

HOUSE BILL 572

E2

4lr2325
CF SB 424

By: **Delegates Embry and Allen**

Introduced and read first time: January 24, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Admission of Out-of-Court Statements –**
3 **Assault in the Second Degree**

4 FOR the purpose of providing that under certain circumstances a certain statement made
5 by a certain declarant is not excluded by the hearsay rule during the trial of a
6 criminal case in which the defendant is charged with assault in the second degree;
7 and generally relating to the admission of out-of-court statements.

8 BY repealing and reenacting, with amendments,
9 Article – Courts and Judicial Proceedings
10 Section 10–901
11 Annotated Code of Maryland
12 (2020 Replacement Volume and 2023 Supplement)

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

15 **Article – Courts and Judicial Proceedings**

16 10–901.

17 (a) During the trial of a criminal case in which the defendant is charged with a
18 felony **OR AN ASSAULT IN THE SECOND DEGREE**, a statement as defined in Maryland
19 Rule 5–801(a) is not excluded by the hearsay rule if the statement is offered against a party
20 that has engaged in, directed, or conspired to commit wrongdoing that was intended to and
21 did procure the unavailability of the declarant of the statement, as defined in Maryland
22 Rule 5–804.

23 (b) Subject to subsection (c) of this section, before admitting a statement under
24 this section, the court shall hold a hearing outside the presence of the jury at which:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) The Maryland Rules of Evidence are strictly applied; and

2 (2) The court finds by a preponderance of the evidence that the party
3 against whom the statement is offered engaged in, directed, or conspired to commit the
4 wrongdoing that procured the unavailability of the declarant.

5 (c) A statement may not be admitted under this section unless:

6 (1) The statement was:

7 (i) Given under oath subject to the penalty of perjury at a trial,
8 hearing, or other proceeding or in a deposition;

9 (ii) Reduced to writing and signed by the declarant; or

10 (iii) Recorded in substantially verbatim fashion by stenographic or
11 electronic means contemporaneously with the making of the statement; and

12 (2) As soon as is practicable after the proponent of the statement learns
13 that the declarant will be unavailable, the proponent notifies the adverse party of:

14 (i) The intention to offer the statement;

15 (ii) The particulars of the statement; and

16 (iii) The identity of the witness through whom the statement will be
17 offered.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2024.