

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 298

(Senator Waldstreicher)

Judicial Proceedings

Criminal Procedure - Out of Court Statements - Vulnerable Adult Victims and Witnesses

This bill authorizes the court, in a criminal proceeding, to admit into evidence an out of court statement made by a vulnerable adult victim or witness to prove the truth of the matter asserted in the statement under certain circumstances and subject to specified procedural requirements.

Fiscal Summary

State Effect: The bill is procedural and is not anticipated to materially affect State finances or operations.

Local Effect: The bill is procedural and is not anticipated to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: In a criminal proceeding, the court may admit into evidence an out of court statement made by a vulnerable adult victim or witness to prove the truth of the matter asserted in the statement made, unless the source of the information or method or circumstances by which the statement is reported indicates a lack of trustworthiness.

A court must hold an evaluation hearing to determine if the time, content, and circumstances of an out of court statement made by a vulnerable adult victim or witness provides particularized guarantees of trustworthiness if the statement concerns, under

specified statute: (1) assault or reckless endangerment; (2) rape or sexual offenses; (3) attempted rape; (4) first or second degree abuse or neglect of a vulnerable adult; (5) theft; (6) identity fraud; (7) financial crimes against a vulnerable adult; or (8) a crime of violence.

When determining whether an out of court statement by a vulnerable adult victim or witness provides particular guarantees of trustworthiness, the court must consider:

- the vulnerable adult victim's or witness's personal knowledge of the event;
- the certainty that the statement was made;
- the context in which the statement was made and to whom;
- the mental and physical age and cognitive ability of the vulnerable adult victim or witness;
- any apparent motive to fabricate a statement or partiality exhibited by the vulnerable adult victim or witness, including interest, bias, corruption, or coercion;
- whether the statement was spontaneous or directly responsive to questions;
- the timing of the statement;
- the nature and duration of any abuse or neglect;
- the inner consistency and coherence of the statement;
- whether the vulnerable adult victim or witness was suffering pain or distress when making the statement;
- whether extrinsic evidence exists to show the defendant had opportunity to commit the act complained of in the vulnerable adult victim's or witness's statement;
- whether the statement was suggested by the use of leading questions; and
- the credibility of the person testifying about the statement.

Under the bill's provisions, such a statement may come into evidence to prove the truth of the matter asserted within if (1) the statement is not admissible under any other hearsay exception and (2) the vulnerable adult victim or witness testifies at the evaluation hearing.

To provide the defendant with an opportunity to prepare a response to a statement by a vulnerable adult victim or witness, the State must serve certain notice on the defendant and the defendant's attorney, as further specified.

Testimony by a vulnerable adult victim or witness must be admissible by remote electronic participation in accordance with Maryland Rules. The court must state on the record specific findings of fact supporting its rulings under the bill's provisions.

For purposes of the bill, “statement” means an oral or written assertion or nonverbal conduct intended as an assertion, including sounds, gestures, demonstrations, drawings, and similar actions.

“Vulnerable adult” means an adult who lacks the physical or mental capacity to provide for the adult’s daily needs or a person who is at least age 68.

Current Law: While evidentiary rules generally prohibit the admission into evidence of an out of court statement offered to prove the truth of the matter asserted in the statement, there are exceptions. For example, § 11-304 of the Criminal Procedure Article establishes provisions applicable to out of court statements of child victims or witnesses in certain proceedings and under specified conditions.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 677 (Delegate Toles, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys' Association; Department of Legislative Services

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