

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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. Hearsay exception regarding forfeiture by
8 wrongdoing.

9 (a) A statement is not rendered inadmissible by the hearsay
10 rule if it is offered against a party that has engaged or
11 acquiesced in wrongdoing that was intended to, and did, procure
12 the unavailability of the declarant as a witness.

13 (b) While intent to procure the unavailability of the
14 witness is a necessary element for the introduction of the
15 statement, it need not be the sole motivation behind the
16 wrongdoing.

17 (c) The wrongdoing need not be based on conduct that can
18 constitute a criminal offense. If the wrongdoing is based on
19 conduct that constitutes a criminal offense, the conduct need
20 not be the basis of the offense that is the subject of the
21 trial at which the statement is being offered. If the
22 wrongdoing is based on conduct that constitutes a criminal
23 offense that is not the subject of the trial at which the

1 statement is being offered, the conduct need not have ever been
2 prosecuted.

3 (d) The proponent of the statement shall give the adverse
4 party reasonable written notice of its intention to offer the
5 statement and the substance of the particulars of the
6 statement. For purposes of this Section, identifying the
7 location of the statement or statements in tendered discovery
8 shall be sufficient to satisfy the substance of the particulars
9 of the statement.

10 (e) The admissibility of the statement shall be determined
11 by the court at a hearing outside of the presence of a jury. At
12 the hearing, the proponent of the statement bears the burden of
13 proving the wrongdoing by a preponderance of the evidence.