

## CHAPTER 205

AN ACT concerning closed circuit testimony in certain criminal cases, and amending P.L.1985, c.126 and P.L.1989, c.336.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1985, c.126 (C.2A:84A-32.4) is amended to read as follows:

C.2A:84A-32.4 Prosecutions, certain actions, closed circuit testimony.

1. a. (1) In prosecutions for aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact, human trafficking involving sexual activity, a crime involving domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19), endangering the welfare of a child pursuant to N.J.S.2C:24-4, abuse or neglect of a child pursuant to R.S.9:6-3, or in any action alleging an abused or neglected child under P.L.1974, c.119 (C.9:6-8.21 et seq.), the court may, on motion and after conducting a hearing in camera, order the taking of the testimony of a victim or witness on closed circuit television at the trial, out of the view of the jury, defendant, or spectators upon making findings as provided in subsection b. of this section.

(2) In granting such an order, the court shall assure that:

(a) the victim or witness will testify under oath;

(b) the victim or witness will submit to cross-examination by the defendant's attorney; and

(c) the defendant, jury, and judge will be permitted to observe the demeanor of the victim or witness when making testimonial statements using closed circuit television.

b. An order under this section may be made only if the court determines by clear and convincing evidence that there is a substantial likelihood that the victim or witness would suffer severe emotional or mental distress if required to testify in the presence of spectators, the defendant, the jury, or all of them. The order shall be specific as to whether the victim or witness will testify outside the presence of spectators, the defendant, the jury, or all of them and shall be based on specific findings relating to the impact of the presence of each.

c. A motion seeking closed circuit testimony under subsection a. of this section may be filed by:

(1) The victim or witness or, in the case of a victim or witness who is under the age of 18, the victim's or witness's attorney, parent or legal guardian;

(2) The prosecutor; or

(3) The defendant or the defendant's counsel.

d. The defendant's counsel shall be present in the same room as the victim or witness at the taking of testimony on closed circuit television. The defendant and the defendant's attorney shall be able to confer privately with each other during the testimony by a separate audio system.

e. If testimony is taken on closed circuit television pursuant to the provisions of this section, the video portion of the testimony shall not be recorded and shall not constitute part of the record on appeal. All audio transmissions, except private conversations between the defendant and the defendant's attorney, shall be recorded and thereafter shall be subject to the following provisions:

(1) If the victim or witness is 18 years of age or older at the time of the court proceedings, any recording of the audio portion of the closed circuit testimony shall constitute part of the record on appeal, unless the court orders otherwise for good cause shown upon motion of the parties.

(2) If the victim or witness is under the age of 18 at the time of the court proceedings, any recording of the audio portion of the closed circuit testimony shall not constitute part of the record on appeal and shall be deemed confidential and not available to the public, unless

the court orders otherwise for good cause shown upon motion of the parties. In making the determination regarding the availability of the audio portion of the testimony, the court shall consider potential trauma or stigma to the victim or witness. A transcript of the audio portion of the closed circuit testimony shall constitute part of the record on appeal, subject to any personal identification safeguards contained in section 1 of P.L.1989, c.336 (C.2A:82-46).

f. For purposes of this section, “closed circuit television” means any closed-circuit, videoconferencing or other audio-visual electronic technology capable of producing a simultaneous, one-way broadcast from a victim or witness to a defendant in a separate physical location. The technology shall allow for the live observation of the victim or witness by the defendant, jury, and judge during the course of testimony or cross-examination, while excluding a victim or witness from directly hearing or viewing the defendant during the proceedings.

2. Section 1 of P.L.1989, c.336 (C.2A:82-46) is amended to read as follows:

C.2A:82-46 Disclosure of identity of victims of certain crimes under age 18 prohibited.

1. Disclosure of identity of victims of certain crimes under age 18 prohibited.

a. In prosecutions for aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact, human trafficking involving sexual activity, a crime involving domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19) which involves sexual activity, endangering the welfare of children under N.J.S.2C:24-4, abuse or neglect of a child pursuant to R.S.9:6-3, or in any action alleging an abused or neglected child under P.L.1974, c.119 (C.9:6-8.21 et seq.), the name, address, and identity of a victim who was under the age of 18 at the time of the alleged commission of an offense shall not appear on the indictment, complaint, or any other public record as defined in P.L.1963, c.73 (C.47:1A-1 et seq.). In its place initials or a fictitious name shall appear.

b. Any report, statement, photograph, court document, indictment, complaint or any other public record which states the name, address and identity of a victim shall be confidential and unavailable to the public. Unless authorized pursuant to subsection c. of this section, any person who purposefully discloses, releases or otherwise makes available to the public any of the above-listed documents which contain the name, address and identity of a victim who was under the age of 18 at the time of the alleged commission of an offense enumerated in subsection a. of this section shall be guilty of a disorderly persons offense.

c. The information described in this section shall remain confidential and unavailable to the public unless the court, after a hearing, determines that good cause exists for disclosure. The hearing shall be held after notice has been made to the victim, parents of victim, spouse, partner in a civil union or other person legally responsible for the maintenance and care of the victim, and to the person charged with the commission of the offense, counsel or guardian of that person.

d. Nothing contained herein shall prohibit the court from imposing further restrictions with regard to the disclosure of the name, address, and identity of the victim when it deems it necessary to prevent trauma or stigma to the victim.

3. This act shall take effect immediately.

Approved August 7, 2017.