

# SENATE BILL 146

E2  
SB 424/24 – JPR

(PRE-FILED)

5lr1289  
CF HB 281

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By: **Senator James**

Requested: October 21, 2024

Introduced and read first time: January 8, 2025

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Admission of Out-of-Court Statements – Assault in the**  
3 **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 2024 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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 this section, the court shall hold a hearing outside the presence of the jury at which:

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

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

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

7 (1) The statement was:

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

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

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

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

15 (i) The intention to offer the statement;

16 (ii) The particulars of the statement; and

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

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2025.