

1 **State of Arkansas**
2 **78th General Assembly**
3 **First Extraordinary Session, 1992**
4 **By: Representative Pollan**

A Bill

Call Item 3

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §16-41-101 RULE
9 803(25)(A) TO CREATE A CHILD HEARSAY EXCEPTION TO THE
10 RULES OF EVIDENCE; AND FOR OTHER PURPOSES."

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12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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14 SECTION 1. Arkansas Code Annotated §16-41-101 Rule 803(25)(A) is
15 amended to read as follows:

16 "(A) A statement made by a child under ten (10) years of age concerning
17 any act or offense against that child involving sexual offenses, child abuse,
18 or incest is admissible in any criminal proceeding in a court of this state,
19 provided:

20 1. The court finds, in a hearing conducted outside the presence
21 of the jury, that the statement offered possesses a reasonable likelihood of
22 trustworthiness using the following criteria:

23 (a) the spontaneity and consistency of repetition of the
24 statement by the child;

25 (b) the mental state of the child;

26 (c) the child's use of terminology unexpected of a child of
27 similar age;

28 (d) the lack of a motive by the child to fabricate the
29 statement.

30 2. The proponent of the statement shall give the adverse party
31 reasonable notice of his intention to offer the statement and the particulars
32 of the statement.

33 3. This section shall not be construed to limit the admission of
34 an offered statement under any other hearsay exception or applicable rule of
35 evidence."

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SECTION 2. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 5. EMERGENCY. It is hereby found and determined by the General Assembly of the State of Arkansas that child abuse continues at an unacceptable rate in the state of Arkansas and this act will expedite the prosecution of child abusers and minimize trauma and distress of victims of child abuse, and should be given immediate effect. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.

