



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0364

Introduced 1/21/2005, by Rep. Chapin Rose

SYNOPSIS AS INTRODUCED:

725 ILCS 5/115-10.4

Amends the Code of Criminal Procedure of 1963. Eliminates a provision from the Section concerning the admissibility of prior statements of a witness who is deceased that any prior statement that is sought to be admitted into evidence must have been made by the declarant under oath at a trial, hearing, or other proceeding.

LRB094 02472 RLC 32473 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 115-10.4 as follows:

6 (725 ILCS 5/115-10.4)

7 Sec. 115-10.4. Admissibility of prior statements when
8 witness is deceased.

9 (a) A statement not specifically covered by any other
10 hearsay exception but having equivalent circumstantial
11 guarantees of trustworthiness is not excluded by the hearsay
12 rule if the declarant is deceased and if the court determines
13 that:

14 (1) the statement is offered as evidence of a material
15 fact; and

16 (2) the statement is more probative on the point for
17 which it is offered than any other evidence which the
18 proponent can procure through reasonable efforts; and

19 (3) the general purposes of this Section and the
20 interests of justice will best be served by admission of
21 the statement into evidence.

22 (b) A statement may not be admitted under this exception
23 unless the proponent of it makes known to the adverse party
24 sufficiently in advance of the trial or hearing to provide the
25 adverse party with a fair opportunity to prepare to meet it,
26 the proponent's intention to offer the statement, and the
27 particulars of the statement, including the name of the
28 declarant.

29 (c) Unavailability as a witness under this Section is
30 limited to the situation in which the declarant is deceased.

31 (d) (Blank). ~~Any prior statement that is sought to be~~
32 ~~admitted under this Section must have been made by the~~

1 ~~declarant under oath at a trial, hearing, or other proceeding.~~

2 (e) Nothing in this Section shall render a prior statement
3 inadmissible for purposes of impeachment because the statement
4 was not recorded or otherwise fails to meet the criteria set
5 forth in this Section.

6 (Source: P.A. 91-363, eff. 7-30-99.)