



Senate

General Assembly

File No. 711

January Session, 2009

Substitute Senate Bill No. 810

Senate, April 20, 2009

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE TENDER YEARS EXCEPTION TO THE HEARSAY EVIDENCE RULE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-86l of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) Notwithstanding any other rule of evidence or provision of law,
4 a statement by a child [under thirteen] twelve years of age or younger
5 at the time of the statement relating to a sexual offense committed
6 against that child, or an offense involving physical abuse committed
7 against that child by [a person or persons who had authority or
8 apparent authority over the child] the child's parent or guardian or any
9 other person exercising comparable authority over the child at the time
10 of the offense, shall be admissible in a criminal or juvenile proceeding
11 if: (1) The court finds, in a hearing conducted outside the presence of
12 the jury, if any, that the circumstances of the statement, including its
13 timing and content, provide particularized guarantees of its
14 trustworthiness, (2) the statement was not made in preparation for a

15 legal proceeding, (3) the proponent of the statement makes known to
 16 the adverse party an intention to offer the statement and the
 17 particulars of the statement including the content of the statement, the
 18 approximate time, date and location of the statement, the person to
 19 whom the statement was made and the circumstances surrounding the
 20 statement that indicate its trustworthiness, at such time as to provide
 21 the adverse party with a fair opportunity to prepare to meet it, and (4)
 22 either (A) the child testifies and is subject to cross-examination at the
 23 proceeding, or (B) the child is unavailable as a witness and (i) there is
 24 independent nontestimonial corroborative evidence of the alleged act,
 25 and (ii) the statement was made prior to the defendant's arrest or
 26 institution of juvenile proceedings in connection with the act described
 27 in the statement.

28 (b) Nothing in this section shall be construed to (1) prevent the
 29 admission of any statement under another hearsay exception, (2) allow
 30 broader definitions in other hearsay exceptions for statements made by
 31 children [under thirteen] twelve years of age or younger at the time of
 32 the statement concerning any alleged act described in subsection (a) of
 33 this section than is done for other declarants, or (3) allow the
 34 admission pursuant to the residual hearsay exception of a statement
 35 described in subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	54-86l

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes changes to the admissibility of statements from certain individuals and has no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 810*****AN ACT CONCERNING THE TENDER YEARS EXCEPTION TO THE HEARSAY EVIDENCE RULE.*****SUMMARY:**

This bill conforms the statutory exception to Connecticut's hearsay rule for statements of young children (the so-called "tender years exception") about their sexual or physical abuse to the exception adopted by the Superior Court and included in Connecticut's Code of Evidence (§ 8-10, Ct. Evidence Code).

It does so by potentially expanding the children covered. Current law covers children under age 13. The bill covers children who were under age 13 at the time of the statement.

By law, courts must accept these statements as evidence in criminal or juvenile proceedings under certain circumstances. The bill limits the people against whom the statement may be used. It provides that the exception may be used when the abuser is the child's parent or guardian or another person exercising comparable authority over him or her at the time of the offense. Under current law, it applies when the abuser is someone with authority or apparent authority over the child.

Lastly, the bill makes a technical change.

EFFECTIVE DATE: October 1, 2009

BACKGROUND***Hearsay Rule***

"Hearsay" is a statement made out of court that is offered in court to establish the truth of the facts contained in the statement (§ 8-1, Ct.

Evidence Code).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0 (03/31/2009)