

Introduced: 5/5/81  
Referred: Judiciary

BY BRADLEY, DANKWORTH, ELIASON,  
FISCHER, GILMAN, KELLY AND STIMSON

1 IN THE SENATE

2 SENATE BILL NO. 547

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act permitting the videotaping of, or the exclu-  
7 sion of the public during, testimony of young victims  
8 of sexual assault or sexual abuse of a minor; and  
9 changing Rule 804, Alaska Rules of Evidence relating  
10 to exceptions to the hearsay rule."

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

12 \* Section 1. AS 12.45 is amended by adding new sections to read:

13 Sec. 12.45.047. VIDEOTAPING OF TESTIMONY BY YOUNG VICTIM OF  
14 SEXUAL ASSAULT OR SEXUAL ABUSE. (a) After notice to the defendant,  
15 the state may apply to the court for an order allowing videotaping of  
16 the testimony of a child who is the alleged victim of sexual assault in  
17 any degree or who is the alleged victim of sexual abuse of a minor.  
18 The order may be granted if the court finds that

19 (1) the child was 16 years of age or younger at the time of  
20 the sexual assault; and

21 (2) there is a substantial likelihood that the child will  
22 suffer severe emotional distress if required to testify in open court  
23 at the trial; there is a presumption that a child who is under the age  
24 of 16 at the time of an alleged sexual assault or sexual abuse will  
25 suffer severe emotional distress if required to testify in open court,  
26 which may only be overcome by the presentation of evidence to the  
27 contrary at the time the application for an order excluding the public  
28 is considered.

29 (b) If the order is granted, the trial judge shall preside at the

1 videotaping proceeding and shall rule on all questions as if at trial.  
2 The defendant shall be afforded all rights applicable to defendants  
3 during trial, including the right to an attorney and the right to  
4 confront and cross-examine the witness.

5 (c) Videotaped evidence taken in accordance with this section is  
6 admissible in evidence in the criminal trial for sexual assault in any  
7 degree or for sexual abuse of a minor.

8 Sec. 12.45.048. EXCLUSION OF PUBLIC FROM TRIAL DURING TESTIMONY  
9 BY YOUNG VICTIM OF SEXUAL ASSAULT OR SEXUAL ABUSE. (a) After notice  
10 to the defendant, the state may apply to the court for an order exclud-  
11 ing the public from the courtroom during the testimony of a child who  
12 is the alleged victim of sexual assault in any degree or who is the  
13 alleged victim of sexual abuse of a minor. The order may be granted if  
14 the court finds that

15 (1) the child was 16 years of age or younger at the time of  
16 the alleged sexual assault or sexual abuse; and

17 (2) there is a substantial likelihood that the child will  
18 suffer severe emotional distress if required to testify in open court  
19 at the trial; there is a presumption that a child who is under the age  
20 of 16 at the time of an alleged sexual assault or sexual abuse will  
21 suffer severe emotional distress if required to testify in open court,  
22 which may only be overcome by the presentation of evidence to the  
23 contrary at the time the application for an order excluding the public  
24 is considered.

25 (b) In this section "public" means all persons except

- 26 (1) the judge presiding over the trial;  
27 (2) the members of the jury;  
28 (3) the defendant and his counsel;  
29 (4) counsel for the state;

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- (5) counsel for the child;
- (6) the parents or legal guardians of the child; and
- (7) court personnel essential for the taking of the testimony.

\* Sec. 2. AS 12.45.047 added by sec. 1 of this Act has the effect of changing Rule 804, Alaska Rules of Evidence by adding the videotaped evidence of a young victim of sexual assault or sexual abuse of a minor to the list of exceptions to the hearsay rule.