

SENATE BILL 2326

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 24,
Chapter 7, relative to domestic violence victims'
testimony.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 24, Chapter 7, is amended by adding the following as a new, appropriately designated section:

(a) In a criminal case, if the victim of any of the offenses listed in subsection (d) is a domestic abuse victim as defined in § 36-3-601, then the court may order the victim's testimony to be taken outside the courtroom by means of two-way closed circuit television, referred to in this section as "CCTV." Prior to entering the order, the trial judge must make a case-specific finding of necessity that:

(1) The particular victim involved would be traumatized;

(2) The source of the trauma is not the courtroom generally, but the presence of the defendant; and

(3) The emotional distress suffered by the victim would be more than de minimis, such that the victim could not reasonably communicate.

(b) If the testimony of a victim is ordered to be taken by two-way CCTV, then it shall be taken during the judicial proceeding and the following rules shall apply:

(1) Only the prosecuting attorney, the attorney for the defendant, and the judge may question the victim;

(2) The operators of CCTV shall make every effort to be unobtrusive;

(3) Only the following persons shall be permitted in the room with the victim while the victim testifies by CCTV:

- (A) The prosecuting attorney;
- (B) The attorney for the defendant;
- (C) An interpreter, where necessity dictates;
- (D) The operators of CCTV equipment;
- (E) Court security personnel, when required;
- (F) A family member of the victim, counselor, or therapist; and
- (G) Any person whose presence, in the opinion of the court,

contributes to the well-being of the victim, including a person who has dealt with the victim in a therapeutic setting concerning the offense;

(4) The victim's testimony shall be memorialized by videotaped recording;

(5) During the victim's testimony by CCTV, the judge, jury, and defendant shall remain in the courtroom;

(6) The judge and the defendant shall be allowed to communicate with those persons in the room where the victim is testifying by any appropriate electronic method; and

(7) The defendant shall not be allowed to enter the room where the victim is testifying by way of CCTV, unless the defendant is acting as an attorney pro se.

(c) This section shall not be interpreted to preclude, for the purpose of identification of the defendant, the presence of both the victim and the defendant in the courtroom at the same time.

(d) The offenses to which this section applies are:

(1) Aggravated assault, as defined in § 39-13-102;

(2) Domestic assault, as defined in § 39-13-111;

(3) Violation of an order of protection or restraining order, as defined in §

39-13-113;

- (4) False imprisonment, as defined in § 39-13-302;
- (5) Kidnapping, as defined in § 39-13-303;
- (6) Aggravated kidnapping, as defined in § 39-13-304;
- (7) Especially aggravated kidnapping, as defined in § 39-13-305;
- (8) Aggravated rape, as defined in § 39-13-502;
- (9) Rape, as defined in § 39-13-503;
- (10) Aggravated sexual battery, as defined in § 39-13-504;
- (11) Sexual battery, as defined in § 39-13-505;
- (12) Incest, as defined in § 39-15-302;
- (13) Aggravated child abuse, as defined in § 39-15-402;
- (14) Stalking, aggravated stalking, or especially aggravated stalking, as defined in § 39-17-315; and
- (15) Criminal attempt, as defined in § 39-12-101, to commit any of the offenses enumerated within this subsection (d).

SECTION 2. This act shall take effect July 1, 2015, the public welfare requiring it, and shall apply to trials for acts occurring on or after that date.