



Victims and Witnesses (Scotland) Act 2014

2014 asp 1

Vulnerable witnesses

14 Child witnesses

- (1) In section 271B of the 1995 Act (further special provision for child witnesses under the age of 12), for subsection (3), substitute—
- “(3) Subsection (4) applies if the child witness expresses a wish to be present in the court-room for the purpose of giving evidence.
- (4) The court must make an order under section 271A or, as the case may be, 271D which has the effect of requiring the child witness to be present in the court-room for the purpose of giving evidence unless the court considers that it would not be appropriate for the child witness to be present there for that purpose.
- (5) Subsection (6) applies if the child witness—
- (a) does not express a wish to be present in the court-room for the purpose of giving evidence, or
- (b) expresses a wish to give evidence in some other way.
- (6) The court may not make an order under section 271A or 271D having the effect mentioned in subsection (4) unless the court considers that—
- (a) the giving of evidence by the child witness in some way other than by being present in the court-room for that purpose would give rise to a significant risk of prejudice to the fairness of the trial or otherwise to the interests of justice, and
- (b) that risk significantly outweighs any risk of prejudice to the interests of the child witness if the order were to be made.”.
- (2) In section 271A(5) of the 1995 Act (orders authorising special measures), for “271B(3)” substitute “271B”.
- (3) In section 271D of the 1995 Act (review of arrangements for child witnesses and certain other witnesses), after subsection (6), add—

Status: This is the original version (as it was originally enacted).

“(7) This section is subject to section 271B.”.