

1 A bill to be entitled
 2 An act relating to hearsay; amending s. 90.801, F.S.;
 3 providing that certain inconsistent statements are not
 4 hearsay and may be used for impeachment and to
 5 establish substantive facts under certain
 6 circumstances; requiring that the party offering the
 7 inconsistent statement be allowed to argue the truth
 8 of such statement; providing an effective date.

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 10 Be It Enacted by the Legislature of the State of Florida:

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 12 Section 1. Subsection (2) of section 90.801, Florida
 13 Statutes, is amended to read:

14 90.801 Hearsay; definitions; exceptions.—

15 (2) A statement is not hearsay if the declarant testifies
 16 at the trial or hearing and is subject to cross-examination
 17 concerning the statement and the statement is:

18 (a) Inconsistent with the declarant's testimony ~~and was~~
 19 ~~given under oath subject to the penalty of perjury at a trial,~~
 20 ~~hearing, or other proceeding or in a deposition;~~

21 (b) Consistent with the declarant's testimony and is
 22 offered to rebut an express or implied charge against the
 23 declarant of improper influence, motive, or recent fabrication;
 24 or

25 (c) One of identification of a person made after
 26 perceiving the person.

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28 A statement that is not hearsay under paragraph (a) may be used
29 for the purpose of impeachment and to establish the substantive
30 evidentiary facts to which the testimony and the inconsistent
31 statement relate if the witness is given the opportunity to
32 explain or deny the statement and the statement purports to
33 relate to matters within the witness's own knowledge. The party
34 offering the inconsistent statement must be allowed to argue the
35 truth of such statement.

36 Section 2. This act shall take effect July 1, 2014.