

Study finds lack of uniformity on laws protecting child witnesses

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Ashley Fansher is a Ph.D. Student at Sam Houston State University, College of Criminal Justice. Credit: Harriet McHale/SHSU

Each year, more than 100,000 children take the stand to testify in criminal, civil or juvenile courts, but legal protections for these underage witnesses and victims greatly vary from state to state.

"Children of all ages are approaching the bench, being sworn in by a judicial officer, and are asked to sit in a room full of adults to discuss potentially traumatizing and embarrassing events of their victimization," said Ashley Fansher, a Ph.D. student at Sam Houston State University. "The average adult is intimidated by the [criminal justice](#) system and is generally not knowledgeable about court proceedings. The system is even more perplexing for [children](#), especially when asked questions above their development level. "

"The Child as Witness: Evaluating State Statutes on the Courts Most Vulnerable Population," by Fansher and Rolando del Carmen of SHSU's Department of Criminal Justice and Criminology, was recently published by the *Children's Legal Rights Journal*, a prominent legal journal published through Loyola University of Chicago School of Law. The article explores differences in state laws regarding testimony by child witnesses and victims and recommends model policies to address the rights of children.

Federal laws provide some guidelines on children testifying in court, such as allowing alternatives to live testimony like videotaping, competency examinations, privacy protections, victim impact statements, the use of multi-disciplinary child abuse teams, the necessity for speedy trials, and the allowance of support persons and testimonial aids.

According to the U.S. Department of Health and Human Services, 140,000 child abuse victims participated in court proceedings in 2013. States vary widely on seven key issues regarding child testimony, including the number of times a child can be interviewed, the need for speedy trials in cases involving child witnesses or victims, the use of leading questions, the admission of out-of-court statements, the presence of a support person, and the use of comfort items.

Based on research on [child sexual abuse](#) cases, the report makes the following recommendations:

- Reduce the number of child witness and victim interviews by utilizing child advocacy centers, along with trained forensic interviewers
- Prioritize cases involving [child witnesses](#) and victims
- Allow leading questions for children under 10 years of age when they don't understand the vocabulary to describe body parts or sexual acts, when they are easily distracted, or when they have difficulty understanding adults, particularly in stressful situations
- Allow children under 18 to be accompanied by a parent, guardian, relative, or support person to court proceedings, except for forensic interviews
- Allow the use of anatomical dolls during court testimony for children under the age of 10
- Permit the child to carry a toy, blanket or similar item while testifying to increase comfort

"The justice system often needs the testimony of children as victims or witnesses for acts committed by adults," said Fansher. "Given children's youth and vulnerability, justice would be better served if the child witness experience is made friendlier and less threatening. This leads to more reliable [child](#) testimony and helps to ensure that the ends of justice are optimally served."

Provided by Sam Houston State University

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