

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1299 Session of
2000

INTRODUCED BY GREENLEAF, O'PAKE, HART, BOSCOLA AND MOWERY,
FEBRUARY 22, 2000

REFERRED TO JUDICIARY, FEBRUARY 22, 2000

AN ACT

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

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

6 Section 1. Section 5985.1(a) and (a.2) of Title 42 of the
7 Pennsylvania Consolidated Statutes are amended to read:

8 § 5985.1. Admissibility of certain statements.

9 (a) General rule.--An out-of-court statement made by a child
10 victim or witness, who at the time the statement was made was 12
11 years of age or younger, describing physical abuse, indecent
12 contact or any of the offenses enumerated in 18 Pa.C.S. Ch. 31
13 (relating to sexual offenses) performed with or on the child by
14 another, not otherwise admissible by statute or rule of
15 evidence, is admissible in evidence in any criminal or civil
16 proceeding if:

17 (1) the court finds, in an in camera hearing, that the
18 evidence is relevant and that the time, content and

1 circumstances of the statement provide sufficient indicia of
2 reliability; and

3 (2) the child either:

4 (i) testifies at the proceeding; or

5 (ii) is unavailable as a witness.

6 * * *

7 (a.2) Counsel and confrontation.--If the court hears
8 testimony in connection with making a finding under subsection
9 (a)(2)(ii), all of the following apply:

10 (1) Except as provided in paragraph (2), the defendant,
11 the attorney for the defendant and the attorney for the
12 Commonwealth or, in the case of a civil proceeding, the
13 attorney for the plaintiff [have] has the right to be
14 present.

15 (2) If the court observes or questions the child, the
16 court shall not permit the defendant to be present.

17 * * *

18 Section 2. This act shall take effect immediately.