

SENATE BILL 298

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5lr0993
CF 5lr0994

By: **Senator Waldstreicher**

Introduced and read first time: January 10, 2025

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Out of Court Statements – Vulnerable Adult Victims and**
3 **Witnesses**

4 FOR the purpose of authorizing the court to admit into evidence in certain criminal
5 proceedings certain out of court statements made by a vulnerable adult victim or
6 witness under certain circumstances and subject to certain requirements; and
7 generally relating to the admissibility of out of court statements of vulnerable adult
8 victims and witnesses in criminal proceedings.

9 BY adding to
10 Article – Criminal Procedure
11 Section 11–305
12 Annotated Code of Maryland
13 (2018 Replacement Volume and 2024 Supplement)

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

16 **Article – Criminal Procedure**

17 **11–305.**

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (2) “STATEMENT” MEANS:

21 (I) AN ORAL OR WRITTEN ASSERTION; OR

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(II) NONVERBAL CONDUCT INTENDED AS AN ASSERTION, INCLUDING SOUNDS, GESTURES, DEMONSTRATIONS, DRAWINGS, AND SIMILAR ACTIONS.

(3) "VULNERABLE ADULT" MEANS:

(I) AN ADULT WHO LACKS THE PHYSICAL OR MENTAL CAPACITY TO PROVIDE FOR THE ADULT'S DAILY NEEDS; OR

(II) A PERSON WHO IS AT LEAST 68 YEARS OF AGE.

(B) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE COURT MAY ADMIT INTO EVIDENCE IN A CRIMINAL PROCEEDING AN OUT OF COURT STATEMENT MADE BY A VULNERABLE ADULT VICTIM OR WITNESS TO PROVE THE TRUTH OF THE MATTER ASSERTED IN THE STATEMENT MADE, UNLESS THE SOURCE OF THE INFORMATION OR METHOD OR CIRCUMSTANCES BY WHICH THE STATEMENT IS REPORTED INDICATES A LACK OF TRUSTWORTHINESS.

(2) A COURT SHALL HOLD AN EVALUATION HEARING TO DETERMINE IF THE TIME, CONTENT, AND CIRCUMSTANCES OF AN OUT OF COURT STATEMENT MADE BY A VULNERABLE ADULT VICTIM OR WITNESS PROVIDES PARTICULARIZED GUARANTEES OF TRUSTWORTHINESS IF THE OUT OF COURT STATEMENT CONCERNS:

(I) ASSAULT OR RECKLESS ENDANGERMENT UNDER §§ 3-202 THROUGH 3-204 OF THE CRIMINAL LAW ARTICLE;

(II) RAPE OR SEXUAL OFFENSES UNDER §§ 3-303 THROUGH 3-308 OF THE CRIMINAL LAW ARTICLE;

(III) ATTEMPTED RAPE UNDER § 3-309 OR § 3-310 OF THE CRIMINAL LAW ARTICLE;

(IV) ABUSE OR NEGLECT OF A VULNERABLE ADULT IN THE FIRST OR SECOND DEGREE UNDER § 3-604 OR § 3-605 OF THE CRIMINAL LAW ARTICLE;

(V) THEFT UNDER § 7-104 OF THE CRIMINAL LAW ARTICLE;

(VI) IDENTITY FRAUD UNDER § 8-301 OF THE CRIMINAL LAW ARTICLE;

(VII) FINANCIAL CRIMES AGAINST A VULNERABLE ADULT UNDER § 8-801 OF THE CRIMINAL LAW ARTICLE; OR

1 (VIII) A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE
2 CRIMINAL LAW ARTICLE.

3 (3) WHEN DETERMINING WHETHER AN OUT OF COURT STATEMENT BY
4 A VULNERABLE ADULT VICTIM OR WITNESS PROVIDES PARTICULARIZED
5 GUARANTEES OF TRUSTWORTHINESS, THE COURT SHALL CONSIDER:

6 (I) THE VULNERABLE ADULT VICTIM'S OR WITNESS'S
7 PERSONAL KNOWLEDGE OF THE EVENT;

8 (II) THE CERTAINTY THAT THE STATEMENT WAS MADE;

9 (III) THE CONTEXT IN WHICH THE STATEMENT WAS MADE AND TO
10 WHOM;

11 (IV) THE MENTAL AND PHYSICAL AGE AND COGNITIVE ABILITY
12 OF THE VULNERABLE ADULT VICTIM OR WITNESS;

13 (V) ANY APPARENT MOTIVE TO FABRICATE A STATEMENT OR
14 PARTIALITY EXHIBITED BY THE VULNERABLE ADULT VICTIM OR WITNESS,
15 INCLUDING INTEREST, BIAS, CORRUPTION, OR COERCION;

16 (VI) WHETHER THE STATEMENT WAS SPONTANEOUS OR
17 DIRECTLY RESPONSIVE TO QUESTIONS;

18 (VII) THE TIMING OF THE STATEMENT;

19 (VIII) THE NATURE AND DURATION OF ANY ABUSE OR NEGLECT;

20 (IX) THE INNER CONSISTENCY AND COHERENCE OF THE
21 STATEMENT;

22 (X) WHETHER THE VULNERABLE ADULT VICTIM OR WITNESS
23 WAS SUFFERING PAIN OR DISTRESS WHEN MAKING THE STATEMENT;

24 (XI) WHETHER EXTRINSIC EVIDENCE EXISTS TO SHOW THE
25 DEFENDANT HAD AN OPPORTUNITY TO COMMIT THE ACT COMPLAINED OF IN THE
26 VULNERABLE ADULT VICTIM'S OR WITNESS'S STATEMENT;

27 (XII) WHETHER THE STATEMENT WAS SUGGESTED BY THE USE OF
28 LEADING QUESTIONS; AND

(XIII) THE CREDIBILITY OF THE PERSON TESTIFYING ABOUT THE
STATEMENT.

(C) UNDER THIS SECTION, AN OUT OF COURT STATEMENT BY A
VULNERABLE ADULT VICTIM OR WITNESS MAY COME INTO EVIDENCE IN A CRIMINAL
PROCEEDING TO PROVE THE TRUTH OF THE MATTER ASSERTED IN THE STATEMENT
IF:

(1) THE STATEMENT IS NOT ADMISSIBLE UNDER ANY OTHER HEARSAY
EXCEPTION; AND

(2) THE VULNERABLE ADULT VICTIM OR WITNESS TESTIFIES AT THE
EVALUATION HEARING.

(D) TO PROVIDE THE DEFENDANT WITH AN OPPORTUNITY TO PREPARE A
RESPONSE TO A STATEMENT BY A VULNERABLE ADULT VICTIM OR WITNESS, THE
STATE SHALL SERVE ON THE DEFENDANT AND THE ATTORNEY FOR THE
DEFENDANT, WITHIN A REASONABLE TIME BEFORE THE COURT PROCEEDING AND
AT LEAST 20 DAYS BEFORE THE CRIMINAL PROCEEDING IN WHICH THE STATEMENT
IS TO BE OFFERED INTO EVIDENCE, NOTICE OF:

(1) THE STATE'S INTENTION TO INTRODUCE THE STATEMENT;

(2) ANY AUDIO OR VISUAL RECORDING OF THE STATEMENT; AND

(3) IF AN AUDIO OR A VISUAL RECORDING OF THE STATEMENT IS NOT
AVAILABLE, THE CONTENT OF THE STATEMENT.

(E) TESTIMONY BY A VULNERABLE ADULT VICTIM OR WITNESS SHALL BE
ADMISSIBLE BY REMOTE ELECTRONIC PARTICIPATION IN ACCORDANCE WITH
MARYLAND RULES 21-101 THROUGH 21-301.

(F) THE COURT SHALL STATE ON THE RECORD SPECIFIC FINDINGS OF FACT
SUPPORTING ITS RULINGS UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2025.