

ENROLLED HOUSE
BILL NO. 1352

By: Bryant, Phillips,
Roberts, Boyd (Laura),
Thornbrugh, Adair,
Adkins, Boyd (Betty),
Hastings, Liotta,
Morgan, Ostrander,
Perry, Roach, Sullivan
(John) and Wilt of the
House

and

Williams and Henry of
the Senate

An Act relating to children; amending Section 125, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7303-4.2), which relates to adjudicative hearings; modifying list of persons that can be present during certain proceedings; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 125, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7303-4.2), is amended to read as follows:

Section 7303-4.2 A. All cases of children shall be heard separately from the trial of cases against adults. The adjudicative hearings shall be conducted according to the rules of evidence, and may be adjourned from time to time.

1. Except as provided by paragraph 2 of this subsection, the hearings shall be private unless specifically ordered by the judge to be conducted in public, ~~but~~ and all persons having a direct interest in the case as provided in this paragraph shall be admitted. Any victim ~~or~~, relative ~~or~~, legal guardian of a victim, or a person designated by the victim who is not subject to the rule of sequestration as a witness of a juvenile criminal act shall be considered to have a direct interest in the case and shall be notified of all court hearings involving that particular juvenile criminal act as provided by Section 215.33 of Title 19 of the Oklahoma Statutes. Stenographic notes or other transcript of the hearings shall be kept as in other cases, but they shall not be open to inspection except by order of the court or as otherwise provided by law.

2. Hearings related to the second or subsequent delinquency adjudication of a child shall be public proceedings. The adjudications relied upon to determine whether a hearing is a public proceeding pursuant to this paragraph shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location. Upon its own motion or the motion of any of the parties to the hearing and for good cause shown, the court may order specific testimony or evidence to be heard in

private; provided, the court shall not exclude any relative ~~or~~, legal guardian of a victim, or a person designated by the victim who is not subject to the rule of sequestration as a witness from the hearing during testimony of the victim. For the purposes of this paragraph, "good cause" shall mean a showing that it would be substantially harmful to the mental or physical well-being of the child if such testimony or evidence were presented at a public hearing.

B. The child may remain silent as a matter of right in delinquency hearings and in need of supervision hearings, and before he is interrogated he shall be so advised.

C. A decision determining a child to come within the purview of the Oklahoma Juvenile Code shall be based on sworn testimony and the child shall have the opportunity for cross-examination unless the facts are stipulated. If a child is alleged to be delinquent and the facts are stipulated, the judge shall ascertain from the child if the child agrees with the stipulation and if the child understands the consequences of stipulating the facts.

SECTION 2. This act shall become effective July 1, 1997.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 7th day of April, 1997.

Speaker of the House of
Representatives

Passed the Senate the 26th day of March, 1997.

President of the Senate