

CHAPTER 98-2

Committee Substitute for House Bill No. 1597

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, 1996 Supplement, 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, 1997 and shall apply to pending cases in which the final pretrial conference occurs on or after that date.

Vetoed by the Governor May 29, 1997.

Passed the House over the veto March 4, 1998.

Passed the Senate over the veto March 11, 1998.

Filed in Office Secretary of State March 12, 1998.