

By: Eltife

S.B. No. 783

A BILL TO BE ENTITLED

AN ACT

relating to the admissibility in certain proceedings of certain hearsay statements made by a young child or disabled individual.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 38.072, Code of Criminal Procedure, is amended to read as follows:

Art. 38.072. HEARSAY STATEMENT OF CERTAIN [~~CHILD~~] ABUSE VICTIMS [~~VICTIM~~]. Sec. 1. This article applies to a proceeding in the prosecution of an offense under any of the following provisions of the Penal Code, if committed against a child or disabled individual [~~12 years of age or younger~~]:

(1) Chapter 21 (Sexual Offenses) or 22 (Assaultive Offenses);

(2) Section 25.02 (Prohibited Sexual Conduct); or

(3) Section 43.25 (Sexual Performance by a Child).

Sec. 2. (a) This article applies only to statements that describe the alleged offense that:

(1) were made by the child or disabled individual against whom the offense was allegedly committed; and

(2) were made to the first person, 18 years of age or older, other than the defendant, to whom the child or disabled individual made a statement about the offense.

(b) A statement that meets the requirements of Subsection (a) of this article is not inadmissible because of the hearsay rule

1 if:

2 (1) on or before the 14th day before the date the  
3 proceeding begins, the party intending to offer the statement:

4 (A) notifies the adverse party of its intention  
5 to do so;

6 (B) provides the adverse party with the name of  
7 the witness through whom it intends to offer the statement; and

8 (C) provides the adverse party with a written  
9 summary of the statement;

10 (2) the trial court finds, in a hearing conducted  
11 outside the presence of the jury, that the statement is reliable  
12 based on the time, content, and circumstances of the statement; and

13 (3) the child or disabled individual testifies or is  
14 available to testify at the proceeding in court or in any other  
15 manner provided by law.

16 Sec. 3. In this article, "child" and "disabled individual"  
17 have the meanings assigned by Article 22.04, Penal Code.

18 SECTION 2. Section 54.031, Family Code, is amended to read  
19 as follows:

20 Sec. 54.031. HEARSAY STATEMENT OF CERTAIN [~~CHILD~~]  
21 VICTIMS [~~VICTIM~~]. (a) This section applies to a hearing under this  
22 title in which a child is alleged to be a delinquent child on the  
23 basis of a violation of any of the following provisions of the Penal  
24 Code, if a child or disabled individual [~~12 years of age or younger~~]  
25 is the alleged victim of the violation:

26 (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive  
27 Offenses);

1 (2) Section 25.02 (Prohibited Sexual Conduct); or

2 (3) Section 43.25 (Sexual Performance by a Child).

3 (b) This section applies only to statements that describe  
4 the alleged violation that:

5 (1) were made by the child or disabled individual who  
6 is the alleged victim of the violation; and

7 (2) were made to the first person, 18 years of age or  
8 older, to whom the child or disabled individual made a statement  
9 about the violation.

10 (c) A statement that meets the requirements of Subsection  
11 (b) of this section is not inadmissible because of the hearsay rule  
12 if:

13 (1) on or before the 14th day before the date the  
14 hearing begins, the party intending to offer the statement:

15 (A) notifies each other party of its intention to  
16 do so;

17 (B) provides each other party with the name of  
18 the witness through whom it intends to offer the statement; and

19 (C) provides each other party with a written  
20 summary of the statement;

21 (2) the juvenile court finds, in a hearing conducted  
22 outside the presence of the jury, that the statement is reliable  
23 based on the time, content, and circumstances of the statement; and

24 (3) the child or disabled individual who is the  
25 alleged victim testifies or is available to testify at the hearing  
26 in court or in any other manner provided by law.

27 (d) Notwithstanding Section 51.02, in this section, "child"

1 and "disabled individual" have the meanings assigned by Article  
2 22.04, Penal Code.

3         SECTION 3. The change in law made by this Act applies only  
4 to a proceeding that commences on or after the effective date of  
5 this Act. A proceeding that commences before the effective date of  
6 this Act is governed by the law in effect when the proceeding  
7 commenced, and the former law is continued in effect for that  
8 purpose.

9         SECTION 4. This Act takes effect September 1, 2007.