

Oklahoma Statutes Citationized

Title 12. Civil Procedure

Chapter 40 - Oklahoma Evidence Code

Article Article VI - Witnesses

Section 2611.7 - When Child Witness May Testify by Alternate Means - Findings, Factors, Evidentiary Standards

Cite as: 12 O.S. § 2611.7 (OSCN 2012)

A. In a criminal proceeding, the judge or presiding officer may allow a child witness to testify by an alternative method only in the following situations:

1. The child may testify otherwise than in an open forum in the presence and full view of the finder of fact if the judge or presiding officer finds by clear and convincing evidence that the child would suffer serious emotional trauma that would substantially impair the child's ability to communicate with the finder of fact if required to testify in the open forum; and

2. The child may testify other than face-to-face with the defendant if the judge or presiding officer finds by clear and convincing evidence that the child would suffer serious emotional trauma that would substantially impair the child's ability to communicate with the finder of fact if required to be confronted face-to-face by the defendant.

B. In a criminal proceeding, the child may have an advocate appointed by the court to monitor the potential for emotional trauma. The advocate shall be a registered professional social worker, psychologist, or psychiatrist.

C. In a noncriminal proceeding, the judge or presiding officer may allow a child witness to testify by an alternative method if the judge or presiding officer finds by a preponderance of the evidence that allowing the child to testify by an alternative method is necessary to serve the best interests of the child or enable the child to communicate with the finder of fact. In making the finding, the judge or presiding officer shall consider:

1. The nature of the proceeding;
2. The age and maturity of the child;
3. The relationship of the child to the parties in the proceeding;
4. The nature and degree of emotional trauma that the child may suffer in testifying; and
5. Any other relevant factor.

Historical Data

Added by Laws 2003, HB 1635, c. 405, § 5, eff. November 1, 2003; Amended by Laws 2008, SB 1839, c. 111, § 2, eff. November 1, 2008 (superseded document available).