

HOUSE BILL 2161

By Kelsey

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 17, relative to evidence in certain criminal cases.

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

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 17, Part 1, is amended by adding the following as a new section thereto:

40-17-125.

(a) The intent of this section is to supersede the common law.

(b) The recipient of a victim's first complaint of an alleged sexual assault may testify about the fact of the first complaint and the circumstances surrounding the making of that first complaint. Such witness may also testify about the details of the complaint. The victim may likewise testify to the details of the first complaint, as well as why the complaint was made at that particular time. Testimony from additional complaint witnesses shall not be admissible.

(c) First complaint testimony may be admitted for a limited purpose only, to assist the jury in determining whether to credit a victim's testimony about the alleged sexual assault. The jury must be instructed that the testimony may not be used to prove the truth of the allegations. The timing by the victim in making a complaint shall not disqualify the evidence, but is a factor the jury may consider in deciding whether the first complaint testimony supports the victim's credibility or reliability.

(d) The age of the victim shall not preclude evidence from being offered under this section.

(e) For purposes of this section, "sexual assault" means any of the sexual offenses specified in § 40-24-108(b)(2).

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it.