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JUVENILE DIVISION
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DATE: March 8, 2021

BILL NUMBER: SB 776

POSITION: Favorable

The Frederick County State's Attorney's Office supports SB 776.

SB 776 allows for out of court statements of vulnerable adults to be introduced in trial, as well as, adds the crimes of neglect of a minor, abuse or neglect of a vulnerable adult and crimes of violence. It also allows for introduction at trial of out of court statements of children or vulnerable adults who witness these crimes.

Criminal Procedure 11-304 recognizes that children under 13 have unique challenges to being able to testify in a case in which they are a victim of abuse. These challenges include, but are not limited to, a lesser ability to recall as time goes by, fear of being in a courtroom setting, and fear of having to be near their abuser.

A vulnerable adult faces similar challenges as those stated above. Particularly if the vulnerable adult is in a state of mental decline. By the time a case goes to trial, they may no longer possess the ability to recall the abuse they experienced or witnessed, or their ability may be very limited or even inaccurate. Just as very young victims can often recount what they experienced or witnessed shortly after the event, but maybe not so much a year or two down the road, the same holds true for a vulnerable adult whose health is deteriorating.

All of these reasons why Criminal Procedure 11-304 was enacted in the first place, also hold true if the child is a victim of or witness to neglect or a crime of violence. There is no distinction for why the exception should apply only in cases of statutory child physical or sexual abuse, rape or sexual offense. Child or vulnerable adult victims of or witnesses to neglect or crimes of violence often suffer psychological trauma, just as do victims of child abuse. The challenges to being able testify further down the road are the same.

Additionally, witnesses to abuse or violence can often be just as traumatized as a result of having witnessed such horrific acts, as if they had experienced it, themselves. This particularly holds true in situations where children witness crimes of violence and abuse between their parents or other members of their household. They are very much victims in those situations, as much so as the victims whose abuse they witnessed.

SB 776 would help to further protect those in our society who are most vulnerable and who, because of their vulnerability, are easy targets of crime. It would help ensure that these victims are protected from further victimization and receive justice and that criminals who perpetrate crimes against them do not escape accountability, simply because of their vulnerability.

For these reasons, the Frederick County State's Attorney's Office requests a favorable report on SB 776.