



STATE'S ATTORNEY
JOHN J. MCCARTHY

State's Attorney for Montgomery County

50 Maryland Avenue
Rockville, Maryland 20850

240-777-7300
FAX 240-777-7413
WWW.MONTGOMERYCOUNTYMD.GOV/SAO

DEPUTY STATE'S ATTORNEYS
PETER A. FEENEY
RYAN S. WECHSLER

January 23, 2024

The Honorable Luke Clippinger
Chairman, House Judiciary Committee
6 Bladen Street
Annapolis, MD 21401

Dear Chairperson Clippinger and Members of the Judiciary Committee:

I write in support of HB0141—Criminal Law—Child Victim—Testimony in Child Abuse Cases (with amendments). I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office and a member of the Montgomery County's Child Advocacy Center's Multidisciplinary Team. I have personally prosecuted and/or supervised hundreds of child sexual abuse cases over the last seventeen years. I also co-chair the Maryland State's Attorneys Association's Special Victims Legislative Subcommittee, which is comprised of child abuse and domestic violence prosecutors from all over our state.

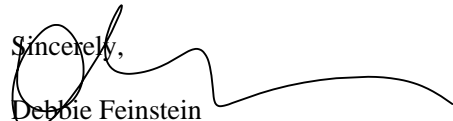
Section 11-303 of the Criminal Procedure Article currently allows a child abuse victim to testify via closed circuit television if the court determines that "testimony by the child victim in the presence of the defendant or a child respondent will result in the child victim suffering serious emotional distress such that the child victim cannot reasonably communicate." The section then outlines the procedure the court must follow before allowing the child to testify in another room in the presence of one prosecuting attorney, one attorney for the child victim, the operators of the television equipment, and a person whose presence contributes to the well-being of the child victim.

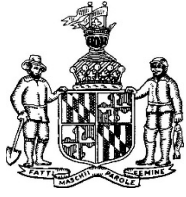
Over the last seventeen years, I cannot think of an instance where a prosecutor in my office successfully utilized this closed circuit television procedure. In the few instances that I have tried to use the process, the child's treatment provider could testify that the child would suffer serious emotional distress in the presence of the defendant, but could not say that the child victim would be unable to speak. Linking the ability to speak (or lack thereof) with the emotional impact misses the point of this intended allowance for child abuse victims. If we are seeking to protect the welfare of the child with this alternative process, minimizing serious emotional distress is an appropriate standard. HB0141 (with amendment) appropriately separates the child's ability to speak from the child suffering serious emotional distress.

Over the last several years, the court has determined that video testimony via such platforms as Zoom or Microsoft Teams, satisfies the defendant's right to confrontation. Section 11-303 similarly satisfies that right. This process may only be used where the defendant is represented by counsel and where defendant's counsel is in the room with the child. The statute specifically allows for communication between the defendant and their counsel.

The process outlined in HB0141 (with amendment) allows child victims greater access to justice without forgoing the defendant's constitutional right to confrontation. I urge a favorable report on HB0141.

Sincerely,


Debbie Feinstein
Chief, Special Victims Division
Senior Assistant State's Attorney



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