

DATE: February 13, 2020

BILL NUMBER: SB 482

COMMITTEE: Judicial Proceedings

BILL TITLE: Criminal Procedure - Out of Court Statements of Child Victims - Child Neglect

DHS POSITION: Support

The Department of Human Services (the Department) respectfully offers this letter of support regarding Senate Bill 482. SB 482 would authorize a court to admit into evidence out of court statements made by a child who is a victim of neglect.

Currently, out of court statements made by children are only permissible in cases of child abuse, sexual abuse, and juvenile court proceedings. Out of court statements are not permitted in cases of criminal child neglect. It is well documented that testifying in a court proceeding can be very intimidating, and result in further trauma for children. The Department feels this is a reasonable accommodation for the child, and mitigates as much additional trauma as possible, while still respecting due process for the accused.

The federal Victims of Child Abuse Act of 1990 recognized the growing body of scientific literature on the psychological and physiologic consequences for children who appear in court. The Act included changes to provide additional federal protections for child victims. SB482 aligns with both federal law, and federal guidance from the 2012 revised U.S. Justice Department guidelines:

“Department personnel should be aware of the trauma that child victims and witnesses may experience when they are asked to relive the crime during the investigation and prosecution of a criminal case, particularly when testifying in court. A primary goal of Department personnel, therefore, shall be to reduce the potential trauma to child victims and witnesses that may result from their contact with the criminal justice system. To that end, Department personnel are required to provide age-appropriate support services to these victims, and referrals for community-based services to parents and guardians as indicated.”¹

These changes at the federal level resulted in modifications to courtroom procedures nationwide. Various accommodations have been developed to decrease the stress experienced by children who appear in courts. These initiatives range from allowing children to hold comforting objects, to being accompanied by a support person while testifying. The Department feels that SB 482 is continuing this national trend in the correct direction.

It is clearly the intent of this legislation to balance the needs of the victim and the accused in response to the growing scientific literature around psychological trauma, the connection to vulnerable populations reliving events through courtroom testimony. Therefore the Department supports this effort as a best practice that aligns with national trends.

For the reasons stated, the Department respectfully requests a favorable report on SB 482.

¹ U.S. Department of Justice. Office of Justice Programs. *Attorney General Guidelines for Witness Assistance*. By Eric H. Holder, Jr. May 2012. Accessed February 26, 2019. https://www.justice.gov/sites/default/files/olp/docs/ag_guidelines2012.pdf.

