

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Code of Criminal Procedure of 1963 is amended by changing Section 115-10 as follows:

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

Sec. 115-10. Certain hearsay exceptions.

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

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

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

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

(b) Such testimony shall only be admitted if:

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

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

(A) testifies at the proceeding; or

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

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

(c) If a statement is admitted pursuant to this Section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given the statement and that, in making the determination, it shall consider the age and maturity of the child, or the intellectual capabilities of the person with an intellectual disability, a cognitive impairment, or developmental ~~a moderate, severe, or profound intellectual~~ disability, the nature of the statement, the

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

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

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

(f) For the purposes of this Section:

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

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

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

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