

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 772

Short Title: T.V. Testimony.

(Public)

Sponsors: Senators Plexico; Basnight, Lee, and Walker.

Referred to: Judiciary II.

April 24, 1991

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE THAT A CHILD VICTIM MAY TESTIFY IN COURT IN  
3 CERTAIN CASES BY MEANS OF CLOSED CIRCUIT TELEVISION.

4 The General Assembly of North Carolina enacts:

5 Section 1. Article 7 of Chapter 8 of the General Statutes is amended by  
6 adding the following new sections to read:

7 "**§ 8-58.2. Testimony of child victim in certain delinquency and criminal cases by**  
8 **means of closed circuit television.**

9 (a) In a delinquency proceeding under Subchapter XI of Chapter 7A or a criminal  
10 proceeding for any of the offenses listed in subsection (e), a court may order that the  
11 testimony of a child victim be taken outside the courtroom and shown in the courtroom  
12 by means of closed circuit television if: (i) the testimony is taken during the  
13 proceeding; and (ii) the judge determines that testimony by the child victim in the  
14 courtroom in the presence of the defendant will result in the child suffering serious  
15 emotional distress such that the child cannot reasonably communicate. Only the  
16 prosecuting attorney, attorney for the defendant, and judge may question the child.

17 (b) Only the following persons may be in the room with the child when the child  
18 testifies by closed circuit television:

19 (1) The prosecuting attorney.

20 (2) The attorney for the defendant.

21 (3) The operators of the closed circuit television equipment.

22 (4) Any person whose presence, in the discretion of the court, contributes  
23 to the reliability of the child's testimony, including the child's parent or

1 guardian, guardian **ad litem**, and a person who has dealt with the child  
2 in a therapeutic setting concerning the abuse.

3 (c) During the child's testimony by closed circuit television, the judge and the  
4 defendant shall be in the courtroom. The judge and the defendant shall be allowed to  
5 communicate with the persons in the room where the child is testifying by any  
6 appropriate electronic method.

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

10 (e) This section does not apply if the defendant is representing himself without  
11 the benefit of counsel. This section applies to a trial for the violation of any of the  
12 following laws:

- 13 (1) G.S. 14-318.4 (Felony child abuse).
- 14 (2) G.S. 14-27.2 (First-degree rape).
- 15 (3) G.S. 14-27.3 (Second-degree rape).
- 16 (4) G.S. 14-27.4 (First-degree sexual offense).
- 17 (5) G.S. 14-27.5 (Second-degree sexual offense).
- 18 (6) G.S. 14-27.7 (Sexual act by a custodian).
- 19 (7) G.S. 14-177 (Crime against nature).
- 20 (8) G.S. 14-178 (Incest between certain near relatives).
- 21 (9) G.S. 14-179 (Incest between uncle and niece and nephew and aunt).
- 22 (10) G.S. 14-190.5 (Preparation of obscene photographs, slides, and motion  
23 pictures).
- 24 (11) G.S. 14-190.6 (Employing or permitting minor to assist in a violation  
25 of the obscenity laws).
- 26 (12) G.S. 14-190.7 (Dissemination of obscene material to minors under age  
27 16).
- 28 (13) G.S. 14-190.8 (Dissemination of obscene material to minors under age  
29 13).
- 30 (14) G.S. 14-190.14 (Displaying or disseminating material harmful to  
31 minor).
- 32 (15) G.S. 14-190.15 (Disseminating harmful material to  
33 minors; exhibiting harmful performances to minors).
- 34 (16) G.S. 14-190.16 (First-degree sexual exploitation).
- 35 (17) G.S. 14-190.17 (Second-degree sexual exploitation).
- 36 (18) G.S. 14-190.18 (Promoting the prostitution of a minor).
- 37 (19) G.S. 14-202.1 (Taking indecent liberties with a minor).

38 (f) For purposes of this section a child is an individual who is less than 18 years  
39 old.

40 **"§ 8-58.3. Testimony of child victim in certain juvenile cases by means of closed**  
41 **circuit television.**

42 (a) In a proceeding under Subchapter XI of Chapter 7A of the General Statutes in  
43 which a juvenile is alleged to be abused or neglected, a court may order that the  
44 testimony of a child victim be taken outside the courtroom and shown in the courtroom

1 by means of closed circuit television if: (i) the testimony is taken during the  
2 proceeding; and (ii) the judge determines that testimony by the child victim in the  
3 courtroom in the presence of the defendant will result in the child suffering serious  
4 emotional distress such that the child cannot reasonably communicate. Only the  
5 petitioner's attorney, respondent's attorney, child's guardian **ad litem**, or attorney  
6 appointed under G.S. 7A-586 or G.S. 7A-289.29, and the judge may question the child.

7 (b) Only the following persons may be in the room with the child when the child  
8 testifies by closed circuit television:

9 (1) The petitioner's attorney.

10 (2) The respondent's attorney.

11 (3) The child's attorney appointed under G.S. 7A-586 or G.S. 7A-289.29 if  
12 the child's guardian **ad litem** is not an attorney.

13 (4) The operators of the closed circuit television equipment.

14 (5) Any person whose presence, in the discretion of the court, contributes  
15 to the reliability of the child's testimony, including the child's parent or  
16 guardian, guardian **ad litem**, and a person who has dealt with the child  
17 in a therapeutic setting concerning the abuse.

18 (c) During the child's testimony by closed circuit television, the judge and the  
19 defendant shall be in the courtroom. The judge and the defendant shall be allowed to  
20 communicate with the persons in the room where the child is testifying by any  
21 appropriate electronic method.

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

25 (e) This section does not apply if the defendant is not represented by counsel.

26 (f) For purposes of this section, a child is an individual who is less than 18 years  
27 old."

28 Sec. 2. This act becomes effective October 1, 1991, and applies to offenses  
29 occurring on or after that date.