



## Ohio Revised Code

### Section 2945.483 Rights when testifying of child or person with developmental disability.

Effective: April 6, 2023

Legislation: House Bill 343 - 134th General Assembly

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(A) As used in this section:

(1) "Child" means any individual under eighteen years of age.

(2) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code.

(B) In any proceeding in which a child or person with a developmental disability testifies in open court, the child or person with a developmental disability shall have the following rights to be enforced sua sponte by the court or upon motion or notice of any attorney involved in the proceeding:

(1) To be asked questions in a manner the child or person with a developmental disability can reasonably understand, including, but not limited to, a child-friendly oath;

(2) To be free of harassment or intimidation tactics in the proceeding;

(3)(a) To have an advocate or victim's representative of the child's or person with a developmental disability's choosing present in the courtroom and in a position clearly visible in close proximity to the child or person with a developmental disability, subject to division (B)(3)(b) of this section;

(b) That if the prosecutor in the case or the court has a reasonable basis to believe that the victim's representative is not acting in the interests of the victim who is a child or a person with a developmental disability, the prosecutor shall file a motion setting forth the reasonable basis for this belief and the court shall hold a hearing to determine whether the victim's representative is acting in the interests of the victim. The court shall make this determination by a preponderance of the evidence. If the court finds that the victim's representative is not acting in the interests of the victim, the court shall appoint a court-appointed special advocate, guardian ad litem, or a victim advocate to



act as the victim's representative in lieu of the previously appointed victim's representative.

(4) To have the courtroom or hearing room adjusted to ensure the comfort and protection of the child or person with a developmental disability;

(5) To have flexibility in the formalities of the proceedings in an effort to ensure the comfort of the child or person with a developmental disability;

(6) To permit a comfort item to be present inside the courtroom or hearing room and to accompany the child or person with a developmental disability throughout the hearing;

(7) To permit the use of a properly constructed screen that would allow the judge and jury in the courtroom or hearing room to see the child or person with a developmental disability but would obscure the child's or person with a developmental disability's view of the defendant or alleged juvenile offender or the public or both;

(8) To have a secure and comfortable waiting area provided for the child or person with a developmental disability during the court proceedings and to have a support person of the child's or person with a developmental disability's choosing stay with the child or person with a developmental disability while waiting, subject to division (B)(3)(b) of this section;

(9) To have an advocate or victim's representative inform the court about the child's or person with a developmental disability's ability to understand the nature of the proceedings, special accommodations that may be needed for the child's or person with a developmental disability's testimony, and any other information relevant to any of the rights set forth in this section.

(C) In circumstances where the accused in a proceeding has chosen to proceed without counsel, the court may appoint standby counsel for that party and may order standby counsel to question a child or person with a developmental disability on behalf of the pro se party if the court finds that there is a substantial likelihood that serious emotional trauma would come to the child or person with a developmental disability if the pro se party were allowed to question the child or person with a developmental disability directly.



(D)(1) If the child or person with a developmental disability is the victim of a criminal offense or delinquent act, the court shall ensure that all steps necessary to secure the physical safety of the child or person with a developmental disability, both in the courtroom and during periods of time that the child or person with a developmental disability may spend waiting for court, have been taken.

(2) The court and all attorneys involved in a court proceeding involving a child or person with a developmental disability shall not disclose to any third party any discovery, including, but not limited to, the child's or person with a developmental disability's name, address, and date of birth, any and all interviews of the child or person with a developmental disability, and any other identifying information of the child or person with a developmental disability in a manner consistent with section 2930.07 of the Revised Code. The court shall enforce any violations of this section through the court's contempt powers.

(E) In any post-conviction proceeding or in regards to post-conviction relief, if the prosecutor in the case or the court has a reasonable basis to believe that the victim's representative is not acting in the interests of the victim who is a child or a person with a developmental disability, the prosecutor shall file a motion setting forth the reasonable basis for this belief and the court shall hold a hearing to determine whether the victim's representative is acting in the interests of the victim. The court shall make this determination by a preponderance of the evidence. If the court finds that the victim's representative is not acting in the interests of the victim, the court shall appoint a court-appointed special advocate, guardian ad litem, or a victim advocate to act as the victim's representative in lieu of the previously appointed victim's representative.