

(2) (i) Except as provided in subparagraph (ii)2 of this paragraph, any defendant, any defendant's attorney, and the prosecutor shall have the right to be present when the judge hears testimony on whether to allow a child victim to testify by closed circuit television.

(ii) If the judge decides to observe or question the child in connection with the determination to allow closed circuit television:

1. Any defendant's attorney and the prosecutor shall have the right to be present; and
2. The judge may not permit a defendant to be present.

(d) The provisions of this section do not apply if the defendant is [an attorney] APPEARING pro se.

(e) This section may not be interpreted to preclude, for purposes of identification of a defendant, the presence of both the victim and the defendant in the courtroom at the same time.

(f) This section may not be interpreted to permit the use of two-way closed circuit television or any other procedure that would result in the child being exposed to the defendant.

DRAFTER'S NOTE: This section is transferred from CJ § 9-102.

In subsection (a) of this section, the reference to "§ 35C of this article" is substituted for the former obsolete reference to "Article 27, § 35A of the Code".

In subsection (b)(1)(iv) of this section, the phrase "Subject to the Maryland Rules" is substituted for the former phrase "Unless the defendant objects" to eliminate the right of the defendant to exclude persons who have contributed to the well-being of the child. See Rule 5-615(c), which currently allows the court to permit others to be with the child when the child testifies.

The only other changes are in style.

#### 775. OUT OF COURT STATEMENTS OF CHILD ABUSE VICTIMS.

(a) In this section "statement" means:

- (1) An oral or written assertion; or
- (2) Nonverbal conduct, if it is intended as an assertion, including sounds, gestures, demonstrations, drawings, or similar actions.

(b) (1) Subject to the provisions of paragraphs (2) and (3) of this subsection, if a court finds that the requirements of subsection (c) of this section are satisfied, a court may admit into evidence in a juvenile court proceeding or in a criminal proceeding an out of court statement, to prove the truth of the matter asserted in the statement, made by a