HOUSE FILE 2221
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 522)

(As Amended and Passed by the House February 23, 2022)

[= New Language by the House

* = Language Stricken by the House

A BILL FOR

An Act relating to the admissibility of evidence in a prosecution for physical abuse or a sexual offense upon or against a child, person with an intellectual disability, person with a cognitive impairment, or person with a developmental disability.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. **622.31A Admissibility of evidence in certain physical abuse and sexual offense cases.**

1. As used in this section:

a. "*Child*" means a person under fourteen years of age.

b. "*Cognitive impairment*" means a deficiency in a person's short-term or long-term memory; orientation as to person, place, and time; deductive or abstract reasoning; or judgment as it relates to safety awareness.

c. "*Developmental disability*" means the same as defined under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-402, as codified in 42 U.S.C. §15002(8).

d. "*Intellectual disability*" means a disability of children and adults who as a result of inadequately developed intelligence have a significant impairment in ability to learn or to adapt to the demands of society.

2. In a prosecution for physical abuse or a sexual offense including but not limited to a sexual offense in violation of section 709.2, 709.3, 709.4, 709.11, 709.12, 709.14, 709.15, 709.16, or 709.23, upon or against a child, a person with an intellectual disability, person with a cognitive impairment, or person with a developmental disability, the following evidence shall be admitted as an exception to the hearsay rule if all of the requirements in subsection 3 apply:

[*a.* Testimony by the victim concerning an out-of-court statement, whether consistent or inconsistent, made by the victim to another person that is an initial disclosure of the offense.

b. Testimony by another concerning an out-of-court statement, whether consistent or inconsistent, made by the victim that is an initial disclosure of an offense charged for physical abuse or a sexual offense against the victim.]

3. The testimony described in subsection 2 shall be admitted into evidence at trial as an exception to the hearsay rule if all of the following apply:

a. The party intending to offer the statement does all of the following:

(1) Notifies the adverse party of the intent to offer the statement.

(2) Provides the adverse party with the name of the witness through whom the statement will be offered.

(3) Provides the adverse party with a written summary of the statement to be offered.

b. The court finds, in a hearing conducted outside the presence of the jury, that the timing of the statement, the content of the statement, and the circumstances surrounding the making of the statement provide sufficient safeguards of reliability.

c. The child, person with an intellectual disability, person with a cognitive impairment, or a person with a developmental disability testifies at the trial.

4. If a statement is admitted pursuant to this section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given to the statement, and in making that determination, the jury shall consider the age and maturity of the child or the disability of the person with an intellectual disability, person with a cognitive impairment, or person with a developmental disability; the nature of the statement; the circumstances under which the statement was made, and any other relevant factors.

* [5. This section shall not prevent the admission of any evidence based upon forfeiture by wrongdoing.]