



General Assembly

January Session, 2005

**Raised Bill No. 6876**

LCO No. 4272

\*04272\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT ADOPTING THE UNIFORM CHILD WITNESS TESTIMONY BY ALTERNATIVE METHODS ACT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2005*) Sections 1 to 10,  
2 inclusive, of this act may be cited as the "Uniform Child Witness  
3 Testimony by Alternative Methods Act".

4 Sec. 2. (NEW) (*Effective October 1, 2005*) As used in sections 1 to 10,  
5 inclusive, of this act:

6 (1) "Alternative method" means a method by which a child witness  
7 testifies which does not include all of the following:

8 (A) Having the child testify in person in an open forum;

9 (B) Having the child testify in the presence and full view of the  
10 finder of fact and presiding officer; and

11 (C) Allowing all of the parties to be present, to participate and to  
12 view and be viewed by the child.

13 (2) "Child witness" means an individual under the age of thirteen  
14 who has been or will be called to testify in a proceeding.

15 (3) "Criminal proceeding" means a trial or hearing before a court in  
16 a prosecution of a person charged with violating a criminal law of this  
17 state or a delinquency proceeding involving conduct that if engaged in  
18 by an adult would constitute a violation of a criminal law of this state.

19 (4) "Noncriminal proceeding" means a trial or hearing before a court  
20 or an administrative agency of this state having judicial or quasi-  
21 judicial powers, other than a criminal proceeding.

22 Sec. 3. (NEW) (*Effective October 1, 2005*) Sections 1 to 10, inclusive, of  
23 this act apply to the testimony of a child witness in a criminal or  
24 noncriminal proceeding. Sections 1 to 10, inclusive, of this act do not  
25 preclude, in a noncriminal proceeding, any other procedure permitted  
26 by law for a child witness to testify, or in a delinquency proceeding  
27 involving conduct that if engaged in by an adult would constitute a  
28 violation of a criminal law of this state, testimony by a child witness in  
29 a closed forum as authorized by section 46b-122 of the general statutes.  
30 Sections 1 to 10, inclusive, of this act do not preclude, in a criminal  
31 proceeding, testimony by a child witness as authorized by section 54-  
32 86g of the general statutes in any prosecution in which said section is  
33 applicable.

34 Sec. 4. (NEW) (*Effective October 1, 2005*) (a) The presiding officer in a  
35 criminal or noncriminal proceeding may order a hearing to determine  
36 whether to allow a child witness to testify by an alternative method.  
37 The presiding officer, for good cause shown, shall order the hearing  
38 upon motion of a party, a child witness or an individual determined by  
39 the presiding officer to have sufficient standing to act on behalf of the  
40 child.

41 (b) A hearing to determine whether to allow a child witness to  
42 testify by an alternative method shall be conducted on the record after  
43 reasonable notice to all parties, any nonparty movant and any other

44 person the presiding officer specifies. The child's presence is not  
45 required at the hearing unless ordered by the presiding officer. In  
46 conducting the hearing, the presiding officer is not bound by rules of  
47 evidence except the rules of privilege.

48 Sec. 5. (NEW) (*Effective October 1, 2005*) (a) In a criminal proceeding,  
49 the presiding officer may allow a child witness to testify by an  
50 alternative method only in the following situations:

51 (1) The child may testify otherwise than in an open forum in the  
52 presence and full view of the finder of fact if the presiding officer finds  
53 by clear and convincing evidence that the child would suffer serious  
54 emotional trauma that would substantially impair the child's ability to  
55 communicate with the finder of fact if required to testify in the open  
56 forum.

57 (2) The child may testify other than face-to-face with the defendant  
58 if the presiding officer finds by clear and convincing evidence that the  
59 child would suffer serious emotional trauma that would substantially  
60 impair the child's ability to communicate with the finder of fact if  
61 required to be confronted face-to-face by the defendant.

62 (b) In a noncriminal proceeding, the presiding officer may allow a  
63 child witness to testify by an alternative method if the presiding officer  
64 finds by a preponderance of the evidence that allowing the child to  
65 testify by an alternative method is necessary to serve the best interests  
66 of the child or enable the child to communicate with the finder of fact.  
67 In making this finding, the presiding officer shall consider:

68 (1) The nature of the proceeding;

69 (2) The age and maturity of the child;

70 (3) The relationship of the child to the parties in the proceeding;

71 (4) The nature and degree of emotional trauma that the child may  
72 suffer in testifying; and

73 (5) Any other relevant factor.

74 Sec. 6. (NEW) (*Effective October 1, 2005*) If the presiding officer  
75 determines that a standard under section 5 of this act has been met, the  
76 presiding officer shall determine whether to allow a child witness to  
77 testify by an alternative method and in doing so shall consider:

78 (1) Alternative methods reasonably available;

79 (2) Available means for protecting the interests of or reducing  
80 emotional trauma to the child without resort to an alternative method;

81 (3) The nature of the case;

82 (4) The relative rights of the parties;

83 (5) The importance of the proposed testimony of the child;

84 (6) The nature and degree of emotional trauma that the child may  
85 suffer if an alternative method is not used; and

86 (7) Any other relevant factor.

87 Sec. 7. (NEW) (*Effective October 1, 2005*) (a) An order allowing or  
88 disallowing a child witness to testify by an alternative method shall  
89 state the findings of fact and conclusions of law that support the  
90 presiding officer's determination.

91 (b) An order allowing a child witness to testify by an alternative  
92 method shall:

93 (1) State the method by which the child is to testify;

94 (2) List any individual or category of individuals allowed to be in, or  
95 required to be excluded from, the presence of the child during the  
96 testimony;

97 (3) State any special conditions necessary to facilitate a party's right  
98 to examine or cross-examine the child;

99 (4) State any condition or limitation upon the participation of  
100 individuals present during the testimony of the child;

101 (5) State any other condition necessary for taking or presenting the  
102 testimony.

103 (c) The alternative method ordered by the presiding officer may be  
104 no more restrictive of the rights of the parties than is necessary under  
105 the circumstances to serve the purposes of the order.

106 Sec. 8. (NEW) (*Effective October 1, 2005*) An alternative method  
107 ordered by the presiding officer shall permit a full and fair opportunity  
108 for examination or cross-examination of the child witness by each  
109 party.

110 Sec. 9. (NEW) (*Effective October 1, 2005*) In applying and construing  
111 the uniform provisions of sections 1 to 10, inclusive, of this act,  
112 consideration must be given to the need to promote uniformity of the  
113 law with respect to the subject matter among states that enact such  
114 uniform provisions.

115 Sec. 10. (NEW) (*Effective October 1, 2005*) If any provision of sections  
116 1 to 10, inclusive, of this act or its application to any person or  
117 circumstance is held invalid, the invalidity does not affect other  
118 provisions or applications of sections 1 to 10, inclusive, of this act  
119 which can be given effect without the invalid provision or application,  
120 and to this end the provisions of sections 1 to 10, inclusive, of this act  
121 are severable.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005</i>	New section
Sec. 3	<i>October 1, 2005</i>	New section
Sec. 4	<i>October 1, 2005</i>	New section
Sec. 5	<i>October 1, 2005</i>	New section

Sec. 6	<i>October 1, 2005</i>	New section
Sec. 7	<i>October 1, 2005</i>	New section
Sec. 8	<i>October 1, 2005</i>	New section
Sec. 9	<i>October 1, 2005</i>	New section
Sec. 10	<i>October 1, 2005</i>	New section

***Statement of Purpose:***

To adopt the Uniform Child Witness Testimony by Alternative Methods Act that authorizes the use of alternative methods for taking the testimony of children in criminal, civil and administrative proceedings in order to protect children, guard the rights of parties and provide predictability and clarity for attorneys and judges or other presiding officers.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*