been unable to procure the child victim's <u>OR WITNESS'S</u> presence by subpoena or other reasonable means; or			
4 5 6	(ii) the court determines that an audio or visual recording of the child victim's OR WITNESS'S statement makes an examination of the child victim OR WITNESS unnecessary.			
7 8 9 10	or child respondent, attorney for a defendant or child respondent, and the prosecuting attorney may be present when the court hears testimony on whether to admit into evidence			
11 12				
13 14 15	(i) one attorney for each defendant or child respondent, one attorney for the child victim <u>OR WITNESS</u> , and one prosecuting attorney may be present at the examination; and			
16 17	(ii) the court may not allow a defendant or child respondent to be present at the examination.			
18 19	(h) (1) This section does not limit the admissibility of a statement under any other applicable hearsay exception or rule of evidence.			
20 21	· · · · · · · · · · · · · · · · · · ·			
22 23	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.			
	Approved:			
	Governor.			
	President of the Senate.			
	Speaker of the House of Delegates.			