

By Representative Thrasher

1 A bill to be entitled
2 An act relating to evidence; amending s.
3 90.803, F.S.; providing additional exceptions
4 to the prohibition against hearsay evidence;
5 providing an effective date.
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7 Be It Enacted by the Legislature of the State of Florida:
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9 Section 1. Subsection (22) of section 90.803, Florida
10 Statutes, 1996 Supplement, is amended to read:

11 90.803 Hearsay exceptions; availability of declarant
12 immaterial.--The provision of s. 90.802 to the contrary
13 notwithstanding, the following are not inadmissible as
14 evidence, even though the declarant is available as a witness:

15 (22) FORMER TESTIMONY.--Former testimony given by the
16 declarant:

17 (a) At a civil trial, when used in a retrial of such
18 ~~said~~ trial involving identical parties and the same facts; or-

19 (b) As a witness at another hearing of the same or a
20 different proceeding, or in a deposition taken in compliance
21 with law in the course of the same or a different proceeding,
22 if:

23 1. The testimony is the statement of a person whose
24 fault is an issue in the action, in either an individual or a
25 representative capacity; a statement of which he or she has
26 manifested his or her adoption or belief in its truth; a
27 statement by a person specifically authorized by him to make a
28 statement concerning the subject; a statement by his agent or
29 servant concerning a matter within the scope of the agency or
30 employment thereof, made during the existence of the
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1 relationship; or a statement by a co-conspirator made during
2 the course, and in furtherance, of the conspiracy;
3 2. The testimony is used in a civil trial to establish
4 the degree of fault of such person, or to establish the
5 authenticity of documentary evidence relevant to the degree of
6 fault of such person; and
7 3.a. The party against whom the testimony is now
8 offered, or another person, had an opportunity and similar
9 motive to develop the testimony by direct, cross, or redirect
10 examination; or
11 b. The testimony, when given, was a statement against
12 interest.

13 Section 2. This act shall take effect July 1, 1997.

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15 SENATE SUMMARY

16 Provides additional exceptions to the prohibition against
17 hearsay evidence for former testimony given by a
18 declarant who is a witness at another hearing of the same
19 or a different proceeding, or in a deposition in the same
20 or a different proceeding.