

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 699 Session of  
2007

INTRODUCED BY GREENLEAF, COSTA, RAFFERTY, EARLL, FOLMER,  
RHOADES, KITCHEN, REGOLA, WASHINGTON AND WAUGH,  
MARCH 26, 2007

REFERRED TO JUDICIARY, MARCH 26, 2007

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, further providing, in  
3 child victims and witnesses, for admissibility of certain  
4 statements.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 5985.1(a.1) of Title 42 of the  
8 Pennsylvania Consolidated Statutes is amended and the section is  
9 amended by adding a subsection to read:

10 § 5985.1. Admissibility of certain statements.

11 \* \* \*

12 (a.1) Emotional distress.--In order to make a finding under  
13 subsection (a)(2)(ii) that the child is unavailable as a witness  
14 due to serious emotional distress, the court must determine,  
15 based on evidence presented to it, that testimony by the child  
16 as a witness will result in the child suffering serious  
17 emotional distress that would substantially impair the child's  
18 ability to reasonably communicate. In making this determination,

1 the court may do all of the following:

2 (1) Observe and question the child, either inside or  
3 outside the courtroom.

4 (2) Hear testimony of a parent or custodian or any other  
5 person, such as a person who has dealt with the child in a  
6 medical or therapeutic setting.

7 \* \* \*

8 (c) Witness unavailability.--In addition to subsection  
9 (a.1), unavailability of a witness under subsection (a)(2)(ii)  
10 shall include the situations identified under Rule 804(a) of the  
11 Pennsylvania Rules of Evidence.

12 Section 2. This act shall take effect immediately.