

CHAPTER.....

AN ACT relating to evidence; providing that the statement of a child regarding physical abuse is admissible in a criminal proceeding under certain circumstances; identifying certain factors to be considered by the court in determining the trustworthiness of certain statements made by a child; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 51.385 is hereby amended to read as follows:

51.385 1. In addition to any other provision for admissibility made by statute or rule of court, a statement made by a child under the age of 10 years describing any act of sexual conduct performed with or on the child *or any act of physical abuse of the child* is admissible in a criminal proceeding regarding that *act of* sexual conduct *or physical abuse* if ~~the:~~

~~—(a) Court:~~

(a) *The court* finds, in a hearing out of the presence of the jury, that the time, content and circumstances of the statement provide sufficient circumstantial guarantees of trustworthiness; and

(b) ~~{Child either}~~ *The child* testifies at the proceeding or is unavailable or unable to testify.

2. *In determining the trustworthiness of a statement, the court shall consider, without limitation, whether:*

(a) *The statement was spontaneous;*

(b) *The child was subjected to repetitive questioning;*

(c) *The child had a motive to fabricate;*

(d) *The child used terminology unexpected of a child of similar age;*
and

(e) *The child was in a stable mental state.*

3. If the child is unavailable or unable to testify, written notice must be given to the defendant at least 10 days before the trial of the prosecution's intention to offer the statement in evidence.