

SENATE AMENDMENT 1 TO hb1234.

deleting lines 20 through 37 on page 1 and substituting therefor:

"SECTION 1. (a) In any criminal proceeding, on motion of the prosecutor after notice to the defendant or on motion of the defense attorney, the court may, upon a showing of clear and convincing evidence that testifying in open court would be harmful or detrimental to the child, order that the testimony of a victim or witness who is a child twelve (12) years of age or under be taken outside the courtroom and the presence of the defendant and communicated to the courtroom by closed-circuit television. Any such motion shall only apply to the witnesses of the moving party and shall be filed no later than five (5) days before the trial is scheduled to begin, except in cases where, while testifying, it becomes apparent that the child cannot continue with his or her testimony.

(b) In ruling on the motion, the court shall consider the following factors:

- (1) the age and maturity of the child;
- (2) the possible effect that testimony in person may have on the child;
- (3) the extent of the trauma the child has already suffered;
- (4) the nature of the testimony to be given by the child;
- (5) the nature of the offense, including, but not limited to, the use of a firearm or any other deadly weapon during the commission of the crime or the infliction of serious bodily injury upon the victim during the commission of the crime;
- (6) threats made to the child or the child's family in order to prevent or dissuade the child from attending or giving testimony at any trial or court proceeding or to prevent the child from reporting the alleged offense or from assisting in criminal prosecution. Threats under this subsection may include, but not be limited to, threats of serious bodily injury to be inflicted on the child or a family member, threats of incarceration or deportation of the child or a family member, or threats of removal of the child from the family or dissolution of the family;
- (7) conduct on the part of the defendant or the defendant's attorney which causes the child to be unable to continue his testimony; and
- (8) any other matter which the court considers relevant."

AND

by deleting lines 1 through 5 on page 2

AND

by deleting "or the attorney of the parents of" from line 15 on page 2

AND

by deleting "the child" from line 16 on page 2

AND

by inserting "and the intent of this act is that testimony by closed-circuit television be used in limited circumstances" on line 33 on page 2 after "court"