

[First Reprint]

ASSEMBLY, No. 1711

STATE OF NEW JERSEY
218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

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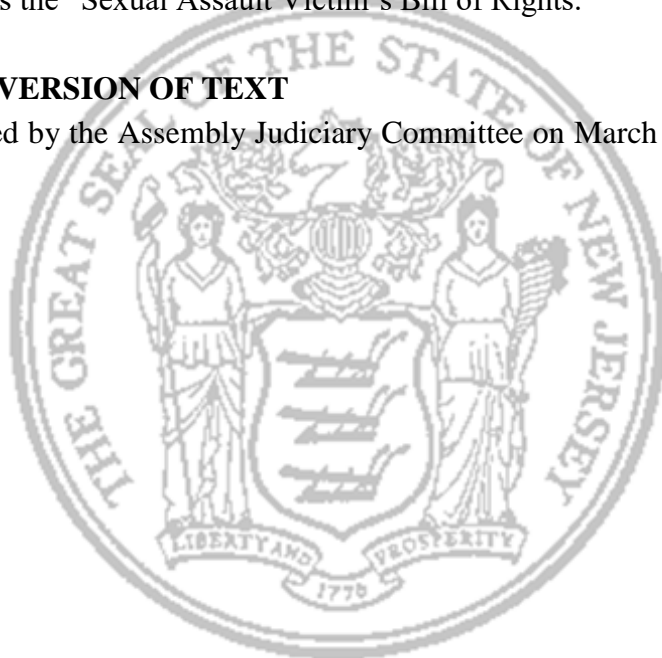
Assemblyman Armato, Assemblywomen Reynolds-Jackson, Timberlake, McKnight, Assemblymen Space, Wirths, Freiman and Assemblywoman Downey

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on March 11, 2019, with amendments.



(Sponsorship Updated As Of: 3/26/2019)

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 ¹[**passage**] enactment¹ of the “Crime Victim’s Bill of
12 Rights,” P.L.1985, c.249 (C.52:4B-34 et seq.) and the “New Jersey
13 Campus 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 violence¹ **[**, more than other
18 victims, are likely to **]** in particular often face circumstances where
19 they may¹ be blamed for the crime, assumed to be fabricating the
20 crime, or taken less seriously than their injuries warrant. These
21 victims are sometimes discouraged from proceeding with their
22 complaints and as a result ¹[**are**] ¹may¹ not ¹be¹ afforded the
23 protections and rights ¹[**that other crime victims receive**]¹ in the
24 criminal justice system ¹to which they are entitled¹;

25 c. Therefore, with no diminution of the legislatively-
26 recognized rights of crime victims, it is the public policy of this
27 State ¹[**to**] that the criminal justice system¹ accord victims of
28 sexual violence ¹[**these specific**] the following¹ rights:

29 ¹[**All victims of sexual violence have the right to be treated with**
30 **respect, dignity, empathy, and a non-judgmental attitude regardless**
31 **of gender, race, cultural background, age, affectional or sexual**
32 **orientation, gender identity, income, cognitive abilities, physical**
33 **abilities, or sexual, medical, and mental health history;**

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

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

39 (1) To have any allegation of sexual assault treated seriously; to
40 be treated with dignity and compassion; and to be notified of
41 existing medical, counseling, mental health, or other services
42 available for victims of sexual assault, whether or not the crime is
43 reported to law enforcement;

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AJU committee amendments adopted March 11, 2019.

- 1 (2) To be free, to the extent consistent with the New Jersey or
2 United States Constitution, from any suggestion that victims are
3 responsible for the commission of crimes against them or any
4 suggestion that victims were contributorily negligent or assumed
5 the risk of being assaulted;
- 6 (3) To be free from any suggestion that victims are to report the
7 crimes to be assured of any other guaranteed right and that victims
8 should refrain from reporting crimes in order to avoid unwanted
9 personal publicity;
- 10 (4) When applicable, to no-cost access to the services of a sexual
11 assault response team comprised of: a certified forensic nurse
12 examiner, a confidential sexual violence advocate, and a law
13 enforcement official as provided in accordance with the Attorney
14 General’s Standards for Providing Services to Victims of Sexual
15 Assault, and the choice to opt into or out of any of the team’s
16 services;
- 17 (5) To be informed of, and assisted in exercising, the right to be
18 confidentially or anonymously tested for acquired immune
19 deficiency syndrome (AIDS) or infection with the human
20 immunodeficiency virus (HIV) or any other related virus identified
21 as a probable cause agent of AIDS; and to be informed of, and
22 assisted in exercising, any rights that may be provided by law to
23 compel and disclose the results of testing of a sexual assault suspect
24 for communicable diseases;
- 25 (6) To have forensic medical evidence, if collected, retained for a
26 minimum of five years, and to receive information about the status
27 of the evidence upon request;
- 28 (7) To choose whether to participate in any investigation of the
29 assault;
- 30 (8) To reasonable efforts to provide treatment and interviews in a
31 language in which the victim is fluent and the right to be given
32 access to appropriate assistive devices to accommodate disabilities
33 that the victim may have, whether temporary or long term;
- 34 (9) To information and assistance in accessing specialized mental
35 health services; protection from further violence; other appropriate
36 community or governmental services, including services provided
37 by the Victims of Crime Compensation Office; and all other
38 assistance available to crime victims under present law;
- 39 (10) To be apprised of the availability and process by which a
40 court may order the taking of testimony from a victim via closed
41 circuit television in accordance with section 1 of P.L.1985, c.126
42 (C.2A:84A-32.4); and
- 43 (11) To be apprised of the availability and process by which to
44 seek protections through a temporary or final protective order under
45 the “Sexual Assault Survivor Protection Act of 2015,” P.L.2015, c.
46 147 (C.2C:14-13 et seq.), if the victim believes that the victim is at
47 risk for re-victimization or further harm by the perpetrator.¹

- 1 ¹3. As used in this act:
- 2 a. “Public employee” means any person employed by a public
3 entity who is responsible for the delivery of social, health care,
4 institutional, or correctional services, or primary or secondary
5 educational services to the public.
- 6 b. “Public entity” means any State, county, or municipal
7 agency that employs public employees as defined in this act, or is
8 funded or regulated by the State to perform the functions of a public
9 employee.
- 10 c. “Division on Women” shall mean the Division on Women in
11 the Department of Children and Families established pursuant to
12 P.L.1974, c.87 (C.52:27D-43.8 et seq.).
- 13 d. “SART” means a Sexual Assault Response Team established
14 pursuant to section 6 of P.L.2001, c.81 (C.52:4B-54).
- 15 e. “Sexual violence” includes, but is not limited to, sexual
16 assault pursuant to N.J.S.2C:14-2; criminal sexual contact pursuant
17 to N.J.S.2C:14-3; endangering the welfare of a child by engaging in
18 sexual conduct which would impair or debauch the morals of the
19 child pursuant to paragraph (1) of subsection a. of N.J.S.2C:24-4;
20 endangering the welfare of a child pursuant to paragraph (3) or (4)
21 or subparagraph (a) of paragraph (5) of subsection b. of
22 N.J.S.2C:24-4; luring or enticing pursuant to section 1 of P.L.1993,
23 c.291 (C.2C:13-6); luring or enticing an adult pursuant to section 1
24 of P.L.2005, c.1 (C.2C:13-7); kidnapping pursuant to N.J.S.2C:13-
25 1; criminal restraint pursuant to N.J.S.2C:13-2; or false
26 imprisonment pursuant to N.J.S.2C:13-3 if the victim is a minor and
27 the offender is not the parent of the victim; human trafficking
28 pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8); and knowingly
29 promoting prostitution of a child pursuant to paragraph (3) or
30 paragraph (4) of subsection b. of N.J.S.2C:34-1. It also includes
31 acts which have the same elements as any of those crimes but which
32 occurred beyond the relevant statutes of limitations. No prosecution
33 is necessary to confer these rights on a victim.
- 34 f. “Victim” means a person who alleges to have been subjected
35 to sexual violence, or the parent or guardian of any person under 18
36 who has been subjected to any such act, or the guardian of a person
37 declared incapacitated pursuant to section 12 of P.L.2005,
38 c.304 (C.3B:12-24.1) who has been subjected to any such act.
- 39 g. For the purposes of this act, the responsibility of an
40 employee to “facilitate access to” the rights described in P.L. ,
41 c. (C.)(pending before the Legislature as this bill) can be
42 fulfilled by: (1) assisting the victim in contacting a sexual violence
43 program should the victim choose such contact; or (2) directing a
44 victim to a person designated by the public entity to assist a victim
45 in contacting a sexual violence program or appropriate mandated
46 reporting agency. ¹

1 ¹[4. A public employee as defined in subsection a. of section 3
2 of P.L. , c. (C.)(pending before the Legislature as this bill)
3 to whom, during the course of his employment, a complaint or
4 report of sexual violence is made by a person receiving the services
5 of the public employee, shall not deny such person the rights
6 provided for under this act regardless of the victim's age, race,
7 gender, cognitive capacity, physical abilities, or sexual, medical, or
8 mental health treatment history. If the reporter of sexual violence is
9 not the victim, information regarding these rights shall be provided
10 to the reporter. There shall be no retaliation against a person who
11 in good faith reports suspected sexual violence against any person
12 to a public employee. The Division on Women shall, upon request,
13 make available written materials that convey the rights of victims of
14 sexual violence as defined in this act and other appropriate
15 information. These materials shall be written in a manner that
16 promotes the dignity of and shows respect for victims of sexual
17 violence.]¹
18

19 ¹[5. No public employee or public entity shall deny any of the
20 following rights to a victim of sexual violence and shall facilitate
21 access to these rights:

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

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

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

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

41 e. To choose whether to participate in any investigation of the
42 assault;

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

47 g. To information and assistance in accessing specialized
48 mental health services; protection from further violence; and other

1 appropriate community or governmental services, including
2 services provided by the Victims of Crime Compensation Office;
3 and all other assistance available to crime victims pursuant to
4 P.L.1985, c.249 (C.52:4B-34 et seq.).¹

5
6 ¹**[6]** ³. The ¹**[Victims of Crime Compensation Office]**
7 Attorney General,¹ in consultation with the ¹**[Director of the Division**
8 **on Women, the Department of Health, and the Executive Director of**
9 **the]**¹ New Jersey Coalition Against Sexual Assault, shall publish a
10 notice of ¹**[these]** the¹ rights ¹**[and shall promulgate regulations that**
11 **require its posting in all]** enumerated in the “Sexual Assault Victim’s
12 Bill of Rights” pursuant to subsection c. of section 2 of this act, and
13 shall make this notice available to the public on the Internet website of
14 the Department of Law and Public Safety. All¹ hospital emergency
15 departments, police stations and other law enforcement agencies,
16 sexual violence service organizations¹, and any other ¹**[appropriate**
17 **place to inform]** entity informing¹ victims of ¹sexual violence of¹
18 their rights ¹**[and inform public employees and entities of their**
19 obligations under P.L. , c. (C.)(pending before the Legislature as
20 this bill)] shall post a copy of this notice in a conspicuous location that
21 is available to the public¹.

22 ¹The Attorney General shall incorporate the rights and services
23 enumerated in the “Sexual Assault Victim’s Bill of Rights” pursuant to
24 this act and in the “Sexual Assault Survivor Protection Act of 2015,”
25 P.L.2015, c.147 (C.2C:14-13 et seq.), in the Attorney General
26 Standards for Providing Services to Victims of Sexual Assault to
27 ensure the compassionate and sensitive delivery of services to all
28 sexual violence victims.¹

29
30 ¹**[7.** Any conflict between P.L. , c. (C.)(pending before the
31 Legislature as this bill) and any other statutory duty of a public
32 employee or any other law shall not invalidate the remainder of this
33 act.¹

34
35 ¹**[8.** Nothing in P.L. , c. (C.)(pending before the
36 Legislature as this bill) shall add to or diminish any person’s rights
37 to seek damages pursuant to the "New Jersey Tort Claims Act,"
38 N.J.S.59:1-1 et seq., nor shall this act preclude or restrict a public
39 employee’s statutory obligation to report a crime to the appropriate
40 law enforcement authorities.¹

41
42 ¹**[9.** Nothing in P.L. , c. (C.)(pending before the
43 Legislature as this bill) shall be construed to preclude or in any way
44 restrict any public entity from performing a preexisting duty to
45 report any suspected crime or offense to the appropriate law
46 enforcement authorities.¹

1 ¹10. Notwithstanding any other provision of law to the
2 contrary, no public employee or public entity shall be liable for
3 damages resulting from any exercise of judgment or discretion in
4 connection with the performance of the employee's or entity's
5 duties unless the actions evidence a reckless disregard for the duties
6 imposed by this act. Nothing in this section shall be deemed to
7 grant immunity to any person causing damage by his willful,
8 wanton, or grossly negligent act of commission or omission.]¹

9
10 ¹11] 4¹. This act shall take effect ¹180 days after] on the first
11 day of the seventh month next following¹ the date of enactment, but
12 the ¹Victims of Crime Compensation Office and the Director of the
13 Division on Women] Attorney General¹ may take ¹such] any¹
14 anticipatory administrative action in advance thereof as shall be
15 necessary for the implementation of this act.