



392522

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2013	.	
	.	
	.	
	.	

---

---

The Committee on Criminal Justice (Bradley) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 88 and 89  
insert:

Section 1. Paragraph (a) of subsection (23) 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:

(23) HEARSAY EXCEPTION; STATEMENT OF CHILD VICTIM.—

(a) Unless the source of information or the method or



392522

13 circumstances by which the statement is reported indicates a  
14 lack of trustworthiness, an out-of-court statement made by a  
15 child victim with a physical, mental, emotional, or  
16 developmental age of 16 ~~11~~ or less describing any act of child  
17 abuse or neglect, any act of sexual abuse against a child, the  
18 offense of child abuse, the offense of aggravated child abuse,  
19 or any offense involving an unlawful sexual act, contact,  
20 intrusion, or penetration performed in the presence of, with,  
21 by, or on the declarant child, not otherwise admissible, is  
22 admissible in evidence in any civil or criminal proceeding if:

23       1. The court finds in a hearing conducted outside the  
24 presence of the jury that the time, content, and circumstances  
25 of the statement provide sufficient safeguards of reliability.  
26 In making its determination, the court may consider the mental  
27 and physical age and maturity of the child, the nature and  
28 duration of the abuse or offense, the relationship of the child  
29 to the offender, the reliability of the assertion, the  
30 reliability of the child victim, and any other factor deemed  
31 appropriate; and

32       2. The child either:

33       a. Testifies; or

34       b. Is unavailable as a witness, provided that there is  
35 other corroborative evidence of the abuse or offense.

36 Unavailability shall include a finding by the court that the  
37 child's participation in the trial or proceeding would result in  
38 a substantial likelihood of severe emotional or mental harm, in  
39 addition to findings pursuant to s. 90.804(1).

40  
41 ===== T I T L E   A M E N D M E N T =====



392522

42 And the title is amended as follows:

43 Delete line 2

44 and insert:

45 An act relating to sex offenses; amending s. 90.803,  
46 F.S.; providing that an out-of-court statement by a  
47 child victim with a physical, mental, emotional, or  
48 developmental age of 16 or less rather than 11 or less  
49 describing specified criminal acts is admissible in  
50 evidence in certain instances; amending s. 775.21,