

9-103.1:

(a) In this section "statement" means:

(1) An oral or written assertion; or

(2) Nonverbal conduct, if it is intended as an assertion, including sounds, gestures, demonstrations, drawings, or similar actions.

(b) (1) Subject to the provisions of paragraphs (2) and (3) of this subsection, if a court finds that the requirements of subsection (c) of this section are satisfied, a court may admit into evidence in a [child in need of assistance (CINA)] 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 under the age of 12 years, who is the alleged victim or the child alleged to need assistance in the case before the court, concerning an alleged offense against the child of:

(i) Child abuse, as defined under Article 27, § 35A of the Code;

(ii) Rape or sexual offense, as defined in Article 27, §§ 462 through 464B of the Code, inclusive;

(iii) Assault with intent to commit rape or sexual offense, as defined in Article 27, § 12 of the Code; or

(iv) In a [CINA] JUVENILE COURT proceeding, abuse or neglect as defined in § 5-701 of the Family Law Article.

(2) An out of court statement may be admissible under this section only if:

(i) The statement was made to and is offered by:

1. A licensed physician, as defined under § 14-101 of the Health Occupations Article;

2. A licensed psychologist, as defined under § 18-101 of the Health Occupations Article;

3. A licensed social worker, as defined under § 19-101 of the Health Occupations Article; or

4. A teacher; and

(ii) The individual described under item (i) of this paragraph was acting in the course of the individual's profession when the statement was made.

(3) An out of court statement may be admissible under this section only if the statement possesses particularized guarantees of trustworthiness.

(c) (1) [An] UNDER THIS SECTION, AN out of court statement by a child may come into evidence to prove the truth of the matter asserted in the statement if [the child is subject to cross-examination about the out of court statement and testifies:

(i) At the criminal proceeding or CINA proceeding; or