

(12) The credibility of the person testifying about the statement.

(e) The court, in determining whether a statement is admissible under this section, in a hearing outside the presence of the jury, or before the juvenile court proceeding shall:

(1) Make a finding on the record as to the specific guarantees of trustworthiness that are present in the statement; and

(2) Determine the admissibility of the statement.

(f) (1) In making a determination under subsection (e) of this section, the court shall conduct an in camera examination of a child prior to determining the admissibility of the statement, except where the child:

(i) Has died; or

(ii) Is absent from the jurisdiction for good cause shown or the State has been unable to procure the child's presence by subpoena or other reasonable means.

(2) (i) Except as provided in subparagraph (ii)2 of this paragraph, any defendant, any defendant's attorney, and the prosecutor shall have the right to be present when the court hears testimony on whether to admit into evidence an out of court statement of a child under this section.

(ii) If the court is required to observe or question the child in connection with the determination to admit into evidence the out of court statement:

1. Any defendant's attorney and the prosecutor shall have the right to be present at the in camera examination; and

2. The judge may not permit a defendant to be present at the in camera examination.

(g) (1) This section may not be construed to limit the admissibility of a statement under any other applicable hearsay exception or rule of evidence.

(2) This section may not be construed to prohibit the court in a juvenile court proceeding from hearing testimony in the judge's chambers.

DRAFTER'S NOTE: This section is transferred from CJ § 9-103.1.

In subsection (b)(1)(i) of this section, the reference to "§ 35C of this article" is substituted for the former obsolete reference to "Article 27, § 35A of the Code".

The only other changes are in style.

As to the definition of "court", see CJ § 1-101.

776. APPEALS BY VICTIMS OF VIOLENT CRIMES.

(a) (1) In this section, "victim of a violent crime" means a victim of: