

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Gaetz offered the following:

Amendment (with title amendment)

Between lines 141 and 142, 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 circumstances by which the statement is reported indicates a lack of trustworthiness, an out-of-court statement made by a child victim with a physical, mental, emotional, or developmental age of 16 ~~11~~ or less describing any act of child

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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).
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42 | **T I T L E A M E N D M E N T**

43 | Remove line 2 and insert:

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44 An act relating to law enforcement; amending s.
45 90.803, F.S.; revising the mental, emotional, or
46 developmental age of a child victim whose out-of-court
47 statement describing specified criminal acts is
48 admissible in evidence in certain instances; amending
49 ss.