

HOUSE BILL 483

E2

7lr2186

By: **Delegates B. Wilson and Atterbeary**

Introduced and read first time: January 27, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Victims and Witnesses – Out of Court Statement of Child**
3 **Victim**

4 FOR the purpose of expanding a certain evidentiary rule to render admissible a certain
5 statement made by a certain child victim to a certain adult describing a certain
6 offense; and generally relating to out of court statements of child victims.

7 BY repealing and reenacting, without amendments,
8 Article – Criminal Procedure
9 Section 11–304(a) and (b)
10 Annotated Code of Maryland
11 (2008 Replacement Volume and 2016 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Procedure
14 Section 11–304(c)
15 Annotated Code of Maryland
16 (2008 Replacement Volume and 2016 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Criminal Procedure**

20 11–304.

21 (a) In this section, “statement” means:

22 (1) an oral or written assertion; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) nonverbal conduct intended as an assertion, including sounds, gestures,
2 demonstrations, drawings, and similar actions.

3 (b) Subject to subsections (c), (d), and (e) of this section, the court may admit into
4 evidence in a juvenile court proceeding or in a criminal proceeding an out of court statement
5 to prove the truth of the matter asserted in the statement made by a child victim who:

6 (1) is under the age of 13 years; and

7 (2) is the alleged victim or the child alleged to need assistance in the case
8 before the court concerning:

9 (i) child abuse under § 3–601 or § 3–602 of the Criminal Law Article;

10 (ii) rape or sexual offense under §§ 3–303 through 3–307 of the
11 Criminal Law Article;

12 (iii) attempted rape or attempted sexual offense in the first degree or
13 in the second degree under §§ 3–309 through 3–312 of the Criminal Law Article; or

14 (iv) in a juvenile court proceeding, abuse or neglect as defined in §
15 5–701 of the Family Law Article.

16 (c) An out of court statement may be admissible under this section only if:

17 (1) the statement was made to and is offered by a person acting lawfully in
18 the course of the person’s profession when the statement was made who is:

19 [(1)] (I) a physician;

20 [(2)] (II) a psychologist;

21 [(3)] (III) a nurse;

22 [(4)] (IV) a social worker;

23 [(5)] (V) a principal, vice principal, teacher, or school counselor at a public
24 or private preschool, elementary school, or secondary school;

25 [(6)] (VI) a counselor licensed or certified in accordance with Title 17 of the
26 Health Occupations Article; or

27 [(7)] (VII) a therapist licensed or certified in accordance with Title 17 of the
28 Health Occupations Article; **OR**

29 (2) **THE STATEMENT:**

1 **(I) DESCRIBES THE CHARGED OFFENSE; AND**

2 **(II) WAS MADE TO THE FIRST ADULT OTHER THAN THE**
3 **DEFENDANT TO WHOM THE CHILD VICTIM MADE A STATEMENT ABOUT THE**
4 **OFFENSE.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2017.