

HB3392



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3392

Introduced 2/24/2009, by Rep. Tom Cross

SYNOPSIS AS INTRODUCED:

725 ILCS 5/115-10.3

Amends the Code of Criminal Procedure of 1963. Makes a technical change in a Section concerning the admissibility of hearsay evidence in a prosecution for elder abuse, neglect, or financial exploitation.

LRB096 07931 RLC 18034 b

A BILL FOR

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 changing Section 115-10.3 as follows:

6 (725 ILCS 5/115-10.3)

7 Sec. 115-10.3. Hearsay exception regarding elder adults.

8 (a) In a prosecution for a physical act, abuse, neglect, or
9 financial exploitation perpetrated upon or against an eligible
10 adult, as defined in the ~~the~~ Elder Abuse and Neglect Act, who
11 has been diagnosed by a physician to suffer from (i) any form
12 of dementia, developmental disability, or other form of mental
13 incapacity or (ii) any physical infirmity, including but not
14 limited to prosecutions for violations of Sections 10-1, 10-2,
15 10-3, 10-3.1, 10-4, 11-11, 12-1, 12-2, 12-3, 12-3.2, 12-4,
16 12-4.1, 12-4.2, 12-4.5, 12-4.6, 12-4.7, 12-5, 12-6, 12-7.3,
17 12-7.4, 12-11, 12-11.1, 12-13, 12-14, 12-15, 12-16, 12-21,
18 16-1, 16-1.3, 17-1, 17-3, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1.1,
19 24-1.2, and 33A-2 of the Criminal Code of 1961, the following
20 evidence shall be admitted as an exception to the hearsay rule:

21 (1) testimony by an eligible adult, of an out of court
22 statement made by the eligible adult, that he or she
23 complained of such act to another; and

1 (2) testimony of an out of court statement made by the
2 eligible adult, describing any complaint of such act or
3 matter or detail pertaining to any act which is an element
4 of an offense which is the subject of a prosecution for a
5 physical act, abuse, neglect, or financial exploitation
6 perpetrated upon or against the eligible adult.

7 (b) Such testimony shall only be admitted if:

8 (1) The court finds in a hearing conducted outside the
9 presence of the jury that the time, content, and
10 circumstances of the statement provide sufficient
11 safeguards of reliability; and

12 (2) The eligible adult either:

13 (A) testifies at the proceeding; or

14 (B) is unavailable as a witness and there is
15 corroborative evidence of the act which is the subject
16 of the statement.

17 (c) If a statement is admitted pursuant to this Section,
18 the court shall instruct the jury that it is for the jury to
19 determine the weight and credibility to be given the statement
20 and that, in making the determination, it shall consider the
21 condition of the eligible adult, the nature of the statement,
22 the circumstances under which the statement was made, and any
23 other relevant factor.

24 (d) The proponent of the statement shall give the adverse
25 party reasonable notice of his or her intention to offer the
26 statement and the particulars of the statement.

1 (Source: P.A. 92-91, eff. 7-18-01; 93-301, eff. 1-1-04.)