



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/06/04, by Tom Cross

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.

LRB093 15686 RLC 41294 b

1 AN ACT in relation to the elderly.

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 eligible ~~elder~~
8 adults.

9 (a) In a prosecution for a physical act, abuse, neglect, or
10 financial exploitation perpetrated upon or against an eligible
11 adult, as defined in the Elder Abuse and Neglect Act, who has
12 been diagnosed by a physician to suffer from (i) any form of
13 dementia, developmental disability, or other form of mental
14 incapacity or (ii) any physical infirmity, including but not
15 limited to prosecutions for violations of Sections 10-1, 10-2,
16 10-3, 10-3.1, 10-4, 11-11, 12-1, 12-2, 12-3, 12-3.2, 12-4,
17 12-4.1, 12-4.2, 12-4.5, 12-4.6, 12-4.7, 12-5, 12-6, 12-7.3,
18 12-7.4, 12-11, 12-11.1, 12-13, 12-14, 12-15, 12-16, 12-21,
19 16-1, 16-1.3, 17-1, 17-3, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1.1,
20 24-1.2, and 33A-2 of the Criminal Code of 1961, the following
21 evidence shall be admitted as an exception to the hearsay rule:

22 (1) testimony by an eligible adult, of an out of court
23 statement made by the eligible adult, that he or she
24 complained of such act to another; and

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

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

32 (1) The court finds in a hearing conducted outside the

1 presence of the jury that the time, content, and
2 circumstances of the statement provide sufficient
3 safeguards of reliability; and

4 (2) The eligible adult either:

5 (A) testifies at the proceeding; or

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

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

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

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