

# HOUSE BILL 1271

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By: **Delegate Malone**

Introduced and read first time: February 7, 2020

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Exceptions to the Hearsay Rule – Victim and Witness**  
3 **Intimidation**

4 FOR the purpose of expanding, to any criminal case, the applicability of a certain exception  
5 to the hearsay rule relating to victim or witness intimidation; providing that a  
6 certain statement is not excluded from evidence by the hearsay rule if the statement  
7 is offered against a party that has acquiesced in certain wrongdoing; repealing a  
8 certain provision of law imposing conditions precedent for the admission of a certain  
9 statement into evidence; and generally relating to victim and witness intimidation.

10 BY repealing and reenacting, with amendments,  
11 Article – Courts and Judicial Proceedings  
12 Section 10–901  
13 Annotated Code of Maryland  
14 (2013 Replacement Volume and 2019 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
16 That the Laws of Maryland read as follows:

17 **Article – Courts and Judicial Proceedings**

18 10–901.

19 (a) During the trial of a criminal case [in which the defendant is charged with a  
20 felonious violation of Title 5 of the Criminal Law Article or with the commission of a crime  
21 of violence as defined in § 14–101 of the Criminal Law Article], a statement as defined in  
22 Maryland Rule 5–801(a) is not excluded by the hearsay rule if the statement is offered  
23 against a party that has engaged in, directed, **ACQUIESCED IN**, or conspired to commit  
24 wrongdoing that was intended to and did procure the unavailability of the declarant of the  
25 statement, as defined in Maryland Rule 5–804.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(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, **ACQUIESCED IN**, 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

(2) As soon as is practicable after the proponent of the statement learns that the declarant will be unavailable, the proponent notifies the adverse party of:

(i) The intention to offer the statement;

(ii) The particulars of the statement; and

(iii) The identity of the witness through whom the statement will be offered.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.