

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative Eagle offered the following:

4
 5 **Amendment (with title amendment)**

6 Between lines 374 and 375, insert:

7 Section 6. Paragraph (a) of subsection (23) of section
 8 90.803, Florida Statutes, is amended to read:

9 90.803 Hearsay exceptions; availability of declarant
 10 immaterial.—The provision of s. 90.802 to the contrary
 11 notwithstanding, the following are not inadmissible as evidence,
 12 even though the declarant is available as a witness:

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

14 (a) Unless the source of information or the method or
 15 circumstances by which the statement is reported indicates a
 16 lack of trustworthiness, an out-of-court statement made by a
 17 child victim with a physical, mental, emotional, or
 18 developmental age of 16 ~~14~~ or less describing any act of child
 19 abuse or neglect, any act of sexual abuse against a child, the
 20 offense of child abuse, the offense of aggravated child abuse,

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21 or any offense involving an unlawful sexual act, contact,
22 intrusion, or penetration performed in the presence of, with,
23 by, or on the declarant child, not otherwise admissible, is
24 admissible in evidence in any civil or criminal proceeding if:

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

34 2. The child either:

35 a. Testifies; or

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

38 Unavailability shall include a finding by the court that the
39 child's participation in the trial or proceeding would result in
40 a substantial likelihood of severe emotional or mental harm, in
41 addition to findings pursuant to s. 90.804(1).
42

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44 **T I T L E A M E N D M E N T**

45 Remove line 29 and insert:

46 conforming provisions to changes made by the act; amending s.
47 90.803, F.S.; providing that an out-of-court statement by a
48 child victim with a physical, mental, emotional, or

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49 developmental age of 16 or less rather than 11 or less
50 describing specified criminal acts is admissible in evidence in
51 certain instances;
52