

SENATE, No. 4173

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED NOVEMBER 22, 2021

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator KRISTIN M. CORRADO

District 40 (Bergen, Essex, Morris and Passaic)

Co-Sponsored by:

Senators Madden and O'Scanlon

SYNOPSIS

Permits victims and witnesses of human trafficking to testify in criminal proceedings via closed circuit television; permits judge to make motion to seek closed circuit testimony.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/2/2021)

1 AN ACT ACT concerning certain victims and witnesses and
2 amending P.L.1985, c.126.

3

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

6

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

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

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

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

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

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

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

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

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

42 (2) The prosecutor; **[or]**

43 (3) The defendant or the defendant's counsel; or

44 (4) The trial judge on the judge's own motion.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

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

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

17 (2) If the victim or witness is under the age of 18 at the time of
18 the court proceedings, any recording of the audio portion of the
19 closed circuit testimony shall not constitute part of the record on
20 appeal and shall be deemed confidential and not available to the
21 public, unless the court orders otherwise for good cause shown
22 upon motion of the parties. In making the determination regarding
23 the availability of the audio portion of the testimony, the court shall
24 consider potential trauma or stigma to the victim or witness. A
25 transcript of the audio portion of the closed circuit testimony shall
26 constitute part of the record on appeal, subject to any personal
27 identification safeguards contained in section 1 of P.L.1989, c.336
28 (C.2A:82-46).

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

38 (cf: P.L.2017, c.205, s.1)

39
40 2. This act shall take effect immediately.

41 42 43 STATEMENT

44
45 This bill would permit all victims and witnesses of human
46 trafficking to testify in criminal proceedings via closed circuit
47 television. Under current law, victims and witnesses of human
48 trafficking involving sexual activity, among others, are permitted to

1 testify via closed circuit television. Also under current law, the
2 victim or witness, the prosecutor, or the defendant or their counsel
3 may make a motion seeking closed circuit testimony. The bill
4 would also permit a trial judge to make a motion.