

(P. 548) Dec 17-73

Senate let Gov. Judiciary
Bergman, later, Resubmitting

(P. 280) Senate - Judiciary 2/10/93
(P. 916) Senate - Judiciary/100/100/53.352

JAN 28 1993

Place On Calendar

HOUSE FILE 79
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(SUCCESSOR TO HF 8)

(P. 195)
Passed House, Date 2/8/95
Vote: Ayes 93 Nays 3

(P. 1156)
Passed Senate, Date 4/14/93
Vote: Ayes 50 Nays 0

Approved April 28, 1993
Repassed 92/0 4/21/93
(P. 1304)

A BILL FOR

1 An Act relating to criminal trial testimony by minors and certain
2 victims and witnesses.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 910A.14, subsection 1, Code 1993, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 1. Upon its own motion or upon motion of any party, a
5 court may protect a minor, as defined in section 599.1, from
6 trauma caused by testifying in the physical presence of the
7 defendant where it would impair the minor's ability to
8 communicate, by ordering that the testimony of the minor be
9 taken in a room other than the courtroom and be televised by
10 closed circuit equipment for viewing in the courtroom.
11 However, such an order shall be entered only upon a specific
12 finding by the court that such measures are necessary to
13 protect the minor from trauma. Only the judge, prosecuting
14 attorney, defendant's attorney, persons necessary to operate
15 the equipment, and any person whose presence, in the opinion
16 of the court, would contribute to the welfare and well-being
17 of the minor may be present in the room with the minor during
18 the minor's testimony. The judge shall inform the minor that
19 the defendant will not be present in the room in which the
20 minor will be testifying but that the defendant will be
21 viewing the minor's testimony through closed circuit
22 television.

23 During the minor's testimony the defendant shall remain in
24 the courtroom and shall be allowed to communicate with the
25 defendant's counsel in the room where the minor is testifying
26 by an appropriate electronic method.

27 In addition, upon a finding of necessity, the court may
28 allow the testimony of a victim or witness with a mental
29 illness, mental retardation, or other developmental disability
30 to be taken as provided in this subsection, regardless of the
31 age of the victim or witness.

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EXPLANATION

33 This bill provides that a minor may be allowed to testify
34 by closed circuit television from a room other than the
35 courtroom if the judge makes specific findings that this

1 procedure is necessary to protect the minor from the trauma of
2 testifying in the physical presence of the defendant where it
3 would impair the minor's ability to communicate. The bill
4 requires the defendant to remain in the courtroom but
5 authorizes the defendant to be in electronic communication
6 with defense counsel. The bill retains the provision that a
7 victim or witness with mental illness, mental retardation, or
8 other developmental disability may also testify by closed
9 circuit television.

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HOUSE FILE 79

H-3022

1 Amend House File 79 as follows:

2 1. Page 1, line 7, by striking the words "it
3 would impair the minor's ability to" and inserting the
4 following: "the judge determines that testimony by
5 the minor victim in the presence of the defendant will
6 result in the minor suffering serious emotional
7 distress such that the minor cannot reasonably".

By KREIMAN of Davis

H-3022 FILED FEBRUARY 1, 1993

Withdrawn 2/8/93 (P. 195)

HOUSE FILE 79

H-3032

1 Amend House File 79 as follows:

2 1. Page 1, lines 12 and 13, by striking the words
3 "such measures are necessary to protect the minor from
4 trauma" and inserting the following: "testimony by
5 the minor in the presence of the defendant will result
6 in the minor suffering serious emotional distress such
7 that the minor cannot reasonably communicate".

By KREIMAN of Davis

H-3032 FILED FEBRUARY 4, 1993

Lost 39/51 2/8/93 (P. 195)

SENATE AMENDMENT TO HOUSE FILE 79

H-4017

1 Amend House File 79, as passed by the House, as
2 follows:

3 1. Page 1, by inserting after line 31, the
4 following:

5 "Sec. ____ . Section 910A.16, Code 1993, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 4. To the greatest extent
8 possible, a multidisciplinary team involving the
9 county attorney, law enforcement, community-based
10 child advocacy organizations, and personnel of the
11 department of human services shall be utilized in
12 investigating cases involving a violation of chapter
13 709 or 726 with a child.

14 Sec. ____ . EFFECTIVE DATE. This Act, being deemed
15 of immediate importance, takes effect upon enactment."

16 2. Title page, line 2, by inserting after the
17 word "witnesses" the following: "and providing an
18 effective date".

19 3. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-4017 FILED APRIL 16, 1993

House Concurred 4-21-93 (P1504)

HOUSE FILE 79

S-3073

1 Amend House File 79, as passed by the House, as
2 follows:
3 1. Page 1, by inserting after line 31, the
4 following:
5 "Sec. ____ . Section 910A.16, Code 1993, is amended
6 by adding the following new subsection:
7 NEW SUBSECTION. 4. To the greatest extent
8 possible, a multidisciplinary team involving the
9 county attorney, law enforcement, community-based
10 child advocacy organizations, and personnel of the
11 department of human services shall be utilized in
12 investigating cases involving a violation of chapter
13 709 or 726 with a child."

By RALPH ROSENBERG

S-3073 FILED MARCH 2, 1993

Out of Order 4-14-93 (p. 1156)

HOUSE FILE 79

S-3352

1 Amend House File 79, as passed by the House, as
2 follows:
3 1. Page 1, by inserting after line 31, the
4 following:
5 "Sec. ____ . Section 910A.16, Code 1993, is amended
6 by adding the following new subsection:
7 NEW SUBSECTION. 4. To the greatest extent
8 possible, a multidisciplinary team involving the
9 county attorney, law enforcement, community-based
10 child advocacy organizations, and personnel of the
11 department of human services shall be utilized in
12 investigating cases involving a violation of chapter
13 709 or 726 with a child.
14 Sec. ____ . EFFECTIVE DATE. This Act, being deemed
15 of immediate importance, takes effect upon enactment."
16 2. Title page, line 2, by inserting after the
17 word "witnesses" the following: "and providing an
18 effective date".
19 3. By renumbering as necessary.

By COMMITTEE ON JUDICIARY
AL STURGEON, Chairperson

S-3352 FILED APRIL 1, 1993

*Adopted
4-14-93
(p. 1156)*

HOUSE FILE 79

AN ACT
RELATING TO CRIMINAL TRIAL TESTIMONY BY MINORS AND CERTAIN
VICTIMS AND WITNESSES AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 910A.14, subsection 1, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

1. Upon its own motion or upon motion of any party, a court may protect a minor, as defined in section 599.1, from trauma caused by testifying in the physical presence of the defendant where it would impair the minor's ability to communicate, by ordering that the testimony of the minor be taken in a room other than the courtroom and be televised by closed circuit equipment for viewing in the courtroom. However, such an order shall be entered only upon a specific finding by the court that such measures are necessary to protect the minor from trauma. Only the judge, prosecuting attorney, defendant's attorney, persons necessary to operate the equipment, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the minor may be present in the room with the minor during the minor's testimony. The judge shall inform the minor that the defendant will not be present in the room in which the minor will be testifying but that the defendant will be viewing the minor's testimony through closed circuit television.

During the minor's testimony the defendant shall remain in the courtroom and shall be allowed to communicate with the defendant's counsel in the room where the minor is testifying by an appropriate electronic method.

In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, mental retardation, or other developmental disability

to be taken as provided in this subsection, regardless of the age of the victim or witness.

Sec. 2. Section 910A.16, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. To the greatest extent possible, a multidisciplinary team involving the county attorney, law enforcement, community-based child advocacy organizations, and personnel of the department of human services shall be utilized in investigating cases involving a violation of chapter 709 or 726 with a child.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

HAROLD VAN MAANEN
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 79, Seventy-fifth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 28, 1993

TERRY E. BRANSTAD
Governor