

ABSTRACT

The goal of this thesis is primarily to determine the causes of variation in prosecutors' use of statutory hearsay exceptions created for use in child sexual abuse cases. Using a mail survey and follow-up interviews of prosecutors in several groups of states (states without statutory hearsay exceptions and three groups of states with statutory hearsay exceptions), this study found that there are not large differences in how often prosecutors use the statutory hearsay exceptions. In fact, at least among responding prosecutors, the exceptions are routinely used and considered quite useful for the successful prosecution of their child sexual abuse cases. Surprisingly, the use of statutory hearsay exceptions is not related to the requirements for the admission of out-of-court statements or the innovativeness of prosecutors' offices.

Two other key findings relate to statutory hearsay exceptions. First, they are increasing the amount of hearsay used in these cases, but they seem unable to allow more trials to proceed when the child victim is unavailable. Regardless of whether a statutory exception exists, almost all child victims of sexual abuse testify at the trial of the accused. Second, frequency of use and perceived usefulness of statutory hearsay exceptions (and other exceptions) varies within states, suggesting that the wording of the law is not the primary constraint on how often the exceptions are used.

In addition to focusing specifically on statutory hearsay exceptions, this project set out to determine prosecutors' reasons for using and not using hearsay in general and to describe the hearsay commonly used in child sexual abuse trials—how often other hearsay exceptions are used, what indicia of reliability admitted statements tend to contain, and what types of adult hearsay witnesses are most common.