

UNIFORM CHILD EVIDENCE ACT

(1993 Proceedings at page 33)

Definition

1. In this Act,

- (a) "child" means a person under the age of fourteen years.
- (b) "court" includes a tribunal.

Admissibility of child's evidence

2.(1) A child's evidence is admissible if,

- (a) he or she promises to tell the truth; and
- (b) the court is of the opinion that the child understands what it means to tell the truth and is able to communicate the evidence.

Determining competency

- (2) When it is necessary to establish whether a child is competent to give evidence, the court may conduct an inquiry to determine whether, in its opinion, the child understands what it means to tell the truth and is able to communicate the evidence.

Further admissibility of evidence

- (3) If a child does not promise to tell the truth, or if the court is of the opinion that the child does not understand what it means to tell the truth, his or her evidence may still be admitted if the court is of the opinion that it is sufficiently reliable.

Corroboration not required

3.(1) Evidence given by a child need not be corroborated.

Warning not needed

- (2) The judge is not required to instruct the jury that it is dangerous to rely on the uncorroborated evidence of a child.

NOTE: The Section decided not to integrate these provisions with the Uniform Evidence Act, because few if any jurisdictions have adopted that Act. Creating a separate uniform statute was thought to improve its chances for adoption.

Creating a separate statute for children's evidence means that part of the second resolution of 1992, that all witnesses of whatever age are presumed to be competent, is not enacted as a Uniform Act. Such a provision added to a jurisdiction's general evidence statute would be consistent with the present Act.