

HOUSE BILL 31

Introduced by Bradley, et al.

1/02	Introduced
1/02	Referred to Judiciary
1/06	Hearing
1/17	Tabled in Committee

1 HOUSE BILL NO. 31
2 INTRODUCED BY BRADLEY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN EXCEPTION
5 TO THE EVIDENTIARY RULE AGAINST ADMISSION OF HEARSAY
6 EVIDENCE FOR STATEMENTS OF VICTIMS OF SEXUAL CONTACT OR
7 SEXUAL ABUSE WHO ARE LESS THAN 10 YEARS OF AGE; AND
8 PROVIDING CERTAIN REQUIREMENTS AND PROCEDURES FOR THE
9 IMPLEMENTATION AND OPERATION OF THE EXCEPTION."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1. Statements of certain minors -- hearsay**
13 **exception.** (1) An out-of-court statement made by a minor
14 less than 10 years of age, describing any act of sexual
15 contact with the minor or any sexually abusive act performed
16 on the minor, that is not otherwise admissible as hearsay
17 evidence by statute or court rule is admissible evidence in
18 a criminal proceeding if:

19 (a) the judge makes written findings, based on
20 evidence received in a hearing conducted outside the
21 presence of the jury, that the time, content, and
22 circumstances of the statement provide sufficient safeguards
23 of reliability; and

24 (b) the minor either:

25 (i) testifies at the proceeding; or

1 (ii) is unavailable or is disqualified as a witness at
2 the time of the trial.

3 (2) If a statement is admitted as evidence pursuant to
4 this section, the judge shall instruct the jury that it is
5 for the jury to determine the weight and credit to be given
6 to the statement and that, in making the determination, the
7 jury should consider the age and maturity of the minor, the
8 nature of the statement, the circumstances under which the
9 statement was made, and any other factors considered
10 relevant.

11 (3) The proponent of a statement referred to in
12 subsection (1) shall give reasonable notice of his intention
13 to introduce the statement as evidence and shall also give
14 the particulars of the statement to the adverse party.

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