

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1361 Session of
1984

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

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, NOVEMBER 20, 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; and providing for the use of dolls as testimonial
7 aids.

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

10 Section 1. Chapter 59 of Title 42 of the Pennsylvania
11 Consolidated Statutes is amended by adding a subchapter to read:

12 CHAPTER 59

13 DEPOSITIONS AND WITNESSES

14 * * *

15 SUBCHAPTER D

16 CHILD VICTIMS AND WITNESSES

17 Sec.

18 5981. Legislative intent.

19 5982. Rights and services.

1 5983. Duty to expedite proceedings.

2 5984. Videotaped depositions.

3 5985. Testimony of child.

4 5986. Use of ANATOMICALLY CORRECT dolls. <—

5 5987. Victims of sexual or physical abuse.

6 § 5981. Legislative intent.

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

18 § 5982. Rights and services.

19 (a) Designation of persons to act on behalf of children.--
20 Courts of common pleas are directed to designate one or more
21 persons to ACT IN THE BEST INTEREST OF THE CHILD AND provide the <—
22 following services on behalf of children who are involved in
23 criminal proceedings OR JUVENILE 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 § 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 § 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, THE COURT may order the~~ <—
28 ~~taking of a videotaped deposition of the victim or witness which~~ <—
29 ~~ON ITS OWN MOTION. IN ADDITION, THE CHILD VICTIM OR WITNESS, THE~~ <—
30 ~~CHILD'S ATTORNEY OR THE ATTORNEY FOR THE COMMONWEALTH MAY MOVE,~~

1 FOR GOOD CAUSE SHOWN, FOR THE TAKING OF A VIDEOTAPED DEPOSITION
2 OF THE VICTIM OR WITNESS. SUCH VIDEOTAPE DEPOSITIONS shall be
3 used at any preliminary hearing, pretrial proceeding and at the
4 trial in lieu of the testimony of the child. The depositions
5 shall be taken before the court in chambers or in the judge's
6 chambers or in a special facility designed for taking the
7 depositions of children. ~~in the presence of the district~~ <—
8 ~~attorney, the defendant and the defendant's attorney. At the~~
9 ~~request of the child, the child's parent or guardian or the~~
10 ~~district attorney, the court shall exclude all persons not~~
11 ~~officers of the court, appointed child advocates, family members~~
12 ~~of the child or the defendant or others deemed by the court to~~
13 ~~be supportive of them, or otherwise required to attend. ONLY THE~~ <—
14 ATTORNEYS FOR THE DEFENDANT AND FOR THE COMMONWEALTH, PERSONS
15 NECESSARY TO OPERATE THE EQUIPMENT, AND ANY PERSON WHOSE
16 PRESENCE WOULD CONTRIBUTE TO THE WELFARE AND WELL-BEING OF THE
17 CHILD, INCLUDING PERSONS DESIGNATED UNDER SECTION 5982 (RELATING
18 TO RIGHTS AND SERVICES), MAY BE PRESENT IN THE ROOM WITH THE
19 CHILD DURING HIS DEPOSITION. THE PERSONS OPERATING THE EQUIPMENT
20 SHALL BE CONFINED TO AN ADJACENT ROOM OR BEHIND A SCREEN OR
21 MIRROR THAT PERMITS THEM TO SEE AND HEAR THE CHILD DURING THE
22 TESTIMONY BUT DOES NOT PERMIT THE CHILD TO SEE OR HEAR THEM. The
23 court shall permit the defendant to observe and hear the
24 testimony of the child in person but shall ensure that the child
25 cannot hear or see the defendant. Examination and cross-
26 examination of the child shall proceed in the same manner as
27 permitted at trial.

28 § 5985. Testimony of child.

29 (a) Methods of taking testimony.--In any prosecution
30 involving a child victim or witness, where a videotaped

1 deposition has not been taken under section 5984 (relating to
2 videotaped depositions), the child victim or child witness shall
3 testify in open court or the child's testimony shall be taken as
4 provided in subsection (b).

5 (b) Closed circuit television.--The court may, ~~on the motion~~ <—
6 ~~of the attorney for the child victim or witness, order that the~~
7 ~~testimony of the child be taken in a room other than the~~
8 ~~courtroom and be televised by closed circuit equipment in the~~
9 ~~courtroom~~ ORDER THE CHILD'S TESTIMONY BE TAKEN IN A ROOM OTHER <—
10 THAN A COURTROOM AND TELEVISED BY CLOSED CIRCUIT EQUIPMENT to be
11 viewed by the court and the finder of fact in the proceeding. IN <—
12 ADDITION, THE CHILD VICTIM OR WITNESS, THE CHILD'S ATTORNEY OR
13 THE ATTORNEY FOR THE COMMONWEALTH MAY MOVE, FOR GOOD CAUSE
14 SHOWN, THAT THE TESTIMONY OF A CHILD BE TAKEN IN A ROOM OTHER
15 THAN THE COURTROOM AND TELEVISED BY CLOSED CIRCUIT EQUIPMENT TO
16 BE VIEWED BY THE COURT AND THE FINDER OF FACT IN THE PROCEEDING.
17 Only the attorneys for the defendant and for the Commonwealth,
18 persons necessary to operate the equipment, and any person whose
19 presence would contribute to the welfare and well-being of the
20 child, including persons designated under section 5982 (relating
21 to rights and services), may be present in the room with the
22 child during his testimony. Only the attorneys may question the
23 child. The persons operating the equipment shall be confined to
24 an adjacent room or behind a screen or mirror that permits them
25 to see and hear the child during the testimony, but does not
26 permit the child to see or hear them. The court shall permit the
27 defendant to observe and hear the testimony of the child in
28 person but shall ensure that the child cannot hear or see the
29 defendant.

30 (c) Effect of order.--If the court orders the testimony of a

1 child to be taken under subsection (b), the child may not be
2 required to testify in court at the proceeding for which the
3 testimony was taken.

4 § 5986. Use of ANATOMICALLY CORRECT dolls. <—

5 In any criminal proceeding charging unlawful sexual contact
6 or penetration with or on a child, the court shall permit the
7 use of ANATOMICALLY CORRECT dolls or mannequins to assist an <—
8 alleged victim in testifying on direct and cross-examination.

9 § 5987. Victims of sexual or physical abuse.

10 In a prosecution involving a child victim of sexual or
11 physical abuse, the news media may not reveal the name of the
12 child victim.

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