



Sen. A. J. Wilhelmi

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09500SB2718sam001

LRB095 05870 RLC 49447 a

1 AMENDMENT TO SENATE BILL 2718

2 AMENDMENT NO. _____. Amend Senate Bill 2718 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is
5 amended by adding Section 115-10.6 as follows:

6 (725 ILCS 5/115-10.6 new)

7 Sec. 115-10.6. Hearsay exception regarding forfeiture by
8 wrongdoing.

9 (a) A statement is not rendered inadmissible by the hearsay
10 rule if it is offered against a party that has engaged or
11 acquiesced in wrongdoing that was intended to, and did, procure
12 the unavailability of the declarant as a witness.

13 (b) While intent to procure the unavailability of the
14 witness is a necessary element for the introduction of the
15 statement, it need not be the sole motivation behind the
16 wrongdoing.

1 (c) The wrongdoing need not be based on conduct that can
2 constitute a criminal offense. If the wrongdoing is based on
3 conduct that constitutes a criminal offense, the conduct need
4 not be the basis of the offense that is the subject of the
5 trial at which the statement is being offered. If the
6 wrongdoing is based on conduct that constitutes a criminal
7 offense that is not the subject of the trial at which the
8 statement is being offered, the conduct need not have ever been
9 prosecuted.

10 (d) The proponent of the statement shall give the adverse
11 party reasonable written notice of its intention to offer the
12 statement and the substance of the particulars of the
13 statement. For purposes of this Section, identifying the
14 location of the statement or statements in tendered discovery
15 shall be sufficient to satisfy the substance of the particulars
16 of the statement.

17 (e) The admissibility of the statement shall be determined
18 by the court at a hearing outside of the presence of a jury. At
19 the hearing, the proponent of the statement bears the burden of
20 proving the wrongdoing by a preponderance of the evidence."