

HCS HB 1611 -- CHILDREN'S BILL OF COURTROOM RIGHTS

SPONSOR: Franz (Dixon)

COMMITTEE ACTION: Voted "do pass by consent" by the Special Committee on Family Services by a vote of 10 to 0.

This substitute establishes a children's bill of courtroom rights that applies to all children testifying at a judicial proceeding. In its main provisions, the substitute:

- (1) Assures a child the right to understand the oath administered in court and requires the court to present the oath in a developmentally appropriate manner;
- (2) Grants the child the right to understand all questions asked of him or her;
- (3) 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 frequent breaks from testifying;
- (4) Grants the child the right to have a comfort item that is approved by the court, such as a blanket or stuffed animal, when testifying;
- (5) Grants the child the right to have a person present during his or her testimony to provide emotional support. The support person must abide by the rules established by the court;
- (6) Requires the child to be questioned in a manner that is neither intimidating nor frightening which includes disallowing any attorney from raising his or her voice while questioning the child or making an argument; and
- (7) Grants the child the right to be comfortable when testifying by adjusting the courtroom layout, conducting the proceedings outside of a courtroom, and relaxing the formalities of normal courtroom proceedings.

FISCAL NOTE: No impact on state funds in FY 2009, FY 2010, and FY 2011.

PROPOSERS: Supporters say that there is a nationwide effort to implement a children's bill of courtroom rights for child abuse cases. Currently, Missouri doesn't have protections for children while testifying. The bill assures a child's right to have a full understanding of a courtroom setting and to have special considerations made to help them feel comfortable while testifying. Many other states provide additional protections for

children including modified oaths, questioning techniques, and trial schedules; recesses when a child feels stressed; a comfort item while testifying; and protections against intimidation. It is the responsibility of the legal community to promote common sense changes to provide children the comfort and stability to testify in child abuse cases. All counties should abide by the strategies that are currently being used by many counties to provide a good balance of allowing a defendant to face their accuser but giving the child adequate protections from being intimidated by the defendant, but still retaining the judge's ability to control the courtroom.

Testifying for the bill were Representative Dixon; Lacy Kendrick; Heather Trinca, Junior League of Springfield, Missouri; Darrell Moore; and Barbara Brown, Child Advocacy Center, Incorporated.

OPPONENTS: There was no opposition voiced to the committee.