

SENATE BILL NO. 881

February 12, 1998, Introduced by Senators GOUGEON, NORTH,
STEIL, HART and BENNETT and referred to the Committee on
Families, Mental Health and Human Services.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9948) by adding section 2170.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2170. (1) A PROPOSED WITNESS'S TESTIMONY AS TO A
2 STATEMENT MADE TO THE PROPOSED WITNESS BY A DECLARANT WHO EITHER
3 IS DEVELOPMENTALLY DISABLED OR WAS UNDER 16 YEARS OF AGE AT THE
4 TIME THE STATEMENT WAS MADE TO THE PROPOSED WITNESS IS ADMISSIBLE
5 IF BOTH OF THE FOLLOWING ARE TRUE:

6 (A) THE STATEMENT DESCRIBES AN ACT THAT IS 1 OR MORE OF THE
7 FOLLOWING:

8 (i) A VIOLATION OF SECTION 136B, 145C, 520B TO 520E, OR 520G
9 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.136B, 750.145C,
10 750.520B TO 750.520E, AND 750.520G.

1 (ii) CHILD ABUSE OR CHILD NEGLECT AS DEFINED IN SECTION 2 OF
2 THE CHILD PROTECTION LAW, 1975 PA 238, MCL 722.622.

3 (B) AT A HEARING BEFORE THE TRIAL, THE COURT FINDS BOTH OF
4 THE FOLLOWING:

5 (i) BASED ON THE TESTIMONY OF THE PROPOSED WITNESS, THE CIR-
6 CUMSTANCES LEADING TO THE DECLARANT'S STATEMENT PROVIDE SUFFI-
7 CIENT INDICATORS OF THE STATEMENT'S TRUSTWORTHINESS.

8 (ii) THE STATEMENT IS NOT OTHERWISE ADMISSIBLE.

9 (2) TESTIMONY IS ADMISSIBLE UNDER SUBSECTION (1) REGARDLESS
10 OF THE AVAILABILITY OF THE DECLARANT WHO MADE THE STATEMENT TO
11 THE PROPOSED WITNESS.

12 (3) A WITNESS'S TESTIMONY THAT IS ADMITTED UNDER SUBSECTION
13 (1) AS TO A DECLARANT'S STATEMENT IS SUBSTANTIVE EVIDENCE OF AN
14 ACT OR OMISSION THAT THE STATEMENT DESCRIBES.