

SB0333_Out_of_Court_Statements_to_Forensic_Intervi

Uploaded by: Cecilia Plante

Position: FAV



**TESTIMONY FOR SB0333
CRIMINAL PROCEDURE – VICTIMS AND WITNESSES – OUT OF COURT
STATEMENT OF CHILD TO FORENSIC INTERVIEWER**

Bill Sponsor: Senator West

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: **FAVORABLE**

I am submitting this testimony in favor of SB0333 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

It is always a tragedy when there is a child involved in criminal matters. It is important to protect the rights of the child, but equally important to get to the truth of the issue. The current law is very strict about the admissibility of out-of-court statements made by child victims or witnesses to ensure that the person who is relaying that information is trustworthy and impartial enough to speak truthfully and clearly.

This bill will add a forensic interviewer to the list of parties whose testimony regarding the out-of-court statements of child victims or witnesses is admissible in court. A forensic interviewer is a professional who works with a child advocacy center and is knowledgeable and experienced in interviewing children in a nonleading, neutral, and legally sound manner.

We support this bill and recommend a **FAVORABLE** report in committee

SB333 FAV.pdf

Uploaded by: Christopher West

Position: FAV

CHRIS WEST
Legislative District 42
Baltimore and Carroll Counties

Judicial Proceedings Committee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

January 30, 2025

The Maryland State Senate Judicial Proceedings Committee
The Honorable William C. Smith, Jr.
2 East Miller Senate Building
Annapolis, Maryland 21401

Re: Senate Bill 333: *Criminal Procedure - Victims and Witnesses - Out of Court Statement of Child to Forensic Interviewer*

Dear Chairman Smith and Members of the Committee,

Under current Maryland law, a court may admit into evidence in a juvenile court proceeding or in a criminal proceeding an out of court statement that would otherwise be prohibited from introduction under the rule against hearsay evidence if the statement is made by a child victim or a child witness so long as certain criteria is met:

First, the child must be under the age of 13. Second, the child must either be an alleged victim or witness in a case concerning a crime of violence or the alleged victim or a child alleged to need assistance in the case in a court case involving child abuse, rape or attempted rape, certain sexual offenses, or certain other crimes of abuse or neglect. Third, the out of court statement must have been made to a physician, a psychologist, a nurse, a social worker, a principal, vice principal, teacher, school counselor, a licensed therapist or a licensed counselor.

Senate Bill 333 merely adds to the list of people qualified to testify about such hearsay in a court proceeding a forensic interviewer. The term forensic interviewer is defined as a professional who is trained in child forensic interviewing procedures and techniques that allow for neutral, legally sound, nonleading and developmentally appropriate interviews with children to gather information without influencing the information provided by the child. The term "forensic interviewer" does not include law enforcement officers, and under SB 333, the interviewer must be employed by or work under a contract with a child advocacy center.

So Senate Bill 333 merely adds a qualified forensic interviewer to the list of people who can give hearsay testimony in court relating to statements made by children. This bill is a narrow way to ensure we are properly protecting young people from the most heinous crimes, while ensuring that their testimony is credible and reliable.

I appreciate the Committee's consideration of Senate Bill 333 and will be happy to answer any questions the Committee may have.

SB0333 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.



CPMC
COALITION TO PROTECT
MARYLAND'S CHILDREN

**SB0333 – Criminal Procedure – Victims and Witnesses – Out of Court
Statement of Child to Forensic Interviewer
Judiciary 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 SB0333- Criminal Procedure – Victims and Witnesses – Out of Court Statement of Child to Forensic Interviewer.¹

SB0333 would help the court admit into evidence in certain cases out of court statements made to a forensic interviewer by a child victim of abuse, assault, or neglect, as well as a child who witnessed a crime of violence (such as a homicide or a shooting) as defined by Criminal Law § 14-101. This bill expands upon the existing "Tender Years" hearsay exception that exists as part of Maryland Code, Criminal Procedure § 11-304 and would allow statements made to trained forensic interviewers into evidence while humanely reducing the trauma of repeated questioning by different and unskilled professionals.

Forensic interviewers are licensed mental health professionals with specialized forensic training who utilize structured methods to question children while adhering to evidence-based best practices. Forensic interviewers are required to obtain regular training to maintain licensure and are additionally subject to ongoing review of video documented interviews and training for adherence to standards of practice in accredited children's advocacy centers.

A forensic interview is a phased approach that promotes resistance to suggestibility and encourages the child to explain their experience in narrative form to open-ended questions. This process is scientifically proven to increase the child's ability to provide the greatest amount of information in the most reliable form. These techniques promote the child's memory retrieval for traumatic events while simultaneously increasing their comfort in the process. These interviews are audibly and visually recorded in their entirety. The interview team, trained in multiple models of interviewing, obtains a definitive response in over 90% of the interviews conducted, thereby enhancing reliable investigations.

Utilizing forensic interviews is especially important when gathering information about traumatic experiences. Seeing as children who are scared or uncomfortable are at a higher risk for false denials and recantations of abuse, minimizing discomfort via utilizing forensic interviewing models is imperative for cohesive investigations and child protection efforts. Forensic interviewers establish the optimal conditions for children to provide accurate and detailed accounts as the foundation for sound

¹ 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.

investigations. Their experiences can be heard, documented, preserved, and respected by the courts while preventing innocent individuals from being falsely accused.

This expansion would ensure that cross-jurisdictional investigations completed with a forensic interviewer can also be used in court by Criminal Procedure § 11-304 without requiring a child be re-interviewed for it to be admissible. This bill logically extends the law without making any compromises to investigatory or judicial integrity while reaffirming the legislature's commitment to trauma-informed best practices in investigating and resolving instances of child abuse, neglect, and exposure to violence.

For all the above stated reasons, the Coalition to Protect Maryland's Children **urges a favorable report on SB0333** – Criminal Procedure – Victims and Witnesses – Out of Court Statement of Child to Forensic Interviewer.

SB 0333, FAV, FCG, OCE, LS25.pdf

Uploaded by: Jessica Fitzwater

Position: FAV



FREDERICK COUNTY GOVERNMENT
OFFICE OF THE COUNTY EXECUTIVE

Jessica Fitzwater
County Executive

**SB 333 – Criminal Procedure – Victims and Witnesses – Out of Court Statement of a
Child to Forensic Interviewer**

DATE: January 30, 2025
COMMITTEE: Judicial Proceedings Committee
POSITION: Favorable
FROM: The Office of Frederick County Executive Jessica Fitzwater

As the County Executive of Frederick County, I urge the committee to give **SB 333 – Criminal Procedure – Victims and Witnesses – Out of Court Statement of a Child to Forensic Interviewer** a favorable report.

Current state law only permits a handful of professionals to conduct interviews with children that are admissible in court. These professions include physicians, psychologists, nurses, social workers, principals (or other school staff), counselors, and therapists. However, this leaves interviews conducted by forensic interviewers as inadmissible in court. As many Child Advocacy Centers (CACs) depend on forensic interviewers for maltreatment investigations, this can create situations where children are required to withstand the traumatic experience of testifying in an in-person courtroom or not have their stories shared in the prosecution of the case.

SB 333 would expand the list of professions qualified to conduct out of court interviews to include forensic interviewers.

Frederick County is proud to have a CAC that among other services, conducts interviews with children who have been the victims of or witnesses to crime. Currently, our CAC only has one part time staff member that is permitted to obtain court admissible interviews under current state law, leaving children who enter the CAC on days the staff member is absent unable to provide an interview in this safe environment that would be admissible in court. By expanding the list of qualified interviewers to include forensic interviewers, SB 0333 would ensure children who enter our CAC would always have access to a qualified staff member to perform court admissible interviews.

Out of court statements are an important tool to allow children who have faced abuse or maltreatment to share their story in a safe and comfortable environment, reducing the need for children to go through the traumatic experience of testifying in court, often in the same room as their abuser. Requiring children to testify in court extends their traumatic experience, and sometimes leaves cases to go to settlement due to the child's inability to share their testimony in this high stress environment. SB 333 will help streamline functions within CACs throughout the state while also reducing the need to subject children to further adverse experiences.

Thank you for your consideration of SB 333. I urge you to advance this bill with a favorable report.

Jessica Fitzwater, County Executive
Frederick County, MD

SB333 Criminal Procedure Victims and Witnesses O

Uploaded by: Kathryn Gravely

Position: FAV

A LIFEBRIDGE HEALTH GROUP

CENTER FOR HOPE

Advancing hope, healing and resilience



Date: January 30, 2025

To: Chair Smith, Vice Chair Waldstreicher, and the Judicial Processing Committee

Reference: Senate Bill 333, Criminal Procedure – Victims and Witnesses – Out of Court Statement of Child to Forensic Interviewer
Position: FAVORABLE

Dear Chair Smith and Committee Members:

Center for Hope, LifeBridge Health **strongly supports Senate Bill 333 – Victims and Witnesses – Out of Court Statement of Child to Forensic Interviewer.** This bill would help the court admit into evidence in certain cases out of court statements made to a forensic interviewer by a child victim of abuse, assault, or neglect as well as a child who witnessed a crime of violence (such as a homicide or a shooting) as defined by Criminal Law § 14-101. This bill expands upon the existing “Tender Years” hearsay exception that exists as part of Maryland Code, Criminal Procedure § 11-304 and would allow statements made to trained forensic interviewers into evidence while humanely reducing the trauma of repeated questioning by different and unskilled professionals.

Forensic interviewers are licensed mental health professionals with specialized forensic training who utilize structured methods to question children while adhering to evidence-based best practices. Forensic interviewers are required to obtain regular training to maintain licensure and are additionally subject to ongoing review of video documented interviews and training for adherence to standards of practice in accredited children’s advocacy centers.

A forensic interview is a phased approach that promotes resistance to suggestibility and encourages the child to explain their experience in narrative form to open-ended questions. This process is scientifically proven to increase the child’s ability to provide the greatest amount of information in the most reliable form. These techniques promote the child’s memory retrieval for traumatic events while simultaneously increasing their comfort in the process. These interviews are audibly and visually recorded in their entirety. The interview team, trained in multiple models of interviewing, obtains a definitive response in over 90% of the interviews we conduct, thereby enhancing reliable investigations by our partners.

Utilizing forensic interviews is especially important when gathering information about traumatic experiences. Seeing as children who are scared or uncomfortable are at a higher risk for false denials and recantations of abuse, minimizing discomfort via utilizing forensic interviewing models is imperative for cohesive investigations and child protection efforts. Forensic interviewers establish the optimal conditions for children to provide accurate and detailed accounts as the foundation for sound investigations. Their experiences can be heard, documented, preserved and respected by the courts while preventing innocent individuals from being falsely accused.

This expansion would ensure that cross-jurisdictional investigations completed with a forensic interviewer can also be used in court by Criminal Procedure § 11-304 without requiring a child be re-interviewed for it to be admissible. This bill logically extends the law without making any compromises to investigatory or judicial integrity while reaffirming the legislature’s commitment to trauma-informed best practices in investigating and resolving instances of child abuse, neglect, and exposure to violence.

For all the above stated reasons, we request a favorable report for Senate Bill 333.

For more information, please contact:

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Jennifer Witten

Vice President of Government Relations and Community Development, LifeBridge Health

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Tender years - forensic interviewers - senate - 20

Uploaded by: Lisae C Jordan

Position: FAV



Working to end sexual violence in Maryland

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For more information contact:
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Testimony Supporting Senate Bill 333
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 (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 333.

Senate Bill 333 – Statements by Children to Forensic Interviewers

Since 1988, Maryland has recognized that cases involving abuse of vulnerable young children require different responses than cases involving older victims. Current law permits juries and judges to hear “tender years” testimony about statements a young child has made regarding child sexual abuse, child abuse (or child neglect in juvenile court). Crim. Pro. Art. § 11-304. The law limits this exception to statements made to certain professionals. SB333 expands this list of professionals to include forensic interviewers working at child advocacy centers.

Child Advocacy Centers (CACs) are child friendly facilities where child victims of maltreatment may be interviewed, undergo medical examinations, and receive therapy at the same time that their cases are investigated for possible prosecution or Department of Social Services intervention. These agencies work to create a child-focused system that protects children, collects reliable and admissible evidence, and prevents offenders from abusing again. Forensic interviewers at CACs are expert at eliciting truthful statements from children and avoiding leading children or encouraging one statement over another. These skilled professionals are at the heart of Maryland's trauma informed response to children who have been or may have been sexual abused. Adding them to the current list of professionals who can testify about what they have heard is an appropriate and needed improvement to current law.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to report favorably on Senate Bill 333**

Testimony in support of SB0333 - Criminal Procedur

Uploaded by: Richard KAP Kaplowitz

Position: FAV

SB0333_RichardKaplowitz_FAV

01/30/2025

Richard Keith Kaplowitz
Frederick, MD 21703-7134

TESTIMONY ON SB#0333 - POSITION: FAVORABLE
Criminal Procedure - Victims and Witnesses - Out of Court Statement of Child to Forensic Interviewer

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

FROM: Richard Keith Kaplowitz

My name is Richard Kaplowitz. I am a resident of District 3, Frederick County. I am submitting this testimony in support of/ SB#/0333, Criminal Procedure - Victims and Witnesses - Out of Court Statement of Child to Forensic Interviewer

This bill is a priority for the County Executive and County Council of Frederick County.

Currently, only a handful of professionals are allowed to conduct interviews with children that are admissible in court. These professions include physicians, psychologists, nurses, social workers, principals (or other school staff), counselors, and therapists. However, this leaves interviews conducted by forensic interviewers as inadmissible in court, causing the potential for children to be required to withstand the traumatic experience of testifying in an in-person courtroom.

This bill, when passed, will allow for a state code amendment that expands the list of qualified professionals to perform interviews with children that produce out of court statements admissible in court. Frederick government strongly believes that the Maryland General Assembly should pass legislation that authorizes a forensic interviewer to conduct admissible out of court interviews. By expanding the list of those qualified to conduct out of court interviews to forensic interviewers, children who enter our CAC would always have a qualified staff member to perform court admissible interviews. This would ensure that children are not forced to go through the traumatic experience of testifying in court, often in the same room as their abuser. Requiring children to testify in court extends their traumatic experience and sometimes leaves cases to go to settlement due to the child's inability to share their story in this high stress environment. The adverse effects on how these possible criminals are successfully prosecuted and made to pay for their horrid crimes should be apparent.

This is a bill to help preserve the mental health of vulnerable children who have been subject to a possible physical crime. It is incumbent upon us to protect our children.

I respectfully urge this committee to return a favorable report on SB0333.

SB 333 - Criminal Procedure - Victims and WITNESSES

Uploaded by: Scott Shellenberger

Position: FAV

Bill Number: SB 333
Scott D. Shellenberger, State's Attorney for Baltimore County
Support

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN SUPPORT OF SENATE BILL 333
CRIMINAL PROCEDURE – VICTIMS AND WITNESSES – OUT OF COURT
STATEMENT OF CHILD TO FORENSIC INTERVIEWER

I write in support of Senate Bill 333 Out of Court Statement of Child to Forensic Interviewer.

Criminal Procedure 11-304 has been around for a couple of decades. It has been upheld by Maryland's Appellate Courts on multiple occasions over the years. Senate Bill 333 keeps its previous format of allowing certain professionals to testify to what a child victim of certain child abuse crimes and others told them about the crime. The type of witnesses previously permitted to testify are doctors, nurses, social workers and therapists. A forensic interviewer is an extension of the already accepted occupations. (example)

Please remember under this hearsay exception the child victim must testify. The statement must also have a particularized guarantee of trustworthiness.

Senate Bill 333 is a needed and logical extension of an accepted statute and I urge a favorable report.

sb 333 west bill 2025.pdf

Uploaded by: Ken Phelps Jr

Position: UNF



**TESTIMONY IN OPPOSITION TO SB0333:
CUSTODIAL INTERROGATION OF MINORS—ADMISSIBILITY
OF STATEMENTS
UNFAVORABLE**

TO: Senator William C. Smith, Chair, Senator Jeff Waldstreicher, Vice Chair and the members of the Senate Judicial Proceedings Committee

FROM: Rev. Linda K. Boyd, Co-Chair, Maryland Episcopal Public Policy Network, Diocese of Maryland

DATE: January 30, 2025

Decades ago, Maryland joined a “tough-on-crime” movement that treats many minors as adults and increases their penalties. These policies have led to large youth prison populations that disproportionately impact poor children and children of color. Police who interrogate youth currently are permitted to lie to them, seeking to induce confessions. Children are impressionable and are not aware of their rights. They thus may make statements just to please the authority figure. This immoral practice leads to false convictions of juveniles at a rate three times higher than adults, according to one study. Such unreliable statements and confessions should be inadmissible in court.

This bill would exacerbate that problem. This Bill would expand the evidentiary rule on the admissibility of out of court statements made by child victims or witnesses to make admissible an out of court statement made by a child to a forensic interviewer. Making the adult who is interviewing a forensic interviewer does not change the nature of the interrogation. That deprives a child of protection that the law currently provides. We as people of faith, believe that all children are God’s children, deserving of equal dignity and respect, and our love. This Bill would deprive them of a protection that they desperately need.

We respectfully request an unfavorable report.

Opposition to SB333.pdf

Uploaded by: Natasha Khalfani

Position: UNF



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB333 - Criminal Procedure- Victims and Witnesses- Out of Court Statement of a Child to Forensic Interviewer

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 1/30/2025

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on SB333.

Parenting a child is a fundamental right. So when that right is being challenged by a government agency, due process is of the utmost importance to protect the parent and the child. Not only is the right to a hearing and an attorney important, so is Due Process. Due process should be protected through the rules of evidence to ensure the credibility and reliability of evidence being presented to the court.

In Child in Need of Assistance (CINA) cases, there is often a knee jerk reaction to limit due process and violate the rights of parents and children whose families are under investigation. These limitations and due process violations are committed in ways not done in any other area of the law including criminal court. Often they are done under the guise of protecting children, but in practice it harms and traumatizes children by permitting a case to end in unnecessary separation from their parents and family because it lowers the standard and procedures for which the Department of Social Services (DSS) has to prove their case. In short, this bill would violate the due process rights of children and parents.

Senate Bill 333 attempts to expand the list of people who can testify to out-of-court statements made by a child in a court proceeding where abuse or neglect is being alleged by the Department of Social Services (DSS). These out of court statements would be considered hearsay and currently only come in if they satisfy certain evidentiary rules aimed towards reliability. This bill undermines

current protections by seeking to add “Forensic Interviewers” to the class of individuals that can testify as to what a child said that would not otherwise be admissible in court.

There are no real professional qualifications/standards listed for a "Forensic Interviewer". As a result a Forensic Interviewer could be anyone that is employed or works at a Child Advocacy Center. This includes a DSS caseworker, Court Appointed Special Advocate (CASA) or Intake Employee. Often, forensic interviewers are acting as law enforcement or law enforcement adjacent aimed at eliciting incriminating information, which exacerbates due process concerns.

Under the current statute, MD Criminal Procedure §11-304 lists people who are qualified to testify to out of court statements made by a child. The list is limited in such a way that makes the intent clear to allow spontaneous statements made by children to a trusted person. The limited occupations listed are intentionally narrow to ensure that the statements made are likely to be made in absence of particularized intent of prosecution and rather aimed at seeking help. This neutral position makes it more likely that the statement would be more likely to be true. Professionals like a physician, psychologist, nurse, educator or other school personnel, counselors, therapists and social workers are generally providing specific treatment to children. A statement made to one of these professionals would generally be made as an excited utterance or in the course of treatment, which the rules of evidence determine are likely to be more credible.

During Child Protective Services (CPS) investigations, DSS case workers (who are not licensed social workers) often interrogate children as part of their investigation. If SB333 were to pass, this would allow caseworkers who do not fall into the above mentioned category to testify to what a child said during said investigation. This would undermine the intent of 11-304 by allowing these case workers to call themselves “Forensic Interviewers” and testify to unreliable hearsay, especially in CINA cases in which the child is never required to testify, unlike in criminal matters.

Lastly, CAC’s are not independent third parties that would be subject to spontaneous statements made by a child. They are a part of the Department of Human Services and thereby run under the same agency as the investigating DSS. In Child In Need of Assistance cases, forensic interviews are often done as part of the investigation. These are interviews done for the sole purposes of determining abuse or neglect. Because these agencies are often relied upon by DSS to prove their cases, this subjects the results of these interviews to party bias. In some jurisdictions, regardless of the case, certain forensic interviewers determine abuse in 100% of the CINA cases they are involved

in, even when there is no evidence to support it. Again putting into question the reliability and credibility of the evidence that would be presented to a court by someone who is designated a Forensic Interviewer with no further qualifications.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on SB333.

**Submitted by: Maryland Office of the Public Defender, Government Relations Division.
Authored by: Natasha Khalfnai, Attorney, natasha.khalfani@maryland.gov.**