



LAWS OF ALASKA

1982

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Chapter No.

67

AN ACT

Permitting the videotaping of, or the exclusion of the public during, testimony of young victims of sexual offenses; and changing Rule 804, Rules of Evidence, relating to exceptions to the hearsay rule.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1, LINE 11

Approved by the Governor: May 28, 1982
Actual Effective Date: August 26, 1982

AN ACT

Permitting the videotaping of, or the exclusion of the public during, testimony of young victims of sexual offenses; and changing Rule 804, Rules of Evidence, relating to exceptions to the hearsay rule.

* Section 1. POLICY, PURPOSE, AND FINDINGS. (a) It is the duty and policy of the state to protect the health and safety of children.

(b) The purposes of this Act are to

(1) encourage the reporting, investigation, and prosecution of sexual offenses against children;

(2) promote protection of the physical and emotional welfare of young children; and

(3) reduce the incidence of sexual offenses against children.

(c) The legislature finds that

(1) the testimony of the victim of an alleged sexual offense is usually required in order to successfully prosecute the offender;

(2) there is a substantial likelihood that a young victim will suffer severe emotional distress, humiliation, and psychological damage if required to testify in open court at trial;

(3) fear of the adverse effects on the young victim of testifying in open court at trial discourages the reporting, investigation, and prosecution of sexual offenses against children; and

(4) the adverse effects on the young victim of testifying in open court at trial can be substantially decreased, although not eliminated, by

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1 the videotaping of the testimony of the young victim or the exclusion of the
2 public from the courtroom while the young victim testifies.

3 * Sec. 2. AS 12.45 is amended by adding new sections to read:

4 Sec. 12.45.047. VIDEOTAPING OF TESTIMONY BY YOUNG VICTIMS OF
5 SEXUAL OFFENSES. (a) Upon application by the prosecuting attorney and
6 notice to the defendant, the court shall permit the state to videotape
7 the testimony of a child who is the alleged victim of a violation of
8 AS 11.41.410 - 11.41.455 and who is 16 years of age or younger at the
9 time the court issues the order permitting the videotaping.

10 (b) The trial judge shall preside at the videotaping proceeding
11 and shall rule on all questions as if at trial. The defendant shall be
12 afforded all rights applicable to defendants during trial, including the
13 right to an attorney and the right to confront and cross-examine the
14 witness. The trial judge shall determine those persons other than the
15 prosecuting attorney, the defendant, and the defendant's attorney who may
16 attend the videotaping proceeding.

17 (c) Videotaped evidence taken in accordance with this section is
18 admissible in evidence in the criminal trial of a defendant charged with
19 a violation of AS 11.41.410 - 11.41.455.

20 Sec. 12.45.048. EXCLUSION OF PUBLIC FROM TRIAL DURING TESTIMONY BY
21 YOUNG VICTIM OF SEXUAL OFFENSE. (a) After notice to the defendant, the
22 state may apply to the court for an order excluding the public from the
23 courtroom during the testimony of a child who is the alleged victim of a
24 violation of AS 11.41.410 - 11.41.455. The order shall be granted if
25 the court finds that the child is 16 years of age or younger at the time
26 of the trial.

27 (b) If the public is excluded from the trial under (a) of this
28 section, the testimony given during the time the public is excluded
29 shall be available to the public upon request within a reasonable time

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sufficient to allow preparation of a tape recording or transcript of the testimony.

(c) In this section "public" means all persons except

(1) the judge presiding over the trial;

(2) the members of the jury;

(3) the defendant and the attorney and an investigator for the defendant;

(4) the prosecuting attorney and an investigating officer for the state;

(5) the parents or legal guardians of the child;

(6) a guardian ad litem or attorney for the child;

(7) in the discretion of the court, an adult for whom the child has developed a significant emotional attachment who can provide emotional support for the child while the child testifies;

(8) court personnel, including those essential for taking the testimony.

* Sec. 3. AS 12.45.047 added by sec. 2 of this Act has the effect of changing Rule 804, Rules of Evidence, by adding the videotaped evidence of a young victim of a violation of AS 11.41.410 - 11.41.455 to the list of exceptions to the hearsay rule.