

CHAPTER 1095

EVIDENCE — CRIMINAL OR POSTCONVICTION RELIEF ACTIONS — VICTIMS OF PHYSICAL OR SEXUAL ABUSE

H.F. 2239

AN ACT relating to the discovery of evidence in a criminal or postconviction relief action involving victims of sexual abuse, and 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 Evidence — victims of sexual abuse.**

1. The provision of [rule of evidence 5.412](#) involving a victim of sexual abuse shall apply to discovery conducted in a criminal case or in a postconviction relief proceeding under [chapter 822](#) including but not limited to depositions.

2. If a defendant in a criminal action or an applicant for postconviction relief wishes to conduct discovery involving evidence subject to [rule of evidence 5.412](#), the defendant or applicant shall comply with substantially the same procedural requirements for evidence sought to be offered at trial including timelines, offers of proof, service, purpose of proposed discovery, in camera hearings, relevancy, and the balancing of the probative value of the evidence with the danger of unfair prejudice.

3. Discovery, by deposition or otherwise, shall not be permitted for evidence that would not be admissible at trial under [rule of evidence 5.412](#).

Sec. 2. NEW SECTION. **622.31B 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.

Approved May 24, 2022