

CHAPTER 59
FORMERLY
SENATE BILL NO. 51
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO WITNESSES AND EVIDENCE.

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

Section 1. Amend § 3514, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3514. Testimony of victim or witness in child abuse ~~case, and victim of domestic violence, sexual assault or stalking cases~~ by means of ~~closed circuit television~~ secured video connection.

(a)(1) In any prosecution involving any offense set forth in § 3513(a) of this title, domestic violence as defined in § 1041 of Title 10, and §§ 768 thru 778 and § 1312 of Title 11 a court may order that the testimony of a ~~child victim or witness less than 11 years of age~~ witness less than 11 years of age or any victim of the offenses described herein be taken outside the courtroom and shown in the courtroom by means of ~~closed circuit television~~ secured video connection if:

a. The testimony is taken during the proceeding; and

b. The judge determines that testimony by the ~~child victim or witness~~ witness less than 11 years of age or any victim of the offenses described herein in the courtroom will result in the ~~child victim or witness~~ witness less than 11 years of age or any victim of the offenses described herein suffering serious emotional distress such that the ~~child victim or witness~~ witness less than 11 years of age or any victim of the offenses described herein cannot reasonably communicate.

(2) Only the prosecuting attorney, the attorney for the defendant, and the judge may question the child victim or witness.

(3) The operators of the ~~closed circuit television~~ secured video connection shall make every effort to be unobtrusive.

(b)(1) Only the following persons may be in the room ~~with the child victim or witness~~ when the ~~child witness less than 11 years of age or any victim of the offenses described herein~~ testifies by closed circuit television:

a. The prosecuting attorney;

b. The attorney for the defendant;

c. The operators of the closed circuit television equipment; and

d. Any person whose presence, in the opinion of the court, contributes to the well-being of the ~~child victim or witness~~ witness less than 11 years of age or any victim of the offenses described herein, including a person who has dealt with the ~~child victim or witness~~ witness less than 11 years of age or any victim of the offenses described herein in a therapeutic setting concerning the abuse.

(2) During the ~~child's victim's or witness's~~ witness or victim's testimony by ~~closed circuit television~~ secured video connection, the judge and the defendant shall be in the courtroom.

(3) The judge and the defendant shall be allowed to communicate with the persons in the room where the ~~child victim or witness~~ witness less than 11 years of age or any victim of the offenses described herein is testifying by any appropriate electronic method.

(c) The provisions of this section do not apply if the defendant is an attorney pro se.

(d) This section may not be interpreted to preclude, for purposes of identification of a defendant, the presence of both the victim and the defendant in the courtroom at the same time.

(e) The proponent of the witness's or victim's testimony must inform the adverse party of the proponent's intention to offer the testimony and the content of the testimony sufficiently in advance of the proceeding to provide the adverse party with fair opportunity to prepare a response to the testimony before the proceeding at which it is offered.

Approved June 30, 2015