

SENATE BILL NO. 173—SENATORS BUCK AND KRASNER

FEBRUARY 16, 2023

JOINT SPONSOR: ASSEMBLYWOMAN MARZOLA

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to statements or confessions made in certain criminal actions. (BDR 4-645)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to evidence; revising provisions relating to statements or confessions made in certain criminal actions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Literally defined, the term “*corpus delicti*” means “the body of the offense,” or “the substance of the crime.” *Corpus delicti* refers to the doctrine that prohibits a prosecutor from proving that a crime has been committed based solely on the extrajudicial statements of a defendant. A prosecutor must first establish that a crime occurred, or the *corpus delicti*, with corroborating evidence to warrant a conviction. (*Black’s Law Dictionary* 346 (7th ed. 1999) (defining “*corpus delicti*”)) Existing law provides that the *corpus delicti* of a crime must be proven independently of the extrajudicial admissions of the defendant, and a slight or prima facie showing is sufficient to reasonably infer that a crime was committed. (*Doyle v. State*, 112 Nev. 879, 892 (1996) (quoting *People v. Alcalá*, 685 P.2d 1126 (Cal. 1984))

This bill establishes the circumstances in which a statement or confession made by a defendant is, by itself, sufficient to warrant the conviction of the defendant in any criminal action in which a victim is under the age of 9 years. This bill provides that, under such circumstances, a defendant’s confession is admissible if the prosecution proves by a preponderance of the evidence that the statement or confession is trustworthy. The court may consider certain factors when making a determination as to whether there is sufficient evidence to establish the trustworthiness of the defendant’s statement or confession. If the court determines that the confession is trustworthy, this bill requires the trier of fact to determine the



21 weight and credibility to give to the statement or confession and whether the
22 prosecution has established beyond a reasonable doubt that the defendant is guilty
23 of the offense.

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

1 **Section 1.** Chapter 47 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *In addition to any other provision of law or court rule*
4 *providing for its admissibility, a statement or confession made by a*
5 *defendant in any criminal action in which a victim is under the*
6 *age of 9 years is admissible if the prosecution proves by a*
7 *preponderance of the evidence that the statement or confession is*
8 *trustworthy. A trustworthy statement or confession made by the*
9 *defendant in such a criminal action is sufficient to sustain a*
10 *conviction.*

11 2. *In determining whether a statement or confession is*
12 *trustworthy, the court may consider, without limitation:*

13 (a) *Evidence that supports the facts contained in the statement*
14 *or confession;*

15 (b) *Evidence that may support the commission of a crime,*
16 *which is corroborated by the facts contained in the statement or*
17 *confession; and*

18 (c) *Whether the circumstances under which the statement or*
19 *confession was made support the assertion that the statement or*
20 *confession is trustworthy.*

21 3. *A hearing on the admissibility and trustworthiness of a*
22 *statement or confession made by a defendant must be conducted*
23 *outside the hearing of the jury, upon motion of the defendant. If*
24 *the court determines that the statement or confession is*
25 *trustworthy, the trier of fact shall determine:*

26 (a) *The weight and credibility of the statement or confession;*
27 *and*

28 (b) *Whether the prosecution has established beyond a*
29 *reasonable doubt that the defendant is guilty of the offense.*

30 **Sec. 2.** This act becomes effective on July 1, 2023.

