

KIDS & TESTIFYING IN COURT

Having children testify in court cases is a tricky and difficult decision. It just depends upon the child, and the situation. Illinois law says that unless a child testifies in a custody case, the court can only consider the child's wishes. Illinois law says that in an order of protection case, if the child witnessed the abuse, the child must testify. Otherwise, it's all hearsay, and the court cannot consider the parent's comments about what the child say as the truth.

So, parents ask what I recommend. And, when I tell them the kids have to testify, they always are confronted by the other parent, with statements like, "how could you do this to the kids?" "You're destroying those children!" "What kind of monster are you putting those kids in the middle like this?!" It's not an easy decision for any parent to make.

But, I've had a number of children testify in court, and when it's over, they were all glad they did. The court directed each side to stop questioning the kids about what happened, and what they said as a witness. And I always explain to the kids that their only job is to tell the truth. And once they tell the judge what happened, it's over - they don't have to talk about it, or answer questions about it any more. And they are relieved.

And in every case where the kids testified, the judge ruled in their favor. And the judge believed them. And as we all know, being believed, especially as a child, is really powerful, and important to our self-esteem.

So, as a mother, and a divorce attorney, unless I have a counselor that tells me the child will suffer some type of detrimental anxiety. or some setback, I encourage parents to allow their children to testify.