

SB1009



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1009

Introduced 1/24/2013, by Sen. John J. Cullerton

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.

LRB098 05273 MRW 35305 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, 11-1.20, 11-1.30, 11-1.40, 11-1.50,
16 11-1.60, 11-11, 12-1, 12-2, 12-3, 12-3.05, 12-3.2, 12-3.3,
17 12-4, 12-4.1, 12-4.2, 12-4.5, 12-4.6, 12-4.7, 12-5, 12-6,
18 12-7.3, 12-7.4, 12-11, 12-11.1, 12-13, 12-14, 12-15, 12-16,
19 12-21, 16-1, 16-1.3, 17-1, 17-3, 17-56, 18-1, 18-2, 18-3, 18-4,
20 18-5, 18-6, 19-6, 20-1.1, 24-1.2, and 33A-2, or subsection (b)
21 of Section 12-4.4a, of the Criminal Code of 1961, the following
22 evidence shall be admitted as an exception to the hearsay rule:

23 (1) testimony by an eligible adult, of an out of court

1 statement made by the eligible adult, that he or she
2 complained of such act to another; and

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

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

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

14 (2) The eligible adult either:

15 (A) testifies at the proceeding; or

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

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

26 (d) The proponent of the statement shall give the adverse

1 party reasonable notice of his or her intention to offer the
2 statement and the particulars of the statement.

3 (Source: P.A. 96-1551, Article 1, Section 965, eff. 7-1-11;
4 96-1551, Article 2, Section 1040, eff. 7-1-11; 96-1551, Article
5 10, Section 10-145, eff. 7-1-11; 97-1108, eff. 1-1-13; 97-1109,
6 eff. 1-1-13.)