



General Assembly

January Session, 2009

Raised Bill No. 810

LCO No. 2708

02708_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

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 Section 54-86l of the general statutes is repealed and the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 relating to a sexual offense committed against that child, or an offense
6 involving physical abuse committed against that child by [a person or
7 persons who had authority or apparent authority over the child] the
8 child's parent or guardian or any other person exercising comparable
9 authority over the child at the time of the offense, shall be admissible
10 in a criminal or juvenile proceeding if: (1) The court finds, in a hearing
11 conducted outside the presence of the jury, if any, that the
12 circumstances of the statement, including its timing and content,
13 provide particularized guarantees of its trustworthiness, (2) the
14 statement was not made in preparation for a legal proceeding, (3) the
15 proponent of the statement makes known to the adverse party an
16 intention to offer the statement and the particulars of the statement

17 including the content of the statement, the approximate time, date and
18 location of the statement, the person to whom the statement was made
19 and the circumstances surrounding the statement that indicate its
20 trustworthiness, at such time as to provide the adverse party with a
21 fair opportunity to prepare to meet it, and (4) either (A) the child
22 testifies and is subject to cross-examination at the proceeding, or (B)
23 the child is unavailable as a witness and (i) there is independent
24 nontestimonial corroborative evidence of the alleged act, and (ii) the
25 statement was made prior to the defendant's arrest or institution of
26 juvenile proceedings in connection with the act described in the
27 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	<i>October 1, 2009</i>	<i>54-86l</i>

Statement of Purpose:

To conform the statutory "tender years" exception to the hearsay evidence rule to the Connecticut Code of Evidence.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]