

HOUSE BILL NO. 1387

Introduced by

Representatives Roers Jones, Guggisberg, Heinert, Kading

Senators Armstrong, Poolman

1 A BILL for an Act to create and enact section 31-04-04.2 of the North Dakota Century Code,
2 relating to use of ~~closed-circuit television~~ audiovisual equipment for the testimony of a minor or
3 disabled adult witness.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** Section 31-04-04.2 of the North Dakota Century Code is created and enacted
6 as follows:

7 **31-04-04.2. Use of ~~closed-circuit television~~ for audiovisual equipment for the**
8 **testimony of minors or disabled adult witnesses.**

9 1. At the time of trial, if the witness is a minor or is a disabled adult as defined in section
10 12.1-31-07, the court may order the witness's testimony be taken in a room other than
11 the courtroom and be televised by ~~closed-circuit television~~ audiovisual equipment in the
12 courtroom if:

13 a. The testimony is taken during the proceeding;

14 b. The judge determines the testimony of the witness in the ~~courtroom~~ presence of
15 the defendant would result in the witness suffering serious emotional distress or
16 trauma that would impact the ability of the witness to reasonably communicate;

17 and

18 c. ~~Closed-circuit television equipment~~ Audiovisual equipment is available.

19 2. To obtain an order authorizing the use of ~~closed-circuit television~~ audiovisual
20 equipment for testimony by a minor or disabled adult witness, the party shall file a
21 written motion with the court no later than fourteen days before the trial.

22 3. Only the prosecuting attorney, attorney for the defendant, guardian ad litem, and the
23 judge may question the minor or disabled adult witness.

- 1 4. The following individuals may be in the room with the witness when the minor or
2 disabled adult provides testimony:
- 3 a. The prosecuting attorney;
4 b. The guardian ad litem;
5 c. The judge while administering the oath;
6 d. The operators of the ~~closed-circuit television~~audiovisual equipment; ~~and~~
7 e. By order of the court, an individual whose presence contributes to the welfare
8 and well-being of the witness, including an individual who has dealt with the
9 witness in a therapeutic setting; and
10 f. An attorney representing the defendant.
- 11 5. The judge and defendant must be allowed to communicate with the individuals in the
12 room where the witness is testifying through ~~a electronic means~~audiovisual equipment
13 or by meeting outside the presence of the witness.
- 14 6. The provisions of this section do not apply if the defendant is pro se.
- 15 7. This section does not preclude the presence of both the witness and the defendant in
16 the courtroom at the same time for purposes of identifying the defendant.