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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

February 3, 2022

WRITTEN TESTIMONY IN SUPPORT OF HB 284

CRIMINAL PROCEDURE-OUT OF COURT STATEMENTS-CHILD VICTIMS

House Bill 284 proposes expanding the hearsay exception for child victims set forth in section 11-304 of the Criminal Procedure Article. Section 11-304 currently allows the State to admit statements made by children under the age of thirteen that relate to child physical and sexual abuse when those statements are made to certain individuals, including physicians, social workers, teachers, and therapists. The proposed law extends the exception to child victims of Neglect of a Minor (Criminal Law Article § 3-602.1) and Crimes of Violence (defined in Criminal Law Article § 14-101). Lastly, the proposed law will extend the exception to child witnesses to crimes of violence.

Section 11-304 sets forth a specific scheme for the admissibility of out-of-court statements. First, the State must notify the defendant of its intent to introduce the statement at trial. The defendant is entitled to depose the statement-taker. The Court then holds a pretrial hearing to determine if the statement is trustworthy and the child is competent to testify. At trial, the child must testify and be subject to cross examination. The statement-taker then testifies, and the State offers the child's out of court statement as substantive evidence.

The reasons that justify the current 11-304 exceptions apply equally well to statements made by child neglect, crimes of violence, and witnesses. These victims and witnesses often have similar relationships to their perpetrators and face similar challenges when it comes to testifying, including their ability to recall specific events and their susceptibility to intimidation. A victim's or witness's memory of an event is much stronger closer in time to the precipitating event, which is when most of the statements admissible under section 11-304 are made. Additionally, cases of this nature often involve complex family dynamics that may, over time, result in a child becoming reluctant to speak about the abuse the experienced or witnesses, minimizing the nature of the abuse, or even recanting their allegations altogether. A child's out-of-court statement made close in time to the event, in a safe, comfortable environment, out of the presence of the perpetrator, and before being subjected to the pressures of other family members, is trustworthy and reliable evidence.

Expanding 11-304 to include child victims and witnesses to certain crimes, will allow a judge or jury to hear a full and true account of what happened to a victim or what a witness saw.

I respectfully request a favorable report for House Bill 284.

Sincerely,

Delegate Charlotte Crutchfield