

HCS HB 863 -- CHILD WITNESS PROTECTION ACT

SPONSOR: Davis (Dixon)

COMMITTEE ACTION: Voted "do pass by consent" by the Special Committee on Children and Families by a vote of 11 to 0.

This substitute establishes the Child Witness Protection Act that applies to children 17 years of age or younger who are testifying in any judicial proceeding. In its main provisions, the substitute:

(1) Requires the court to ensure that the oath be given to a child in a manner that the child may fully understand his or her duty to tell the truth, that questions are stated in a form which is appropriate for the age of the child, and that questions are explained to the child if necessary in order for him or her to understand;

(2) Requires the court to allow the child to testify at a time of day when the child is best able to understand the questions asked of him or her and to allow testimony to be in limited duration;

(3) Allows the child when testifying to have a comfort item, upon motion and if all parties agree, such as a toy, blanket, or similar item;

(4) Allows the child to have a support person present and in close proximity during his or her testimony to provide emotional support, upon motion and if all parties agree. The support person must abide by the rules established by the court;

(5) Requires the court to prevent intimidation or harassment of the child by the parties or attorneys; and

(6) Allows the court to order comfortable accommodations for the child which can include adjusting the courtroom layout, conducting the proceedings outside of a courtroom, or relaxing the formalities of the proceedings.

FISCAL NOTE: No impact on state funds in FY 2010, FY 2011, and FY 2012.

PROPOSERS: Supporters say that the bill helps to protect child victims who must testify in a court and allows a child to testify in the most comfortable setting as possible without interfering with the rights of the defendant. The bill helps to codify what case law currently supports and makes appropriate accommodations for a child by ensuring that a child can understand and

comprehend the court process without feeling harassed. The bill supports meeting different developmental, mentally appropriate needs to get the most accurate information from a child. Currently, some judges do not use their discretion to make considerations for a child until it is written in law. Establishing guidelines into law is the best way to ensure child protections.

Testifying for the bill were Representative Dixon; Barbara Brown, Child Advocacy Center, Incorporated; Darrel Ashlock, Kids' Harbor, Incorporated; Gretchen Gambon; Linda McAllister, Junior League of Springfield; Roseann Bentley, Green County Commission; and Victor Vieth, National Center for the Prosecution of Child Abuse.

OPPONENTS: There was no opposition voiced to the committee.