

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 as follows:

6 (725 ILCS 5/115-10) (from Ch. 38, par. 115-10)

7 Sec. 115-10. Certain hearsay exceptions.

8 (a) In a prosecution for a physical or sexual act
9 perpetrated upon or against a child under the age of 13, ~~or~~ a
10 person with an intellectual disability, a person with a
11 cognitive impairment, or a person with a developmental
12 disability, who was a person with a moderate, severe, or
13 profound intellectual disability as defined in this Code and in
14 Section 2-10.1 of the Criminal Code of 1961 or the Criminal
15 Code of 2012 at the time the act was committed, including, but
16 not limited, to prosecutions for violations of Sections 11-1.20
17 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of
18 1961 or the Criminal Code of 2012 and prosecutions for
19 violations of Sections 10-1 (kidnapping), 10-2 (aggravated
20 kidnapping), 10-3 (unlawful restraint), 10-3.1 (aggravated
21 unlawful restraint), 10-4 (forcible detention), 10-5 (child
22 abduction), 10-6 (harboring a runaway), 10-7 (aiding or
23 abetting child abduction), 11-9 (public indecency), 11-11

1 (sexual relations within families), 11-21 (harmful material),
2 12-1 (assault), 12-2 (aggravated assault), 12-3 (battery),
3 12-3.2 (domestic battery), 12-3.3 (aggravated domestic
4 battery), 12-3.05 or 12-4 (aggravated battery), 12-4.1
5 (heinous battery), 12-4.2 (aggravated battery with a firearm),
6 12-4.3 (aggravated battery of a child), 12-4.7 (drug induced
7 infliction of great bodily harm), 12-5 (reckless conduct), 12-6
8 (intimidation), 12-6.1 or 12-6.5 (compelling organization
9 membership of persons), 12-7.1 (hate crime), 12-7.3
10 (stalking), 12-7.4 (aggravated stalking), 12-10 or 12C-35
11 (tattooing the body of a minor), 12-11 or 19-6 (home invasion),
12 12-21.5 or 12C-10 (child abandonment), 12-21.6 or 12C-5
13 (endangering the life or health of a child) or 12-32 (ritual
14 mutilation) of the Criminal Code of 1961 or the Criminal Code
15 of 2012 or any sex offense as defined in subsection (B) of
16 Section 2 of the Sex Offender Registration Act, the following
17 evidence shall be admitted as an exception to the hearsay rule:

18 (1) testimony by the victim of an out of court
19 statement made by the victim that he or she complained of
20 such act to another; and

21 (2) testimony of an out of court statement made by the
22 victim describing any complaint of such act or matter or
23 detail pertaining to any act which is an element of an
24 offense which is the subject of a prosecution for a sexual
25 or physical act against that victim.

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

1 (1) The court finds in a hearing conducted outside the
2 presence of the jury that the time, content, and
3 circumstances of the statement provide sufficient
4 safeguards of reliability; and

5 (2) The child or person with an intellectual
6 disability, a cognitive impairment, or developmental ~~a~~
7 ~~moderate, severe, or profound intellectual~~ disability
8 either:

9 (A) testifies at the proceeding; or

10 (B) is unavailable as a witness and there is
11 corroborative evidence of the act which is the subject
12 of the statement; and

13 (3) In a case involving an offense perpetrated against
14 a child under the age of 13, the out of court statement was
15 made before the victim attained 13 years of age or within 3
16 months after the commission of the offense, whichever
17 occurs later, but the statement may be admitted regardless
18 of the age of the victim at the time of the proceeding.

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 age and maturity of the child, or the intellectual capabilities
24 of the person with an intellectual disability, a cognitive
25 impairment, or developmental ~~a moderate, severe, or profound~~
26 ~~intellectual~~ disability, the nature of the statement, the

1 circumstances under which the statement was made, and any other
2 relevant factor.

3 (d) The proponent of the statement shall give the adverse
4 party reasonable notice of his intention to offer the statement
5 and the particulars of the statement.

6 (e) Statements described in paragraphs (1) and (2) of
7 subsection (a) shall not be excluded on the basis that they
8 were obtained as a result of interviews conducted pursuant to a
9 protocol adopted by a Child Advocacy Advisory Board as set
10 forth in subsections (c), (d), and (e) of Section 3 of the
11 Children's Advocacy Center Act or that an interviewer or
12 witness to the interview was or is an employee, agent, or
13 investigator of a State's Attorney's office.

14 (f) For the purposes of this Section:

15 "Person with a cognitive impairment" means a person with a
16 significant impairment of cognition or memory that represents a
17 marked deterioration from a previous level of function.
18 Cognitive impairment includes, but is not limited to, dementia,
19 amnesia, delirium, or a traumatic brain injury.

20 "Person with a developmental disability" means a person
21 with a disability that is attributable to (1) an intellectual
22 disability, cerebral palsy, epilepsy, or autism, or (2) any
23 other condition that results in an impairment similar to that
24 caused by an intellectual disability and requires services
25 similar to those required by a person with an intellectual
26 disability.

1 "Person with an intellectual disability" means a person
2 with significantly subaverage general intellectual functioning
3 which exists concurrently with an impairment in adaptive
4 behavior.

5 (Source: P.A. 99-143, eff. 7-27-15.)