

By: Hughes

H.B. No. 597

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 if:

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

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

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

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

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

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

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

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

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

(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).

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

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

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

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

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

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

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

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

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

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

1 (d) In this section, in the context of an alleged victim of a
2 violation of the Penal Code, "child" and "disabled individual" have
3 the meanings assigned by Section 22.04, Penal Code.

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

10 SECTION 4. This Act takes effect September 1, 2009.