

2019 Regular Session

HOUSE BILL NO. 489

BY REPRESENTATIVE DUBUISSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

EVIDENCE: Provides relative to hearsay

1 AN ACT

2 To enact Code of Evidence Article 801(D)(1)(e), relative to the definition of hearsay; to  
3 provide relative to prior statements made by witnesses; to provide relative to  
4 statements made by victims of sexually-oriented crimes to healthcare providers; and  
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Evidence Article 801(D)(1)(e) is hereby enacted to read as  
8 follows:

9 Art. 801. Definitions

10 The following definitions apply under this Chapter:

11 \* \* \*

12 D. Statements which are not hearsay. A statement is not hearsay if:

13 (1) Prior statement by witness. The declarant testifies at the trial or hearing  
14 and is subject to cross-examination concerning the statement, and the statement is:

15 \* \* \*

16 (e) A statement made by the victim of a sexually-oriented criminal offense  
17 to a healthcare provider during the course of a forensic medical examination as  
18 defined in R.S. 15:622.

19 \* \* \*

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 489 Original

2019 Regular Session

DuBuisson

**Abstract:** Expands the definition of what is not hearsay to include statements made by the victim of a sexually-oriented criminal offense to a healthcare provider during a forensic medical examination.

Present law provides that certain prior statements by a witness are not hearsay if the declarant testifies at trial or hearing and is subject to cross-examination concerning the statement, and the statement is any of the following:

- (1) Inconsistent with his testimony in criminal cases provided that the witness has been given the opportunity to admit the fact.
- (2) Consistent with his testimony and offered to rebut charges against him of fabrication, improper influence or motive.
- (3) One of identification of a person made after perceiving the person.
- (4) Consistent with declarant's testimony and is one of initial complaint of sexually assaultive behavior.

Proposed law retains present law and adds an exception for statements made by the victim of a sexually-oriented criminal offense to a healthcare provider during the course of a forensic medical examination to certain statements that are not hearsay.

(Adds C.E. Art. 801(D)(1)(e))