

SENATE BILL 1974

By McNally

AN ACT to amend Tennessee Code Annotated, Title 19;
Title 20; Title 21; Title 24; Title 36; Title 37 and
Title 40, relative to child-friendly courtrooms.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 24, Chapter 2, Part 1, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Child" has the same meaning as defined in § 37-1-102; and

(2) "Support persons" means any person whose presence would contribute to the welfare and well-being of a child.

(b) This section applies to the testimony of a child in any hearing or proceeding in the prosecution of any offense.

(c) A court shall:

(1) Administer an oath to a child in a manner that allows the child to fully understand the child's duty to tell the truth;

(2) Ensure that questions asked of the child are stated in language appropriate to the child's age;

(3) Explain to the child that the child has the right to have the court notified if the child is unable to understand any question and to have a question restated in a form that the child understands;

(4) Ensure that a child testifies only at a time of day when the child is best able to understand the questions and to undergo the proceedings without being traumatized, including:

(A) Limiting the duration of the child's testimony;

(B) Limiting the timing of the child's testimony to the child's normal school hours; or

(C) Ordering a recess during the child's testimony when necessary for the energy, comfort, or attention span of the child; and

(5) Prevent intimidation or harassment of the child by any party and for that purpose, rephrase as appropriate any question asked of the child.

(d) On the motion of any party, or a parent, guardian, or guardian ad litem of a child, the court shall allow the child to have a toy, blanket, or similar comforting item in the child's possession while testifying or allow a support person to be present in close proximity to the child during the child's testimony if the court finds by a preponderance of the evidence that:

(1) The child cannot reliably testify without possession of the item or presence of the support person, as applicable; and

(2) Granting the motion is not likely to prejudice the trier of fact in evaluating the child's testimony.

(e) A support person who is present during a child's testimony may not:

(1) Obscure the child from the view of the defendant or the trier of fact;

(2) Provide the child with an answer to any question asked of the child; or

(3) Assist or influence the testimony of the child.

(f) The court may set any other conditions and limitations on the taking of the testimony of a child that the court finds just and appropriate, considering the interests of the child, the rights of the defendant, and any other relevant factors.

SECTION 2. This act shall take effect July 1, 2016, the public welfare requiring it.