

In the Circuit Court of \_\_\_\_\_ County, West Virginia

**STYLE OF THE CASE**

**PROTECTIVE ORDER FOR RECORDED CHILD INTERVIEWS**

On \_\_\_\_\_, came the State of West Virginia by \_\_\_\_\_, Assistant Prosecuting Attorney, seeking a Protective Order to permit the disclosure of a "recorded interview" of an "interviewed child" pursuant to W. Va. Code §62-6B-6. The State also seeks the authority for the parties to prepare transcripts if needed.

A Prosecuting Attorney is authorized under W.Va. Code §62-6B-6(b) to have access and copies of recorded interviews of an interviewed child prior to commencement of judicial proceedings. Once proceeding commence, the recorded interviews of an interviewed child may not be duplicated or published except pursuant to the terms of an order of a court of competent jurisdiction. [W.Va. Code §62-6B-6(a).]

"Recorded interview" means any electronic recording of the interview, any transcript thereof, and any written documentation in any form related to the recorded interview, of an interviewed child conducted by: (1) An employee or representative of a child advocacy center as that term is defined in W. Va. Code § 49-3-101; (2) any psychologist, psychiatrist, physician, nurse, social worker or other person appointed by the court to interview the interviewed child as provided in W. Va. Code § 62-6B-3(c); or (3) a child protective services worker, law-enforcement officer, prosecuting attorney or any representative of his or her office, or any other person investigating allegations of criminal behavior or behavior alleged to constitute abuse or neglect of a child. Criminal complaints, police reports, and other routine law enforcement documentation do not constitute a recorded interview.

An "Interviewed child" shall mean any person under the age of eighteen who has been interviewed by means of any type of recording equipment in connection with alleged criminal behavior or allegations of abuse or neglect of any child under the age of eighteen.

Upon good cause shown and in the interests of justice, it is ORDERED that the Prosecuting Attorney is authorized to disclose the recorded child interviews and the written documentation associated therewith in this case to \_\_\_\_\_, and it is further ORDERED that \_\_\_\_\_ are authorized to prepare transcripts of the recordings as needed, subject to the following restrictions:

A. Any recorded interview that is subject to access or disclosure pursuant to court rules regarding discovery or production in a proceeding shall be kept strictly confidential.

B. There shall be no access to, or publication, duplication, or use of any such recorded interview, transcript, or related documentation except in accordance with this protective order or another order issued by a judge presiding over the proceeding

C. All recordings, transcripts, and related documentation shall have the words "CONFIDENTIAL -- PENALTIES FOR UNAUTHORIZED DISCLOSURE OR DUPLICATION," conspicuously affixed thereto;

D. Access to and use of recordings, transcripts, and related documentation shall be authorized for counsel for parties, guardian ad litem, and their employees who have responsibility to assist in the proceeding, limited to use in that proceeding only, and only to the extent expressly permitted by this order;

E. Parties to the proceeding and victims shall be authorized to review recordings, transcripts, and related documentation only under the supervision of a prosecuting attorney, their counsel or guardian ad litem, or their staff, or if unrepresented, by designated court staff, but not be provided duplicates unless authorized by separate order for good cause shown; Provided, that the parties are prohibited to display or disclose recordings, transcripts, and related documentation to non-party family members of the defendant, respondent, petitioner, victim, or to any other individual, unless the judge presiding over the proceeding makes a finding that such display or disclosure is necessary for the protection of a party's rights or is in the best interests of the interviewed child.

F. Access and duplication of recordings, transcripts, and related documentation shall be authorized for consultants, investigators, and experts employed or contracted to assist in the proceeding, but only after such persons have executed and filed with the court an agreement to be bound by the protective order;

G. Counsel and guardian ad litem shall be required to take reasonable and appropriate measures to prevent unauthorized access to, or use of recordings, transcripts, and related documentation;

H. Specific confidentiality protections shall be provided for any recording, transcript, or related documentation that is filed as an exhibit to a pleading or memorandum, or discussed in a pleading or memorandum;

I. Use of recordings, transcripts, and related documentation at depositions shall be permitted, provided that parties and attorneys shall have the right and obligation to designate the recordings, transcripts, related documentation, and testimony related thereto as confidential and subject to the terms of this order; and

J. Notice to the court shall be required prior to any use of a recording, transcript, or related documentation during a hearing or trial in the proceeding.

**Any person who knowingly and willfully duplicates or publishes a recorded interview in violation of the terms of this order or in violation of W.Va. Code §62-6B-6(b) shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail for not less than**

**10 days nor more than one year or fined not less than \$2,000 nor more than \$10,000, or both fined and confined. [W.Va. Code §62-6B-6(d).]**

The Clerk shall enter this order and provide copies to counsel of record.

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