

**2025-01-30 SB 274 - Support.pdf**

Uploaded by: Adam Spangler

Position: FAV

**CAROLYN A. QUATTROCKI**  
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**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

**ANTHONY G. BROWN**  
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**CHRISTIAN E. BARRERA**  
*Chief Operating Officer*

January 30, 2025

**TO:** The Honorable Will Smith, Jr.  
Chair, Judicial Proceedings Committee

**FROM:** Adam Spangler  
Legislative Aide, Legislative Affairs, Office of the Attorney General

**RE:** Senate Bill 274 – Criminal Procedure - Child Victims - Testimony in Child Abuse Cases– **Favorable**

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The Office of the Attorney General urges the Judicial Proceedings Committee to give **Senate Bill 274 - Criminal Procedure - Child Victims - Testimony in Child Abuse Cases** a favorable report.

Courtroom testimony, including speaking about abuse in front of one’s abuser, can be traumatizing for any victim-survivor, especially for a child. **Senate Bill 274** creates a rebuttable presumption that a child victim under the age of 13 shall be taken outside of court, unless there is “clear and convincing evidence” that the testimony “will not result in the child victim suffering severe emotional distress.” **Senate Bill 274** properly balances the defendant’s right to confrontation with the technological advances that allow for physical distance between the victim-survivor and the defendant.

Ordinarily, witnesses in criminal cases, including victims, must appear in-person on the witness stand in order to fulfill the constitutional obligation that a criminal defendant be “confronted” by the witnesses against them. However, under Section 11-303 of the Criminal Procedure Article, in the case of a victim in a case of child abuse or sexual abuse of a minor, a judge may permit the victim to remain outside of the courtroom, and have their testimony live-streamed in the courtroom via CCTV, if the judge determines that the child being physically in the courtroom will cause the child to “suffer such emotional distress that the child cannot reasonably communicate.”

An earlier version of § 11-303 of the Criminal Procedure Article was upheld, against a challenge that it violated defendants' constitutional right to confrontation, in *Maryland v. Craig*, 497 U.S. 836 (1990). In *Craig*, the U.S. Supreme Court held: "if the State makes an adequate showing of necessity, the state interest in protecting child witnesses from the trauma of testifying in a child abuse case is sufficiently important to justify the use of a special procedure that permits a child witness in such cases to testify at trial against a defendant in the absence of face-to-face confrontation with the defendant." Id. at 855.

The Office of the Attorney General would like to alert the Committee, however, that by alleviating the State's burden to make an "adequate showing of necessity", as required in *Craig*, **Senate Bill 274** could invite a constitutional challenge in a criminal appeal.

For the foregoing reasons, the Office of the Attorney General urges the Committee to vote favorably on **Senate Bill 274**.

CC: Judicial Proceedings Committee Members

# **SB 274 Testimony in Child Abuse Cases Testimony (T**

Uploaded by: Amanda Rodriguez

Position: FAV



**BILL NO: SB274**

**TITLE: Criminal Procedure – Child Victims – Testimony in Child Abuse Cases**

**COMMITTEE: Judicial Proceedings**

**HEARING DATE: January 30<sup>th</sup>, 2025**

**POSITION: FAVORABLE**

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**ABOUT:** TurnAround, Inc. was founded in 1978 and serves as the designated rape crisis center for Baltimore City and Baltimore County. TurnAround offers comprehensive services, including legal support, counseling, case management, and emergency shelter to those who have endured intimate partner violence, sexual violence, and human trafficking in Baltimore City, Baltimore County, and Howard County.

This bill speaks to what I have heard a lot of survivors say over my fifteen years as a former state prosecutor and working in the field of antitrafficking and child abuse. It is professed by many victims, who were children when they went through the criminal justice system but are now adults, that the criminal justice system is actually more traumatizing than the assaults that happened against them.

Imagine you are in a meeting, or a lecture hall, or another room full of people you do not know. As the old lawyer adage goes, look to the right and left of you – but instead of the teacher saying that one of you will fail law school, the teacher is asking you to describe to them the most horrific sexual experience you have ever had. Even with the most wonderful experience you have ever had, you are probably not likely to do that. Imagine, then, doing that in front of the person who committed that heinous crime against you, and add power and control into that dynamic, and the fact that you are a child. This person has exerted that power and control over you.

The reality is that these kids are not traumatized just by the system; they are also traumatized by this assault and this person, and we have to make sure that we are recognizing that trauma. This bill provides a way to do that which protects both the criminal defendant and the young person involved. At TurnAround, in 2023, we had three survivors who were under the age of eight years old. This happens, and with far too great a frequency. In discussion with the Legislative Committee of the Maryland Human Trafficking Task Force, one of the former prosecutors described seeing a child testify in front of their abuser as “literally watching someone face their monster.”

Based on that, **TurnAround, Inc. is asking for a favorable report for SB274.**

**SB0274 CPMC FAV.pdf**

Uploaded by: Diana Philip

Position: FAV

THE COALITION TO PROTECT MARYLAND'S CHILDREN

*Our Mission: To combine and amplify the power of organizations and citizens working together to keep children safe from abuse and neglect. We strive to secure budgetary and public policy resources to make meaningful and measurable improvements in safety, permanence, and wellbeing.*



**SB0274 – Criminal Procedure - Child Victims –  
Testimony in Child Abuse Cases  
Judicial Proceedings Committee  
January 30, 2025**

**POSITION: SUPPORT**

The Coalition to Protect Maryland's Children is a consortium of organizations and individuals formed in 1996 who are concerned about the care of Maryland's most vulnerable children and work together to promote meaningful child welfare reform. CPMC urges a favorable report on SB0274 – Criminal Procedure - Child Victims – Testimony in Child Abuse Cases.<sup>1</sup>

SB0274 would modify Maryland's current statute, Criminal Procedure §11-303, to enable courts to more easily make a determination that a child victim should be allowed to testify by closed-circuit television in child abuse cases, including child sexual abuse cases. Court interpretations of the current statute have limited the utility of the law. *See, Wildermuth v State*, 310 Md. 496 (1987).

It is extremely difficult for children to disclose abuse, much less testify about that abuse in front of the very person who harmed them so deeply. Children often express fear about being near their abuser in court. If a child is capable of testifying, it is inherently retraumatizing on many levels. Some children are simply unable to talk about the abuse they experienced under these conditions. In fact, the more horrific the abuse, often the harder it is for a child to discuss. It is unbelievably difficult for a child to give graphic details about sexual abuse by a family member in the presence of that very family member. When a child simply cannot testify under these circumstances, under the current law, State's Attorneys' Offices are often forced to lower their plea offers or even dismiss the case altogether. This is clearly unfair.

Testimony by closed circuit TV makes it more likely that children will be capable of telling judges and juries about the horrors they have experienced and will reduce some, but not all, of the re-traumatization. The ability of these children to disclose what happened to them will help keep other children safe from future abuse. The pandemic has familiarized the judiciary and attorneys with Zoom and other video communication platforms, which should reduce concerns about implementation and fairness.

*Potential amendment:* CPMC supports MCASA's suggestion that the Committee may wish to consider amending the bill to include any sexual crime against a child under Title 3, Subtitle 3 of the Criminal Law Article to protect a wider group of child sexual abuse victims.

It is for these reasons that the Coalition to Protect Maryland's Children **urges a favorable report on SB0274 – Criminal Procedure - Child Victims – Testimony in Child Abuse Cases**

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<sup>1</sup> Members of CPMC represented by this written testimony include Center for Hope, Citizens Review Board for Children, Court Appointed Special Advocates – Baltimore County, MD Chapter – American Academy of Pediatrics, MD Association of Resources for Families & Youth, MD Children's Alliance, MD Coalition Against Sexual Assault, MD Network Against Domestic Violence, National Association of Social Workers – MD, and State Council on Child Abuse and Neglect.

**SB274 - 2025 testimony outside the courtroom.pdf**

Uploaded by: Lindsey Carpenter

Position: FAV





J. CHARLES SMITH, III  
STATE'S ATTORNEY

KIRSTEN N. BROWN  
DEPUTY STATE'S ATTORNEY

**STATE'S ATTORNEY'S OFFICE**

County Courthouse  
100 West Patrick Street  
Frederick, Maryland 21701

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CIRCUIT COURT DIVISION  
301-600-1523

DISTRICT COURT DIVISION  
301-600-2573

CHILD SUPPORT DIVISION  
301-600-1538

JUVENILE DIVISION  
301-600-2980

DATE: January 28, 2025

BILL NUMBER: SB 274

POSITION: Favorable

The Maryland State's Attorney's Association and the Frederick County State's Attorney's Office support SB 274.

SB 274 permits a child victim to testify outside of the courtroom via closed circuit television if it is determined by a Judge that the child victim would suffer serious emotional distress if the child was required to testify in the presence of a defendant or child respondent.

It is important to note that this statute only applies to child abuse cases where the defendant or child respondent is a parent, family member, household member, or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor. In these cases, there is a significant relationship between the child victim and the defendant or child respondent.

Testifying about one of the most horrific things that has happened to you by a person you trusted can be an extremely traumatic experience. Testifying about that while looking at the person who perpetrated the abuse on you can be even more traumatizing.

As the statute is currently worded, it makes it almost impossible for a court to permit a child victim to testify via CCTV. In my five and a half years of prosecuting these cases, we have never been able to use the statute as written. We've had numerous requests from parents of victims, mental health providers of victims, and advocates of victims, to be able to allow a victim to testify via CCTV for the minor's mental health. However, as the statute is currently written, the burden is so high that even a therapist's letter or testimony that requiring the minor victim to testify in front of their abuser would cause significant trauma or mental health concerns would not meet the current requirement that "the child cannot reasonably communicate."

The proposed legislation strikes a balance between ensuring that this tool is only used in the most serious of cases, and also ensuring that we are protecting the mental health of minor victims who have to testify about horrific abuse they endured.

For these reasons, the Maryland State's Attorney's Association and the Frederick County State's Attorney's Office request a favorable report on SB 274.

A handwritten signature in black ink, appearing to read 'L.M.C.', with a long horizontal flourish extending to the right.

Lindsey M. Carpenter  
Chief, Special Victims Unit  
Frederick County State's Attorney's Office

# **Child Abuse - closed circuit - testimony - senate**

Uploaded by: Lisae C Jordan

Position: FAV



**Working to end sexual violence in Maryland**

P.O. Box 8782  
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For more information contact:  
Lisae C. Jordan, Esquire  
443-995-5544

**Testimony Supporting Senate Bill 274**  
**Lisae C. Jordan, Executive Director & Counsel**  
January 30, 2025

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute which provides direct legal services for survivors across the State of Maryland. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 274.

**Senate Bill 274 – Child Abuse Victim – Testimony Outside the Courtroom**

This bill would modify Maryland's current statute, Criminal Procedure §11-303, and create a rebuttable presumption that child abuse victim-witnesses under age 13 will testify via two-way closed-circuit television. For child victim-witnesses age 13 and over, closed circuit testimony would be permitted only if testimony will result in the child victim's suffering serious emotional distress such that the child victim cannot reasonably communicate. Court interpretations of the current statute have limited the utility of the law. See, *Wildermuth v State*, 310 Md. 496 (1987)

Child abuse victims who would be protected by SB274 include victims of child sexual abuse. 28.4% of the child abuse or neglect that occurred in Maryland in 2020 was sexual abuse, meaning at least 2,059 Maryland children experienced sexual abuse.<sup>1</sup> This is an increase of 3.4% from 2019. It is important that Maryland continue to improve its response to these children.

Testifying in court and being subject to cross examination is inherently traumatizing for many survivors of sexual crimes, but especially for child victims of sexual abuse. These children are often ashamed, embarrassed, scared, and conflicted about their abuse. Countless cases are pled down so children can avoid being on the stand, and others are lost when children are unable to articulate what happened while sitting near their abuser. When children do testify, they are retraumatized.

Providing testimony via closed circuit TV helps reduce (but not eliminate) re-traumatization, and will increase cases where children can provide important information to juries and judges in both criminal cases and child protective services cases. The prevalence of on-line platforms and video

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<sup>1</sup> U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth, and Families, Children's Bureau. (2020) Child maltreatment 2020. Retrieved from: <https://www.acf.hhs.gov/sites/default/files/documents/cb/cm2020.pdf>

communication has also increased factfinders' familiarity with this media and reduces past concerns about fairness.

Potential amendment: MCASA notes that the Committee may wish to consider amending the bill to include any sexual crime against a child under Title 3, Subtitle 3 of the Criminal Law Article and protect a wider group of child victims.

**The Maryland Coalition Against Sexual Assault urges the  
Judicial Proceedings Committee to  
report favorably on Senate Bill 274**

# **Testimony in support of SB0274 Criminal Procedure**

Uploaded by: Richard KAP Kaplowitz

Position: FAV

1/30/2024

Richard Keith Kaplowitz  
Frederick, MD 21703

**TESTIMONY ON SB#/0274 - POSITION: FAVORABLE**  
**Criminal Procedure - Child Victims - Testimony in Child Abuse Cases**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

**FROM:** Richard Keith Kaplowitz

**My name is Richard Keith Kaplowitz. I am a resident of District 3. I am submitting this testimony in support of SB#/0274, Criminal Procedure - Child Victims - Testimony in Child Abuse Cases**

I am proud of my two Frederick County legislators for their sponsorship of this important bill. An abused child has been damaged not only in body but in mind and soul. The trauma of that abuse can often last a lifetime and destroy the child's happiness and sense of self-worth. To then make that child be in the presence of their abuser compounds all of the damages the abuse has inflicted upon them. The abuser's manipulation of the child's trust could create a situation in which, viewing that abuser directly, threats and warnings from their abuser become primary motivators in a child's testimony against the individual.

Childhood and children are precious. My Jewish faith teaches me how to treat a child who has suffered damage, as Isaiah 1:17 says "Learn to do good, seek justice, strengthen the robbed, perform justice for the orphan, plead the case of the widow." An abused child must have justice having been robbed of that childhood. It is incumbent upon us then to strengthen them by protecting them from their abuser and this bill will help the justice system to accomplish that end.

The protection of the life, health, and safety of children in is a primary responsibility of every adult in Maryland. This bill expands the capability of the criminal justice system to meet that responsibility. **I respectfully urge this committee to return a favorable report on SB#/0274.**

# **SB 274 - Child Victim Testimony - Love Testimony.p**

Uploaded by: Sara Love

Position: FAV





THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**SB 274 – Child Victims – Testimony in Child Abuse Cases**

Chair Smith, Vice Chair Waldstreicher, Members of JPR:

SB 274 would strike a phrase in statute requiring that a child “cannot reasonably communicate” in order for a child abuse victim to testify outside their abuser’s presence. This phrase is unclear and has effectively rendered unusable the protection the statute was intended to provide to the child.

Maryland law allows a child victim to testify at the trial of their abuser outside the courtroom – shown in the courtroom via closed circuit television – in the presence of a prosecuting attorney, an attorney for each defendant or child respondent, an attorney for the child victim, the tv operator, and, subject to the Maryland rules, any person whose presence, in the opinion of the court, contributes to the well-being of the child. (Crim.Pro. Sec.11-303(b)). In order for this out-of-court testimony to occur, the judge must determine that testimony by the child victim in the defendant’s presence “will result in the child victim’s suffering such serious emotional distress that the child cannot reasonably communicate.”

The problem is the requirement that “the child cannot reasonably communicate” is too high. What does it mean to not be able to reasonably communicate? Must the child be rendered mute? Is it enough that the child is terrified and stutters? What if the child is so traumatized that they hide under a chair and whispers? As a result, prosecutors report that they are unable to successfully use this procedure, and thus the children either are forced to face their abuser and suffer severe emotional distress, or they do not testify at all, hindering the prosecution’s ability to hold the abuser accountable.

Furthermore, requiring the child to be unable to reasonably communicate misses the point of the statute. The purpose of this statute is to protect the child from serious emotional distress while balancing the defendant’s 5th Amendment right to confront their accuser. Eliminating the “cannot reasonably communicate” meets both of these objectives.

For the foregoing reasons, I ask for a favorable report on SB 274.

# **OPD TEstimony SB274 Child Victims Testimony.pdf**

Uploaded by: Maria Nenutzka Villamar

Position: UNF



**NATASHA M. DARTIGUE**  
PUBLIC DEFENDER

**KEITH A. LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**MELISSA ROTHSTEIN**  
CHIEF OF EXTERNAL AFFAIRS

**ELIZABETH HILLIARD**  
DIRECTOR OF GOVERNMENT RELATIONS

**POSITION ON PROPOSED LEGISLATION**

**BILL: SB 274 Criminal Procedure – Child Victims – Testimony in Child Abuse Cases**

**FROM: Maryland Office of the Public Defender**

**POSITION: Unfavorable**

**DATE: 1/28/2025**

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 274. This bill authorizes a child victim to testify outside of the courtroom if the court finds that testifying in the presence of the defendant or child respondent would result in the victim suffering serious emotional distress. The OPD takes issue with several points. First, the term “outside the courtroom” is open to interpretation and could include locations such as the child victim’s home or therapist’s office, locations that do not lend the air of solemnity of a courtroom setting that reinforces the seriousness of the accusations being lodged against the defendant or child respondent. Second, permitting a child victim to testify outside of the courtroom sends the message that the child has something to fear from being inside the courtroom, namely the accused. Giving the child victim the special protection of testifying outside of the courtroom immediately signals that the accused is scary or poses a danger to the child victim. Third, a child victim suffering from “serious emotional distress” is a vague term and encompasses situations that could be unrelated to the accused. While SB 274 says that a child must suffer serious emotional distress by testifying “in the presence of” the defendant, it does not limit the cause of the distress to the defendant. All hearings are in the presence of the defendant. A child victim (indeed, even an adult victim) is almost

always likely to suffer serious emotional distress from speaking in front of an audience in a courtroom, being cross-examined by a defense attorney, or having to appear before a judge who sits on an elevated bench wearing a black robe, but it does not mean the distress is caused by the defendant. Thus, SB 274 would potentially lead to all child victim testimony being out of the courtroom. The accused has the right to confront their accuser in open court. Only in extreme situations, where a child victim would be so seriously distressed by the presence of the defendant to the extent that they cannot communicate, should testimony be permitted outside of the courtroom.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Senate Bill 274.

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Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Nena C. Villamar, Chief of Parental Defense Division,  
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