

1 H.5

2 Introduced by Representatives Arsenault of Williston and LaLonde of South

3 Burlington

4 Referred to Committee on

5 Date:

6 Subject: Vermont Rules of Evidence; hearsay exception; child under 16 years

7 of age

8 Statement of purpose of bill as introduced: This bill proposes to extend the

9 hearsay exception to children who are 13 to 15 years of age in which the child

10 is a victim of abuse.

11 An act relating to a hearsay exception for a child under 16 years of age

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. Rule 804a of the Vermont Rules of Evidence is amended to read:

14 RULE 804a. HEARSAY EXCEPTION; PUTATIVE VICTIM AGE ~~12 OR~~

15 UNDER 16 YEARS OF AGE; PERSON WITH A MENTAL

16 ILLNESS OR AN INTELLECTUAL OR DEVELOPMENTAL

17 DISABILITY

18 (a) Statements by a person who is a child ~~12~~ under 16 years of age ~~or under~~

19 or who is a person with a mental illness as defined in 18 V.S.A. § 7101(14) or

1 intellectual or developmental disability as defined in 1 V.S.A. §§ 146, 148 at
2 the time the statements were made are not excluded by the hearsay rule if the
3 court specifically finds at the time they are offered that:

4 (1) the statements are offered in a civil, criminal, or administrative
5 proceeding in which the child or person with a mental illness or intellectual or
6 developmental disability is a putative victim of sexual assault under 13 V.S.A.
7 § 3252, aggravated sexual assault under 13 V.S.A. § 3253, aggravated sexual
8 assault of a child under 13 V.S.A. § 3253a, lewd or lascivious conduct under
9 13 V.S.A. § 2601, lewd or lascivious conduct with a child under 13 V.S.A.
10 § 2602, incest under 13 V.S.A. § 205, abuse, neglect, or exploitation under
11 33 V.S.A. § 6913, sexual abuse of a vulnerable adult under 13 V.S.A. § 1379,
12 or 13 V.S.A. § 1304(b) (cruelty to a child involving serious bodily injury) or
13 wrongful sexual activity and the statements concern the alleged crime or the
14 wrongful sexual activity; or the statements are offered in a juvenile proceeding
15 under chapter 52 of Title 33 involving a delinquent act alleged to have been
16 committed against a child ~~13~~ under 16 years of age ~~or under~~ or a person with a
17 mental illness or intellectual or developmental disability if the delinquent act
18 would be an offense listed herein if committed by an adult and the statements
19 concern the alleged delinquent act; or the child is the subject of a petition
20 alleging that the child is in need of care or supervision under chapter 53 of
21 Title 33, and the statement relates to the sexual abuse of the child;

1 (2) the statements were not taken in preparation for a legal proceeding
2 and, if a criminal or delinquency proceeding has been initiated, the statements
3 were made prior to the defendant's initial appearance before a judicial officer
4 under Rule 5 of the Vermont Rules of Criminal Procedure;

5 (3) the child or person with a mental illness or intellectual or
6 developmental disability is available to testify in court or under Rule 807; and

7 (4) the time, content, and circumstances of the statements provide
8 substantial indicia of trustworthiness.

9 (b) Upon motion of either party in a criminal or delinquency proceeding,
10 the court shall require the child or person with a mental illness or intellectual
11 or developmental disability to testify for the state.

12 Sec. 2. EFFECTIVE DATE

This act shall take effect on ~~July 1, 2025~~ *July 1, 2026*.