

**IN THE  
APPELLATE COURT OF MARYLAND**

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No. 2456  
September Term, 2025  
ACM-REG-2456-2024

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MULUGET GEBREHAWARIAT,

Appellant,

v.

OMAR DIBBA,

Appellee.

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On Appeal from the Circuit Court for Montgomery County, Maryland  
No. C-15-FM-811924  
(The Honorable Debra Dwyer and Christopher Fogleman, Judges)

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**BRIEF OF AMICUS CURIAE ASSOCIATION OF PROFESSIONALS SOLVING  
THE ABUSE OF CHILDREN IN SUPPORT OF APPELLANT**

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Brittany E. De Vries (No. 1906190027)  
Alanna G. Clair (*pro hac vice pending*)  
DENTONS US LLP  
1900 K Street, N.W.  
Washington, DC 20006  
(202) 496-7500  
*brittany.devries@dentons.com*  
*alanna.clair@dentons.com*

Mary Kelly Persyn (*pro hac vice pending*)  
PERSYN LAW & POLICY  
912 Cole Street  
San Francisco, CA 94117  
(628) 400-1254  
*marykelly@persynlaw.com*

*Counsel for Amicus Curiae Association of Professionals Solving The Abuse of  
Children*

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## **INTERESTS OF AMICUS CURIAE**

The Association of Professionals Solving the Abuse of Children (APSAC) is the leading national organization for professionals who serve children and families affected by child maltreatment, including sexual child abuse. APSAC has played a central role in developing professional guidelines that address best practices for interviewing children and, as such, is well qualified to inform the court about the nature of child sexual abuse and the ways society acts to prevent it.

The forensic interview is the best evidence at the court's disposal to make a determination regarding child sexual abuse. Its review is necessary to support the best interests, and safety, of the child. For instance, review of the interview often prevents having to call a young child to testify in open court. This brief highlights the risk that those protections will be stripped from children if the Appellate Court does not reverse the Circuit Court's ruling that erroneously precluded parental access to G.D.'s interview and Montgomery County Child Protective Services ("CPS") records.

## **STATEMENT OF THE CASE**

Amicus adopts the statement of the case in the Appellant's Brief (Brief at 1).

## **QUESTIONS PRESENTED**

Amicus adopts the questions presented in the Appellant's Brief (Brief at 2).

## **STATEMENT OF FACTS**

Amicus adopts the statement of facts in the Appellant's Brief (Brief at 2).

## **STANDARD OF REVIEW**

Amicus adopts the standard of review in the Appellant's Brief (Brief at 6).

## **ARGUMENT**

The ruling of the Circuit Court, though not binding state-wide, risks setting a precedent in the Circuit Court of Maryland's largest jurisdiction that would discourage sufficient judicial scrutiny of evidence that would otherwise protect children—like five-year-old G.D.—in danger of sexual abuse. Where the risk is that an abused child who disclosed abuse credibly is not being believed, public policy dictates that courts should take additional steps to ensure that child disclosures are sufficiently investigated, including by disclosing the child's CPS interview to parents and the court.

Parental access<sup>1</sup> to the forensic interview is necessary—so the parent may present a court<sup>2</sup> with the best evidence, the forensic interview video, so the court can directly assess the reliability of the interview and the child's statements contained in it. Seeking this information to review the work of CPS is not a criticism of the Department or its social workers. Consistent with the requirement of evidentiary rules and due process, here too the court should have permitted G.D.'s parent access to the interview that CPS relied on in determining that G.D. did not warrant further protection in this State. It is well-accepted in this field that the best evidence to make a determination of child sexual abuse is the forensic interview, supporting review of that critical document for its reliability.

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<sup>1</sup> The court allowed Dr. Champion to review the CPS report in the courtroom *only* during the final hearing. Jan. 24, 2025 Tr. 19:9-13. The Dec. 9, 2024 Order precluded *any* review of the underlying CPS interview with G.D. or other records from the Department's investigation of G.D.

<sup>2</sup> The record does not show that the court reviewed G.D.'s interview or records other than the report.

These errors are serious. Legal errors like these run the risk of getting it wrong for a young child because the necessary support to make a sound determination of child sexual abuse was withheld. Such a gamble on children's safety is untenable and the Circuit Court's ruling must be reversed.

## **I. MATERIAL ERRORS IN A FORENSIC REPORT CANNOT BE IDENTIFIED WITHOUT THE INTERVIEW**

The reliability of a child's statement derives from the quality of interviewers' questions and their rapport with the child. Without any review of the interview underlying an investigation into potential child sexual abuse allegations, there is no way to assess the risk to the child. The forensic report is not enough—it may contain personal biases or omit material facts, which cannot be identified without looking to the interview itself. It is the interview, along with any other data or records in the Department's file, which contains the strongest indicators of whether abuse occurred.

### **A. The Importance of a Properly Conducted Forensic Interview**

This brief is not a plea for perfect forensic evaluations, nor a criticism of the hardworking professionals who prepare CPS reports that are an integral part of the Maryland legal system. The material prejudice arises where the interviewer's subjective judgment or opinion is not subject to any additional review of the data (by the court, by the parent, or by an advocate) and changes the disposition of a case to a minor child's disadvantage. The point is simply that it is impossible to evaluate for error, whether dispositive or benign, without the interview.



Decades of development and study into child sexual abuse cases has led the scientific community to focus on best practices to use in assessing child disclosures and subsequent interviews.

Although child interview protocols are nearly-universally accepted, research shows that interviewers often have difficulty complying with best practice guidelines, despite their best efforts. (See Cauchi, R., *et al.*, *A Controlled Analysis of Professionals' Contemporaneous Notes of Interviews about Alleged Child Abuse*, CHILD ABUSE & NEGLECT, (2010) at 322.) Difficulties with compliance enforces why it is necessary to obtain a child's interview and supporting data for additional review. It ensures that the needs of the child are being considered by more people than only the state-appointed interviewer, and to minimize the risk that an improper (and secretive) interview materially affects a judicial determination of whether child abuse occurred.

**1. The interview shows adherence to scientifically-backed protocols, questioning, and training.**

The techniques that constitute best practices for child interviewing are “overwhelmingly consistent” from “across the globe[.]” (Danby, M. *et al.*, *Can Child Forensic Interviewers Accurately Review Their Own Adherence to Best-Practice Techniques?* J. OF POLICE AND CRIM. PSYCHOL. (2025) at 1.) These include the National Institute of Child Health and Human Development Investigative Interview Protocol (“NICHHD”), among others. (See O'Donohue, W. and Cirlugea, O., *Controlling For Confirmation Bias in Child Sexual Abuse Interviews*, J. AM. ACAD. PSYCHIATRY LAW 49(3) (2021) at 2.) APSAC also publishes practice guidelines on the forensic interviewing

of children based on these established protocols. (See APSAC Practice Guidelines, *Forensic Interviewing of Children* (2023).)

A forensic interview should be tailored to the child's specific needs and stage of development. (Korkman, J. & Joleby, M., *Disclosures and forensic interviews in the context of online child sexual abuse*, CHILD SEXUAL ABUSE: WHY CHILDREN DISCLOSE OR DENY BEING ABUSED (Lamb, M., *et al.*, eds.) (Routledge 2026) at 168.) The interview should consider external factors and types of questions, and be conducted by interviewers with adequate knowledge, training, and supervision. (Fernandes, D., *et al.*, *Forensic Interview Techniques in Child Sexual Abuse Cases: A Scoping Review*, TRAUMA, VIOLENCE, & ABUSE, 25(2) (2024) at 1383.) Interviewers should use "invitations or cued invitations" to collect "as much information as possible" from the child. (Korkman, J., *et al.*, *supra* at 166.)

Proper training helps support a quality interview by informing the interviewer's questioning. While an interviewer's *curriculum vitae* may describe their training, whether an interview complied with protocol cannot be ascertained unless the underlying interview is assessed. (Block, S. *et al.*, *Multiple Forensic Interviews During Investigations of Child Sexual Abuse: A Cost-Effectiveness Analysis* 17(4) (2013) at 2.) And there can be risk that even a well-trained professional can deviate from these protocols in a closed-door interview. (See Danby, M., *et al.*, *supra* at 4.)

Here, Mother's expert, Dr. Kelly Champion, was unable to determine whether CPS questioned G.D. in accordance with best practices. Jan. 24, 2025 Tr. 19:24-20:4. Dr. Champion was limited to reading the CPS report in the courtroom, which made no mention

of protocol. “I can only see what findings she presented. And I recall her drawing inferences and making conclusions[.]” *Id.* at 20:7-10. If Dr. Champion had the interview, it is expected that her testimony could assist the court by explaining errors she identified, like whether the interviewer engaged in questions which minimized suggestibility or improperly influenced the child’s answers.<sup>3</sup> The interview also allows for a second opinion because another expert or the court can use the interview to determine whether a child’s outcry should be credited.

## **2. The interview can show rapport and demeanor between interviewer and child.**

Demeanor and rapport between child and forensic interviewer is a key aspect of a quality interview. Good rapport combined with proper approach to questioning is more likely to elicit truthful responses from children, minimizing concerns about parental coaching.

The revised NICHD Protocol (“NICHD-R”) emphasizes the role rapport-building, identification of reluctance, and supportive comments have on increasing the likelihood of “credible” child disclosure. (Korkman, J., *et al.*, *supra* at 163.) Rapport supports the child’s active participation in an interview by enhancing the child’s perceived wellbeing and trust in an interviewer. (Hershkowitz, I., Ben-Shahar, T., & Lamb, M., *Disclosures and denials by young people suspected of sexual offences*, CHILD SEXUAL ABUSE: WHY CHILDREN DISCLOSE OR DENY BEING ABUSED (Lamb, M., *et al.*, eds.) (Routledge 2026)

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<sup>3</sup> The court’s refusal to allow Dr. Champion to opine on the statements G.D. made to her are undermined for the reasons argued in Appellant’s Brief. Furthermore, the recent enactment of House Bill 442 shows the Legislature’s broad admissibility of child statements to protect the child.

at 203.) The results of a multi-year research study showed that non-suggestive rapport development led to obtaining “more complete and informative statements.” (*Id.* at 205.)

**(a) Additional interviews are usually beneficial.**

One or two additional interviews of a child are generally understood to be beneficial, not harmful, to children. Additional interviews increase rapport, decrease risk of suggestibility by increasing children’s disclosures, and are regarded as a methodologically superior method of interviewing. (*See* Block, S., *et al.*, *supra* at 2 (finding “increase[d] children’s disclosures”) (citations omitted); Lyon, T., Wylie, B. and Szojka, Z., *Understanding child sexual abuse*, CHILD SEXUAL ABUSE: WHY CHILDREN DISCLOSE OR DENY BEING ABUSED (Lamb, M., *et al.*, eds.) (Routledge 2026) at 30 (internal citations omitted) (attributing multiple interviews as “methodologically superior” where examination focus is “ultimate disclosure rate,” not first disclosure).)

The Circuit Court ruling which cast doubt on G.D.’s disclosures on the basis that “they’re subjecting [G.D.] to interview after interview” which “can’t possibly be good for him” is contrary to scientific literature. Jan. 24, 2025 Tr. 70:8-14. Moreover, to the extent the court was concerned about engaging in additional interviews, the best way to limit interviews of the child is to permit access to the interview conducted by CPS, which allows the court and other parties or advocates to have the most fulsome information. Instead, Mother was compelled to engage an expert to interview the child, only to have the court refuse testimony about it.

**(b) Interviewers can elicit more accurate reports and mitigate concerns of coaching through rapport-building in addition to proper interviewing.**

Only the forensic interview, not its summary, will reliably indicate whether the interviewer used appropriate techniques to elicit accurate reports from a child interviewee. Providing the interview also helps alleviate concerns about whether a child was coached to make a false disclosure. For example, an interviewer who has developed rapport with the child, through appropriate demeanor and proper interview techniques, is well-positioned to ask questions that result in the child providing narratives and not short, limited answers.

In fact, one study found that when interviewers properly engaged in rapport-building exercises, children narrate “longer and richer responses to the first substantive question about abuse[.]” (Lyon, T.D., *et al.*, *Interviewing children versus tossing coins: accurately assessing the diagnosticity of children’s disclosures of abuse*, J. OF CHILD SEXUAL ABUSE 21(1) (2012) at 32.) “Idiosyncratic details are harder to attribute to some sort of adult coaching.” (*Id.* at 33.) Relying simply on the report deprives the affected parties—and the trial court—of the ability to review whether the interviewer approached the interview appropriately. Instead, the correct approach to assessing whether a child was coached is to review the interview. (*See* O’Donohue, W., *supra* at 8.)

While the lower court in G.D.’s case did not state in its ruling that the child was “coached” by the Mother, the court’s determination that child sexual abuse did not occur leaned heavily on finding the Mother “not credible.” Jan. 24, 2025 Tr. 69:1-2. A mother’s credibility is not a proper evaluation of reliability of a *child’s* disclosures of abuse. Even

if the court below was nevertheless concerned about coaching, the court cannot assess whether the Mother had *any* effect on G.D.'s statements without the interview.

## **B. Types of Potential Errors in a Forensic Report**

Research demonstrates that summations, notes, and reports like G.D.'s CPS report can contain material errors that can impair the system's ability to identify or treat ongoing abuse. Where, like here, there is no access to G.D.'s forensic interview, there is no way to evaluate the sufficiency of the interview or even the report.

### **1. Omissions**

A forensic report may omit the interviewer's questioning of the child or fail to include key facts regarding the incident. As such, reports like G.D.'s "cannot be considered to be complete and accurate records of interviews." (Cauchi, R., *et al.*, *supra* at 322.)

Studies demonstrate that reports or summaries by child abuse investigators may fail to memorialize critical facts of the incident. One such study analyzed the contemporaneous account of 20 interviews of alleged child sexual abuse victims and compared them with the interview recordings. (Lamb, M., *et al.*, *Investigators' Verbatim Notes of Their Forensic Interviews with Alleged Child Abuse Victims*, L. AND HUMAN BEHAVIOR 24(6) (2000) at 701.) The study revealed that an alarming number of incident-relevant details (25%) were not recorded at all in the investigators' notes, with 17.8% of the central, i.e., allegation-specific, details not reflected. (*Id.*) Because central details pertain most directly to the alleged sexual offenses, the omitted details could affect the disposition of such cases. (*Id.*)

Another study reviewed forensic interviews where there was a separate note taker from the interviewer. Only 61% of abuse-related details were recorded by the note taker (omission errors) and 57% of commission errors were serious enough to “potentially impact the nature of the [criminal] charge.” (Cauchi, R., *et al.*, *supra* at 321.)

When children like G.D. are young and still developing linguistic skills, good questions encourage young children to say what they know. (Walker, A.G., HANDBOOK ON QUESTIONING CHILDREN: A LINGUISTIC PERSPECTIVE (ABA Center on Children and the Law, 3d ed. 2013) at 29.) The record reflects that G.D. is “just not a very verbally productive kid” in an interview setting and Dr. Champion’s interview with him was “predominantly invitations.” Jan. 24, 2025 Tr. 25:12-26:24. G.D.’s description is a classic example where the interviewer’s questions can be instructive to the court in deciding the ultimate issue. Yet, because questions are often *not* recorded in reports, like in G.D.’s, there is no way to assess the quality of the questioning that occurred. (*See* Cauchi, R., *et al.*, *supra* at 322.)

## **2. Confirmation bias**

Confirmation bias can be a large source of error. Often manifesting through improper suggestive techniques, it is “a type of selective thinking” inclined to “confirm rather than refute” one’s hypothesis with evidence that supports their own beliefs. (Burnett, R. & Hoyle, C., *When allegations of child sexual abuse are false*, CHILD SEXUAL ABUSE: WHY CHILDREN DISCLOSE OR DENY BEING ABUSED (Lamb, M., *et al.*, eds.) (Routledge 2026) at 131.)

Interviewers *can* and *should* investigate to minimize confirmation bias—but sometimes they do not. There is no way of sufficiently exploring whether or how (or how well) the interviewer avoided confirmation bias without the interview. (See Korkman, J., *et al.*, *supra* at 167.) Otherwise, the fact remains that “confirmation bias is omnipresent” in forensic interviews of potential child sexual abuse. (See Burnett, R., *et al.*, *supra* at 131.) And this “tunnel vision” is a common factor to contribute toward wrongful determinations about child sexual abuse. (See *id.* (citing MacFarlane, B.A. & Cordner, S.M., *Wrongful convictions: The effect of tunnel vision and predisposing circumstances in the criminal justice system* (Toronto: Government of Ontario (2008) at 30).)

The inability to review G.D.’s investigation means the inconsistencies between the Father’s and the physician’s alternative explanations go unexplained. Dr. Champion opined that Dr. Shukat’s alternative explanation for the Father’s conduct “did not match” the “questioning of dad in this case[.]” Jan. 24, 2025 Tr. 35:11-25. An investigator would “want to look at does the parents’ explanation of his own behavior match the child’s report[.]” but there is no evidence from the report that CPS did that. *Id.* There is no way for the court to evaluate these diametrically opposed explanations without the interview.

### **3. False negatives**

A false negative is an erroneous finding that child abuse did not occur. (Rush, E.B., *et al.*, *Disclosure Suspicion Bias and Abuse Disclosure: Comparisons Between Sexual and Physical Abuse*, CHILD MALTREATMENT 19(2) (2014) 113-118, at 4-5.) A false negative finding can develop from erroneous or incomplete *facts* in a report. Those



improperly reported facts can materially prejudice the court’s disposition of the suit. (*see* Lamb, M., *et al.*, *Accuracy of* at 704; Rush, E.B., *et al.*, *supra* at 4-5.)

While the court admitted the factual findings from G.D.’s report, the report does not provide the actual data on which the interviewer relied to make findings of fact. This absence is significant, particularly here where the child disclosed abuse multiple times.

### **C. Indicators of Child Sexual Abuse Derive From the Interview**

It was materially prejudicial for the Circuit Court to cast doubt on G.D.’s disclosures of abuse without scrutinizing his underlying forensic interview because the interview is the key evidentiary source to evaluate indicators of child sexual abuse.

#### **1. Disclosure is indicative of child sexual abuse.**

Disclosure itself is indicative of child abuse. Here, G.D. disclosed abuse to four different outcry witnesses—(1) therapist<sup>4</sup>; (2) mother; (3) CPS; and (4) Dr. Champion<sup>5</sup>—including two times to forensic interviewers—(1) CPS and (2) Dr. Champion. Thus, the child’s statements *must* be scrutinized to ensure the court’s determination is sound.

Studies regarding disclosures estimated that only 2 to 8% of cases reflected inaccurate disclosures by children. (Block, S., *et al.*, *supra* at 4.) In a study conducted to identify alternative origins (like parent suggestion) of a disclosure, a “true allegation” was estimated 90% of the time. (O’Donohue, W., *et al.*, *supra* at 6-7.) A child’s disclosure is crucial because there is often an absence of physical evidence. (Fernandes, D., *et al.*, *supra*

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<sup>4</sup> Pet. at 4.

<sup>5</sup> Jan. 24, 2025 Tr. 25:6-17; 26:15-16.

at 1382-83.) Thus, the court below should have supported Mother in asking CPS to “show their work” and indicate *why* they refused to believe G.D.’s multiple disclosures.

Members of the scientific community who focus on child abuse and protection agree that the greater risk to children is a disclosure that results in a false denial than the far more minimal risk of the possibility of false allegations from a child. (*See Block, S., et al., supra* at 4.) And, notably, G.D. did not recant or deny abuse. *See* Jan. 24, 2025 Tr. 25:18-25; 30:20-31:8. In fact, G.D. disclosed *four* times.

## **2. Consistent disclosure is indicative of child sexual abuse.**

G.D. disclosed similar facts each time he disclosed the abuse. Consistency in a child’s repeated disclosures of sexual abuse indicates perceived credibility by interviewers. To understand the impact of child disclosure and denial, leading experts in the field emphasize that the correct question is not whether children “*ultimately* disclose, but whether they *initially* and *consistently* disclose.” (Lyon, T., *et al., supra* at 30.)

Dr. Champion testified that G.D.’s disclosure was consistent with the CPS report, the Mother’s testimony, and G.D.’s interview with Dr. Champion. Jan. 24, 2025 Tr. 25:6-17; 26:15-16 (“[G.D.] gave essentially the same report.”).

## **II. THE BEST EVIDENCE—THE FORENSIC INTERVIEW—PROMOTES THE BEST INTERESTS OF THE CHILD**

Protection of the child is paramount. When a child discloses sexual abuse, any conclusion that no abuse occurred that fails to analyze the best evidence of the child’s forensic interview and other CPS records is materially prejudicial to the child’s best interests and contravenes due process.

**A. Access Protects Children and Safeguards Confidentiality**

Denying parental access to CPS records is inapposite to the goal of protecting children. “An incorrect assessment of a [disclosure] being considered false ... may increase risks that vulnerable children will be left unprotected and perpetrators will continue to abuse[.]” (Melkman, E.P., *et al.*, *Credibility assessment in child sexual abuse investigations: a descriptive analysis*, CHILD ABUSE & NEGLECT 67 (2017) 76-85, at 77.)

Nor is an “unsubstantiated” CPS finding a determination of abuse one way or the other. It is a “risky assumption” to assume the child is safe until adulthood based on that finding alone. *See* Jan. 24, 2025 Tr. 31:15-32:1; 33:6-11. Access to the interview is a reasonable way to protect the child because it lowers the need to call the child in open court if the interview is subject to Md. Rule 5-803(b)(8)’s public records exception. (Danby, M., *et al.*, *supra* at 1.) Additionally, statute requires release of records with redactions to protect confidentiality. *See* MD. CODE ANN., § 1-202(c)(1)(vi).

**B. Ruling Out Abuse Without the Best Evidence Contravenes Due Process**

Full consideration of a child’s safety can happen only when parents have full access to the best evidence, because only upon presentation and cross-examination of the evidence can the court properly employ its role as fact-finder.<sup>6</sup>

In *Sumpter*, the Maryland Supreme Court noted serious concerns about violating due process rights when a mother was deprived access to a custody evaluation in a custody

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<sup>6</sup> The Department’s argument that “[t]he social workers would not have recorded any interviews and any notes they might have taken would be used for and summarized in the report” is misleading and meritless. *See* Dept. Mot. to Quash ¶ 5. G.D. underwent a child forensic interview.

proceeding, as it caused the “practical impossibility of evaluating prejudice” and “deprived the court of ... the presentation of counter-evidence.” *Sumpter v. Sumpter*, 436 Md. 74, 85, 92 (2013). By denying access to the Department’s records and disallowing cross examination of the report’s author, the court deprived Mother of her “presentation of counter-evidence” and made “evaluating prejudice” impossible. *Id.* This is an issue of access across the board—it includes parents, the court, and the child. Here, the petition was filed by Mother *for* her child. Pet. at 1. Yet the Circuit Court’s ruling deprives the Mother and the child of a fair hearing by precluding the best evidence for a case-in-chief supporting the child’s outcry.

Despite not admitting forensic interviewer ultimate opinions in evidence, the Circuit Court erroneously ruled that Dr. Champion was “the only one that’s come up with it.”<sup>7</sup> The ruling disregards that G.D. disclosed sexual abuse to CPS, to Dr. Champion, to the therapist, and to his Mother.

### **CONCLUSION**

The Circuit Court ruling committed legal error by denying the Mother’s access to the CPS interview and records, is against the weight of the evidence, and must be reversed.

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<sup>7</sup> Jan. 24, 2025 Tr. 71:16-19 (“Nobody other than Dr. Champion apparently, although I didn’t allow the ultimate opinion of whether this respondent abused the child, she’s the only one that’s come up with it.”).

Dated: September 2, 2025

Respectfully submitted,

/s/ Brittany E. De Vries

Brittany E. De Vries (No. 1906190027)

Alanna G. Clair (*pro hac vice pending*)

DENTONS US LLP

1900 K Street, N.W.

Washington, DC 20006

(202) 496-7500

*brittany.devries@dentons.com*

*alanna.clair@dentons.com*

Mary Kelly Persyn (*pro hac vice pending*)

PERSYN LAW & POLICY

912 Cole Street

San Francisco, CA 94117

(628) 400-1254

*marykelly@persynlaw.com*

*Counsel for Amicus Curiae Association of  
Professionals Solving the Abuse of Children*

**TEXT OF PERTINENT CONSTITUTIONAL PROVISIONS, STATUTES,  
ORDINANCES, RULES, AND REGULATIONS**

**(House Bill 442)**

AN ACT concerning

**Criminal Procedure – Victims and Witnesses – Out of Court Statement of Child to Forensic Interviewer**

FOR the purpose of expanding a certain evidentiary rule to render admissible an out of court statement made by a child victim or witness to a certain forensic interviewer subject to certain requirements; and generally relating to out of court statements by child victims and witnesses.

BY repealing and reenacting, with amendments, Article – Criminal Procedure Section 11–304 Annotated Code of Maryland (2018 Replacement Volume and 2024 Supplement)

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

**Article – Criminal Procedure**

11–304.

(a) (1) In this section[, “statement”] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(2) “FORENSIC INTERVIEWER” MEANS A PROFESSIONAL WHO:**

**(I) IS TRAINED IN CHILD FORENSIC INTERVIEWING PROTOCOLS AND TECHNIQUES THAT ALLOW FOR NEUTRAL, LEGALLY SOUND, NONLEADING, AND DEVELOPMENTALLY APPROPRIATE INTERVIEWS WITH CHILDREN TO GATHER INFORMATION WITHOUT INFLUENCING THE INFORMATION PROVIDED BY THE CHILD;**

**(II) IS NOT A LAW ENFORCEMENT OFFICER; AND**

**(III) IS EMPLOYED BY OR WORKS UNDER CONTRACT WITH A**

**CHILD ADVOCACY CENTER AS DEFINED IN § 13–2201 OF THE HEALTH – GENERAL ARTICLE, OR AN ENTITY IN ANOTHER JURISDICTION THAT WOULD QUALIFY AS A CHILD ADVOCACY CENTER IN THE STATE.**

**(3) “STATEMENT”** means:

**[(1)] (I)** an oral or written assertion; or

**[(2)] (II)** nonverbal conduct intended as an assertion, including sounds, gestures, demonstrations, drawings, and similar actions.

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

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

(ii) is an alleged victim or a child alleged to need assistance in the case before the court concerning:

1. child abuse under § 3–601 or § 3–602 of the Criminal Law Article;

2. rape or sexual offense under §§ 3–303 through 3–307 of the Criminal Law Article;

3. attempted rape in the first or second degree under §§ 3–309 and 3–310 of the Criminal Law Article;

4. in a juvenile court proceeding, abuse or neglect as defined in § 5–701 of the Family Law Article; or

5. neglect of a minor under § 3–602.1 of the Criminal Law Article; or

(2) (i) is under the age of 13 years; and

(ii) is an alleged victim or a witness in a case before the court concerning a crime of violence as defined under § 14–101 of the Criminal Law Article.

(c) An out of court statement may be admissible under this section only if the statement was made to and is offered by a person acting lawfully in the course of the person’s profession when the statement was made who is:

(1) a physician;

(2) a psychologist;

(3) a nurse;

(4) a social worker;

(5) a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school;

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

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

**(8) A FORENSIC INTERVIEWER.**

(d) (1) Under this section, an out of court statement by a child victim or witness may come into evidence in a criminal proceeding or in a juvenile court proceeding other than a child in need of assistance proceeding under Title 3, Subtitle 8 of the Courts Article to prove the truth of the matter asserted in the statement:

- (i) if the statement is not admissible under any other hearsay exception; and
  - (ii) if the child victim or witness testifies.
- (2) (i) In a child in need of assistance proceeding in the juvenile court under Title 3, Subtitle 8 of the Courts Article, an out of court statement by a child victim may come into evidence to prove the truth of the matter asserted in the statement:
- 1. if the statement is not admissible under any other hearsay exception; and
  - 2. regardless of whether the child victim testifies.
- (ii) If the child victim does not testify, the child victim's out of court statement will be admissible only if there is corroborative evidence that the alleged offender had the opportunity to commit the alleged abuse or neglect.
- (3) To provide the defendant, child respondent, or alleged offender with an opportunity to prepare a response to the statement, the prosecuting attorney shall serve on the defendant, child respondent, or alleged offender and the attorney for the defendant, child respondent, or alleged offender within a reasonable time before the juvenile court proceeding and at least 20 days before the criminal proceeding in which the statement is to be offered into evidence, notice of:
- (i) the State's intention to introduce the statement;
  - (ii) any audio or visual recording of the statement; and
  - (iii) if an audio or visual recording of the statement is not available, the content of the statement.
- (4) (i) The defendant, child respondent, or alleged offender may depose a witness who will testify under this section.
- (ii) Unless the State and the defendant, child respondent, or alleged offender agree or the court orders otherwise, the defendant, child respondent, or alleged offender shall file a notice of deposition:
- 1. in a criminal proceeding, at least 5 days before the date of the deposition; or
  - 2. in a juvenile court proceeding, within a reasonable time before the date of the deposition.
- (iii) Except where inconsistent with this paragraph, Maryland Rule 4-261 applies to a deposition taken under this paragraph.
- (e) (1) A child victim's or witness's out of court statement is admissible under this section only if the statement has particularized guarantees of trustworthiness.
- (2) To determine whether the statement has particularized guarantees of trustworthiness under this section, the court shall consider, but is not limited to, the following factors:
- (i) the child victim's or witness's personal knowledge of the event;
  - (ii) the certainty that the statement was made;
  - (iii) any apparent motive to fabricate or exhibit partiality by the child victim or witness, including interest, bias, corruption, or coercion;
  - (iv) whether the statement was spontaneous or directly responsive to questions;
  - (v) the timing of the statement;



- (vi) whether the child victim's or witness's young age makes it unlikely that the child victim or witness fabricated the statement that represents a graphic, detailed account beyond the child victim's or witness's expected knowledge and experience;
  - (vii) the appropriateness of the terminology of the statement to the child victim's or witness's age;
  - (viii) the nature and duration of the abuse or neglect;
  - (ix) the inner consistency and coherence of the statement;
  - (x) whether the child victim or witness was suffering pain or distress when making the statement;
  - (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 or witness's statement;
  - (xii) whether the statement was suggested by the use of leading questions; and
  - (xiii) the credibility of the person testifying about the statement.
- (f) In a hearing outside of the presence of the jury or before the juvenile court proceeding, the court shall:
- (1) make a finding on the record as to the specific guarantees of trustworthiness that are in the statement; and
  - (2) determine the admissibility of the statement.
- (g) (1) In making a determination under subsection (f) of this section, the court shall examine the child victim or witness in a proceeding in the judge's chambers, the courtroom, or another suitable location that the public may not attend unless:
- (i) the child victim or witness:
    - 1. is deceased; or
    - 2. is absent from the jurisdiction for good cause shown or the State has been unable to procure the child victim's or witness's presence by subpoena or other reasonable means; or
  - (ii) the court determines that an audio or visual recording of the child victim's or witness's statement makes an examination of the child victim or witness unnecessary.
- (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 or witness under this section.
- (3) When the court examines the child victim or witness as paragraph (1) of this subsection requires:
- (i) one attorney for each defendant or child respondent, one attorney for the child victim or witness, and one prosecuting attorney may be present at the examination; and
  - (ii) the court may not allow a defendant or child respondent to be present at the examination.
- (h) (1) This section does not limit the admissibility of a statement under any other applicable hearsay exception or rule of evidence.

(2) This section does not prohibit the court in a juvenile court proceeding from hearing testimony in the judge's chambers.

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

Approved by the Governor, April 22, 2025

#### RULE 5-803. HEARSAY EXCEPTIONS: UNAVAILABILITY OF DECLARANT NOT REQUIRED

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

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(b) Other Exceptions.

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(8) Public Records and Reports.

(A) Except as otherwise provided in this paragraph, a memorandum, report, record, statement, or data compilation made by a public agency setting forth

(i) the activities of the agency;

(ii) matters observed pursuant to a duty imposed by law, as to which matters there was a duty to report;

(iii) in civil actions and when offered against the State in criminal actions, factual findings resulting from an investigation made pursuant to authority granted by law; or

(iv) in a final protective order hearing conducted pursuant to Code, Family Law Article, § 4-506, factual findings reported to a court pursuant to Code, Family Law Article, § 4-505, provided that the parties have had a fair opportunity to review the report.

Committee note: If necessary, a continuance of a final protective order hearing may be granted in order to provide the parties a fair opportunity to review the report and to prepare for the hearing.

(B) A record offered pursuant to paragraph (A) may be excluded if the source of information or the method or circumstance of the preparation of the record indicate that the record or the information in the record lacks trustworthiness.

(C) Except as provided in subsection (b)(8)(D) of this Rule, a record of matters observed by a law enforcement person is not admissible under this paragraph when offered against an accused in a criminal action.

(D) Subject to Rule 5-805, an electronic recording of a matter made by a body camera worn by a law enforcement person or by another type of recording device employed by a law enforcement agency may be admitted when offered against an accused if (i) it is

properly authenticated, (ii) it was made contemporaneously with the matter recorded, and (iii) circumstances do not indicate a lack of trustworthiness.

§ 1-202. Confidentiality of information--Child abuse and neglect reports and records

(a) Except as otherwise provided in Title 5, Subtitles 7 and 12 of the Family Law Article, § 1-203 of this subtitle, and this section, a person may not disclose a report or record concerning child abuse or neglect.

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(c) A report or record concerning child abuse or neglect:  
(1) may be disclosed on request to:

\*\*\*

(vi) a parent or other person who has permanent or temporary care and custody of the child, if provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information;

**CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 8-112**

1. This brief contains 3,853 words, excluding the parts of the brief exempted from the word count by Rule 8-503.

2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112 because it has been prepared in a proportionally spaced typeface in 13-point Times New Roman font with double spacing between lines, excluding parts of the brief exempted by Rule 8-112(c)(2). *See also* Md. Rule 8-504(a)(9).

Dated: September 2, 2025

/s/ Brittany E. De Vries  
Brittany E. De Vries, No. 1906190027

**CERTIFICATE OF SERVICE**

I hereby certify that on September 2, 2025, I caused two true and correct copies of the foregoing *Brief of Amicus Curiae Association of Professionals Solving the Abuse of Children in Support of Appellant* to be served via MDEC electronic filing, email, and first class U.S. mail, postage prepaid, to:

Paul G. Griffin (No. 9712170016)  
Luanna P. McKenna (No. 9512130211)  
Nathaniel T. Grube (No. 1812110158)  
CHILD JUSTICE, INC.  
8720 Georgia Avenue, Suite 703  
Silver Spring, Maryland 20910  
(301) 254-2745  
*paul.griffin@child-justice.org*

*Counsel for Appellant/Petitioner*

and to be served via email and first class U.S. mail, postage prepaid, to:

Omar Dibba  
605 Woodside Pkwy.  
Silver Spring, MD 20910  
*obdibba@gmail.com*

*Pro Se Appellee/Respondent*

Dated: September 2, 2025

/s/ Brittany E. De Vries  
Brittany E. De Vries, No. 1906190027

