

IC 31-35-4

Chapter 4. Child Videotape Testimony

IC 31-35-4-1

Application of chapter

Sec. 1. This chapter applies to an action initiated to terminate a parent-child relationship under:

- (1) IC 31-35-2; or
- (2) IC 31-35-3.

As added by P.L.1-1997, SEC.18.

IC 31-35-4-2

Admissibility of statements or videotapes

Sec. 2. A statement or videotape that:

(1) is made by a child who at the time of the statement or videotape:

- (A) is less than fourteen (14) years of age; or
- (B) is at least fourteen (14) years of age but less than eighteen (18) years of age and has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:

- (i) is likely to continue indefinitely;
- (ii) constitutes a substantial disability to the child's ability to function normally in society; and
- (iii) reflects the child's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated;

(2) concerns an act that is a material element in determining whether a parent-child relationship should be terminated; and

(3) is not otherwise admissible in evidence under statute or court rule;

is admissible in evidence in an action described in section 1 of this chapter if the requirements of section 3 of this chapter are met.

As added by P.L.1-1997, SEC.18.

IC 31-35-4-3

Requirements for admissibility of statements or videotapes

Sec. 3. A statement or videotape described in section 2 of this chapter is admissible in evidence in an action to determine whether the parent-child relationship should be terminated if, after notice to the parties of a hearing and of their right to be present:

(1) the court finds that the time, content, and circumstances of the statement or videotape and any other evidence provide sufficient indications of reliability; and

(2) the child:

(A) testifies at the proceeding to determine whether the parent-child relationship should be terminated;

(B) was available for face-to-face cross-examination when the statement or videotape was made; or

(C) is found by the court to be unavailable as a witness because:

- (i) a psychiatrist, physician, or psychologist has certified that the child's participation in the proceeding creates a substantial likelihood of emotional or mental harm to the child;
- (ii) a physician has certified that the child cannot participate in the proceeding for medical reasons; or
- (iii) the court has determined that the child is incapable of understanding the nature and obligation of an oath.

As added by P.L.1-1997, SEC.18.

IC 31-35-4-4

Informing parties of intention to introduce and contents of statements and videotapes

Sec. 4. A statement or videotape may not be admitted in evidence under this chapter unless the attorney for the department informs the parties of:

- (1) an intention to introduce the statement or videotape in evidence; and
- (2) the content of the statement or videotape;

at least seven (7) days before the proceedings to give the parties a fair opportunity to prepare a response to the statement or videotape before the proceeding.

As added by P.L.1-1997, SEC.18. Amended by P.L.145-2006, SEC.331; P.L.146-2008, SEC.620.