

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1361 Session of
1984

INTRODUCED BY GREENLEAF, FISHER AND O'PAKE, APRIL 30, 1984

AS AMENDED ON SECOND CONSIDERATION, SEPTEMBER 25, 1984

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for the rights
3 of child victims and witnesses of criminal acts; providing
4 for the videotaping of testimony in certain cases;
5 authorizing certain services; providing for the testimony of
6 children; ~~providing for the admissibility of certain~~ <—
7 ~~statements;~~ and providing for the use of ~~certain~~ dolls as <—
8 testimonial aids.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Chapter ~~63~~ 59 of Title 42 of the Pennsylvania <—
12 Consolidated Statutes is amended by adding a subchapter to read:

13 CHAPTER ~~63~~ 59 <—

14 ~~JUVENILE MATTERS DEPOSITIONS AND WITNESSES~~ <—

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16 SUBCHAPTER ~~F~~ D <—

17 CHILD VICTIMS AND WITNESSES

18 Sec.

19 ~~6371~~ 5981. Legislative intent. <—

20 ~~6372~~ 5982. Rights and services. <—

1 ~~6373~~ 5983. Duty to expedite proceedings. <—
2 ~~6374~~ 5984. Videotaped depositions. <—
3 ~~6375~~ 5985. Testimony of child. <—
4 ~~6376. Admissibility of certain statements.~~ <—
5 ~~6377~~ 5986. Use of ~~anatomically correct~~ dolls. <—
6 ~~6378~~ 5987. Victims of sexual or physical abuse. <—
7 § ~~6371~~ 5981. Legislative intent. <—

8 In order to promote the best interests of the children of
9 this Commonwealth, and in recognition of the necessity of
10 affording to children who are witnesses to or victims of crime
11 additional consideration and different treatment than that
12 usually required by adults, the General Assembly declares its
13 intent, in this subchapter, to provide these children with
14 additional rights and protections during their involvement with
15 the criminal justice system. The General Assembly urges the news
16 media to use restraint in revealing the identity of children who
17 are victims of or witnesses to crimes, especially in sensitive
18 cases.

19 § ~~6372~~ 5982. Rights and services. <—

20 (a) Designation of persons to act on behalf of children.--
21 Courts of common pleas are directed to designate one or more
22 persons to provide the following services on behalf of children
23 who are involved in criminal proceedings as victims or
24 witnesses:

25 (1) To explain, in language understood by the child, all
26 legal proceedings in which the child will be involved.

27 (2) To act, as a friend of the court, to advise the
28 judge, whenever appropriate, of the child's ability to
29 understand and cooperate with any court proceedings.

30 (3) To assist the child and the child's family in coping

1 with the emotional impact of the crime and subsequent
2 criminal proceedings in which the child is involved.

3 (4) To advise the district attorney concerning the
4 ability of a child witness to cooperate with the prosecution
5 and the potential effects of the proceedings on the child.

6 (b) Qualifications.--Persons designated under subsection (a)
7 may be attorneys at law or other persons who, by virtue of
8 service as rape crisis or domestic violence counselors or by
9 virtue of membership in a community service organization or of
10 other experience acceptable to the court, possess education,
11 experience or training in child or sexual abuse and a basic
12 understanding of the criminal justice system.

13 § ~~6373~~ 5983. Duty to expedite proceedings. <—

14 In all criminal cases and juvenile proceedings involving a
15 child victim or witness, the court and the district attorney
16 shall take appropriate action to ensure a speedy trial in order
17 to minimize the length of time the child must endure the stress
18 of involvement in the proceedings. In ruling on any motion or
19 other request for a delay or continuance of proceedings, the
20 court shall consider and give weight to any adverse impact the
21 delay or continuance may have on the well-being of a child
22 victim or witness.

23 § ~~6374~~ 5984. Videotaped depositions. <—

24 In any prosecution involving a child victim or witness, the
25 court, on its own motion or the motion of the child victim or
26 witness, the child's attorney or the attorney for the
27 Commonwealth, for good cause shown, may order the taking of a
28 videotaped deposition of the victim or witness which shall be
29 used at any preliminary hearing, pretrial proceeding and at the
30 trial in lieu of the testimony of the child. The depositions

1 shall be taken before the court in chambers or in the judge's
2 chambers or in a special facility designed for taking the
3 depositions of children in the presence of the district
4 attorney, the defendant and the defendant's attorney. At the
5 request of the child, the child's parent or guardian or the
6 district attorney, the court shall exclude all persons not
7 officers of the court, appointed child advocates, family members
8 of the child or the defendant or others deemed by the court to
9 be supportive of them, or otherwise required to attend. The
10 court shall permit the defendant to observe and hear the
11 testimony of the child in person but shall ensure that the child
12 cannot hear or see the defendant. Examination and cross-
13 examination of the child shall proceed in the same manner as
14 permitted at trial.

15 § ~~6375~~ 5985. Testimony of child. <—

16 (a) Methods of taking testimony.--In any prosecution
17 involving a child victim or witness, where a videotaped
18 deposition has not been taken under section ~~6374~~ 5984 (relating <—
19 to videotaped depositions), the child victim or child witness
20 shall testify in open court or the child's testimony shall be
21 taken as provided in subsection (b).

22 (b) Closed circuit television.--The court may, on the motion
23 of the attorney for the child victim or witness, order that the
24 testimony of the child be taken in a room other than the
25 courtroom and be televised by closed circuit equipment in the
26 courtroom to be viewed by the court and the finder of fact in
27 the proceeding. Only the attorneys for the defendant and for the
28 Commonwealth, persons necessary to operate the equipment, and
29 any person whose presence would contribute to the welfare and
30 well-being of the child, including persons designated under

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1 section ~~6372~~ 5982 (relating to rights and services), may be
2 present in the room with the child during his testimony. Only
3 the attorneys may question the child. The persons operating the
4 equipment shall be confined to an adjacent room or behind a
5 screen or mirror that permits them to see and hear the child
6 during the testimony, but does not permit the child to see or
7 hear them. The court shall permit the defendant to observe and
8 hear the testimony of the child in person but shall ensure that
9 the child cannot hear or see the defendant.

10 (c) Effect of order.--If the court orders the testimony of a
11 child to be taken under subsection (b), the child may not be
12 required to testify in court at the proceeding for which the
13 testimony was taken.

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14 ~~§ 6376. Admissibility of certain statements.~~

15 ~~(a) General rule. An out of court statement made by a child~~
16 ~~victim or witness describing indecent contact, sexual~~
17 ~~intercourse or deviate sexual intercourse performed with or on~~
18 ~~the child by another, not otherwise admissible by statute or~~
19 ~~rule of evidence, is admissible in evidence in any criminal~~
20 ~~proceeding if:~~

21 ~~(1) The court finds, in an in camera hearing, that the~~
22 ~~evidence is necessary, and that the time, content and~~
23 ~~circumstances of the statement provide sufficient indicia of~~
24 ~~reliability.~~

25 ~~(2) The child either:~~

26 ~~(i) testifies at the proceeding; or~~

27 ~~(ii) is unavailable as a witness if there is~~
28 ~~corroborative evidence of the act.~~

29 ~~(b) Notice required. A statement otherwise admissible under~~
30 ~~subsection (a) shall not be received into evidence unless the~~

1 ~~proponent of the statement notifies the adverse party of the~~
2 ~~proponent's intention to offer the statement and the particulars~~
3 ~~of the statement, sufficiently in advance of the proceeding at~~
4 ~~which the proponent intends to offer the statement into~~
5 ~~evidence, to provide the adverse party with a fair opportunity~~
6 ~~to prepare to meet the statement.~~

7 § ~~6377~~ 5986. Use of anatomically correct dolls. <—

8 In any criminal proceeding charging unlawful sexual contact
9 or penetration with or on a child, the court shall permit the
10 use of ~~anatomically correct~~ dolls or mannequins to assist an <—
11 alleged victim in testifying on direct and cross-examination.

12 § ~~6378~~ 5987. Victims of sexual or physical abuse. <—

13 In a prosecution involving a child victim of sexual or
14 physical abuse, the news media may not reveal the name of the
15 child victim.

16 Section 2. This act shall take effect in 60 days.