

(4) ONLY THE PROSECUTING ATTORNEY, THE ATTORNEY FOR ~~THE~~ ANY DEFENDANT, AND THE JUDGE MAY QUESTION THE CHILD.

~~(5) THE OPERATORS OF THE CLOSED CIRCUIT TELEVISION SHALL MAKE EVERY EFFORT TO BE UNOBTUSIVE.~~

(C) (1) IN DETERMINING WHETHER TESTIMONY BY THE CHILD VICTIM IN THE DEFENDANT'S PRESENCE WILL RESULT IN THE CHILD SUFFERING SERIOUS EMOTIONAL DISTRESS SUCH THAT THE CHILD CANNOT REASONABLY COMMUNICATE, THE JUDGE MAY OBSERVE AND QUESTION THE CHILD EITHER INSIDE OR OUTSIDE THE COURTROOM AND HEAR TESTIMONY OF A PARENT OR CUSTODIAN OF THE CHILD OR ANY OTHER PERSON, INCLUDING A PERSON WHO HAS DEALT WITH THE CHILD IN A THERAPEUTIC SETTING.

(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.

(2) (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 ~~THE~~ A DEFENDANT TO BE PRESENT.

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

[(d)](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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1992.

Approved May 26, 1992.