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2 An act relating to evidence; amending s.
3 90.803, F.S.; revising an exception to the
4 prohibition against hearsay evidence; providing
5 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 which testimony was given as a witness at another
17 hearing of the same or a different proceeding, or in a
18 deposition taken in compliance with law in the course of the
19 same or another proceeding, if the party against whom the
20 testimony is now offered, or, in a civil action or proceeding,
21 a predecessor in interest, or a person with a similar
22 interest, had an opportunity and similar motive to develop the
23 testimony by direct, cross, or redirect examination, provided,
24 however, the court finds that the testimony is not
25 inadmissible pursuant to s. 90.402 or s. 90.403.~~at a civil~~
26 ~~trial, when used in a retrial of said trial involving~~
27 ~~identical parties and the same facts.~~

28 Section 2. This act shall take effect July 1, 1997 and
29 shall apply to pending cases in which the final pretrial
30 conference occurs on or after that date.

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