

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 and the healthcare provider has documented that statement  
19 in writing.

20 \* \* \*

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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 Reengrossed

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 if the statement is documented in writing by the healthcare provider.

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 to the list of hearsay exceptions statements made by the victim of a sexually-oriented criminal offense to a healthcare provider during the course of a forensic medical examination if the statement is documented in writing by the healthcare provider.

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

The House Floor Amendments to the engrossed bill:

1. Add that, for the exception to apply, the healthcare provider shall have documented the victim's statement in writing.