



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB2092

Introduced 2/14/2005, by Rep. Michael J. Madigan - Barbara Flynn Currie - Donald L. Moffitt

#### 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.

LRB094 03044 RLC 33045 b

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

24 (2) testimony of an out of court statement made by the  
25 eligible adult, describing any complaint of such act or  
26 matter or detail pertaining to any act which is an element  
27 of an offense which is the subject of a prosecution for a  
28 physical act, abuse, neglect, or financial exploitation  
29 perpetrated upon or against the eligible adult.

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

31 (1) The court finds in a hearing conducted outside the  
32 presence of the jury that the time, content, and

1           circumstances of the statement provide sufficient  
2           safeguards of reliability; and

3           (2) The eligible adult either:

4                   (A) testifies at the proceeding; or

5                   (B) is unavailable as a witness and there is  
6           corroborative evidence of the act which is the subject  
7           of the statement.

8           (c) If a statement is admitted pursuant to this Section,  
9           the court shall instruct the jury that it is for the jury to  
10          determine the weight and credibility to be given the statement  
11          and that, in making the determination, it shall consider the  
12          condition of the eligible adult, the nature of the statement,  
13          the circumstances under which the statement was made, and any  
14          other relevant factor.

15          (d) The proponent of the statement shall give the adverse  
16          party reasonable notice of his or her intention to offer the  
17          statement and the particulars of the statement.

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