

ASSEMBLY, No. 1711

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

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SYNOPSIS

Establishes the “Sexual Assault Victim’s Bill of Rights.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 12/4/2018)

1 AN ACT concerning the rights of victims of sexual violence and
2 supplementing Title 52 of the Revised Statutes.

3

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

6

7 1. This act shall be known and may be cited as the “Sexual
8 Assault Victim’s Bill of Rights.”

9

10 2. The Legislature finds and declares that:

11 a. The passage of the “Crime Victim’s Bill of Rights,”
12 P.L.1985, c.249 (C.52:4B-34 et seq.) and the “New Jersey Campus
13 Sexual Assault Victim’s Bill of Rights Act,” P.L.1994,
14 c.160 (C.18A:61E-1 et seq.) have resulted in significant advances in
15 the recognition and protection of the rights of crime victims and
16 survivors once they enter the criminal justice system;

17 b. Nonetheless, victims of sexual violence, more than other
18 victims, are likely to be blamed for the crime, assumed to be
19 fabricating the crime, or taken less seriously than their injuries
20 warrant. These victims are sometimes discouraged from proceeding
21 with their complaints and as a result are not afforded the protections
22 and rights that other crime victims receive in the criminal justice
23 system;

24 c. Therefore, with no diminution of the legislatively-
25 recognized rights of crime victims, it is the public policy of this
26 State to accord victims of sexual violence these specific rights:

27 All victims of sexual violence have the right to be treated with
28 respect, dignity, empathy, and a non-judgmental attitude regardless
29 of gender, race, cultural background, age, affectional or sexual
30 orientation, gender identity, income, cognitive abilities, physical
31 abilities, or sexual, medical, and mental health history;

32 Victims have the right to be free of any suggestion that they are
33 responsible for the violence committed against them; and

34 Victims have the right to have the sexual assault treated seriously
35 and in accordance with their ability and willingness to proceed
36 legally or personally to recoup their losses from any such violence.

37

38 3. As used in this act:

39 a. “Public employee” means any person employed by a public
40 entity who is responsible for the delivery of social, health care,
41 institutional, or correctional services, or primary or secondary
42 educational services to the public.

43 b. “Public entity” means any State, county, or municipal
44 agency that employs public employees as defined in this act, or is
45 funded or regulated by the State to perform the functions of a public
46 employee.

1 c. “Division on Women” shall mean the Division on Women in
2 the Department of Children and Families established pursuant to
3 P.L.1974, c.87 (C.52:27D-43.8 et seq.).

4 d. “SART” means a Sexual Assault Response Team established
5 pursuant to section 6 of P.L.2001, c.81 (C.52:4B-54).

6 e. “Sexual violence” includes, but is not limited to, sexual
7 assault pursuant to N.J.S.2C:14-2; criminal sexual contact pursuant
8 to N.J.S.2C:14-3; endangering the welfare of a child by engaging in
9 sexual conduct which would impair or debauch the morals of the
10 child pursuant to paragraph (1) of subsection a. of N.J.S.2C:24-4;
11 endangering the welfare of a child pursuant to paragraph (3) or (4)
12 or subparagraph (a) of paragraph (5) of subsection b. of
13 N.J.S.2C:24-4; luring or enticing pursuant to section 1 of P.L.1993,
14 c.291 (C.2C:13-6); luring or enticing an adult pursuant to section 1
15 of P.L.2005, c.1 (C.2C:13-7); kidnapping pursuant to N.J.S.2C:13-
16 1; criminal restraint pursuant to N.J.S.2C:13-2; or false
17 imprisonment pursuant to N.J.S.2C:13-3 if the victim is a minor and
18 the offender is not the parent of the victim; human trafficking
19 pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8); and knowingly
20 promoting prostitution of a child pursuant to paragraph (3) or
21 paragraph (4) of subsection b. of N.J.S.2C:34-1. It also includes
22 acts which have the same elements as any of those crimes but which
23 occurred beyond the relevant statutes of limitations. No prosecution
24 is necessary to confer these rights on a victim.

25 f. “Victim” means a person who alleges to have been subjected
26 to sexual violence, or the parent or guardian of any person under 18
27 who has been subjected to any such act, or the guardian of a person
28 declared incapacitated pursuant to section 12 of P.L.2005,
29 c.304 (C.3B:12-24.1) who has been subjected to any such act.

30 g. For the purposes of this act, the responsibility of an
31 employee to “facilitate access to” the rights described in P.L. ,
32 c. (C.)(pending before the Legislature as this bill) can be
33 fulfilled by: (1) assisting the victim in contacting a sexual violence
34 program should the victim choose such contact; or (2) directing a
35 victim to a person designated by the public entity to assist a victim
36 in contacting a sexual violence program or appropriate mandated
37 reporting agency.

38
39 4. A public employee as defined in subsection a. of section 3 of
40 P.L. , c. (C.)(pending before the Legislature as this bill) to
41 whom, during the course of his employment, a complaint or report
42 of sexual violence is made by a person receiving the services of the
43 public employee, shall not deny such person the rights provided for
44 under this act regardless of the victim’s age, race, gender, cognitive
45 capacity, physical abilities, or sexual, medical, or mental health
46 treatment history. If the reporter of sexual violence is not the
47 victim, information regarding these rights shall be provided to the
48 reporter. There shall be no retaliation against a person who in good

1 faith reports suspected sexual violence against any person to a
2 public employee. The Division on Women shall, upon request,
3 make available written materials that convey the rights of victims of
4 sexual violence as defined in this act and other appropriate
5 information. These materials shall be written in a manner that
6 promotes the dignity of and shows respect for victims of sexual
7 violence.

8
9 5. No public employee or public entity shall deny any of the
10 following rights to a victim of sexual violence and shall facilitate
11 access to these rights:

12 a. To speak privately, consistent with privileges provided by
13 the New Jersey statutes, at any point in the process of reporting a
14 sexual assault or receiving services, with a rape care advocate as
15 defined in section 3 of P.L.1987, c.169 (C.2A:84A-22.14), and with
16 any other advocate, clergy, attorney, or support person of the
17 victim's choosing and to have any such communication treated as
18 privileged and confidential;

19 b. To be informed about any legal or ethical requirement that
20 requires the agency or employee to share any information related to
21 the violence with another government agency;

22 c. To formally report the sexual violence, or to refrain from
23 making a formal report to any person or institution, including law
24 enforcement authorities, and to not have the receipt of any public
25 service made contingent on reporting or not reporting the incident;

26 d. To medical treatment by a provider of the victim's choice, or
27 from a SART, as provided in the Attorney General's Standards for
28 Providing Services to Victims of Sexual Assault. If a SART is
29 chosen, a victim has the right to opt into or out of any of its
30 services, including the option to refuse a forensic examination;

31 e. To choose whether to participate in any investigation of the
32 assault;

33 f. To reasonable efforts to provide treatment and interviews in
34 a language in which the victim is fluent and to be given access to
35 appropriate assistive devices to accommodate the victim's
36 disabilities, whether temporary or long term; and

37 g. To information and assistance in accessing specialized
38 mental health services; protection from further violence; and other
39 appropriate community or governmental services, including
40 services provided by the Victims of Crime Compensation Office;
41 and all other assistance available to crime victims pursuant to
42 P.L.1985, c.249 (C.52:4B-34 et seq.).

43
44 6. The Victims of Crime Compensation Office in consultation
45 with the Director of the Division on Women, the Department of
46 Health, and the Executive Director of the New Jersey Coalition
47 Against Sexual Assault, shall publish a notice of these rights and
48 shall promulgate regulations that require its posting in all hospital

1 emergency departments, police stations, and any other appropriate
2 place to inform victims of their rights and inform public employees
3 and entities of their obligations under P.L. ,
4 c. (C.)(pending before the Legislature as this bill).

5
6 7. Any conflict between P.L. , c. (C.)(pending before the
7 Legislature as this bill) and any other statutory duty of a public
8 employee or any other law shall not invalidate the remainder of this
9 act.

10
11 8. Nothing in P.L. , c. (C.)(pending before the Legislature
12 as this bill) shall add to or diminish any person’s rights to seek
13 damages pursuant to the "New Jersey Tort Claims Act," N.J.S.59:1-
14 1 et seq., nor shall this act preclude or restrict a public employee’s
15 statutory obligation to report a crime to the appropriate law
16 enforcement authorities.

17
18 9. Nothing in P.L. , c. (C.)(pending before the Legislature
19 as this bill) shall be construed to preclude or in any way restrict any
20 public entity from performing a preexisting duty to report any
21 suspected crime or offense to the appropriate law enforcement
22 authorities.

23
24 10. Notwithstanding any other provision of law to the contrary,
25 no public employee or public entity shall be liable for damages
26 resulting from any exercise of judgment or discretion in connection
27 with the performance of the employee’s or entity’s duties unless the
28 actions evidence a reckless disregard for the duties imposed by this
29 act. Nothing in this section shall be deemed to grant immunity to
30 any person causing damage by his willful, wanton, or grossly
31 negligent act of commission or omission.

32
33 11. This act shall take effect 180 days after the date of
34 enactment, but the Victims of Crime Compensation Office and the
35 Director of the Division on Women may take such anticipatory
36 administrative action in advance thereof as shall be necessary for the
37 implementation of this act.

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40 STATEMENT

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42 This bill would establish a “Sexual Assault Victim’s Bill of
43 Rights” for victims of sexual violence. The bill would also require
44 certain public employees to facilitate access to services for victims
45 of sexual violence.

46 The bill defines “public employee” as any person employed by a
47 public entity who is responsible for the delivery of social, health
48 care, institutional, or correctional services, or primary or secondary

1 educational services to the public. The bill defines “to facilitate
2 access to” as: (1) assisting the victim in contacting a sexual
3 violence program should the victim choose such contact; or (2)
4 directing a victim to a person designated by the public entity to
5 assist a victim in contacting a sexual violence program or
6 appropriate mandated reporting agency.

7 The bill provides that a person receiving the services of a public
8 employee who makes a complaint or report of sexual violence to the
9 employee shall not be denied the rights provided for under the bill
10 regardless of the victim’s age, race, gender, cognitive capacity,
11 physical abilities, or sexual, medical, or mental health treatment
12 history.

13 The intent of this provision is to address a gap in current
14 procedures. At present, if a client of a public agency reports an act
15 of sexual violence to an employee, the agency may not have
16 policies and procedures to address the issue appropriately.

17 The rights enumerated under the bill are as follows:

18 To speak privately, consistent with privileges provided by the
19 New Jersey statutes, at any point in the process of reporting a
20 sexual assault or receiving services, with a rape care advocate and
21 with any other advocate, clergy, attorney, or support person of the
22 victim’s choosing, and to have any such communication treated as
23 privileged and confidential;

24 To be informed about any legal or ethical requirement that
25 requires the agency or employee to share any information related to
26 the violence with another government agency;

27 To formally report the sexual violence, or to refrain from making
28 a formal report to any person or institution, including law
29 enforcement authorities, and to not have the receipt of any public
30 service made contingent on reporting or not reporting the incident;

31 To medical treatment by a provider of the victim’s choice, or
32 from a Sexual Assault Response Team as provided in the Attorney
33 General’s Standards for Providing Services to Victims of Sexual
34 Assault, and to the choice to opt into or out of any of the team’s
35 services, including the option to refuse a forensic examination;

36 To choose whether to participate in any investigation of the
37 assault;

38 To reasonable efforts to provide treatment and interviews in a
39 language in which the victim is fluent and to be given access to
40 appropriate assistive devices to accommodate the victim’s
41 disabilities, whether temporary or long term; and

42 To information and assistance in accessing specialized mental
43 health service; protection from further violence; and other
44 appropriate community or governmental services, including
45 services provided by the Victims of Crime Compensation Office;
46 and all other assistance available to crime victims under present
47 law.

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1 The bill would also require the Victims of Crime Compensation
2 Office in consultation with the Division on Women, the Department
3 of Health and the New Jersey Coalition Against Sexual Assault to
4 publish a notice of these rights and promulgate regulations that
5 require its posting in all hospital emergency departments, police
6 stations, and any other appropriate place to inform victims of their
7 rights and inform public employees and entities of their obligations
8 under the bill.