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CRIMINAL PROCEDURE Sexual Offenses: Admissible Evidence: Minors

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CRIMINAL PROCEDURE

Sexual Offenses: Admissible Evidence: Minors

CODE SECTION:	O.C.G.A. §§ 17-8-54 (new), 17-8-55 (new), 17-8-56 (renumbered) and 17-8-57 (renumbered)
BILL NUMBER:	HB 27
ACT NUMBER:	365
SUMMARY:	The Act allows the court to clear the courtroom when a victim under sixteen testifies about a sex offense. It also permits the broadcast of testimony of a child of fourteen or less to the jury room or other appropriate place if certain provisions are met.
EFFECTIVE DATE:	April 10, 1985

HB 27

HB 27 was one of several victim and witness protection proposals submitted to the 1985 General Assembly. The focus of the Act is to minimize the possible trauma to children who are required to testify by allowing the court to clear the courtroom and to broadcast the child's testimony to the jury. As originally proposed, HB 27 provided for videotaping the testimony of children under twelve years of age who were victims of child abuse, statutory rape, molestation or aggravated child molestation.[1] Under this version, only the State could apply for an order to videotape. However, the Legislature rejected the use of videotaping and permitted the use of closed-circuit television.

O.C.G.A. § 17-8-54 allows the court to clear the courtroom when a person under sixteen years of age testifies in a criminal trial about a sex offense. The following persons are permitted to remain in the courtroom: parties to the action and "their immediate families or guardians, attorneys and their secretaries, officers of the court, jurors, newspaper reporters or broadcasters and court reporters."

O.C.G.A. § 17-8-55 permits children fourteen years of age and under, who testify in a criminal trial as victims of cruelty to children, rape, sodomy, aggravated sodomy, molestation or aggravated molestation, to have their testimony broadcast to the jury room or other appropriate place in

1. HB 27, 1985 Ga. Gen. Assem. § 1.

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the courthouse. The following persons are permitted to remain in the courtroom: "judge, counsel for the parties, the defendant, a bailiff, and a parent, guardian, child psychologist, or other qualified person appointed by the court to represent the interests of the witness." The State or the defendant may apply for an order to televise the child's testimony out of open court. To issue an order for broadcasting testimony, the court must find that "(1) [t]he victim of the offense is a child 14 years of age or younger; (2) [t]here is a substantial likelihood that such child will suffer severe emotional or mental distress if required to testify in open court; and (3) [t]he rights of the defendant will not be unduly prejudiced thereby."

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