



Criminal Evidence Basics: Hearsay & Exceptions



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The Apex Jurist, www.ApexJurst.com is
Published by ApexCLE, Inc.
www.ApexCLE.com

119 South Emerson St., # 248
Mount Prospect, Illinois 60056

Ordering Information:

Copies of this monograph may be ordered directly from the publisher for \$64.95 plus \$4.25 shipping and handling. Please enclose your check or money order and shipping information. For educational, government or multiple copy pricing, please contact the publisher.

Library of Congress Cataloging-in-Publication Data

ApexCLE, Inc.

1. ApexCLE, Inc. 2. Law-United States – Guide-books.
3. Legal Guide 4. Legal Education.

About the Presenter

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Rachel Koch is an Assistant Public Defender of Cook County, Illinois. She currently works in the Child Protection Conflicts Division where she represents parents when the state petitions to take their children from their care. Her work consists of all the tools in the civil toolbox to get parents reunited with their children. Some highlights of her work include a trial win for a former Roma refugee who lived in Baltimore and was in Chicago on vacation, his baby rolled off the motel bed, broke her leg and was treated by a biased doctor. Because of her work on the case, he was reunited with his children. She is also an Adjunct Professor at DePaul University College of Law where she has taught Education Law and Policy and Evidence. Prior to her work for Cook County, Ms. Koch had a solo practice where she represented clients in all stages of litigation in criminal defense, family law, civil forfeiture, family law, civil and administrative cases; she also worked in private practice.

Ms. Koch attended DePaul University College of Law, where she was a Sullivan Fellow at the International Human Rights Law Institute and an assistant to the late Professor Emeritus M. Cherif Bassiouni. She also attended programs abroad in Costa Rica and Italy, focusing on International Law.

Ms. Koch comes to the law after twenty years of experience teaching both young people and adults in New Mexico, Chicago, and Ecuador; Rachel was inspired to study law while working for a teacher training organization where the evolution of International Human Rights Law is a focus.

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Course Description

Course Presentation

This course provides an in-depth examination of the process and procedure of hearsay rules and exceptions in the context of criminal cases. Participants will learn the skills to introduce potential hearsay evidence, anticipate objections, and address those objections; they should also learn to object to hearsay evidence and address responses to objections.

This course provides an intellectual foundation and introduces a set of learning skills essential for success in the legal profession and for life beyond. The course will provide opportunities for careful reading, for creative and critical thinking, for oral and written communication, and for engaging with others in a shared conversation about stimulating material.

Course Material

This material is intended to be a guide in general and is not legal advice. If you have any specific question regarding the state of the law in any particular jurisdiction, we recommend that you seek legal guidance relating to your particular fact situation.

The course materials will provide the attendee with the knowledge and tools necessary to identify the current legal trends with respect to these issues. The course materials are designed to provide the attendee with current law, impending issues and future trends that can be applied in practical situations.

Course Learning Objectives and Outcomes

This course is designed to provide the following learning objectives

After this course, the Participant will understand the duties, roles and responsibilities of counsel in situations involving introducing and/or managing hearsay evidence in criminal cases.

After this course, the Participant will learn practice tips on how to evaluate evidentiary concerns with introducing or objecting to hearsay evidence in criminal cases.

After this course, the Participant will develop an understanding about introducing or objecting to hearsay evidence in criminal cases.

Participants should learn to introduce potential hearsay evidence, anticipate objections, and address those objections; they should also learn to object to hearsay evidence and address responses to objections.

Upon completion of the course, participants should be able to apply the course material; improve their ability to research, plan, synthesize a variety of sources from authentic materials, draw conclusions; and demonstrate an understanding of the theme and concepts of the course by applying them in their professional lives.

Timed Agenda:

Presenter Name: Rachel Koch

CLE Course Title: Criminal Evidence Basics: Hearsay & Exceptions

Time Format (00:00:00 - Hours: Minutes: Seconds)	Description
00:00:00	ApexCLE Company Credit Introduction
00:00:20	Criminal Evidence Basics: Hearsay & Exceptions
00:00:32	CLE Presenter Introduction
00:01:08	Criminal Evidence Basics: Hearsay & Exceptions
00:07:03	What is Hearsay
00:10:54	What is Not Hearsay
00:16:03	Not At Trial But
00:17:47	Excited Utterance FRE 803(2)
00:22:56	Federal Rule of Evidence 803(4)
00:26:17	Exceptions
00:28:35	705 ILCS 5/115-10
00:34:47	Recorded Recollection FRE 803(5)
00:38:41	Business Records FRE 803(6)
00:48:32	Absence Of Regularly Kept Records FRE 803(7)
00:52:48	Dying Declaration FRE 804(b)(2)
00:56:30	Drew Peterson Case Changes
01:01:36	Pro - Tip
01:04:06	Presenter Closing
01:04:19	ApexCLE Company Closing Credits
01:04:27	End of Video

Course Material

1. Overview

- a. Basic/review
- b. Only focusing on the most common examples and exceptions

2. FRE RULES

- a. Includes this information but dry as a wedding chicken breast
- b. Includes a metric ton of information you will not likely use

3. PRACTICE TIPS

- a. Prepare self for objections
- b. Prepare W for objections
 - i. Trial flow v actual conversation

4. WHAT IS HEARSAY

- a. An out of court statement offered for the matter asserted

i. STATEMENT MADE OUT OF COURT

- 1. Susie tells Officer Jones that the assailant was wearing a red coat.
- 2. Johnny was wearing a red coat when he was arrested.
- 3. Officer Jones wants to testify in court that Susie told him that the assailant wore a red coat.

ii. FOR THE TRUTH OF THE MATTER ASSERTED

- 1. If the statement is being offered as a course of conduct by the officer, i.e., to explain why he stopped Johnny ... THAT IS NOT HEARSAY!!!!
- 2. If the statement is being offered for the truth that Johnny was wearing a red coat and therefore the assailant THIS IS HEARSAY and NOT admissible.

iii. PARSING WHAT IS/IS NOT HEARSAY

1. Susie tells Officer Jones that the assailant was wearing a red coat.
2. Johnny was wearing a red coat when he was arrested.
3. Officer Jones wants to testify in court that Susie told him that the assailant wore a red coat.
4. Susie can always testify regarding what she personally saw.
5. Hearsay only applies to what statements were made to other people outside of court.
6. The hearsay statement comes into play if Susie is not available (i.e., couldn't be located for trial) and Officer Jones wants to testify regarding his conversation with Susie.
7. **THIS WILL NOT BE ADMITTED. UNLESS OFFICER JONES' TESTIMONY MEETS ONE OF THE EXCEPTIONS**

5. DEFINITIONS

- a. Declarant = person making the statement
- b. Party opponent = Defendant
- c. Statement =
 - i. oral statement;
 - ii. written statement; or
 - iii. nonverbal conduct
 1. Nonverbal conduct can be things like a headshake, pointing, or even non-response to an accusation (non-custodial interrogation)

6. WHAT IS NOT HEARSAY?

- a. If the declarant is available to testify, subject to cross-examination, and can describe their personal knowledge, observations, etc.

- b. Statements by the party-opponent (defendant) if one of the following:
 - i. Party's own statement (confession)
 - ii. Party adopted statement
 - iii. An authorized statement
 - iv. Statement made in the course of employment
 - v. Co-conspirator statement in furtherance of the conspiracy
 - vi. Statement made by a person of joint interest

7. NOT AT TRIAL BUT

- a. Most other stages of cases
- b. Bond hearings, motions to suppress and sentencing hearings

8. EXCEPTIONS

Herein lies the real definitions; won't go through all, just the most likely you'll encounter

a. 803 RULES

- i. Doesn't matter if declarant is available or not

b. EXCITED UTTERANCE – FRE 803(2)

Fed. R. Evid. 803(2) *Excited Utterance*. A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.

- i. These are statements related to startling events or conditions made while the declarant was under stress of startling events.
- ii. Excited utterance is one of the most common exceptions to the hearsay rule.
- iii. It covers almost all 911 calls.
- iv. For an excited utterance to apply There must be some evidence of startling event or stressor

- v. Declaration made within a reasonably short period of time after the occurrence
 - 1. assures that the declarant didn't reflect on statement or premeditate or construct or edit it
 - 2. DC 2011 case says children can have longer time between startling event and statement
- vi. Presence of circumstances which in their totality suggest spontaneity and sincerity of the remark
 - 1. EXAMPLE (hot grease)

c. STATEMENT MADE FOR PURPOSE OF MEDICAL DIAGNOSIS – FRE 803(4)

Fed. R. Evid. 803(4) *Statement Made for Medical Diagnosis or Treatment.* A statement that:

(A) is made for — and is reasonably pertinent to — medical diagnosis or treatment; and

(B) describes medical history; past or present symptoms or sensations; their inception; or their general cause.

- i. Can be medical history, past or present symptoms, but only if statement made was for purpose of diagnosis
- ii. ***This exception does not include statements made for trial preparations or statements by the victim of the specific crimes. SO NOT EXPERT OPINION (702)***
- iii. allows attorneys to obtain and question witnesses regarding prior psychological, therapeutic, and medical issues, unless limited by other rules of evidence.

d. 705 ILCS 5/115-10

- i. 115-10: children and adults diminished mental capacity, who were victims of sexual assaults.
- ii. Children under the age of 14 can be interviewed under special, non-trauma settings. If the interviews are conducted appropriately, the interview may be admitted in court as the child's testimony.
- iii. There must be a hearing to determine that the interview was not tainted, or otherwise suggestive.

- iv. At that hearing, the child victim does NOT testify.
- v. It usually is only the person(s) that conducted the interview.
- vi. 115-10 also includes the initial outcry (parents, teacher, counselor) and also doctor(s) who may have examined the child

e. RECORDED RECOLLECTION 803(5)

Fed. R. Evid. 803(5) *Recorded Recollection*. A record that:

(A) is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately;

(B) was made or adopted by the witness when the matter was fresh in the witness's memory; and

(C) accurately reflects the witness's knowledge.

If admitted, the record may be read into evidence but may be received as an exhibit only if offered by an adverse party.

- i. Recorded about matter which witness once had knowledge; insufficient recollection now, but correct account made or adopted when memory was fresh
- ii. EXAMPLE: Susie calls 911 because Johnny hit her, causing a broken nose and black eyes. Officer Jones takes Susie's statement at the hospital.
 - 1. Before trial, Susie and Johnny made up and all was forgiven. At trial, Susie does not recall making a statement at the hospital.
 - 2. (Obviously, this happens a lot in DV cases)
 - 3. The State can have Officer Jones testify regarding Susie's statement because Susie does not remember given that statement.
 - 4. If Susie denies giving the statement all together, the State can still call Officer Jones to testify regarding her statement, but it can only be used for impeachment purposes. NOT as substantive evidence.

f. BUSINESS RECORDS 803(6)

Fed. R. Evid. 803(6) *Records of a Regularly Conducted Activity.* A record of an act, event, condition, opinion, or diagnosis if:

(A) the record was made at or near the time by — or from information transmitted by — someone with knowledge;

(B) the record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;

(C) making the record was a regular practice of that activity;

(D) all these conditions are shown by the testimony of the custodian or another qualified witness, or by a certification that complies with Rule 902(11) or (12) or with a statute permitting certification; and

(E) the opponent does not show that the source of information or the method or circumstances of preparation indicate a lack of trustworthiness.

- i. This exception applies to all businesses Profit or Non-profit
- ii. For the business record exception to apply, **ALL 5** of the following factors must be met.
 - a. Record is recorded ... by whatever means (electronically, handwritten)
 - b. Made at or near the time and by a person with knowledge
 - c. Kept in the course of regularly conducted business
 - d. Regular practice to record
 - e. Admitted through the custodian of the records
- iii. Things that are usually business records
 - a. Telephone records
 - b. Cell Phone text messages
 - c. Bank records
 - d. Accounting records
 - e. School attendance records
- iv. These records cannot be made for just one incident. They must be a consistent record/document.
 - a. **This is why police reports are not considered business records.**

g. ABSENCE OF REGULARLY KEPT RECORDS 803(7)

Fed. R. Evid. 803(7) *Absence of a Record of a Regularly Conducted Activity*. Evidence that a matter is not included in a record described in paragraph (6) if:

- (A) the evidence is admitted to prove that the matter did not occur or exist;
- (B) a record was regularly kept for a matter of that kind; and
- (C) the opponent does not show that the possible source of the information or other circumstances indicate a lack of trustworthiness.
 - i. Must meet all the qualifications of 803(6) AND
 - ii. Evidence being offered to show something did NOT happen or exist
 - iii. It was a regularly kept records, AND
 - iv. Other side doesn't show "sketchiness"/ lack of trustworthiness in
 - a. Source of information
 - b. Other circumstances showing this lack of trustworthiness

h. PUBLIC RECORDS 803(8)

Fed. R. Evid. 803(8) *Public Records*. A record or statement of a public office if:

- (A) it sets out:
 - (i) the office's activities;
 - (ii) a matter observed while under a legal duty to report, but not including, in a criminal case, a matter observed by law-enforcement personnel; or
 - (iii) in a civil case or against the government in a criminal case, factual findings from a legally authorized investigation; and
- (B) neither the opponent does not show that the source of information nor or other circumstances indicate a lack of trustworthiness.
 - i. This exception is similar to the business record exception.

- ii. Records that are made in the normal course of public business will be admitted at trial.
- 1. i.e., birth certificates, marriage certificates, property records

i. ABSENCE OF PUBLIC RECORD 803(9)

Fed. R. Evid 803(9) *Public Records of Vital Statistics*. A record of a birth, death, or marriage, if reported to a public office in accordance with a legal duty.

- i. Johnny says that he is married to Susie.
- ii. There is no marriage license.
- iii. The lack of a marriage license is admissible hearsay.

j. DYING DECLARATION – 804(b)(2)

Fed. R. Evid 804(b) *The Exceptions*. The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:

(2) *Statement Under the Belief of Imminent Death*. In a prosecution for homicide or in a civil case, a statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.

- i. 804s – declarant unavailable
- 1. Must satisfy 804(a)
- ii. When a declarant believes that he is dying, his statement may be admissible.
- iii. Declarant must be unavailable at trial. (i.e., coma, fled jurisdiction, dead)
- iv. The declarant does NOT have to die. They only need to have a reasonable belief that he was going to die.
- 1. EXAMPLES
 - a. Gunshot to the chest – a reasonable person could believe that he would die from the injury.
 - b. Broken leg – not reasonable to believe you are going to die from that injury.

9. DREW PETERSON CASE CHANGES

In *People v. Peterson*, 2017 IL 120331, 106 N.E.3d 944, 423 Ill.Dec. 776 (Ill. 2017), the Supreme Court held that:

- I. the State proved defendant murdered former wife to prevent her from testifying in divorce proceeding, so as to warrant admission of her statements under forfeiture by wrongdoing exception to hearsay rule, was not against manifest weight of the evidence;
 - II. that the State proved defendant murdered current wife to prevent her from testifying in divorce proceeding or prosecution for murder of former wife, so as to warrant admission of her statements under forfeiture by wrongdoing exception to hearsay rule, was not against manifest weight of the evidence;
 - III. that the statements made by defendant's current wife to divorce attorney were not privileged, and thus were properly considered in pretrial hearing as to whether those statements were admissible under forfeiture by wrongdoing exception to hearsay rule; and,
 - IV. that the record failed to demonstrate that current wife's communications with counseling pastor were subject to clergy privilege, and thus those statements were properly considered in pretrial hearing as to whether those statements were admissible under forfeiture by wrongdoing exception to hearsay rule.
- a. The Illinois Supreme Court recently ruled that the 3rd District Appellate Court must consider an appeal in the Drew Peterson case. *People v. Peterson*, 2017 IL 120331, 106 N.E.3d 944, 423 Ill.Dec. 776 (2017).
 - i. Prosecutors in the case want to admit statements that Kathleen Savio made, but the trial court judge ruled against admitting them, despite changes that Illinois lawmakers made to the state's hearsay rule in 2008.
 - ii. namely whether certain hearsay statements may be used against him.

- b. Petersen has been in custody on a \$20 million bond since he was arrested in May 2009 for charges that he killed his third wife, Kathleen Savio.
- c. Peterson, a former policeman, faces murder charges in the death of Savio after she was found dead in a bathtub in 2004 – shortly before the couples’ divorce was final.
- d. Investigators initially thought her death was accidental but reclassified it as a homicide after Peterson’s fourth wife disappeared. Peterson is also a suspect in her disappearance.

10. 2008 Changes to Illinois Hearsay Rule

- a. In general, the court will not allow statements that a person made outside of court into evidence unless the person who made them is available to testify, so that the defendant can cross examine the speaker.
- b. This is because the Constitution guarantees criminal defendants the right to confront their accusers through the confrontation clause of the 6th amendment
- c. There are several exceptions to this hearsay rule, however.
- d. The Illinois legislature passed a new exception to the state’s hearsay rule in 2008, in direct response to the investigation of Savio’s death and Peterson’s fourth wife’s disappearance.
 - i. The law now allows statements of murder victims into evidence if the prosecution can show at a pretrial hearing by preponderance of the evidence that:
 - 1. The defendant murdered the speaker
 - 2. The defendant murdered the speaker to prevent the speaker from testifying against the defendant
 - 3. There are sufficient indicators that the statements are reliable
 - 4. The interests of justice would be served by admitting the statements

e. Ill. R. Evid. 804(b)(5) Forfeiture by Wrongdoing

A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

Adopted September 27, 2010, eff. January 1, 2011.

11. A FEW MORE HYPOTHETICALS

- a. Paul and John walking to a party. As they are walking down the street, they see Angela on the ground. She was covered in blood. While Paul calls 911, John goes to Angela to help. Angela says to John, "Michael stabbed me after" and then loses consciousness. Angela does not die but is in a coma at a long-term care facility.

How can the prosecutor get Angela's statement admitted at Michael's trial? How would that statement come in at trial? (i.e., under what hearsay exception and which witness can testify)

1. Who do you want to testify (John)?
2. What exactly is said (Michael stabbed me -Angela)
 - a. Is it an out of court statement?
 - b. Being made for the truth of the matter asserted?
 - i. What is the truth or conclusion or reason you want to get this into evidence through testimony?
 1. To show Michael stabbed Angela at Michael's trial
 - c. It's hearsay
3. Who said it (Angela)?
 - a. Is she unavailable under 804?
4. What exceptions apply?
 - a. You can use more than one

b. EXCITED UTTERANCE (803) (2)

Fed. R. Evid. 803(2) *Excited Utterance*. A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.

(doesn't matter that she's unavailable)

- i. Go through the steps:
 1. statements related to startling events or while the declarant was under stress of startling events?
 - a. Evidence of this startling event? (stabbing)
 2. Declaration made within a reasonably short period of time after the occurrence?

3. Presence of circumstances which in their totality suggest spontaneity and sincerity of the remark?

c. DYING DECLARATION 804(b)(2)

Fed. R. Evid. 804(b) *The Exceptions*. The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:

(2) *Statement Under the Belief of Imminent Death.* In a prosecution for homicide or in a civil case, a statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.

- i. satisfies 804(a)?
 1. (804(a)(4) cannot be present or testify at the trial or hearing because of death or a then-existing infirmity, physical illness, or mental illness
- ii. But wait she's not dead
 1. When a declarant believes that she is dying, the statement may be admissible.
 2. Only have to have a reasonable belief that death was imminent
- iii. The declarant does NOT have to die. They only need to have a reasonable belief that he was going to die.
- iv. text: "In a prosecution for homicide or in a civil case, a statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances."

12. PRO-TIP

- a. PREP, PREP, PREP
- b. Practice, prepare, plan
 - i. Anticipate objections
 - ii. Map out responses
 - iii. Practice with Ws

Resources

Resources Specific to this Course

Federal Rules of Evidence

Fed. R. Evid. 803(2) *Excited Utterance*. A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.

Fed. R. Evid. 803(4) *Statement Made for Medical Diagnosis or Treatment*. A statement that:

(A) is made for — and is reasonably pertinent to — medical diagnosis or treatment; and

(B) describes medical history; past or present symptoms or sensations; their inception; or their general cause.

Fed. R. Evid. 803(5) *Recorded Recollection*. A record that:

(A) is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately;

(B) was made or adopted by the witness when the matter was fresh in the witness's memory; and

(C) accurately reflects the witness's knowledge.

If admitted, the record may be read into evidence but may be received as an exhibit only if offered by an adverse party.

Fed. R. Evid. 803(6) *Records of a Regularly Conducted Activity*. A record of an act, event, condition, opinion, or diagnosis if:

(A) the record was made at or near the time by — or from information transmitted by — someone with knowledge;

(B) the record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;

(C) making the record was a regular practice of that activity;

(D) all these conditions are shown by the testimony of the custodian or another qualified witness, or by a certification that complies with Rule 902(11) or (12) or with a statute permitting certification; and

(E) the opponent does not show that the source of information or the method or circumstances of preparation indicate a lack of trustworthiness.

Fed. R. Evid. 803(7) *Absence of a Record of a Regularly Conducted Activity.*

Evidence that a matter is not included in a record described in paragraph (6) if:

- (A) the evidence is admitted to prove that the matter did not occur or exist;
- (B) a record was regularly kept for a matter of that kind; and
- (C) the opponent does not show that the possible source of the information or other circumstances indicate a lack of trustworthiness.

Fed. R. Evid. 803(8) *Public Records.* A record or statement of a public office if:

- (A) it sets out:
 - (i) the office's activities;
 - (ii) a matter observed while under a legal duty to report, but not including, in a criminal case, a matter observed by law-enforcement personnel; or
 - (iii) in a civil case or against the government in a criminal case, factual findings from a legally authorized investigation; and
- (B) the opponent does not show that the source of information or other circumstances indicate a lack of trustworthiness.

Fed. R. Evid. 803(9) *Public Records of Vital Statistics.* A record of a birth, death, or marriage, if reported to a public office in accordance with a legal duty.

Fed. R. Evid. 804(b) *The Exceptions.* The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:

(2) *Statement Under the Belief of Imminent Death.* In a prosecution for homicide or in a civil case, a statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.

(6) *Statement Offered Against a Party That Wrongfully Caused the Declarant's Unavailability.* A statement offered against a party that wrongfully caused — or acquiesced in wrongfully causing — the declarant's unavailability as a witness, and did so intending that result.

Illinois Rules of Evidence

Ill. R. Evid. 804(b) *Hearsay Exceptions.* The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(5) *Forfeiture by Wrongdoing.* A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

Illinois General Assembly

(725 ILCS 5/115-10) Sec. 115-10. *Certain hearsay exceptions.*

(a) In a prosecution for a physical or sexual act perpetrated upon or against a child under the age of 13, a person with an intellectual disability, a person with a cognitive impairment, or a person with a developmental disability... the following evidence shall be admitted as an exception to the hearsay rule:

(1) testimony by the victim of an out of court statement made by the victim that he or she complained of such act to another; and

(2) testimony of an out of court statement made by the victim describing any complaint of such act or matter or detail pertaining to any act which is an element of an offense which is the subject of a prosecution for a sexual or physical act against that victim.

(b) Such testimony shall only be admitted if:

(1) The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and

(2) The child or person with an intellectual disability, a cognitive impairment, or developmental disability either:

(A) testifies at the proceeding; or

(B) is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement; and

(3) In a case involving an offense perpetrated against a child under the age of 13, the out of court statement was made before the victim attained 13 years of age or within 3 months after the commission of the offense, whichever occurs later, but the statement may be admitted regardless of the age of the victim at the time of the proceeding.

(c) If a statement is admitted pursuant to this Section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given the statement and that, in making the determination, it shall consider the age and maturity of the child, or the intellectual capabilities of the person with an intellectual disability, a cognitive impairment, or developmental disability, the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.

(d) The proponent of the statement shall give the adverse party reasonable notice of his intention to offer the statement and the particulars of the statement.

(e) Statements described in paragraphs (1) and (2) of subsection (a) shall not be excluded on the basis that they were obtained as a result of interviews conducted pursuant to a protocol adopted by a Child Advocacy Advisory Board as set forth in subsections (c), (d), and (e) of Section 3 of the Children's Advocacy Center Act or that an interviewer or witness to the interview was or is an employee, agent, or investigator of a State's Attorney's office.

(f) For the purposes of this Section:

"Person with a cognitive impairment" means a person with a significant impairment of cognition or memory that represents a marked deterioration from a previous level of function. Cognitive impairment includes, but is not limited to, dementia, amnesia, delirium, or a traumatic brain injury.

"Person with a developmental disability" means a person with a disability that is attributable to (1) an intellectual disability, cerebral palsy, epilepsy, or autism, or (2) any other condition that results in an impairment similar to that caused by an intellectual disability and requires services similar to those required by a person with an intellectual disability.

"Person with an intellectual disability" means a person with significantly subaverage general intellectual functioning which exists concurrently with an impairment in adaptive behavior.

Resources for the Legal Professional

ABA Center for Professional Responsibility - www.abanet.org/cpr

Chicago Bar Association - www.chicagobar.org

Commission on Professionalism - www.2civility.org

Judicial Inquiry Board - <http://www.illinois.gov/jib>

Illinois Board of Admissions to the Bar - www.ilbaradmissions.org

Illinois Department of Financial and Professional Regulation - www.idfpr.com/default.asp

Illinois Lawyers' Assistance Program, Inc - www.illinoislap.org

Illinois State Bar Association - www.isba.org

Illinois Supreme Court - www.state.il.us/court

Lawyers Trust Fund of Illinois - www.ltf.org

MCLE Program - www.mcleboard.org