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LRB095 05870 RLC 50960 a

1 AMENDMENT TO SENATE BILL 2718

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2718 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. 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

1 statements, it need not be the sole motivation behind the  
2 murder which procured the unavailability of the declarant as a  
3 witness.

4 (c) The murder of the declarant may, but need not, be the  
5 subject of the trial at which the statement is being offered.  
6 If the murder of the declarant is not the subject of the trial  
7 at which the statement is being offered, the murder need not  
8 have ever been prosecuted.

9 (d) The proponent of the statements shall give the adverse  
10 party reasonable written notice of its intention to offer the  
11 statements and the substance of the particulars of each  
12 statement of the declarant. For purposes of this Section,  
13 identifying the location of the statements in tendered  
14 discovery shall be sufficient to satisfy the substance of the  
15 particulars of the statement.

16 (e) The admissibility of the statements shall be determined  
17 by the court at a pretrial hearing. At the hearing, the  
18 proponent of the statement bears the burden of establishing 3  
19 criteria by a preponderance of the evidence:

20 (1) first, that the adverse party murdered the  
21 declarant and that the murder was intended to cause the  
22 unavailability of the declarant as a witness;

23 (2) second, that the time, content, and circumstances  
24 of the statements provide sufficient safeguards of  
25 reliability;

26 (3) third, the interests of justice will best be served

1 by admission of the statement into evidence.

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

5 (g) This Section in no way precludes or changes the  
6 application of the existing common law doctrine of forfeiture  
7 by wrongdoing."