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**To:** Members of The Senate Judicial Proceedings Committee

**From:** Doyle Niemann, Chair, Legislative Committee, Criminal Law and Practice Section

**Date:** January 31, 2022

**Subject:** **HB284 - Out of Court Statements – Child Victims**

**Position:** **Support Only with Amendment**

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The Legislative Committee of the Criminal Law & Practice Section of the Maryland State Bar Association (MSBA) **Supports but only with an Amendment HB284 – Out of Court Statements – Child Victims.**

With only limited exceptions, individuals charged with a crime have a constitutional right to confront witnesses and to question them. Because of the serious nature of the offense and the young age of a witness, currently defined as under the age of 13, specific out of court statements are allowed for a small set of crimes.

Currently an out of court statement can be introduced if the crime against the child involves rape, sexual assault and abuse or neglect in a juvenile court proceeding. This bill would expand that to include a broader category of neglect and if the child is a victim of a “crime of violence,” as statutorily defined elsewhere.

The Committee believes that the extension of the law to cover cases of neglect makes sense, but strongly opposes the language allowing the use of out of court statements when the crime falls into the broad legal category a “crime of violence.”

We believe the inclusion of this provision raises serious constitutional questions. While protecting young witnesses is a worthy objective, it should not be at the expense of the rights of an accused individual.

For the reasons stated, we **Support HB284, but only with an amendment removing the language about crimes of violence.**

If you have questions about the position of the Criminal Law and Practice Section’s Legislative Committee, please feel free to address them to me at 240-606-1298 or at [doyleniemann@verizon.net](mailto:doyleniemann@verizon.net).