

[(iii)](2) [There] IF THE CHILD DOES NOT TESTIFY, THE CHILD'S OUT OF COURT STATEMENT WILL BE ADMISSIBLE ONLY IF THERE is corroborative evidence THAT:

(I) THE DEFENDANT IN A CRIMINAL PROCEEDING HAD THE OPPORTUNITY TO COMMIT THE ALLEGED OFFENSE; OR

(II) THE ALLEGED OFFENDER IN A JUVENILE COURT PROCEEDING HAD THE OPPORTUNITY TO COMMIT THE ALLEGED ABUSE OR NEGLIGENCE.

(3) In order to provide the defendant with an opportunity to prepare a response to the statement, the prosecutor shall [give to] SERVE ON the defendant in a criminal proceeding or [to] ON the [respondent] ALLEGED OFFENDER in a [CINA] JUVENILE COURT proceeding and the [defendant's or respondent's] ALLEGED OFFENDER'S attorney, a reasonable time before the [CINA] 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; and

(ii) The content of the statement.

(4) (i) The [defendant or respondent] ALLEGED OFFENDER shall have the right to take the deposition of a witness who will testify under this section;

(ii) Unless the State and the defendant or respondent agree, or the court orders otherwise, the defendant in a criminal proceeding shall file a notice of deposition at least 5 days before, or in a [CINA] JUVENILE COURT proceeding within a reasonable time before, the date of the deposition; and

(iii) Except where inconsistent with this paragraph, the provisions of Maryland Rule 4-261 shall apply to a deposition taken under this paragraph.

(d) In order to determine if a child's statement possesses particularized guarantees of trustworthiness under this section, the court shall consider, but is not limited to, the following factors:

- (1) The child's personal knowledge of the event;
- (2) The certainty that the statement was made;
- (3) Any apparent motive to fabricate or exhibit partiality by the child, including interest, bias, corruption, or coercion;
- (4) Whether the statement was spontaneous or directly responsive to questions;
- (5) The timing of the statement;
- (6) Whether the child's young age makes it unlikely that the child fabricated the statement that represents a graphic, detailed account beyond the child's knowledge and experience and the appropriateness of the terminology to the child's age;
- (7) The nature and duration of the abuse;