

52:4B-25.1

original

LEGISLATIVE HISTORY CHECKLIST  
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NJSA: 52:4B-25.1

(Child victims of  
crime)

LAWS OF: 1989

CHAPTER: 322

Bill No: A603

Sponsor(s): Foy

Date Introduced: Pre-filed

Committee: Assembly: Law, Public Safety & Corrections

Senate: Judiciary

Amended during passage: Yes Amendments denoted by  
asterisks.

Date of Passage: Assembly: March 14, 1988 Re-enacted 1-8-89

Senate: June 30, 1988 Re-enacted 1-8-89

Date of Approval: January 12, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: Yes

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

[FIRST REPRINT]  
ASSEMBLY, No. 603

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman FOY

1 AN ACT concerning services for child victims, supplementing  
2 P.L.1971, c.317 (C.52:4B-1 et seq.) and making an  
3 appropriation.

4

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

7 1. a. In addition to the victim counseling service established  
8 pursuant to section 2 of P.L.1982, c.192 (C.52:4B-25), the  
9 Violent Crimes Compensation Board shall establish a specialized  
10 child and family counseling unit. This unit shall be under the  
11 direction of a person appointed by a chairman of the Violent  
12 Crimes Compensation Board whose training or experience  
13 includes the handling of child abuse cases.

14 b. The board is authorized to appoint such personnel for the  
15 child and family counseling unit as may be necessary to carry  
16 out its functions<sup>1</sup>[, including the appointment of a law guardian.  
17 As used in this act "law guardian" means an attorney admitted  
18 to the practice of law in this State, regularly employed by the  
19 Department of the Public Advocate, and designated under  
20 P.L.1974, c.119 (C.9:6-8.21 et seq.) to represent minors in  
21 alleged cases of child abuse or neglect]<sup>1</sup>.

22 c. The child and family counseling unit may be principally  
23 located in any place as the board deems advisable, but shall be  
24 available to lend assistance to child victims in every county in  
25 this State.

26 <sup>1</sup>[2. The child and family counseling unit established pursuant  
27 to section 1 of this act shall provide all the services as set forth  
28 in section 2 of P.L.1982, c.192 (C.52:4B-25) and shall also  
29 provide the following services:

30 a. Explanations to the child, in language capable of being  
31 understood by the child, of all legal proceedings in which the  
32 child will be involved.

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:

<sup>1</sup> Assembly amendments adopted in accordance with Governor's  
recommendations April 24, 1989.

1       b. Advice to the judge, when appropriate and as a friend of  
2 the court, regarding the child's ability to understand  
3 proceedings and questions.

4       c. Advice to the prosecutor concerning the ability of a child  
5 victim to cooperate with the prosecution and the potential  
6 effects of the proceedings on the child.

7       d. Information about and referrals to appropriate social  
8 services programs and agencies to assist the child and the  
9 child's family in coping with the emotional impact of the crime  
10 and the subsequent proceedings in which the child is involved.]<sup>1</sup>

11       <sup>1</sup>[3.] 2.1 There is appropriated from the General Fund to the  
12 Violent Crimes Compensation Board the sum of \$95,000.00 to  
13 effectuate the purposes of this act.

14       <sup>1</sup>[4.] 3.1 This act shall take effect on the 60th day after  
15 enactment.

16

17

18

CRIMINAL JUSTICE

19

Criminal Investigation and Arrest

20

21 Establishes special unit under the direction of Violent Crimes  
22 Compensation Board to counsel child victims and families, and  
23 appropriates \$95,000.

1 c. Advice to the prosecutor concerning the ability of a child  
victim to cooperate with the prosecution and the potential  
3 effects of the proceedings on the child.

d. Information about and referrals to appropriate social  
5 services programs and agencies to assist the child and the  
child's family in coping with the emotional impact of the crime  
7 and the subsequent proceedings in which the child is involved.

3. There is appropriated from the General Fund to the  
9 Violent Crimes Compensation Board the sum of \$95,000.00 to  
effectuate the purposes of this act.

11 4. This act shall take effect on the 60th day after enactment.

13

STATEMENT

15 Presently, the Violent Crimes Compensation Board  
administers counseling services for victims of crimes, including  
17 child victims. However, this bill establishes a special unit under  
the direction of the board which would act as an advisor to child  
19 victims and address the particular problems of young victims  
and their families. The unit would be available to lend  
21 assistance as needed throughout the State.

This bill also appropriates \$95,000.00 to the Violent Crimes  
23 Compensation Board to establish the special unit.

25

CRIMINAL JUSTICE

27 Criminal Investigation and Arrest

29 Establishes special unit under the direction of Violent Crimes  
Compensation Board to counsel child victims and families, and  
31 appropriates \$95,000.

ASSEMBLY LAW, PUBLIC SAFETY AND CORRECTIONS  
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 603

STATE OF NEW JERSEY

DATED: FEBRUARY 1, 1988

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The Assembly Law, Public Safety and Corrections Committee favorably reports Assembly Bill 603.

Assembly Bill 603 supplements the "Criminal Injuries Compensation Act of 1971" (P.L. 1971, c.317; C.52:4B-1 et seq.) to require the Violent Crimes Compensation Board to establish a specialized child and family counseling unit. The unit is to provide counseling services to child victims and to address the particular problems of young victims and their families. In addition to the services the board currently offers to crime victims, the unit is to provide the following specialized services for child victims:

- a. Explanations to the child, in language that child can understand, of the legal proceedings in which the child will be involved;
- b. Advice to the judge, when appropriate and as a friend of the court, regarding the child's ability to understand the proceedings and any questions;
- c. Advice to the prosecutor concerning the ability of a child victim to cooperate with the prosecution and the potential effects of the proceedings on the child; and
- d. Information about, and referrals to, appropriate social services programs and agencies to assist the child and the child's family in coping with the emotional impact of the crime and the subsequent proceedings in which the child is involved.

The bill, which becomes effective on the 60th day following enactment, also includes an appropriation of \$95,000 to the Violent Crimes Compensation Board to cover the costs of establishing this special counseling unit for child crime victims and their families.

This bill was prefiled for introduction in the 1988 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 603

STATE OF NEW JERSEY

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DATED: MAY 26, 1988

The Senate Judiciary Committee reports favorably Assembly Bill No. 603.

This bill supplements the "Criminal Injuries Compensation Act of 1971" (P.L. 1971, c. 317; C. 52:4B-1 et seq.) to require the Violent Crimes Compensation Board to establish a specialized child and family counseling unit. The unit is to provide counseling services to child victims and to address the particular problems of young victims and their families. In addition to the services the board currently offers to crime victims, the unit is to provide the following specialized services for child victims:

a. Explanations to the child, in language that the child can understand, of the legal proceedings in which the child will be involved;

b. Advice to the judge, when appropriate and as a friend of the court, regarding the child's ability to understand the proceedings and any questions;

c. Advice to the prosecutor concerning the ability of a child victim to cooperate with the prosecution and the potential effects of the proceedings on the child; and

d. Information about, and referrals to, appropriate social services programs and agencies to assist the child and the child's family in coping with the emotional impact of the crime and the subsequent proceedings in which the child is involved.

The bill also includes an appropriation of \$95,000 to the VCCB to cover the costs of establishing a special counseling unit.

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FISCAL NOTE TO  
ASSEMBLY, No. 603

STATE OF NEW JERSEY

DATED: June 30, 1988

Assembly Bill No. 603 of 1988 creates a special unit in the Department of Law and Public Safety, Violent Crimes Compensation Board, which would act as an advisor to victims of child abuse. This special unit would provide family counseling and other services which would address the particular problems of young victims and their families. The bill also authorizes the board to appoint a law guardian, employed by the Department of the Public Advocate, to represent minors in alleged cases of child abuse or neglect. The bill appropriates \$95,000 to implement its provisions.

The Department of Law and Public Safety, Violent Crimes Compensation Board, estimates the cost of the special unit to be \$170,950 in the first year following enactment. Costs for the second year are estimated to be \$149,600, excluding one-time costs for equipment. These funds would provide for the salaries of a Director, two investigators and one secretary, and related administrative costs.

The Department of the Public Advocate estimates its costs attributable to this bill in the first year following enactment to be \$332,155. Costs for the second and third years are estimated at \$345,478 and \$370,544, respectively. These funds would pay for three deputy public defenders, two field representatives, two legal secretaries and related administrative costs.

The Office of Legislative Services (OLS) concurs with the estimate provided by the Violent Crimes Compensation Board but notes that fringe benefit costs of approximately \$23,000 are not included in the estimate. However, OLS does not concur with the estimate of the Department of the Public Advocate, which includes space rental costs for 21 employees (\$50,400) instead of seven (\$16,800). Also, the costs for the one-time purchase of office equipment (\$10,107) have been included in the base for the succeeding years. Therefore, OLS has adjusted these estimates for the first three years following the bill's effective date as follows:

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

August 12, 1988

ASSEMBLY BILL NO. 603

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Assembly Bill No. 603 with my objections for reconsideration.

This bill establishes a special unit under the direction of the Violent Crimes Compensation Board (VCCB) to counsel child victims and their families. Pursuant to the bill, this special unit is to provide all the victim counseling services presently set forth in N.J.S.A. 52:4B-25 which include the following: information and advice relative to filing a claim with the Board, emergency food and clothing, employment opportunities, referral to other social service agencies, and assistance in obtaining legal advice or representation. In addition to providing these general services to child victims, the bill specifically states that this special unit shall provide the following services:

- a) Explanation to the child, in language capable of being understood by the child, of all legal proceedings in which the child will be involved;
- b) Advice to the judge, when appropriate and as a friend of the Court, regarding the child's ability to understand proceedings and questions;
- c) Advice to the prosecutor concerning the ability of a child victim to cooperate with the prosecution and the potential effects of the proceedings on the child; and
- d) Information about and referral to appropriate social services programs and agencies to assist the child and the child's family in coping with the emotional impact of the crime and the subsequent proceedings in which the child is involved.

Finally, the bill would appropriate \$95,000 from the General Fund to the VCCB to facilitate the purposes of the Act.

The primary purpose of this bill is laudable and should be maintained, that is, to create a special unit to counsel child victims and their families and to staff that unit with persons trained or experienced in the handling of child abuse cases. The remaining provisions of the bill, however, raise significant problems which make those provisions either unnecessary or undesirable. For instance, the bill provides for the appointment of a law guardian by the

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

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VCCB to represent child victims and witnesses. The law guardian would be an attorney employed by the Department of Public Advocate and would advise the Court and prosecutor concerning, among other things, the child's ability to understand the proceedings and to cooperate with the prosecution. The bill is unclear as to what extent the Public Advocate would be involved as the law guardian, that is, whether the bill envisions a single Public Advocate working with the special unit's staff in an advisory role or whether these law guardians would have hands-on involvement with every criminal case involving child abuse. If the latter, such activity would greatly expand the Public Advocate's present role. The Public Advocate presently has a Law Guardian Office which is limited to involvement in civil matters. The Law Guardian Office presently has sufficient manpower and resources only to fulfill its current statutory duties and would be unable to implement the substantial additional duties in criminal proceedings required by this bill absent a significant appropriation which is not provided.

In addition, the Division of Criminal Justice, within the Department of Law & Public Safety, opposes the creation of an institutional participation by an attorney in criminal matters involving children as envisioned by the bill as it believes that such participation would unduly and unnecessarily interfere with the prosecutor's role vis-a-vis the child victim/witness. Criminal Justice advises that a prosecutor must deal directly with his own witnesses, especially a child, in order to establish the necessary rapport. Any outside interference between the witness and the prosecutor, especially by another attorney, would be counterproductive, according to the Division. The Division of Criminal Justice contends that the prosecutor does not need a consultation with another attorney to evaluate the capabilities of his own witnesses regarding their ability to testify. The Division also does not believe that a law guardian should be permitted to speak directly with the judge regarding a child's ability to understand the proceedings, as is provided for in this legislation. The Division believes that such activity would improperly interfere with the State's ability to prosecute the case. I believe that the Division of Criminal Justice's objections to this bill are well-taken.

Furthermore, the various trial-related services envisioned by the bill, over and beyond the counseling services, have not traditionally been handled by the

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EXECUTIVE DEPARTMENT

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VCCB. Rather, the Office of Victim-Witness Advocacy, created pursuant N.J.S.A. 52:4b-43 et. seq., was established to assist victims, both children and adults, with trial-related matters. There is already a County Victim-Witness Advocate within each of the 21 county prosecutors' offices. It is these County Victim-Witness Advocates who should handle the criminal trial-related matters. These offices are more appropriately suited to handling these matters and should continue to do so rather than injecting the Public Advocate into the process or asking the VCCB to fulfill responsibilities outside its traditional area of expertise.

For the above reasons, I recommend that the bill be limited to creating a special counseling unit and providing staff to deal with the special counseling needs of child victims and their families.

Accordingly, I herewith return Assembly Bill No. 003 and recommend that it be amended as follows:

|  |  |
|--|--|
| <u>Page 1, Section 1, Line 16:</u>     | After "functions" insert "."; delete<br>", including the appointment of a law<br>guardian" |
| <u>Page 1, Section 1, Lines 17-21:</u> | Delete in entirety   |
| <u>Page 1, Section 2, Lines 26-35:</u> | Delete in entirety   |
| <u>Page 2, Section 2, Lines 1-7:</u>   | Delete in entirety   |
| <u>Page 2, Section 3, Line 8:</u>      | Change "3." to "2."  |
| <u>Page 2, Section 4, Line 11:</u>     | Change "4." to "3."  |

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Michael R. Cole

Chief Counsel

|                       | <u>First Year</u> | <u>Second Year</u> | <u>Third Year</u> |
|-----------------------|-------------------|--------------------|-------------------|
| Law and Public Safety | \$193,738         | \$178,862          | \$189,594         |
| Public Advocate       | 298,555           | 305,754            | 324,100           |
| <b>TOTAL COST</b>     | <b>\$492,293</b>  | <b>\$484,616</b>   | <b>\$513,694</b>  |

This fiscal note has been prepared pursuant to P.L. 1980, c. 67.