

HOUSE RESEARCH

Bill Summary

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Overview

This bill adopts the Uniform Child Witness Testimony by Alternative Methods Act which provides for children to testify by alternative methods in criminal and noncriminal proceedings when doing so would prevent serious emotional trauma to the child, or is necessary to serve the best interests of the child.

Section

- 1** **Certain out-of-court statements admissible.** Amends the standard for admissibility of an out-of-court statement made by a child under age ten alleging, explaining, denying, or describing a sexual act or act of physical abuse on the child. Provides for the child to testify by an alternative method under section 3 when other current evidentiary standards are met.
- 2** **Court Order.** Deletes current statutory provisions that describe procedures to follow when testimony of a child is taken outside of a courtroom or outside of the presence of the defendant. Authorizes the court to order that the testimony of a child be taken by an alternative method under section 3.

This section applies to a child under age 12 who is alleging, denying, or describing an act of physical abuse, a sexual act, or a crime of violence.

3 **Child Witness Testimony By Alternative Methods**

Subd. 1. Citation. Provides that this section may be cited as the Uniform Child Witness Testimony by Alternative Methods Act.

Subd. 2. Definitions. Defines “alternative method” as a method in which a child witness testifies that does not include all of the following: (1) having in-person testimony in an open forum; (2) having testimony in the presence and full view of the finder of fact and presiding officer; and (3) allowing all parties to be present, to participate, and to view and be viewed by the child. Also defines child witness,

criminal proceeding, and noncriminal proceeding.

Subd. 3. Applicability. Provides that the requirements of this section apply to the testimony of a child witness in a criminal or noncriminal proceeding.

Subd. 4. Hearing whether to allow testimony by alternative method.

Authorizes the presiding officer in a proceeding to order a hearing to determine whether to allow a child witness to testify by an alternative method. Provides that the presiding officer shall order the hearing upon motion of a party, the child witness, or another person with sufficient standing to act on behalf of the child. Requires notice to all parties. Does not require the child's presence at the hearing.

Subd. 5. Standards for determining whether child witness may testify by alternative method. Provides that in a criminal proceeding, a child witness may testify by an alternative method when there is clear and convincing evidence that the child would suffer serious emotional trauma that would substantially impair the child's ability to communicate with the fact finder if the child were required to testify in the following situations: (1) an open forum in the presence and full view of the finder of fact; and (2) face-to-face with the defendant.

Provides that in a noncriminal proceeding, a child witness may testify by an alternative method if a preponderance of the evidence shows that an alternative method is necessary to serve the best interests of the child or enable the child to communicate with the finder of fact. Lists factors that the presiding officer should consider when making such finding.

Subd. 6. Factors for determining whether to permit alternative method.

Prescribes factors for the presiding officer to consider in order to determine whether to allow a child witness to testify by an alternative method, after a standard under subdivision 5 has been met.

Subd. 7. Order regarding testimony by alternative method. Requires an order allowing or disallowing a child witness to testify by an alternative method to state the findings of fact and conclusions of law that supported the determination. The order must state: (1) the method by which the child is to testify, (2) the individuals allowed or excluded from the presence of the child during the testimony, (3) any special conditions necessary to allow each party to examine or cross-examine the child, (4) any conditions or limitations on the participation of individuals present during the testimony, and (5) any other necessary conditions.

Subd. 8. Right of party to examine child witness. Provides that each party must be allowed a full and fair opportunity for examination or cross-examination of the child witness.