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09400SB2374sam001

LRB094 17708 RLC 56159 a

1 AMENDMENT TO SENATE BILL 2374

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2374 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by adding Section 115-10.6 as follows:

6 (725 ILCS 5/115-10.6 new)

7 Sec. 115-10.6. Admissibility of prior statements of an  
8 unavailable witness whose absence was wrongfully procured.

9 (a) Legislative intent. The Illinois General Assembly  
10 finds that no party to a criminal case who wrongfully procures  
11 the unavailability of a witness should be allowed to benefit  
12 from such wrongdoing by depriving the trier of fact of relevant  
13 testimony.

14 (b) A statement of a witness is not excluded at the trial  
15 or hearing of any defendant by the hearsay rule or as a  
16 violation of any right to confront witnesses if the witness was  
17 killed, bribed, kidnapped, secreted, intimidated, or otherwise  
18 induced by a party, or one for whose conduct such party is  
19 legally responsible, to prevent the witness from being  
20 available to testify at such trial or hearing.

21 (c) The party seeking to introduce the statement shall  
22 disclose the statement sufficiently in advance of trial or  
23 hearing to provide the opposing party with a fair opportunity  
24 to meet it. The disclosure shall include notice of an intent to

1 offer the statement, including the identity of the declarant.

2 (d) Prior to ruling on the admissibility of a statement  
3 under this Section, the court shall conduct a hearing outside  
4 the presence of the jury. During the course of the hearing the  
5 court may allow the parties to proceed by way of proffer.  
6 Except in cases where a preponderance of the evidence  
7 establishes that the defendant killed the declarant, the party  
8 seeking to introduce the statement shall be required to show by  
9 a preponderance of the evidence that the party who caused the  
10 unavailability of the witness did so with the intent or motive  
11 that the witness be unavailable for trial or hearing. The court  
12 is not required to find that the conduct or wrongdoing amounts  
13 to a criminal act.

14 (e) Nothing in this Section shall be construed to prevent  
15 the admissibility of statements under existing hearsay  
16 exceptions.

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law.".