

For Committee Discussion of H.727

- 804a hearsay exception – victim under 12 (applies to criminal, civil and other proceedings)
Statements by a person 12 years or younger are not automatically excluded under the hearsay rule if:
 - Child is a victim of sexual abuse
 - Statements were not taken in preparation for a legal proceeding
 - Child is available to testify
 - At the time the statements were made, they provide substantial indicia of trustworthiness

- 4916b(a)(3) says that a child under 12 who was a victim of sexual abuse does not need to be available to testify if doing so would present a substantial risk of trauma to the child
 - In these cases, statements a child made to a teacher, social worker, or law enforcement officer would be admissible without the child being made available to testify as to those statements

- H.727 strikes these carve outs and exempts any child under 18 who is alleged to have been abused or neglected from having to testify. Evidence shall be admissible if the time, content, and circumstances of the statements provide substantial indicia of trustworthiness. So statements made by the child could be admitted into evidence as long as they meet that standard.

Options for consideration in Senate proposal of amendment:

- Age of child?
- Sexual abuse/physical abuse/neglect?
- Requirement for risk of trauma finding?
- Standard of admissibility?