

Committee Substitute for Senate Bill No. 840

An act relating to criminal actions; defining the term “sexual abuse”; providing for the admissibility of a defendant’s confession or admission in specified sexual abuse cases without proof of a corpus delicti of the crime under certain conditions; providing for a court hearing; requiring corroborating evidence of the trustworthiness of the defendant’s confession or admission; allowing hearsay evidence at such hearing; requiring specific findings of fact by the court on the record; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Admissibility of confession in sexual abuse cases.—

(1) As used in this section, the term “sexual abuse” means an act of a sexual nature or sexual act that may be prosecuted under any law of this state, including those offenses specifically designated in subsection (2).

(2) In any criminal action in which the defendant is charged with a crime against a victim under section 794.011, Florida Statutes; section 794.05, Florida Statutes; section 800.04, Florida Statutes; section 826.04, Florida Statutes; section 827.03, Florida Statutes, involving sexual abuse; section 827.04, Florida Statutes, involving sexual abuse; or section 827.071, Florida Statutes, or any other crime involving sexual abuse of another, or with any attempt, solicitation, or conspiracy to commit any of these crimes, the defendant’s memorialized confession or admission is admissible during trial without the state having to prove a corpus delicti of the crime if the court finds in a hearing conducted outside the presence of the jury that the state is unable to show the existence of each element of the crime, and having so found, further finds that the defendant’s confession or admission is trustworthy. Factors which may be relevant in determining whether the state is unable to show the existence of each element of the crime include, but are not limited to, the fact that, at the time the crime was committed, the victim was:

(a) Physically helpless, mentally incapacitated, or mentally defective, as those terms are defined in s. 794.011;

(b) Physically incapacitated due to age, infirmity, or any other cause; or

(c) Less than 12 years of age.

(3) Before the court admits the defendant’s confession or admission, the state must prove by a preponderance of evidence that there is sufficient corroborating evidence that tends to establish the trustworthiness of the statement by the defendant. Hearsay evidence is admissible during the presentation of evidence at the hearing. In making its determination, the court may consider all relevant corroborating evidence, including the defendant’s statements.

(4) The court shall make specific findings of fact, on the record, for the basis of its ruling.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor June 5, 2000.

Filed in Office Secretary of State June 5, 2000.