

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).

criminal sexual contact, child abuse and any other action involving allegations of abuse or neglect of a child.

The act permits the court to order the taking of closed circuit testimony of a witness in the types of prosecutions specified only after the court has made specific findings of fact. First, the court must find that the witness is sixteen years of age or younger. Second, the court must find that there is a substantial likelihood that the witness would suffer severe emotional or mental distress if the witness is required to testify in open court.

The Act provides that if the court determines that the witness will testify outside the presence of spectators, the defendant, the jury or all of them, then the order must so specify and must also include specific findings relating to the impact of the presence of each on the witness. The defendant's counsel may not be excluded from the taking of the testimony *in camera*. Additionally, if the defendant is excluded from the taking of the testimony *in camera*, he and his attorney must be able to confer privately with each other during the taking of the testimony by a separate audio system.

A motion seeking a court order permitting the taking of closed circuit testimony pursuant to this section may be filed by the victim or witness, the victim's or witness' attorney, parent or legal guardian, the prosecutor, the defendant or the defendant's counsel, or the trial judge on the trial judge's own motion. The Act also requires that a stenographic recording of the closed circuit testimony be taken and that a typewritten transcript of the testimony be included in the record on appeal.

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