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To: Members of the House Judiciary Committee
From: Maryland State Bar Association (MSBA) - Shaoli Katana, Advocacy Director
Subject: HB 141 – Criminal Procedure – Child Abuse Victim – Testimony Taken Outside
the Courtroom
Date: January 23, 2024
Position: Oppose

The Maryland State Bar Association (MSBA) respectfully opposes **House Bill 141 - Criminal Procedure - Child Abuse Victim - Testimony Taken Outside the Courtroom**. HB 141 establishes a rebuttable presumption that the testimony of a certain child victim who is under the age of 13 years be taken outside the courtroom and shown in the courtroom by closed circuit television; establishes a way for the defendant or child respondent to overcome the rebuttable presumption; and applies a certain provision of law authorizing a court to order a certain child victim to give testimony outside the courtroom to be shown in the courtroom by closed circuit television to children who are at least 13 years.

MSBA represents more attorneys than any other organization across the state in all practice areas. Through its advocacy committees and various practice-specific sections, MSBA monitors and takes positions on legislation that protects the legal profession, preserves the integrity of the judicial system, and ensures access to justice for Marylanders.

Judges in child abuse matters currently have discretion to determine when it is necessary and appropriate to order out-of-court testimony for a child victim of any age. The proposed legislation infringes on judicial authority through the implementation of a rebuttable presumption, rather than allowing the court to consider the particular circumstances and facts that may warrant the out-of-court testimony.

The proposed rebuttable presumption requires a clear and convincing standard of proof, removes a consideration of whether a child victim can “reasonably communicate” given serious emotional distress, and elevates the judge’s review of a child victim’s suffering from a finding of “serious” to “severe” emotional distress in the presence of the defendant or child respondent. The proposed high standard raises concerns about the presumption of innocence and the potential impact on juries.

MSBA has concerns with the details of this legislation and respectfully requests an unfavorable report. For additional information, please contact Shaoli Katana at MSBA (shaoli@msba.org).