



March 2, 2021

Senator William C. Smith, Jr.
Chairperson, Senate Judicial Proceedings Committee
11 Bladen Street
Annapolis, MD 21401

Dear Senator Smith:

I am writing in support of SB0776- Criminal Procedure – Out of Court Statements – Child and Vulnerable Adult Victims. My name is Sara Kulow-Malavé and I am the dedicated forensic interviewer for The Tree House Child Advocacy Center of Montgomery County, MD. As a clinical social worker and a forensic interviewer, I am frequently called upon to testify in criminal court cases involving child sexual and physical abuse regarding statements made to me by a child during the course of a forensic interview. The new statute would expand the hearsay exception to include victims of child neglect, vulnerable adult abuse, and victims of/witnesses to crimes of violence.

As a specially trained forensic interviewer, I also meet with alleged victims of child neglect and child witnesses to violent crimes. I have interviewed vulnerable adults who may be victims of abuse and/or neglect as well. The statements made during a forensic interview of a vulnerable adult and/or an alleged victim of child neglect or witness to a violent crime should be included in the already existing 11-304 tender years hearsay exception to crimes.

Forensic interviewers receive extensive, specialized training in one or more nationally accredited forensic interview protocols. Forensic interviewers must participate in on going peer review and continuing education within the field of child maltreatment. All forensic interviews, regardless of the protocol used, are specifically designed to elicit reliable information from a child or vulnerable adult about an event or events they may have experienced and/or possibly witnessed. Although referred to by different names, each protocol follows the same basic semi-structured process, uses developmentally sensitive language and focuses on using open ended, non-leading questions. All forensic interview protocols can be modified to account for developmental and/or cognitive challenges such as allowing the alleged victim/witness additional time to answer questions and breaking questions down into smaller parts.

A significant portion of training for forensic interviews is focused on structuring questions so that they are not suggestive. Open ended questions invite the alleged victim to discuss the allegations in a narrative fashion. This reduces suggestibility and inaccurate information. Leading questions, on other hand, suggest the answer to the alleged victim and, therefore, are unreliable. All interview protocols include instructions for the alleged victim. For example, one rule is that we only talk about events that truly happened. Another rule is that the alleged victim or witness must correct the interviewer if he/she/they get information wrong. This is another technique used to reduce suggestibility and/or false information. Forensic interviews can be used to aide law enforcement and child protective services during the course of an investigation. The interview can assess for safety concerns for the alleged victim or witness and substantiate or rule out abuse and/or neglect. Although forensic interviewers consult with law enforcement and child protective services during the interview, forensic interviewers are not involved in determining the outcome of an investigation. Further, forensic interview training dictates exploring alternative hypotheses to the allegations. Thus, the interviewer is considered to be a neutral party.

During a forensic interview, the only parties in the room are the interviewer and the alleged victim/witness. This reduces outside influences such as the presence of a parent or law enforcement. The comfort of the child/vulnerable adult is paramount. The interview is video recorded to capture an accurate picture of the alleged victim's statement as well as the questions posed by the interviewer. Forensic interviews are designed to withstand the scrutiny of the judicial system and are the most accurate way to collect information from an alleged victim of abuse and/or neglect or witness to a violent crime.

Thank you in advance for your time. I strongly urge this Committee to favorably consider this bill aimed to assist the most vulnerable members of our community.

Sincerely,

Sara Kulow-Malavé, LCSW-C

Forensic Interviewer

The Tree House CAC of Montgomery County