



General Assembly

Substitute Bill No. 810

January Session, 2009

* SB00810JUD 040209 *

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 Section 54-86l of the general statutes is repealed and the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	<i>October 1, 2009</i>	<i>54-86l</i>

JUD *Joint Favorable Subst.*