

ORIGINAL SENATE
FILE NO. SF0100

ENROLLED ACT NO. 67, SENATE

SIXTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2025 GENERAL SESSION

AN ACT relating to criminal procedure; specifying and amending procedures for children to testify in specified criminal cases outside the presence of the defendant and the jury; specifying accommodations that may be provided to children testifying in specified criminal cases; making conforming amendments; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 7-11-409 is created to read:

7-11-409. Testimony from child witnesses; accommodations.

(a) In any case in which the defendant is charged with incest as defined in W.S. 6-4-402(a) or sexual assault as defined in W.S. 6-2-302 through 6-2-304 and 6-2-314 through 6-2-317 and a child less than eighteen (18) years of age is the victim, the court may allow the child to testify remotely, outside the presence of the defendant or the jury, in accordance with all of the following:

(i) Before permitting the child to testify remotely under this subsection, the court shall hold a hearing and shall find that the child testifying in the courtroom would cause the child to suffer more than de minimis emotional distress and that remote testimony by the child is necessary to protect the welfare of the child;

(ii) The court may exclude the defendant from being physically present in the same room as the child during the child's testimony if the court finds that the presence of the defendant in the same room as the child is substantially likely to cause substantial emotional distress to the child and that the emotional distress is

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substantially likely to impair the ability of the child to communicate;

(iii) If the defendant is excluded under paragraph (ii) of this subsection, the child shall testify by way of a two (2) way closed circuit television or other appropriate secure technology. The testimony of the child shall be televised live in the courtroom, and simultaneously the room in which the child is testifying shall have a monitor that displays a view of the courtroom and that displays the defendant;

(iv) The defendant may waive the right to have the defendant's image televised in the room in which the child is testifying;

(v) If the defendant is excluded from the room in which the child is testifying, the court:

(A) Shall provide for instantaneous, real-time communication between the defendant and the defendant's attorney;

(B) Shall grant reasonable court recesses during the testimony for consultation between the defendant and the defendant's attorney;

(C) May communicate by audio system with attorneys outside of the courtroom.

(vi) If, on the motion of the district attorney and outside the presence of the jury, the court specifically finds that the child will suffer substantial emotional distress that will impair the child's ability to communicate due to the presence of the jury, the court may

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exclude the jury from the room in which the child is testifying. The testimony of the child shall be televised at the same time to the courtroom by closed circuit television or other real-time audio and video technology.

(b) In any case in which the defendant is charged with incest as defined in W.S. 6-4-402(a), sexual assault as defined in W.S. 6-2-302 through 6-2-304 and 6-2-314 through 6-2-317, human trafficking as defined in W.S. 6-2-701 through 6-2-703 or a violent felony as defined by W.S. 6-1-104(a)(xii) and a child less than eighteen (18) years of age is the victim, the court may, on its own motion or upon a motion by a party, provide reasonable accommodations to the child, including but not limited to the following:

(i) To be addressed, asked questions and read the oath or affirmation to testify truthfully in an age-appropriate manner;

(ii) To be free of nuisance or harassing tactics in the proceeding;

(iii) To have a person who would contribute to the well-being of the child present, clearly visible and in close proximity, if the person is not and will not be a witness in the proceeding;

(iv) To have sufficient breaks in the proceedings to allow for the comfort of the child;

(v) To have a certified therapeutic dog, an item used to provide psychological comfort, or both, present in the room with the child.

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Section 2. W.S. 7-11-408(h) and by creating a new subsection (j) is amended to read:

7-11-408. Videotape depositions.

(h) If the prosecutor elects to utilize a videotaped deposition pursuant to this section, the child will not or is unable to provide live testimony in accordance with W.S. 7-11-409 and the videotape has been taken and is admissible, the child may not testify in court without the consent of the defendant.

(j) The court may provide for the child to testify under the conditions specified in W.S. 7-11-409 in lieu of a videotaped deposition under this section. Nothing in this subsection shall be construed to affect the accommodations available under W.S. 7-11-409(b) for the child.

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Section 3. This act is effective July 1, 2025.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk