

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1076

Short Title: Child Victim Testimony/Pilot Program.

(Public)

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Sponsors: Representatives Gardner; Gottovi and Holt.

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Referred to: Judiciary II.

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April 23, 1991

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH A PILOT PROGRAM TO AUTHORIZE ELECTRONIC  
2 TRANSMISSION OR RECORDING OF THE TESTIMONY OF CHILDREN IN  
3 CASES OF PHYSICAL OR SEXUAL ABUSE OF CHILDREN.  
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5 The General Assembly of North Carolina enacts:

6 Section 1. In order to determine whether a system of allowing electronic  
7 transmission or recording of the testimony of children in cases of physical or sexual  
8 abuse of child victims would be practical and beneficial to the judicial system, the  
9 Supreme Court of North Carolina shall, under rules it finds appropriate, implement  
10 Section 2 of this act as an experimental, pilot program in at least three and no more than  
11 10 judicial districts selected by the Court. The Court shall evaluate the pilot program  
12 for a reasonable period of time and shall report the results of the evaluation to the  
13 General Assembly by February 1, 1993.

14 The Court may seek funds as are needed to establish and conduct the pilot  
15 program from any willing private sources the Court may deem appropriate, but no State  
16 funds shall be used to implement the pilot program. The Court may solicit the  
17 suggestions and cooperation of attorneys, judges, and laypersons interested in the  
18 administration of justice in establishing, conducting, and funding the pilot program.

19 Sec. 2. Article 73 of Chapter 15A of the General Statutes is amended to add a  
20 new section to read:

21 **"§ 15A-1244. Electronic transmission or recording of testimony of children in**  
22 **cases of physical or sexual abuse of children.**

23 (a) Coverage of Section. This section applies to prosecutions in which the victim  
24 is a child under the age of 13 years and the defendant is charged with child abuse under

1 G.S. 14-318.2 or G.S. 14-318.4, an offense under Article 7A of Chapter 14, crime  
2 against nature under G.S. 14-177, or incest under G.S. 14-178 or G.S. 14-179. This  
3 section also applies to any offense being jointly tried with one of these offenses.

4 (b) Electronic Transmission of Testimony. In a criminal prosecution covered by  
5 this section, the judge may, on the motion of either the State or the defendant, order that  
6 the testimony of the child or of any witness under the age of 13 years be taken in a room  
7 other than the courtroom and be televised by closed circuit equipment in the courtroom  
8 to be viewed by the court and the finder of fact in the proceeding. Only the attorneys  
9 for the State and the defendant, persons necessary to operate the equipment, and any  
10 person whose presence would contribute to the welfare and well-being of the child may  
11 be in the child's presence during the testimony. The judge must be able to communicate  
12 from the courtroom to those in the room with the child. Only the attorneys and the  
13 judge may question the child. The persons operating the equipment must be confined to  
14 an adjacent room or behind a screen or mirror that permits them to see and hear the  
15 child during the testimony, but does not permit the child to see or hear them. The judge  
16 must permit the defendant to observe and hear the testimony of the child in person and  
17 to communicate with his attorney at appropriate intervals concerning the testimony, but  
18 must ensure that the child cannot see or hear the defendant.

19 (c) Videotape Recording of Testimony. In a criminal prosecution covered by this  
20 section, the judge may, on the motion of either the State or the defendant, order that the  
21 testimony of the child or of any witness under the age of 13 years be taken outside the  
22 courtroom and be recorded for showing in the courtroom before the court and the finder  
23 of fact in the proceeding. Only the judge and those persons permitted to be present at  
24 the taking of testimony under subsection (b) of this section may be in the child's  
25 presence during the taking of the child's testimony, and the persons operating the  
26 equipment must be confined from the child's sight and hearing as provided in subsection  
27 (b). The judge must ensure that:

- 28 (1) The recording is both visual and aural and is recorded on film or  
29 videotape or by other electronic means;
- 30 (2) The recording equipment is capable of making an accurate recording,  
31 the operator is competent, and the recording is accurate;
- 32 (3) Each voice on the recording is identifiable; and
- 33 (4) Each party is afforded an opportunity to view the recording before it is  
34 shown in the courtroom.

35 (d) Testimony of the Child Not Required in Courtroom. If the judge orders the  
36 testimony of a child to be taken under subsection (b) or (c) of this section, the child may  
37 not be required to testify in court at the proceeding for which the testimony was taken."

38 Sec. 3. This act is effective upon ratification. Section 2 of this act applies  
39 only in those judicial districts in which a pilot program has been established pursuant to  
40 Section 1 of this act and is effective only during the period of time that the pilot  
41 program is in effect.