E2 2lr0884 CF SB 20

By: Delegate Crutchfield

Introduced and read first time: January 17, 2022

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2022

CHAPTER

- 1 AN ACT concerning
- 2 Criminal Procedure Out of Court Statements Child Victims and Witnesses
- FOR the purpose of authorizing the court to admit into evidence in certain criminal proceedings certain out of court statements made by a child victim who is under a certain age and an alleged victim or a witness in a case concerning a crime of violence, subject to certain requirements; and generally relating to the admissibility
- of out of court statements of child victims and witnesses in criminal proceedings.
- 8 BY repealing and reenacting, with amendments,
- 9 Article Criminal Procedure
- 10 Section 11–304
- 11 Annotated Code of Maryland
- 12 (2018 Replacement Volume and 2021 Supplement)
- 13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 14 That the Laws of Maryland read as follows:
- 15 Article Criminal Procedure
- 16 11–304.
- 17 (a) In this section, "statement" means:
- 18 (1) an oral or written assertion; or

## EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

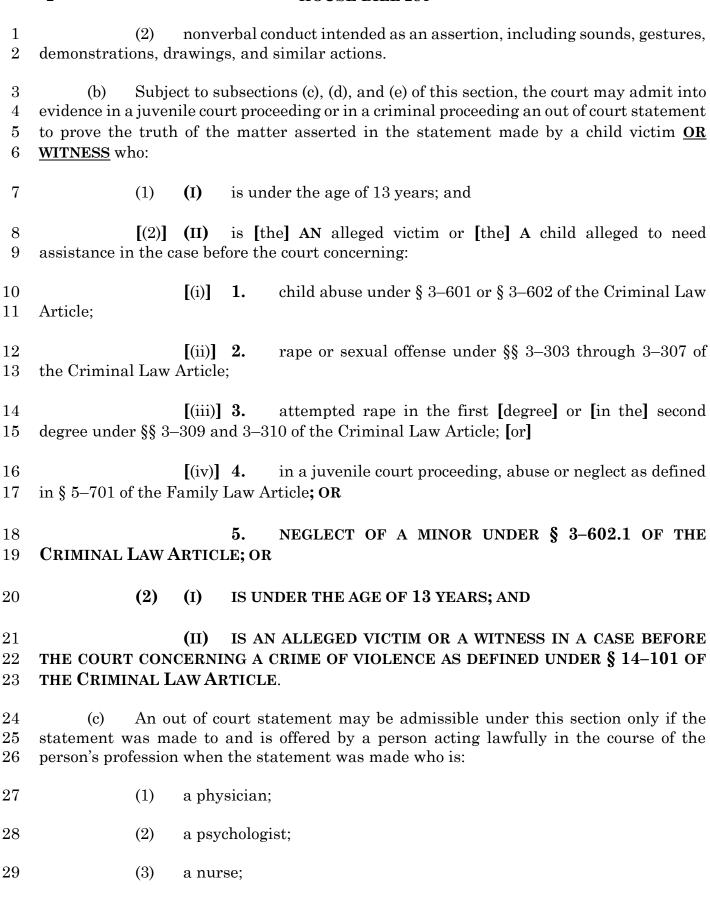
Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.

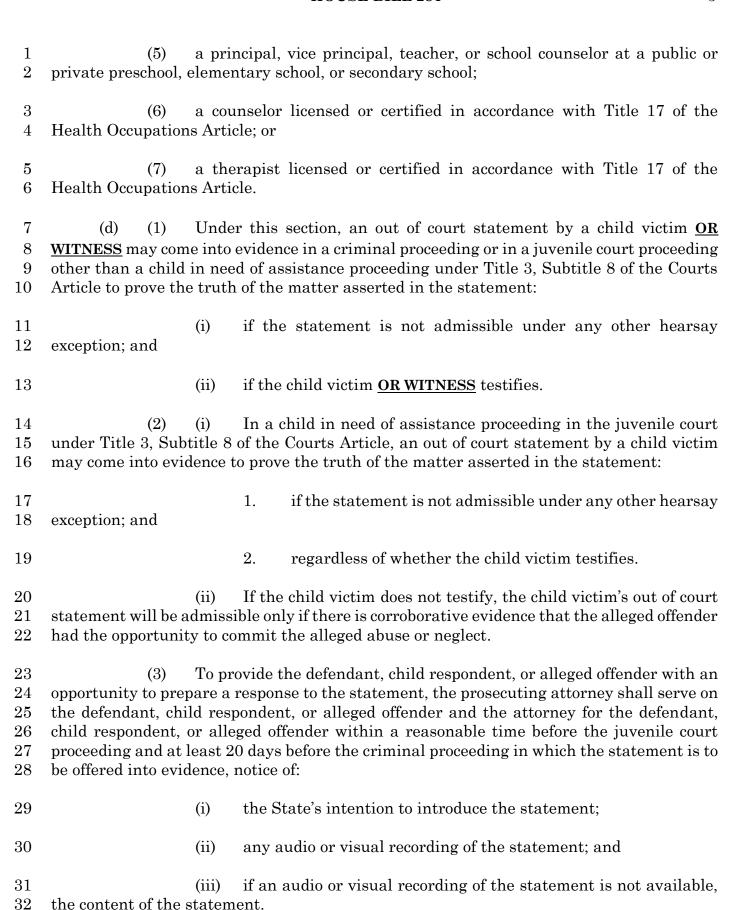


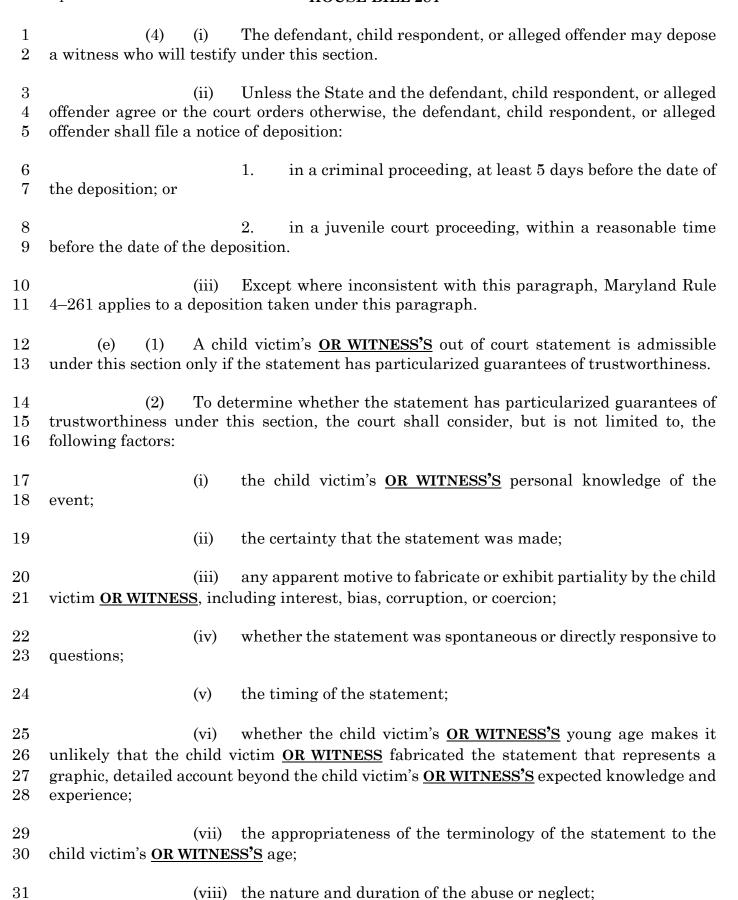
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(4)

a social worker;







1	(ix) the inner consistency and coherence of the statement;
2 3	(x) whether the child victim $\underline{\textbf{OR WITNESS}}$ was suffering pain or distress when making the statement;
4 5 6	(xi) whether extrinsic evidence exists to show the defendant or child respondent had an opportunity to commit the act complained of in the child victim's $\underline{OR}$ $\underline{WITNESS'S}$ statement;
7 8	(xii) whether the statement was suggested by the use of leading questions; and
9	(xiii) the credibility of the person testifying about the statement.
10 11	(f) In a hearing outside of the presence of the jury or before the juvenile court proceeding, the court shall:
12 13	(1) make a finding on the record as to the specific guarantees of trustworthiness that are in the statement; and
14	(2) determine the admissibility of the statement.
15 16 17	(g) (1) In making a determination under subsection (f) of this section, the court shall examine the child victim <u>OR WITNESS</u> in a proceeding in the judge's chambers, the courtroom, or another suitable location that the public may not attend unless:
18	(i) the child victim <b>OR WITNESS</b> :
19	1. is deceased; or
20 21 22	2. is absent from the jurisdiction for good cause shown or the State has been unable to procure the child victim's <u>OR WITNESS'S</u> presence by subpoena or other reasonable means; or
23 24 25	(ii) the court determines that an audio or visual recording of the child victim's <u>OR WITNESS'S</u> statement makes an examination of the child victim <u>OR WITNESS</u> unnecessary.
26 27 28 29	(2) Except as provided in paragraph (3) of this subsection, any defendant or child respondent, attorney for a defendant or child respondent, and the prosecuting attorney may be present when the court hears testimony on whether to admit into evidence the out of court statement of a child victim <b>OR WITNESS</b> under this section.
30 31	(3) When the court examines the child victim <u>OR WITNESS</u> as paragraph (1) of this subsection requires:

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1 2 3	(i) one attorney for each defendant or child respondent, one attorney for the child victim <u>OR WITNESS</u> , and one prosecuting attorney may be present at the examination; and
4 5	(ii) the court may not allow a defendant or child respondent to be present at the examination.
6 7	(h) (1) This section does not limit the admissibility of a statement under any other applicable hearsay exception or rule of evidence.
8 9	(2) This section does not prohibit the court in a juvenile court proceeding from hearing testimony in the judge's chambers.
10 11	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.
	Approved:
	Governor.
	Speaker of the House of Delegates.

President of the Senate.