

2C:14-7

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:14-7

(Sex crimes
against minors--
evidence)

LAWS OF: 1988

CHAPTER: 69

Bill No: A641

Sponsor(s): Smith

Date Introduced: Pre-filed

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: No Assembly committee substitute enacted

Date of Passage: Assembly: March 7, 1988

Senate: June 2, 1988

Date of Approval: July 20, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

APPROVED
AUG 11 1988
A-329

P.L. 1988, CHAPTER 69, *approved July 20, 1988*
1988 Assembly Committee Substitute for
1988 Assembly No. 641

AN ACT concerning the admissibility of evidence for prosecutions for certain sexual crimes and amending N.J.S 2C:14-7 of the New Jersey Statutes.

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

1. N.J.S. 2C:14-7 is amended to read as follows:

a. In prosecutions for aggravated sexual assault, sexual assault, aggravated criminal sexual contact, [or] criminal sexual contact, or endangering the welfare of a child in violation of N.J.S. 2C:24-4, evidence of the victim's previous sexual conduct shall not be admitted nor reference made to it in the presence of the jury except as provided in this section. When the defendant seeks to admit such evidence for any purpose, he must apply for an order of the court before the trial or preliminary hearing, except that the court may allow the motion to be made during trial if the court determines that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence. After the application is made, the court shall conduct a hearing in camera to determine the admissibility of the evidence. If the court finds that evidence offered by the defendant regarding the sexual conduct of the victim is relevant and that the probative value of the evidence offered is not outweighed by its collateral nature or by the probability that its admission will create undue prejudice, confusion of the issues, or unwarranted invasion of the privacy of the victim, the court shall enter an order setting forth with specificity what evidence may be introduced and the nature of the questions which shall be permitted, and the reasons why the court finds that such evidence satisfies the standards contained in this section. The defendant may then offer evidence under the order of the court.

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.

b. In the absence of clear and convincing proof to the contrary, evidence of the victim's sexual conduct occurring more than 1 year before the date of the offense charged is presumed to be inadmissible under this section.

c. Evidence of previous sexual conduct shall not be considered relevant unless it is material to negating the element of force or coercion or to proving that the source of semen, pregnancy or disease is a person other than the defendant. For the purposes of this section, "sexual conduct" shall mean any conduct or behavior relating to sexual activities of the victim, including but not limited to previous or subsequent experience of sexual penetration or sexual contact, use of contraceptives, living arrangement and life style.

(cf: N.J.S. 2C:14-7)

2. This act shall take effect immediately.

CRIMINAL JUSTICE

Children

Excludes from evidence certain information regarding a child's past history in prosecutions for sexual crimes.

A 641 (1988)

1

STATEMENT

3 This bill excludes certain information regarding a child's past
4 history of abuse, sexual experimentation, or sexual conduct from
5 a jury's consideration when the child is the complaining witness
6 in a prosecution for certain sexual or abuse-related crimes.

7 The bill is patterned after N.J.S.A. 2A:84A-32.1, the
8 so-called "rape shield" statute which bars evidence of a
9 complaining witness' prior sexual conduct.

11

CRIMINAL JUSTICE

13

Children

15 Excludes from evidence certain information regarding a child's
past history in prosecutions for sexual crimes.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 641

STATE OF NEW JERSEY

DATED: FEBRUARY 18, 1988

The Assembly Judiciary Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 641.

This committee substitute excludes certain information regarding a child's past history of abuse, sexual experimentation, or sexual conduct from a jury's consideration when the child is the complaining witness in a prosecution for sexual assault, aggravated sexual assault, criminal sexual contact, aggravated criminal sexual contact or endangering the welfare of a child.

This committee substitute amends N.J.S. 2C:14-7 the "rape shield" statute which bars evidence of a complaining witness' prior sexual conduct.

A defendant must apply to the court for permission to introduce this type of evidence for any purpose. The court will conduct a private hearing to determine the relevance of the evidence and whether or not the probative value of the evidence is outweighed by its collateral nature or by the probability that it will create undue prejudice, confusion of the issues, or unwarranted invasion of the privacy of the victim. If the evidence is ruled admissible, the order shall specify what evidence may be introduced, the nature of the questions which will be permitted and the reasons why the evidence was found admissible.

SENATE JUDICIARY COMMITTEE
STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 641
STATE OF NEW JERSEY

DATED: MAY 19, 1988

The Senate Judiciary Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 641.

New Jersey's "rape shield" statute (N.J.S.A. 2C:14-7) bars evidence of complaining witness' prior sexual conduct. This bill amends the "rape shield" statute to exclude certain information regarding a child's past sexual conduct when the child is the complaining witness in prosecutions involving either sexual assault or endangering the welfare of a child.