

Chapter 529

(Senate Bill 465)

AN ACT concerning

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

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

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 10–901
Annotated Code of Maryland
(2020 Replacement Volume and 2025 Supplement)

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

Article – Courts and Judicial Proceedings

10–901.

(a) During the trial of a criminal case in which the defendant is charged with a felony **OR AN ASSAULT IN THE SECOND DEGREE**, 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 a preponderance of the 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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2026.

Approved by the Governor, May 12, 2026.