



Sen. Julie A. Morrison

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09900SB3106sam001

LRB099 19047 SLF 46298 a

1 AMENDMENT TO SENATE BILL 3106

2 AMENDMENT NO. _____. Amend Senate Bill 3106 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 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

1 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of
2 1961 or the Criminal Code of 2012 and prosecutions for
3 violations of Sections 10-1 (kidnapping), 10-2 (aggravated
4 kidnapping), 10-3 (unlawful restraint), 10-3.1 (aggravated
5 unlawful restraint), 10-4 (forcible detention), 10-5 (child
6 abduction), 10-6 (harboring a runaway), 10-7 (aiding or
7 abetting child abduction), 11-9 (public indecency), 11-11
8 (sexual relations within families), 11-21 (harmful material),
9 12-1 (assault), 12-2 (aggravated assault), 12-3 (battery),
10 12-3.2 (domestic battery), 12-3.3 (aggravated domestic
11 battery), 12-3.05 or 12-4 (aggravated battery), 12-4.1
12 (heinous battery), 12-4.2 (aggravated battery with a firearm),
13 12-4.3 (aggravated battery of a child), 12-4.7 (drug induced
14 infliction of great bodily harm), 12-5 (reckless conduct), 12-6
15 (intimidation), 12-6.1 or 12-6.5 (compelling organization
16 membership of persons), 12-7.1 (hate crime), 12-7.3
17 (stalking), 12-7.4 (aggravated stalking), 12-10 or 12C-35
18 (tattooing the body of a minor), 12-11 or 19-6 (home invasion),
19 12-21.5 or 12C-10 (child abandonment), 12-21.6 or 12C-5
20 (endangering the life or health of a child) or 12-32 (ritual
21 mutilation) of the Criminal Code of 1961 or the Criminal Code
22 of 2012 or any sex offense as defined in subsection (B) of
23 Section 2 of the Sex Offender Registration Act, the following
24 evidence shall be admitted as an exception to the hearsay rule:

- 25 (1) testimony by the victim of an out of court
26 statement made by the victim that he or she complained of

1 such act to another; and

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

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

8 (1) The court finds in a hearing conducted outside the
9 presence of the jury that the time, content, and
10 circumstances of the statement provide sufficient
11 safeguards of reliability; and

12 (2) The child or person with an intellectual
13 disability, a cognitive impairment, or developmental ~~a~~
14 ~~moderate, severe, or profound intellectual~~ disability
15 either:

16 (A) testifies at the proceeding; or

17 (B) is unavailable as a witness and there is
18 corroborative evidence of the act which is the subject
19 of the statement; and

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

26 (c) If a statement is admitted pursuant to this Section,

1 the court shall instruct the jury that it is for the jury to
2 determine the weight and credibility to be given the statement
3 and that, in making the determination, it shall consider the
4 age and maturity of the child, or the intellectual capabilities
5 of the person with an intellectual disability, a cognitive
6 impairment, or developmental ~~a moderate, severe, or profound~~
7 ~~intellectual~~ disability, the nature of the statement, the
8 circumstances under which the statement was made, and any other
9 relevant factor.

10 (d) The proponent of the statement shall give the adverse
11 party reasonable notice of his intention to offer the statement
12 and the particulars of the statement.

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

21 (f) For the purposes of this Section:

22 "Person with a cognitive impairment" means a person with a
23 significant impairment of cognition or memory that represents a
24 marked deterioration from a previous level of function.
25 Cognitive impairment includes, but is not limited to, dementia,
26 amnesia, delirium, or a traumatic brain injury.

1 "Person with a developmental disability" means a person
2 with a disability that is attributable to (1) an intellectual
3 disability, cerebral palsy, epilepsy, or autism, or (2) any
4 other condition that results in an impairment similar to that
5 caused by an intellectual disability and requires services
6 similar to those required by a person with an intellectual
7 disability.

8 "Person with an intellectual disability" means a person
9 with significantly subaverage general intellectual functioning
10 which exists concurrently with an impairment in adaptive
11 behavior.

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