

# HB5440



## 99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5440

by Rep. Michael J. Madigan

### 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.

LRB099 17560 SLF 41918 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~~ Adult Protective Services 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 2012, 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. 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13;  
4 97-1150, eff. 1-25-13; 98-49, eff. 7-1-13.)