

JUDICIAL PROOF

CHAPTER 352

HOUSE BILL NO. 1343
(Representatives Meyer, Kerzman)
(Senator Krauter)

VIDEOTAPED TESTIMONY

AN ACT to provide for the admission as evidence of the videotaped statement of the child victim of certain sexual offenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Videotaped statement of child sexual offense victim -
Criteria for admission as evidence.

1. In any prosecution for a violation of section 12.1-20-03, 12.1-20-04, 12.1-20-05, 12.1-20-06, 12.1-20-07, or 12.1-20-11 in which the victim is less than fifteen years of age, the oral statement of the child victim may be recorded before trial and, subject to subsection 2, is admissible as evidence in any court proceeding regarding the offense if the following conditions are satisfied:
 - a. The accused must be given reasonable written notice of the time and place for taking the videotaped statement;
 - b. The accused must be afforded the opportunity to hear and view the testimony from outside the presence of the child by means of a two-way mirror or other similar method that will ensure that the child cannot hear or see the accused;
 - c. The accused must have the opportunity to communicate orally with counsel by electronic means while the videotaped statement is being made; and
 - d. All questioning must be done by attorneys for the prosecution and the defense; however, upon request of any of the parties or upon the determination of the court that it would be appropriate, the court may appoint a person who is qualified as an expert and who has dealt with the child in a therapeutic setting to aid the court throughout proceedings conducted under this section and the court may appoint a guardian ad litem to protect the interests of the child.
2. A child victim's videotaped statement is admissible pursuant to subsection 1 if the court finds that the child is unavailable as a witness to testify at trial and, upon viewing the videotape recording before it is shown to the jury, determines that it is sufficiently reliable and trustworthy and that the interests of justice will best be served by admission of the statement into evidence. For purposes of this subsection, "unavailable" includes

a determination, based on medical or psychological evidence or expert testimony, that the child would suffer serious emotional or psychological strain if required to testify at trial. The court, in making its findings and determinations under this subsection, shall consider at least the following:

- a. The nature of the offense;
- b. The significance of the child's testimony to the case;
- c. The child's age;
- d. The child's psychological maturity and understanding; and
- e. The nature, degree, and duration of potential injury to the child from testifying.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 353

SENATE BILL NO. 2291
(Traynor)

AFFIDAVIT OF PUBLICATION

AN ACT to amend and reenact section 31-04-06 of the North Dakota Century Code, relating to affidavits of publication.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 31-04-06 of the North Dakota Century Code is amended and reenacted as follows:

31-04-06. How proof of publication made. Proof of the publication of a document or notice required by law or by an court order of the court or judge to be published in a newspaper may be made by the affidavit of the publisher ~~or printer~~ of the newspaper, or ~~his foreman, clerk, or bookkeeper~~ the publisher's designee, annexed to a copy of the document or notice, specifying the paper in which and the times when the publication was made.

Approved March 11, 1991
Filed March 11, 1991