

SENATE BILL REPORT

SJR 8217

AS PASSED SENATE, JANUARY 24, 1992

Brief Description: Allowing video testimony of children under ten years of age who are sexual abuse victims.

SPONSORS: Senators Wojahn, Nelson, Rasmussen, Bauer, Bailey and McCaslin.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, L. Kreidler, Madsen, Newhouse, Rasmussen, and A. Smith.

Staff: Susan Carlson (786-7418)

Hearing Dates: February 28, 1991

BACKGROUND:

In 1990 the Legislature authorized courts to allow child abuse victims under the age of ten to testify by closed-circuit television. This procedure may only be used if the court finds that testifying in front of the defendant would cause the child serious emotional or mental distress that would prevent the child from being able to communicate at the trial.

The United States Supreme Court has ruled that a Maryland statute similar to Washington's did not violate the Sixth Amendment right to confront witnesses. The Sixth Amendment states that in criminal cases "the accused shall enjoy the right...to be confronted with the witnesses against him." The confrontation section in the Washington Constitution states "the accused shall have the right...to meet the witnesses against him face to face,..."

There is a concern that because of the difference in language, Washington courts may find that the State Constitution provides more stringent protections than the Sixth Amendment in the context of testimony by closed circuit television. Because of this issue, prosecutors may be reluctant to use the new law allowing closed circuit testimony.

SUMMARY:

The resolution amends the Washington Constitution to provide that in criminal prosecutions involving sexual contact with a child ten years of age or younger the court may order the testimony of the victim to be taken outside the courtroom and televised live into the courtroom.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

Because the Washington Constitution requires a face-to-face meeting between an accused and witnesses, the law allowing child victims of abuse to testify by closed circuit television will not be fully used without this proposed constitutional amendment.

TESTIMONY AGAINST: None

TESTIFIED: PRO: Senator Wojahn, prime sponsor; Ann Olson, Washington State Parent Teacher Assn.; John Ladenburg, Pierce County Prosecuting Attorney; Helen Harlow, Tennis Shoe Brigade; Terri Amrhein, Tennis Shoe Brigade; Stephen Henry, Tennis Shoe Brigade