

## **IC 31-35-5**

### **Chapter 5. Child Testimony by Closed Circuit Television**

#### **IC 31-35-5-1**

##### **Application of chapter**

Sec. 1. This chapter applies to an action to determine whether 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 31-35-5-2**

##### **Court order for use of closed circuit television**

Sec. 2. On the motion of the attorney for the department, the court may order that:

- (1) the testimony of a child be taken in a room other than the courtroom and be transmitted to the courtroom by closed circuit television; and
- (2) the questioning of the child by the parties be transmitted to the child by closed circuit television.

*As added by P.L.1-1997, SEC.18. Amended by P.L.145-2006, SEC.332; P.L.146-2008, SEC.621.*

#### **IC 31-35-5-3**

##### **Court order for use of videotapes**

Sec. 3. On the motion of the attorney for the department, the court may order that the testimony of a child be videotaped for use at proceedings to determine whether the parent-child relationship should be terminated.

*As added by P.L.1-1997, SEC.18. Amended by P.L.145-2006, SEC.333; P.L.146-2008, SEC.622.*

#### **IC 31-35-5-4**

##### **Children who may testify outside courtroom; informing parties of intention to testify**

Sec. 4. The court may not make an order under section 2 or 3 of this chapter unless:

- (1) the testimony to be taken is the testimony of a child who at the time of the trial is:
  - (A) less than fourteen (14) years of age; or
  - (B) 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 impairment of 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; and  
(C) found by the court to be a child who should be permitted to testify outside the courtroom because:

(i) a psychiatrist, physician, or psychologist has certified that the child's testifying in the courtroom creates a substantial likelihood of emotional or mental harm to the child;

(ii) a physician has certified that the child cannot be present in the courtroom for medical reasons; or

(iii) evidence has been introduced concerning the effect of the child's testifying in the courtroom and the court finds that it is more likely than not that the child's testifying in the courtroom creates a substantial likelihood of emotional or mental harm to the child;

(2) the prosecuting attorney or the attorney for the department has informed the parties and their attorneys by written notice of the intention to have the child testify outside the courtroom; and  
(3) the prosecuting attorney or the attorney for the department informed the parties and their attorneys under subdivision (2) at least seven (7) days before the proceedings to give the parties and their attorneys a fair opportunity to prepare a response before the proceedings to the motion of the prosecuting attorney or the motion of the attorney for the department to permit the child to testify outside the courtroom.

*As added by P.L.1-1997, SEC.18. Amended by P.L.145-2006, SEC.334; P.L.162-2011, SEC.54.*

#### **IC 31-35-5-5**

##### **Persons who may be present during child's testimony; closed circuit television**

Sec. 5. If the court makes an order under section 2 of this chapter, only the following persons may be in the same room as the child during the child's testimony:

(1) Persons necessary to operate the closed circuit television equipment.

(2) Persons whose presence the court finds will contribute to the child's well-being.

(3) A court bailiff or court representative.

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

#### **IC 31-35-5-6**

##### **Persons who may be present during child's testimony; videotapes**

Sec. 6. If the court makes an order under section 3 of this chapter, only the following persons may be in the same room as the child during the child's videotaped testimony:

(1) The judge.

(2) The prosecuting attorney or the attorney for the department.

(3) The attorney for each party.

(4) Persons necessary to operate the electronic equipment.

(5) The court reporter.

(6) Persons whose presence the court finds will contribute to the child's well-being.

(7) The parties, who can observe and hear the testimony of the child without the child being able to observe or hear the parties. However, if a party is not represented by an attorney, the party may question the child.

*As added by P.L.1-1997, SEC.18. Amended by P.L.145-2006, SEC.335.*

#### **IC 31-35-5-7**

##### **Persons who may question child testifying by closed circuit television or videotape**

Sec. 7. If the court makes an order under section 2 or 3 of this chapter, only the following persons may question the child:

- (1) The prosecuting attorney or the attorney for the department.
- (2) The attorneys for the parties.
- (3) The judge.

*As added by P.L.1-1997, SEC.18. Amended by P.L.145-2006, SEC.336.*