

Original sponsors: Bradley, Dankworth,
Gilman, et al

Offered: 4/14/82
Referred: Rules

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 547 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act permitting the videotaping of, or the exclusion
7 of the public during, testimony of young victims of
8 sexual offenses; and changing Rule 804, Rules of Evi-
9 dence, relating to exceptions to the hearsay rule."

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

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

13 (b) The purposes of this Act are to

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

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

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

19 (c) The legislature finds that

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

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

25 (3) fear of the adverse effects on the young victim of testifying
26 in open court at trial discourages the reporting, investigation, and prosecu-
27 tion of sexual offenses against children; and

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

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 under 16 years of age at the time of
26 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

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

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

4 (1) the judge presiding over the trial;

5 (2) the members of the jury;

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

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

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

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

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

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

17 * Sec. 3. AS 12.35.047 added by sec. 2 of this Act has the effect of
18 changing Rule 804, Rules of Evidence, by adding the videotaped evidence of a
19 young victim of a violation of AS 11.41.410 - 11.41.455 to the list of
20 exceptions to the hearsay rule.