

4. Inability to communicate about the alleged offense due to serious emotional distress;

(ii) The child's statement is not admissible under any other hearsay exception; and

(iii) There is corroborative evidence.

(3) In order to provide the defendant with an opportunity to prepare a response to the statement, the prosecutor shall give to the defendant IN A CRIMINAL PROCEEDING OR TO THE RESPONDENT IN A CINA PROCEEDING and the defendant's OR RESPONDENT'S attorney, A REASONABLE TIME BEFORE THE CINA PROCEEDING AND at least 20 days before the criminal proceeding in which the statement is to be offered into evidence, notice of:

(i) The [prosecution's] STATE'S intention to introduce the statement; and

(ii) The content of the statement.

(4) (i) The defendant OR RESPONDENT 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 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;