

# SENATE BILL No. 734

October 17, 2001, Introduced by Senators HAMMERSTROM, GARCIA, JOHNSON,  
BULLARD, MC COTTER and GOSCHKA and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
(MCL 760.1 to 777.69) by adding section 27a to chapter VIII.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER VIII

SEC 27A. (1) EVIDENCE OF A STATEMENT BY A DECLARANT IS NOT  
MADE INADMISSIBLE BY THE HEARSAY RULE IF ALL OF THE FOLLOWING  
APPLY:

(A) THE STATEMENT PURPORTS TO NARRATE, DESCRIBE, OR EXPLAIN  
THE INFLICTION OR THREAT OF PHYSICAL INJURY UPON THE DECLARANT.

(B) THE ACTION IN WHICH THE EVIDENCE IS OFFERED UNDER THIS  
SECTION IS AN OFFENSE INVOLVING DOMESTIC VIOLENCE.

(C) THE STATEMENT WAS MADE AT OR NEAR THE TIME OF THE  
INFLICTION OR THREAT OF PHYSICAL INJURY. EVIDENCE OF A STATEMENT

1 MADE MORE THAN 5 YEARS BEFORE THE FILING OF THE CURRENT ACTION OR  
2 PROCEEDING IS INADMISSIBLE UNDER THIS SECTION.

3 (D) THE STATEMENT WAS MADE UNDER CIRCUMSTANCES THAT WOULD  
4 INDICATE THE STATEMENT'S TRUSTWORTHINESS.

5 (E) THE STATEMENT WAS MADE IN WRITING, WAS ELECTRONICALLY  
6 RECORDED, OR WAS MADE TO A LAW ENFORCEMENT OFFICIAL.

7 (2) FOR THE PURPOSE OF SUBSECTION (1)(D), CIRCUMSTANCES REL-  
8 EVANT TO THE ISSUE OF TRUSTWORTHINESS INCLUDE, BUT ARE NOT  
9 LIMITED TO, ALL OF THE FOLLOWING:

10 (A) WHETHER THE STATEMENT WAS MADE IN CONTEMPLATION OF PEND-  
11 ING OR ANTICIPATED LITIGATION IN WHICH THE DECLARANT WAS  
12 INTERESTED.

13 (B) WHETHER THE DECLARANT HAS A BIAS OR MOTIVE FOR FABRICAT-  
14 ING THE STATEMENT, AND THE EXTENT OF ANY BIAS OR MOTIVE.

15 (C) WHETHER THE STATEMENT IS CORROBORATED BY EVIDENCE OTHER  
16 THAN STATEMENTS THAT ARE ADMISSIBLE ONLY UNDER THIS SECTION.

17 (3) A STATEMENT IS ADMISSIBLE UNDER THIS SECTION ONLY IF THE  
18 PROPONENT OF THE STATEMENT MAKES KNOWN TO THE ADVERSE PARTY THE  
19 INTENTION TO OFFER THE STATEMENT AND THE PARTICULARS OF THE  
20 STATEMENT SUFFICIENTLY IN ADVANCE OF THE PROCEEDINGS IN ORDER TO  
21 PROVIDE THE ADVERSE PARTY WITH A FAIR OPPORTUNITY TO PREPARE TO  
22 MEET THE STATEMENT.

23 (4) AS USED IN THIS SECTION:

24 (A) "DECLARANT" MEANS A PERSON WHO MAKES A STATEMENT.

25 (B) "FAMILY OR HOUSEHOLD MEMBER" MEANS 1 OF THE FOLLOWING:

26 (i) A SPOUSE OR FORMER SPOUSE.

1           (ii) AN INDIVIDUAL WITH WHOM THE PERSON RESIDES OR HAS  
2 RESIDED.

3           (iii) AN INDIVIDUAL WITH WHOM THE PERSON HAS A CHILD IN  
4 COMMON.

5           (C) "OFFENSE INVOLVING DOMESTIC VIOLENCE" MEANS AN OCCUR-  
6 RENCE OF 1 OR MORE OF THE FOLLOWING ACTS BY A PERSON THAT IS NOT  
7 AN ACT OF SELF-DEFENSE:

8           (i) CAUSING OR ATTEMPTING TO CAUSE PHYSICAL OR MENTAL HARM  
9 TO A FAMILY OR HOUSEHOLD MEMBER.

10          (ii) PLACING A FAMILY OR HOUSEHOLD MEMBER IN FEAR OF PHYSI-  
11 CAL OR MENTAL HARM.

12          (iii) CAUSING OR ATTEMPTING TO CAUSE A FAMILY OR HOUSEHOLD  
13 MEMBER TO ENGAGE IN INVOLUNTARY SEXUAL ACTIVITY BY FORCE, THREAT  
14 OF FORCE, OR DURESS.

15          (iv) ENGAGING IN ACTIVITY TOWARD A FAMILY OR HOUSEHOLD  
16 MEMBER THAT WOULD CAUSE A REASONABLE PERSON TO FEEL TERRORIZED,  
17 FRIGHTENED, INTIMIDATED, THREATENED, HARASSED, OR MOLESTED.