

By Representatives Thrasher, Ritter, Bradley, Cosgrove,
Flanagan, Byrd and Burroughs

1 A bill to be entitled
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, 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 that the court finds that the testimony is not inadmissible
25 pursuant to s. 90.402 or s. 90.403.~~at a civil trial, when~~
26 ~~used in a retrial of said trial involving identical parties~~
27 ~~and the same facts.~~

28 Section 2. This act shall take effect July 1, 1998,
29 and shall apply to pending cases in which the final pretrial
30 conference occurs on or after that date.
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HOUSE SUMMARY

Revises an exception to the prohibition against hearsay evidence to provide that former testimony given by the declarant which testimony was given as a witness at another hearing of the same or a different proceeding, or in a disposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest or a person with a similar interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination, is not inadmissible, provided that the court finds that the testimony is not inadmissible pursuant to described provisions of law.