

1 **Rule 29A. Visual Recording of Statement or Testimony of Child Victim or Witness or**  
2 **Sexual or Physical Abuse--Conditions of Admissibility**

3 (a) In any delinquency proceeding or proceeding under ~~Section 78A-6-702 or Section~~  
4 ~~78A-6-703~~ Title 80, Chapter 6, Part 5, Transfer to District Court concerning a charge of  
5 child abuse or of a sexual offense against a child, the oral statement of a victim or other  
6 witness younger than 14 years of age that was recorded prior to the filing of a petition is,  
7 upon motion and for good cause shown, admissible as evidence in any court proceeding  
8 regarding the offense if all of the following conditions are met:

9 (1) the child is available to testify and to be cross-examined at trial, either in person  
10 or as provided by law, or the child is unavailable to testify at trial, but the minor  
11 had a previous opportunity to cross-examine the child concerning the recorded  
12 statement, such that the minor's rights of confrontation are not violated;

13 (2) no attorney for either party is in the child's presence when the statement is  
14 recorded;

15 (3) the recording is visual and aural and is recorded on film or videotape or by  
16 other electronic means;

17 (4) the recording is accurate and has not been altered;

18 (5) each voice in the recording is identified;

19 (6) the person conducting the interview of the child in the recording is present at  
20 the proceeding and is available to testify and be cross-examined by either party;

21 (7) the minor and the minor's attorney are provided an opportunity to view the  
22 recording before it is shown to the court; and

23 (8) the court views the recording and determines that it is sufficiently reliable and  
24 trustworthy and that the interest of justice will best be served by admission of the  
25 statement into evidence.

26 (b) In any delinquency proceeding or proceeding under ~~Section 78A-6-702 or Section 78A-~~  
27 ~~6-703~~ Title 80, Chapter 6, Part 5, Transfer to District Court concerning a charge of child  
28 abuse or of a sexual offense against a child, the court upon motion of a party and for good  
29 cause shown, may order that the testimony of any victim or other witness younger than  
30 14 years of age be taken in a room other than the courtroom. All of the following  
31 conditions shall be observed:

32 (1) Only the judge, attorneys for each party, the testifying child (if any), persons  
33 necessary to operate equipment, and a counselor or therapist whose presence  
34 contributes to the welfare and emotional well-being of the child may be in the  
35 room during the child's testimony. The minor who consents to be hidden from the  
36 child's view may also be present unless, the court determines that the child will  
37 suffer serious emotional or mental strain if required to testify in the minor's  
38 presence, or that the child's testimony will be inherently unreliable if required to  
39 testify in the minor's presence. If the court makes that determination, or if the  
40 minor consents:

41 (A) the minor may not be present during the child's testimony;

42 (B) the court shall ensure that the child cannot hear or see the minor;

43 (C) the court shall advise the child prior to testifying that the minor is  
44 present at the trial and may listen to the child's testimony;

45 (D) the minor shall be permitted to observe and hear the child's testimony,  
46 and the court shall ensure that the minor has a means of two-way  
47 telephonic communication with defense counsel during the child's  
48 testimony; and

49 (E) the conditions of a normal court proceeding shall be approximated as  
50 nearly as possible.

51 (2) Only the judge and attorneys may question the child.

52 (3) As much as possible, persons operating equipment shall be confined to an  
53 adjacent room or behind a screen or mirror so the child cannot see or hear them.

54 (4) If the minor is present with the child during the child's testimony, the court  
55 may order that persons operating the closed circuit equipment film both the child  
56 and the minor during the child's testimony, so that the court may view both the  
57 child and the minor, if that may be arranged without violating other requirements  
58 of Subsection (b)(1).

59 (c) In any delinquency proceeding or proceeding under [Section 78A-6-702 or 78A-6-703](#)  
60 [Title 80, Chapter 6, Part 5, Transfer to District Court](#) concerning a charge of child abuse  
61 or of a sexual offense against a child, the court may order, upon motion of a party and for  
62 good cause shown, that the testimony of any victim or other witness younger than 14  
63 years of age be taken outside the courtroom and be recorded. That testimony is  
64 admissible as evidence, for viewing in any court proceeding regarding the charges if the  
65 provisions of Subsection (b) are observed, in addition to the following provisions:

66 (1) the recording is both visual and aural and recorded on film or videotape or by  
67 other electronic means;

68 (2) the recording is accurate and is not altered;

69 (3) each voice on the recording is identified; and

70 (4) each party is given an opportunity to view the recording before it is shown in  
71 the courtroom.

72 (d) If the court orders that the testimony of a child be taken under Subsection (b) or (c),  
73 the child may not be required to testify in court at any proceeding where the recorded  
74 testimony is used.

75 *Effective September 1, 2021*