

2023 Kansas Statutes

38-2358. Recorded statement of child victim admissible in certain cases; limitations. (a) In any proceeding pursuant to the code in which a child less than 13 years of age is alleged to be a victim of the offense, a recording of an oral statement of the child, made before the proceeding began, is admissible in evidence if:

- (1) The court determines that the time, content and circumstances of the statement provide sufficient indicia of reliability;
- (2) no attorney for any party is present when the statement is made;
- (3) the recording is both visual and aural and is recorded on film or videotape or by other electronic means;
- (4) the recording equipment is capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered;
- (5) the statement is not made in response to questioning calculated to lead the child to make a particular statement or is clearly shown to be the child's statement and not made solely as a result of a leading or suggestive question;
- (6) every voice on the recording is identified;
- (7) the person conducting the interview of the child in the recording is present at the proceeding and is available to testify or be cross-examined by any party;
- (8) each party to the proceeding is afforded an opportunity to view the recording before it is offered into evidence, and a copy of a written transcript is provided to the parties; and
- (9) the child is available to testify.

(b) If a recording is admitted in evidence under this section, any party to the proceeding may call the child to testify and be cross-examined, either in the courtroom or as provided by K.S.A. 38-2359, and amendments thereto.

History: L. 2006, ch. 169, § 58; January 1, 2007.