

By Senator Horne

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A bill to be entitled
An act relating to evidence; amending s.
90.803, F.S.; revising an exception to the
prohibition against hearsay evidence; providing
an effective date.

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

Section 1. Subsection (22) of section 90.803, Florida
Statutes, is amended to read:

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

(22) FORMER TESTIMONY.--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
deposition 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, provided,
however, the court finds that the testimony is not
inadmissible pursuant to s. 90.402 or s. 90.403.~~at a civil
trial, when used in a retrial of said trial involving
identical parties and the same facts.~~

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

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SENATE SUMMARY

Revises the former testimony exception to the prohibition against hearsay evidence.