

(4) (i) The 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 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;
  - (8) The inner consistency and coherence of the statement;
  - (9) Whether the child was suffering pain or distress when making the statement;
  - (10) Whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement;
  - (11) Whether the statement is suggestive due to the use of leading questions;
- and
- (12) The credibility of the person testifying about the statement.

(e) The court, in determining whether a statement is admissible under this section, in a hearing outside the presence of the jury, or before the juvenile court proceeding shall:

- (1) Make a finding on the record as to the specific guarantees of trustworthiness that are present in the statement; and
- (2) Determine the admissibility of the statement.