



TITLE 13

Domestic Relations

CHAPTER 7. PARENTS AND CHILDREN

Subchapter II. Custody Proceedings

§ 724. Interviews.

(a) The Court may interview the child in chambers to ascertain the child's wishes as to his or her custodian and may permit counsel to be present at the interview. The Court shall, at the request of a party, cause a record of the interview to be made and it shall be made part of the record in the case.

(b) The Court may seek the advice of professional personnel whether or not they are employed on a regular basis by the Court. The advice given may be in writing and shall for good cause shown be made available by the Court to counsel of record, parties and other expert witnesses upon request, but shall otherwise be considered confidential and shall be sealed and shall not be open to inspection, except by order of the Court. Counsel may call for cross-examination any professional personnel consulted by the Court.

(c) The Court may, sua sponte or upon request of any party including the child, interview a child on the record regarding any factual statements pertaining to the matter before the Court. Any party may request to submit questions to the judicial officer to be asked of the child. Where all parties are represented, the Court may upon request permit counsel for the parties to observe the interview if, in the opinion of the Court, their presence will not adversely affect the welfare or well-being of the child. The Court may permit any person to be present during the interview whose presence, in the opinion of the Court, contributes to the welfare or well-being of the child. All parties to the matter shall be entitled to review the recorded interview in its entirety. Upon request, the Court may provide an oral or written summary of the interview to the parties.

(d) An out-of-court statement made by a child may be admitted into evidence by the Court if reasonable notice of the intention to offer the out-of-court statement is given to all parties and:

(1) The child is available to be interviewed pursuant to subsection (c) of this section, and the statement touches upon the matter before the Court; or

(2) The child's out-of-court statement is shown to possess particularized guarantees of trustworthiness, and the child is found by the Court to be unavailable to be interviewed on any of these grounds:

- a. The child's death;
- b. The child's absence from the jurisdiction;
- c. The child's total failure of memory;

d. The child's refusal to comply with subsection (c) of this section;

e. The child's physical or mental disability;

f. The existence of a privilege involving the child;

g. The child's incompetence, including the child's inability to communicate about the matter before the Court due to fear or a similar reason; or

h. Substantial likelihood that the child would suffer emotional trauma from being interviewed as set forth in subsection (c) of this section.

(e) The Court shall support with findings on the record any rulings pertaining to the child's unavailability and the trustworthiness of the out-of-court statement admitted pursuant to subsection (d) of this section. In determining whether a statement possesses particularized guarantees of trustworthiness under paragraph (d)(2) of this section, the Court may consider, but is not limited to considering, the following factors:

(1) The child's personal knowledge of the event;

(2) The age and maturity of the child;

(3) Certainty that the statement was made, including the credibility of the person testifying about the statement;

(4) Any apparent motive the child may have to falsify or distort the event, including bias, corruption or coercion;

(5) The timing of the child's statement;

(6) Whether more than 1 person heard the statement;

(7) Whether the child was suffering pain or distress when making the statement;

(8) Whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's knowledge and experience;

(9) Whether the statement has a "ring of verity," has internal consistency or coherence and uses terminology appropriate to the child's age;

(10) Whether the statement is spontaneous or directly responsive to questions;

(11) Whether the statement is suggestive due to improperly leading questions.

(f) This section shall in no way limit the admissibility of any statement under other Court rules or statutes governing admissibility. This section shall apply to all proceedings governed by this title as well as to all proceedings set forth in subchapter II of Chapter 9 of Title 16.