

AMENDED IN SENATE MAY 8, 1997
AMENDED IN SENATE APRIL 7, 1997

SENATE BILL

No. 941

Introduced by Senator Leslie

February 27, 1997

An act to add Article 2.5. (commencing with Section 1231) to Chapter 2 of Division 10 of the Evidence Code, relating to evidence.

LEGISLATIVE COUNSEL'S DIGEST

SB 941, as amended, Leslie. Evidence: gang-related crimes.

Existing law governs the admissibility of evidence in criminal proceedings. Existing law provides exceptions to the hearsay rule.

This bill would create an exception to the hearsay rule for evidence of a prior statement made by a witness if the witness is deceased and the statement is relevant to the criminal prosecution of a gang-related crime, as specified. *The bill would also set forth the intent of the Legislature in this regard.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 2.5 (commencing with Section
2 1231) is added to Chapter 2 of Division 10 of the Evidence
3 Code, to read:
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Article 2.5. Sworn Statements Regarding
Gang-Related Crimes

1231. ~~Evidence~~ *Unless the court finds a clear bias or other reason to believe the statement was intended to mislead, evidence of a prior statement made by a witness is not made inadmissible by the hearsay rule if the witness is deceased and the statement meets all of the following criteria:*

(a) The statement relates to acts or events relevant to a criminal prosecution under provisions of the California Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1 of the Penal Code).

(b) *To be admissible pursuant to this section, a verbatim transcript, copy, or record of the statement must exist.*

(c) The statement relates to acts or events within the personal knowledge of the declarant.

~~(e)~~

(d) The statement was made under oath or affirmation in an affidavit; or was made at a deposition, preliminary hearing, grand jury hearing, or other proceeding in compliance with law, and was made under penalty of perjury.

(e) The declarant died from other than natural causes.

SEC. 2. *It is the intent of the Legislature that this act shall not affect other evidentiary requirements, including, but not limited to, Sections 351 and 352 of the Evidence Code, shall not impair a party's right to attack the credibility of the declarant pursuant to Section 1202 of the Evidence Code, shall not affect the defendant's right to discovery for purposes of producing rebuttal evidence attacking the declarant's credibility, and shall not be used in a manner inconsistent with the defendant's right to due process and to confront witnesses under the United States or California Constitution.*

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