

CHAPTER 590

H.B. No. 579

An Act relating to admitting hearsay statements of certain children into evidence in certain criminal court proceedings and certain juvenile court hearings.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 38, Code of Criminal Procedure, 1965, is amended by adding Article 38.072 to read as follows:

Art. 38.072. HEARSAY STATEMENT OF CHILD ABUSE VICTIM

Sec. 1. This article applies to a proceeding in the prosecution of an offense under any of the following provisions of the Penal Code, if committed against a child 12 years of age or younger:

(1) Chapter 21 (Sexual Offenses) or 22 (Assaultive Offenses);

(2) Section 25.02 (Incest);

(3) Section 25.06 (Solicitation of a Child, added by Chapter 413, Acts of the 65th Legislature, Regular Session, 1977); or

(4) Section 43.25 (Sexual Performance by a Child).

Sec. 2. (a) This article applies only to statements that describe the alleged offense that:

(1) were made by the child against whom the offense was allegedly committed; and

(2) were made to the first person, 18 years of age or older, other than the defendant, to whom the child made a statement about the offense.

(b) A statement that meets the requirements of Subsection (a) of this article is not inadmissible because of the hearsay rule if:

(1) on or before the 14th day before the date the proceeding begins, the party intending to offer the statement:

(A) notifies the adverse party of its intention to do so;

(B) provides the adverse party with the name of the witness through whom it intends to offer the statement; and

(C) provides the adverse party with a written summary of the statement;

(2) the trial court finds, in a hearing conducted outside the presence of the jury, that the statement is reliable based on the time, content, and circumstances of the statement; and

(3) the child testifies or is available to testify at the proceeding in court or in any other manner provided by law.

SECTION 2. Section 54.03(d), Family Code, is amended to read as follows:

(d) Except as provided by Section 54.031 of this chapter, only [Only] material, relevant, and competent evidence in accordance with the requirements for the trial of civil cases may be considered in the adjudication hearing. Except in a detention or discretionary transfer hearing, a social history report or social service file shall not be viewed by the court before the adjudication decision and shall not be viewed by the jury at any time.

SECTION 3. Chapter 54, Family Code, is amended by adding Section 54.031 to read as follows:

Sec. 54.031. HEARSAY STATEMENT OF CHILD ABUSE VICTIM. (a) This section applies to a hearing under this title in which a child is alleged to be a delinquent child on the basis of a violation of any of the following provisions of the Penal Code, if a child 12 years of age or younger is the alleged victim of the violation:

(1) Chapter 21 (Sexual Offenses) or 22 (Assaultive Offenses);

(2) Section 25.02 (Incest);

(3) Section 25.06 (Solicitation of a Child, added by Chapter 413, Acts of the 65th Legislature, Regular Session, 1977); or

(4) Section 43.25 (Sexual Performance by a Child).

(b) This section applies only to statements that describe the alleged violation that:

(1) were made by the child who is the alleged victim of the violation; and

(2) were made to the first person, 18 years of age or older, to whom the child made a statement about the violation.

(c) A statement that meets the requirements of Subsection (b) of this section is not inadmissible because of the hearsay rule if:

(1) on or before the 14th day before the date the hearing begins, the party intending to offer the statement:

(A) notifies each other party of its intention to do so;

(B) provides each other party with the name of the witness through whom it intends to offer the statement; and

(C) provides each other party with a written summary of the statement;

(2) the juvenile court finds, in a hearing conducted outside the presence of the jury, that the statement is reliable based on the time, content, and circumstances of the statement; and

(3) the child who is the alleged victim testifies or is available to testify at the hearing in court or in any other manner provided by law.

SECTION 4. This Act takes effect September 1, 1985.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 13, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 579 on May 27, 1985, by a non-record vote; passed by the Senate, with amendments, on May 27, 1985, by a viva-voce vote.

Approved: June 13, 1985

Effective: September 1, 1985