

SENATE BILL REPORT

SB 5450

As of January 31, 2001

Title: An act relating to vulnerable adults' hearsay statements.

Brief Description: Making admissible the hearsay statements of vulnerable adults.

Sponsors: Senators Long, Costa, McCaslin and Kohl-Welles.

Brief History:

Committee Activity: Judiciary: 2/5/01.

SENATE COMMITTEE ON JUDICIARY

Staff: Aldo Melchiori (786-7439)

Background: Out-of-court statements (hearsay) are generally inadmissible in court as evidence to prove the truth of the matter asserted. The reason for the rule is that the credibility of the witness is the key ingredient in weighing the truth of the statement so that when the statement is made out-of-court, without the benefit of cross-examination, the basis for determining its truth is compromised.

There are many exceptions to the general rule. If a witness is "unavailable," a court may exercise its discretion to admit the out-of-court statements. Unavailability may be found on grounds of privilege; when the witness refuses to testify despite a court order to do so; when the witness testifies to lack of memory of the subject; when the witness is unable to be present because of death, physical or mental illness, or infirmity; or when the proponent of the statement has been unable to procure the declarant's attendance. These exceptions are not available if they are the result of wrongdoing by the proponent of the statement.

Summary of Bill: Out-of-court statements made by a vulnerable adult describing a crime against, or neglect, exploitation, abuse, or sexual abuse of that person are admissible as evidence in any court proceeding if: (1) the court finds sufficient indicators of reliability; and (2) the vulnerable adult either testifies or is unavailable as a witness. If the vulnerable adult is unavailable, there must be collaborative evidence before the out-of-court statement is admissible. The admissibility of the statement is determined at a pretrial hearing.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.