

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 for intentional murder of
8 a witness.

9 (a) A statement is not rendered inadmissible by the hearsay
10 rule if it is offered against a party that has killed the
11 declarant in violation of clauses (a)(1) and (a)(2) of Section
12 9-1 of the Criminal Code of 1961 intending to procure the
13 unavailability of the declarant as a witness in a criminal or
14 civil proceeding.

15 (b) While intent to procure the unavailability of the
16 witness is a necessary element for the introduction of the
17 statements, it need not be the sole motivation behind the
18 murder which procured the unavailability of the declarant as a
19 witness.

20 (c) The murder of the declarant may, but need not, be the
21 subject of the trial at which the statement is being offered.
22 If the murder of the declarant is not the subject of the trial
23 at which the statement is being offered, the murder need not

1 have ever been prosecuted.

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

9 (e) The admissibility of the statements shall be determined
10 by the court at a pretrial hearing. At the hearing, the
11 proponent of the statement bears the burden of establishing 3
12 criteria by a preponderance of the evidence:

13 (1) first, that the adverse party murdered the
14 declarant and that the murder was intended to cause the
15 unavailability of the declarant as a witness;

16 (2) second, that the time, content, and circumstances
17 of the statements provide sufficient safeguards of
18 reliability;

19 (3) third, the interests of justice will best be served
20 by admission of the statement into evidence.

21 (f) The court shall make specific findings as to each of
22 these criteria on the record before ruling on the admissibility
23 of said statements.

24 (g) This Section in no way precludes or changes the
25 application of the existing common law doctrine of forfeiture
26 by wrongdoing.