

Grandparents' Visitation Rights—Providing for an Educational Program—N.J. Stat. Ann. § 52:27B-9.1 (West Supp. 1985)

The purpose of this legislation is to establish an outreach and educational program which would apprise grandparents of their legal rights concerning the visitation of their grandchildren in cases of divorce, separation or parental death. The program is also directed towards informing divorcing parents of the important role regular grandparent visitation can play in their child's life.

The Department of Community Affairs is responsible for administering the program in connection with the Administrative Office of the Courts and the New Jersey State Bar Association. To achieve its goals, the program will utilize educational tools such as pamphlets, handbooks, public forums, or any other viable learning devices. Current New Jersey law, N.J. Stat. Ann. 59:2-7.11 (West 1984) which was enacted in 1972, enables grandparents of a child whose parents are deceased, separated or divorced to apply to the court for visitation rights of their grandchildren should the court find that such visitation would be in the "best interest of the child."

The 1972 statute is indicative of New Jersey's favorable disposition towards granting grandparent's visitation rights. Furthermore, judicial interpretation of the 1972 act has strengthened these rights. In *Bennett v. Bennett*, 150 N.J. Super. 509 (App. Div. 1977), the court held that a paternal grandmother's right to visitation with her granddaughter subsequent to the divorce of the child's parents, "was not to be determined on the theory that the right was derivative through her son [who did not exercise his visitation rights and had defaulted in his child support payments] but was to be determined on the basis of whether a visitation order was justified in the best interests of the child." *Id.* at 510. In determining the "best interests of the child," the court established a balancing test whereby the trial court is directed to weigh the possible advantages and disadvantages of visitation including such practical considerations as the time, place, and duration of the visitation. 150 N.J. Super. at 513. Furthermore, the court in *Globman v. Globman*, 158 N.J. Super. 338, 346-347 (App. Div. 1978) held that N.J. Stat. Ann. § 9:2-7.1 (West 1984), "creates a presumption that the best inter-

ests of the children ordinarily are served by maintaining their contact and communication with their grandparents." In *Globman*, despite the fact that the children's father disapproved of visitation by the maternal grandparents, such hostility alone could not be a determinative factor in denying grandparental contact. Such contact "is not simply a matter of biological continuity but * * * can be an emotionally supportive factor for the children in ways quite distinct from the parental relationship."

This legislation stems from a well-established recognition of grandparental rights at both the state and federal level. On the national level, S. Con. Res. 40 expressed the desire of Congress to promulgate a uniform state act to provide "grandparents with adequate rights to petition state courts for privileges to visit their grandchildren following the dissolution . . . of the marriage of such grandchildren's parents. . . ." N.J. Stat. Ann. § 52:27B-9.1 (West Supp. 1985) is New Jersey's response to the growing problem of torn familial relations in our society due to parental death and an increasingly high divorce and separation rate.

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Evidence—Admissibility—An Act Concerning the Closed Circuit Testimony of Minors in Certain Circumstances, P. L. 1985, ch. 126 (N.J. Stat. Ann. § 2A:84A-32.4), and Supplementing N.J. Stat. Ann. §§ 2A:84A-32.1 to -32.3 (West Supp. 1984-85)*

The New Jersey Legislature recently supplemented the New Jersey Rules of Evidence, N.J. Stat. Ann. §§ 2A:84A-32.1 to -32.3 (West Supp. 1984-85), which deal with the admissibility of the complaining witness' previous sexual conduct in certain prosecutions involving rape. The new provision, allocated to N.J. Stat. Ann. § 2A:84A-32.4, governs the admissibility of closed circuit testimony of minors in certain prosecutions. The new provision sets forth the procedural guidelines for the taking of the closed circuit testimony of minors and applies specifically to prosecutions for aggravated sexual assault, sexual assault, aggravated

* N.J. Stat. Ann. §§ 2A:84A-32.1 to -32.3 (West Supp. 1984-85), the "rape shield" statute, was enacted by P. Law 1976, ch. 71, and was reenacted, with some changes, in 1979 as part of the New Jersey Code of Criminal Justice, N.J. Stat. Ann. § 2C:14-7 (West 1982).