



JUDICIAL COUNCIL OF CALIFORNIA

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March 25, 2016

Hon. Miguel Santiago
Member of the Assembly
State Capitol, Room 5119
Sacramento, California 95814

Subject: AB 1276 (Santiago), as amended January 4, 2016 - Support

Dear Assembly Member Santiago:

The Judicial Council is pleased to support AB 1276, which authorizes, under specified conditions, a minor 17 years of age or younger to testify by contemporaneous examination and cross-examination in another place and out of the presence of the judge, jury, defendant or defendants, and attorneys if the testimony will involve the recitation of the facts of an alleged offense of human trafficking.

In supporting AB 1276, the Judicial Council notes that existing law already provides similar protections for minors in cases involving sexual abuse. Specifically, existing law states that it is the intent of the Legislature to provide the court with discretion to employ alternative court procedures to protect the rights of a child witness, the rights of the defendant, and the integrity of the judicial process. In exercising its discretion, the court necessarily will be required to balance the rights of the defendant or defendants against the need to protect a child witness and to preserve the integrity of the court's truth finding function. This discretion is intended to be used selectively when the facts and circumstances in an individual case present compelling evidence of the need to use these alternative procedures. (Pen. Code, § 1347, subd. (a)(2).

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AB 1276 applies the same procedures as currently permitted for allowing a minor, 13 years of age or younger, to testify by means of closed-circuit television in specified cases provided the court makes certain findings regarding a minor, 17 years of age or younger who is testifying in human trafficking case. With that in mind the Judicial Council believes that by granting courts the authority to order that a witness in cases involving human trafficking who are 17 years or younger be taken by contemporaneous examination and cross-examinations both enhances judicial discretion and the quality of justice.

For these reasons, the Judicial Council is pleased to support AB 1276.

Sincerely,



Sharon Reilly
Attorney

SR/yc-s

cc: Ms. Nancy E. O'Malley, District Attorney, Alameda County District Attorney's Office
Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California