Stricken language would be deleted from present law. Underlined language would be added to present law.

A Single of Arkansas Regular Session, 1997 Regular Session, 1997 By: Representatives Pollan and Flanagin For An Act To Be Entitled PAN ACT TO PERMIT TESTIMONY OF A CHILD BY CLOSED CIRCUIT TELEVISION IN A CRIMINAL PROCEEDING; AND FOR OTHER BURPOSES." Subtitle TO PERMIT TESTIMONY OF A CHILD BY CLOSED CIRCUIT TELEVISION IN A CRIMINAL PROCEEDING." REGULAR SERVICE OF THE STATE OF ARKANSAS: SECTION 1. (a) In any criminal proceeding, on motion of the prosecution of a court would be harmful or detrimental to the child, order that the testiful of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communication of the witnesses of the moving party and shall be filed no later to five (5) days before the trial is scheduled to begin, except in cases whe while testifying, it becomes apparent that the child cannot continue witness who is a child twelve (12) years of age or under the five (5) days before the trial is scheduled to begin, except in cases whe while testifying, it becomes apparent that the child cannot continue witness or her testimony.	
Regular Session, 1997 HOUSE BILL Regular Session, 1997 HOUSE BILL Regular Session, 1997 HOUSE BILL Regular Session, 1997 HOUSE BILL Regular Session, 1997 HOUSE BILL Regular Session, 1997 HOUSE BILL Regular Ses	
By: Representatives Pollan and Flanagin For An Act To Be Entitled To Hand Act To Permit Testimony of a CHILD By CLOSED CIRCUIT ELEVISION IN A CRIMINAL PROCEEDING; AND FOR OTHER PURPOSES." Subtitle TO PERMIT TESTIMONY OF A CHILD BY CLOSED CIRCUIT TELEVISION IN A CRIMINAL PROCEEDING." BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: SECTION 1. (a) In any criminal proceeding, on motion of the prosecution of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testifunction of the court of the court of the process of the court of the court of the court of the process of the court of the court of the court of the court of the process of the court of the cour	
For An Act To Be Entitled Furnor Television in a Criminal proceeding; and for other Subtitle Subtitle To Permit Testimony of a Child by CLOSED CIRCUIT TELEVISION IN a CRIMINAL PROCEEDING." BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: SECTION 1. (a) In any criminal proceeding, on motion of the prosess after notice to the defendant or on motion of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testifunce of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communication to the victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communication to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later to five (5) days before the trial is scheduled to begin, except in cases whe while testifying, it becomes apparent that the child cannot continue with or her testimony.	1234
For An Act To Be Entitled Furnoses." Subtitle Subtitle To Permit Testimony of a Child by CLOSED CIRCUIT TELEVISION IN A CRIMINAL FROCEDING." End CLOSED CIRCUIT TELEVISION IN A CRIMINAL FROCEDING." For Entitle State of Arkansas: Section 1. (a) In any criminal proceeding, on motion of the prosess after notice to the defendant or on motion of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testifunce of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communication to the defendant and communication of the success of the moving party and shall be filed no later that the five (5) days before the trial is scheduled to begin, except in cases whe while testifying, it becomes apparent that the child cannot continue wite or her testimony.	
For An Act To Be Entitled 9 "AN ACT TO PERMIT TESTIMONY OF A CHILD BY CLOSED CIRCUIT 10 TELEVISION IN A CRIMINAL PROCEEDING; AND FOR OTHER 11 PURPOSES." 12 13 Subtitle 14 "TO PERMIT TESTIMONY OF A CHILD BY 15 CLOSED CIRCUIT TELEVISION IN A CRIMINAL 16 PROCEEDING." 17 18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: 19 20 SECTION 1. (a) In any criminal proceeding, on motion of the prosecution of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testiful of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communicated to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later to five (5) days before the trial is scheduled to begin, except in cases whe while testifying, it becomes apparent that the child cannot continue with or the prosection of the courtroom of the presence of the countroom shall on the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later to five (5) days before the trial is scheduled to begin, except in cases when the presence of the countroom of the presence of the countroom of the presence of the countroom shall on the countroom of the presence of the defendant and communicate the countroom of the presence of the defendant and communicate the countroom of the presence of the defendant and communicate the countroom of the presence of the defendant and communicate the countroom of the presence of the defendant and communicate the countroom of the presence of the defendant and communicate the countroom of the presence of the defendant and communicate the countroom of the presence of the defendant and communicate the countroom of the presence of the defendant and communicate the countroom of the presence of	
For An Act To Be Entitled 9 "AN ACT TO PERMIT TESTIMONY OF A CHILD BY CLOSED CIRCUIT 10 TELEVISION IN A CRIMINAL PROCEEDING; AND FOR OTHER 11 PURPOSES." 12 13 Subtitle 14 "TO PERMIT TESTIMONY OF A CHILD BY 15 CLOSED CIRCUIT TELEVISION IN A CRIMINAL 16 PROCEEDING." 17 18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: 19 20 SECTION 1. (a) In any criminal proceeding, on motion of the prosection of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testiful of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communicated to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later to five (5) days before the trial is scheduled to begin, except in cases whe while testifying, it becomes apparent that the child cannot continue with our party statements.	
"AN ACT TO PERMIT TESTIMONY OF A CHILD BY CLOSED CIRCUIT TELEVISION IN A CRIMINAL PROCEEDING; AND FOR OTHER PURPOSES." Subtitle "TO PERMIT TESTIMONY OF A CHILD BY CLOSED CIRCUIT TELEVISION IN A CRIMINAL PROCEEDING." BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: SECTION 1. (a) In any criminal proceeding, on motion of the prosecution of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testifunction of the courtroom and the presence of the defendant and communicated to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later to the five (5) days before the trial is scheduled to begin, except in cases whe while testifying, it becomes apparent that the child cannot continue with or her testimony.	
TELEVISION IN A CRIMINAL PROCEEDING; AND FOR OTHER PURPOSES." Subtitle Subtitle TO PERMIT TESTIMONY OF A CHILD BY CLOSED CIRCUIT TELEVISION IN A CRIMINAL PROCEEDING." BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: SECTION 1. (a) In any criminal proceeding, on motion of the prosess after notice to the defendant or on motion of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testifung of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communicated to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later the five (5) days before the trial is scheduled to begin, except in cases whe while testifying, it becomes apparent that the child cannot continue with or her testimony.	
Subtitle Subtitle Subtitle Subtitle TO PERMIT TESTIMONY OF A CHILD BY CLOSED CIRCUIT TELEVISION IN A CRIMINAL PROCEEDING." BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: SECTION 1. (a) In any criminal proceeding, on motion of the prosection after notice to the defendant or on motion of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testifunging to a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communicate to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later the five (5) days before the trial is scheduled to begin, except in cases whe while testifying, it becomes apparent that the child cannot continue with or her testimony.	
Subtitle 14 "TO PERMIT TESTIMONY OF A CHILD BY 15 CLOSED CIRCUIT TELEVISION IN A CRIMINAL 16 PROCEEDING." 17 18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: 19 20 SECTION 1. (a) In any criminal proceeding, on motion of the prosection of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testifunction of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communication to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later the five (5) days before the trial is scheduled to begin, except in cases where while testifying, it becomes apparent that the child cannot continue with or her testimony.	
Subtitle 14 "TO PERMIT TESTIMONY OF A CHILD BY 15 CLOSED CIRCUIT TELEVISION IN A CRIMINAL 16 PROCEEDING." 17 18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: 19 20 SECTION 1. (a) In any criminal proceeding, on motion of the prosection of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testifung to to the courtroom and the presence of the defendant and communicate to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later to the five (5) days before the trial is scheduled to begin, except in cases who while testifying, it becomes apparent that the child cannot continue with or her testimony.	
"TO PERMIT TESTIMONY OF A CHILD BY CLOSED CIRCUIT TELEVISION IN A CRIMINAL PROCEEDING." BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: SECTION 1. (a) In any criminal proceeding, on motion of the prosection after notice to the defendant or on motion of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testifulation of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communication to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later to five (5) days before the trial is scheduled to begin, except in cases where the defendant is scheduled to begin, except in cases where the defendant is scheduled to begin, except in cases where the defendant is scheduled to begin, except in cases where the defendant is scheduled to begin, except in cases where the defendant is scheduled to begin to the continue with the defendant continue with the	
CLOSED CIRCUIT TELEVISION IN A CRIMINAL PROCEEDING." BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: SECTION 1. (a) In any criminal proceeding, on motion of the prosecution after notice to the defendant or on motion of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testifunging of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communication to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later to five (5) days before the trial is scheduled to begin, except in cases where the process of the trial is scheduled to begin, except in cases where the process of the trial is scheduled to begin, except in cases where the testifying, it becomes apparent that the child cannot continue with the court testimony.	
PROCEEDING." 17 18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: 19 20 SECTION 1. (a) In any criminal proceeding, on motion of the prosection after notice to the defendant or on motion of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testiful of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communicated to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later to five (5) days before the trial is scheduled to begin, except in cases where the variety of the testifying, it becomes apparent that the child cannot continue with the courtestimony.	
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: 19 20 SECTION 1. (a) In any criminal proceeding, on motion of the prosection after notice to the defendant or on motion of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testifunging taken outside the courtroom and the presence of the defendant and communate to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later to five (5) days before the trial is scheduled to begin, except in cases where the stifunging is the becomes apparent that the child cannot continue with or her testimony.	
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: 19 20 SECTION 1. (a) In any criminal proceeding, on motion of the prosecution after notice to the defendant or on motion of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testifunging of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communate to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later that five (5) days before the trial is scheduled to begin, except in cases where while testifying, it becomes apparent that the child cannot continue with or her testimony.	
SECTION 1. (a) In any criminal proceeding, on motion of the prosection after notice to the defendant or on motion of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testice of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communate to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later the five (5) days before the trial is scheduled to begin, except in cases where while testifying, it becomes apparent that the child cannot continue with or her testimony.	
SECTION 1. (a) In any criminal proceeding, on motion of the prosection after notice to the defendant or on motion of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testifying of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communate to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later the five (5) days before the trial is scheduled to begin, except in cases where while testifying, it becomes apparent that the child cannot continue with or her testimony.	
after notice to the defendant or on motion of the defense attorney, the may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testi of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and commun to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later t five (5) days before the trial is scheduled to begin, except in cases wh while testifying, it becomes apparent that the child cannot continue wit or her testimony.	
may, upon a showing of clear and convincing evidence that testifying in court would be harmful or detrimental to the child, order that the testifying of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communate to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later to five (5) days before the trial is scheduled to begin, except in cases where while testifying, it becomes apparent that the child cannot continue with or her testimony.	cutor
court would be harmful or detrimental to the child, order that the testi 24 of a victim or witness who is a child twelve (12) years of age or under 25 taken outside the courtroom and the presence of the defendant and commun 26 to the courtroom by closed-circuit television. Any such motion shall on 27 apply to the witnesses of the moving party and shall be filed no later t 28 five (5) days before the trial is scheduled to begin, except in cases wh 29 while testifying, it becomes apparent that the child cannot continue wit 30 or her testimony.	ourt!
of a victim or witness who is a child twelve (12) years of age or under taken outside the courtroom and the presence of the defendant and communate to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later to five (5) days before the trial is scheduled to begin, except in cases where while testifying, it becomes apparent that the child cannot continue with or her testimony.	pen
taken outside the courtroom and the presence of the defendant and communate to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later to five (5) days before the trial is scheduled to begin, except in cases where while testifying, it becomes apparent that the child cannot continue with or her testimony.	<u>iony</u>
to the courtroom by closed-circuit television. Any such motion shall on apply to the witnesses of the moving party and shall be filed no later to five (5) days before the trial is scheduled to begin, except in cases who while testifying, it becomes apparent that the child cannot continue with or her testimony.	<u>e</u>
apply to the witnesses of the moving party and shall be filed no later to five (5) days before the trial is scheduled to begin, except in cases who while testifying, it becomes apparent that the child cannot continue with or her testimony.	cated
five (5) days before the trial is scheduled to begin, except in cases wh while testifying, it becomes apparent that the child cannot continue wit or her testimony.	<u>.Y</u>
29 while testifying, it becomes apparent that the child cannot continue wit 30 or her testimony.	<u>ıan</u>
30 or her testimony.	re,
	n his
31 (b) In ruling on the motion, the court shall consider the followi	<u>ıg</u>
32 <u>factors:</u>	
(1) the age and maturity of the child;	
34 (2) the possible effect that testimony in person may have o	_
35 <u>child;</u>	<u>the</u>
36 (3) the extent of the trauma the child has already suffered	<u>the</u>
37 (4) the nature of the testimony to be given by the child;	

As Engrossed: S3/17/97 HB 1234

1 (5) the nature of the offense, including, but not limited to, the use of a firearm or any other deadly weapon during the commission of the crime or the infliction of serious bodily injury upon the victim during the commission of the crime; (6) threats made to the child or the childs family in order to 5 prevent or dissuade the child from attending or giving testimony at any trial 6 or court proceeding or to prevent the child from reporting the alleged offense or from assisting in criminal prosecution. Threats under this subsection may include, but not be limited to, threats of serious bodily injury to be inflicted on the child or a family member, threats of incarceration or 10 deportation of the child or a family member, or threats of removal of the child from the family or dissolution of the family; 13 (7) conduct on the part of the defendant or the defendant \mathbf{m} s attorney which causes the child to be unable to continue his testimony; and 15 (8) any other matter which the court considers relevant. 16 (c)(1) If the court orders that the child \blacksquare s testimony be taken by 17 closed circuit television, the testimony shall be taken outside the courtroom in the judge $\overline{\mathbf{u}}$ s chambers or in another suitable location designated by the 19 judge. Examination and cross examination of the child shall proceed as though he or she were testifying in the courtroom. The only persons who may be 2.0 permitted in the room with the child during the child™s testimony are: 22 (A) the judge or a judicial officer appointed by the court; 23 (B) the prosecutor; 24 (C) the defense attorney, except a pro se defendant; 25 (D) the child s attorney; 26 (E) persons necessary to operate the closed-circuit 27 television equipment; and 28 (F) any person whose presence is determined by the court to be necessary to the welfare and well-being of the child. (2) The defendant shall be afforded a means of private, 30 contemporaneous communication with the defendant $\overline{\mathbf{n}}$ s attorney during the 31 32 testimony. 33 (d) This act does not preclude the presence of both the victim and the defendant in the courtroom together for purposes of establishing or challenging the identification of the defendant when identification is a

As Engrossed: S3/17/97 HB 1234

1 legitimate issue in the proceeding. (e) This act does not apply if the defendant is an attorney pro se 3 unless the defendant has a court-appointed attorney assisting the defendant in 4 the defense, in which case only the court-appointed attorney shall be 5 permitted in the room with the child during the childs testimonys. (f) Nothing in this act creates a right of a child witness to a closed-6 7 circuit television procedure in lieu of testifying in open court and the intent of this act is that testimony by closed-circuit television be used in 9 limited circumstances. 10 (g) Videotapes of closed-circuit testimony which are part of the court 11 record are subject to a protective order of the court for the purpose of 12 protecting the privacy of the alleged victim. 13 14 SECTION 2. All provisions of this act of a general and permanent nature 15 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code 16 Revision Commission shall incorporate the same in the Code. 17 18 SECTION 3. If any provision of this act or the application thereof to 19 any person or circumstance is held invalid, such invalidity shall not affect 20 other provisions or applications of the act which can be given effect without 21 the invalid provision or application, and to this end the provisions of this 22 act are declared to be severable. 23 24 SECTION 4. All laws and parts of laws in conflict with this act are 25 hereby repealed. 26 /s/Pollan 27 28 29 30 31 32 33 34

35

1