

BILL ANALYSIS

Senate Research Center
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S.B. 707
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In Texas, children who make an outcry of physical or sexual abuse are frequently taken to a children's advocacy center (CAC). At the CAC a trained forensic interviewer speaks with the child about the outcry. That interview is typically audio and video recorded. The use of recorded statements such as those described above is not allowed in Texas courts. There are some narrow exceptions, such as when the child has been subject to a pre-trial deposition and is not available for trial. Specific legal maneuvers during a trial may also, on accession, allow the recording to be used.

This bill allows the recording of an oral statement to be admissible in any proceeding for a child that is younger than 14 years of age. However, the admissibility would only occur if:

- the statement was made by the victim against whom the charged offense was allegedly committed;
- after an in camera review, the court finds that:
 - the statement is relevant and is reliable based on the time, content, and circumstances of the statement;
 - the recording is both visual and aural and is recorded on film or videotape or by other electronic means; and
 - the individual interviewing the victim or, if the victim's statement is not derived from an interview, the individual conducting the recording is a neutral individual experienced in child abuse cases.

This bill does not conflict with the confrontation clause because the last requirement is that the victim testifies or is available to testify at the proceeding in court or in any other manner provided by law.

There should be consideration for the time a child makes an outcry and is interviewed to the time the child is required to testify in court. That visual dissonance in the courtroom is an impediment to the effective prosecution of crimes against children. This legislation would be beneficial to both the accused and the accuser. Having the ability to review the initial interview would be beneficial in showing the consistencies and also any discrepancies from the original testimony. The recorded statement from the CAC assists a jury with finding the best possible evidence to evaluate the allegation of abuse.

As proposed, S.B. 707 amends current law relating to the admissibility of certain recorded statements made by child abuse victims.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 38, Code of Criminal Procedure, by adding Article 38.0725, as follows:

Art. 38.0725. ADMISSIBILITY OF CERTAIN RECORDED STATEMENTS OF CHILD ABUSE VICTIMS. (a) Provides that this article applies only to a proceeding in the prosecution of an offense listed in Section 1, Article 38.072 (Hearsay Statement of Certain Abuse Victims), and committed against a child younger than 14 years of age.

(b) Provides that a recording of an oral statement that is not otherwise admissible under another law or a rule of evidence of this state is admissible into evidence in any proceeding to which this article applies if:

(1) the statement was made by the victim against whom the charged offense was allegedly committed;

(2) after an in camera review, the court finds that the statement, recording, and individual interviewing the victim or conducting the recording meet certain criteria; and

(3) the victim testifies or is available to testify at the proceeding in court or in any other manner provided by law.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2017.