

**Article — Criminal Procedure**

4-202.

~~(b) Except as provided in subsection (c) of this section, a court exercising criminal jurisdiction in a case involving a child may transfer the case to the juvenile court before trial or before a plea is entered under Maryland Rule 4-242 if:~~

~~(1) the accused child was at least 14 but not 18 years of age when the alleged crime was committed;~~

~~(2) the alleged crime is excluded from the jurisdiction of the juvenile court under § 3-8A-03(d)(1), (4), or (5) of the Courts Article; and~~

~~(3) the court determines by a preponderance of the evidence that a transfer of its jurisdiction is in the interest of the child or society.~~

(A) DURING THE TRIAL OF A CRIMINAL CASE IN WHICH THE DEFENDANT IS CHARGED WITH A FELONIOUS VIOLATION OF TITLE 5 OF THE CRIMINAL LAW ARTICLE OR WITH THE COMMISSION OF A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, A STATEMENT AS DEFINED IN MARYLAND RULE 5-801(A) IS NOT EXCLUDED BY THE HEARSAY RULE IF THE STATEMENT IS OFFERED AGAINST A PARTY THAT HAS ENGAGED IN, DIRECTED, OR CONSPIRED TO COMMIT WRONGDOING THAT WAS INTENDED TO AND DID PROCURE THE UNAVAILABILITY OF THE DECLARANT OF THE STATEMENT, AS DEFINED IN MARYLAND RULE 5-804.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, BEFORE ADMITTING A STATEMENT UNDER THIS SECTION, THE COURT SHALL HOLD A HEARING OUTSIDE THE PRESENCE OF THE JURY AT WHICH:

(1) THE MARYLAND RULES OF EVIDENCE ARE STRICTLY APPLIED; AND

(2) THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE PARTY AGAINST WHOM THE STATEMENT IS OFFERED ENGAGED IN, DIRECTED, OR CONSPIRED TO COMMIT THE WRONGDOING THAT PROCURED THE UNAVAILABILITY OF THE DECLARANT.

(C) A STATEMENT MAY NOT BE ADMITTED UNDER THIS SECTION UNLESS:

(1) THE STATEMENT WAS:

(I) GIVEN UNDER OATH SUBJECT TO THE PENALTY OF PERJURY AT A TRIAL, HEARING, OR OTHER PROCEEDING OR IN A DEPOSITION;

(II) REDUCED TO WRITING AND SIGNED BY THE DECLARANT; OR

(III) RECORDED IN SUBSTANTIALLY VERBATIM FASHION BY STENOGRAPHIC OR ELECTRONIC MEANS CONTEMPORANEOUSLY WITH THE MAKING OF THE STATEMENT; AND