

52:4B-44

LEGISLATIVE HISTORY CHECKLIST
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(Sexual assault victims)

NJSA: 52:4B-44

LAWS OF: 1996 CHAPTER: 114

BILL NO: S89

SPONSOR(S): Lipman and Califero

DATE INTRODUCED: Prefiled

ASSEMBLY: Law & Public Safety

SENATE: Women's Issues

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: ASSEMBLY: June 27, 1996

SENATE: May 30, 1996

DATE OF APPROVAL: September 11, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VE TO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: Yes

HEARINGS: No

See attached:

974.90 New Jersey. Commission to Study Sex Discrimination in the
W872 Statutes.

1995 Legislative responses to violence against women in New Jersey.
January 5, 1995. Trenton, 1995.

[p. 10]

KBP:pp

P.L. 1996, CHAPTER 114, *approved September 11, 1996*
Senate, No. 89

1 AN ACT concerning the coordination of services to sexual assault
2 victims and amending P.L.1985, c.404.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 6 of P.L.1985, c.404 (C.52:4B-44) is amended to read
8 as follows:

9 6. a. The Attorney General shall, through the Office of
10 Victim-Witness Advocacy in the Division of Criminal Justice in the
11 Department of Law and Public Safety and in consultation with the
12 county prosecutors, promulgate standards for law enforcement
13 agencies to ensure that the rights of crime victims are enforced.

14 b. The standards shall require that the Office of Victim-Witness
15 Advocacy in the Division of Criminal Justice and each county
16 prosecutor's office provide the following services upon request for
17 victims and witnesses involved in the prosecution of a case:

18 (1) Orientation information about the criminal justice system and
19 the victim's and witness's role in the criminal justice process;

20 (2) Notification of any change in the case status and of final
21 disposition;

22 (3) Information on crime prevention and on available responses to
23 witness intimidation;

24 (4) Information about available services to meet needs resulting
25 from the crime and referrals to service agencies, where appropriate;

26 (5) Advance notice of the date, time and place of the defendant's
27 initial appearance before a judicial officer, submission to the court of
28 any plea agreement, the trial and sentencing;

29 (6) Advance notice of when presence in court is not needed;

30 (7) Advice about available compensation, restitution and other
31 forms of recovery and assistance in applying for government
32 compensation;

33 (8) A waiting or reception area separate from the defendant for use
34 during court proceedings;

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 (9) An escort or accompaniment for intimidated victims or
2 witnesses during court appearances;
- 3 (10) Information about directions, parking, courthouse and
4 courtroom locations, transportation services and witness fees, in
5 advance of court appearances;
- 6 (11) Assistance for victims and witnesses in meeting special needs
7 when required to make court appearances, such as transportation and
8 child care arrangements;
- 9 (12) Assistance in making travel and lodging arrangements for
10 out-of-State witnesses;
- 11 (13) Notification to employers of victims and witnesses, if
12 cooperation in the investigation or prosecution causes absence from
13 work;
- 14 (14) Notification of the case disposition, including the trial and
15 sentencing;
- 16 (15) Assistance to victims in submitting a written statement to a
17 representative of the county prosecutor's office about the impact of the
18 crime prior to the prosecutor's final decision concerning whether
19 formal charges will be filed;
- 20 (16) Advice to victims about their right to make a statement about
21 the impact of the crime for inclusion in the presentence report or at
22 time of parole consideration, if applicable;
- 23 (17) Notification to victims of the right to make an in-person
24 statement, prior to sentencing, directly to the sentencing court
25 concerning the impact of the crime;
- 26 (18) Expediting the return of property when no longer needed as
27 evidence;
- 28 (19) Advise and counsel, or refer for advice or counseling, victims
29 of sexual assault, or other criminal acts involving a risk of transmission
30 of disease, concerning available medical testing and assist such victims,
31 or refer such victims for assistance, in obtaining appropriate testing,
32 counseling and medical care and in making application to the Violent
33 Crimes Compensation Board for compensation for the costs of such
34 testing, counseling and care;
- 35 (20) Assistance to victims in submitting a written impact statement
36 to a representative of the county prosecutor's office concerning the
37 impact of the crime which shall be considered prior to the prosecutor's
38 accepting a negotiated plea agreement containing recommendations as
39 to sentence and assistance to victims in securing an explanation of the
40 terms of any such agreement and the reasons for the agreement;
- 41 (21) Notification to the victim of the defendant's release from
42 custody which shall include:
 - 43 (a) notice of the defendant's escape from custody and return to
44 custody following escape;
 - 45 (b) notice of any other release from custody, including placement
46 in an Intensive Supervision Program or other alternative disposition,

1 and any associated conditions of release;

2 (c) notice of the filing by an inmate of an application for
3 commutation of sentence pursuant to N.J.S.2A:167-4 and its
4 disposition;

5 (d) notice of parole consideration pursuant to provisions of
6 P.L.1979, c.441 (C.30:4-123.45 et seq.); and

7 (e) notice of the pending release of an inmate due to expiration of
8 sentence; and

9 (22) Interpreting services for victims and witnesses when necessary
10 to assist a victim or witness who is hearing impaired or
11 developmentally disabled as defined in section 3 of P.L.1977, c.82
12 (C.30:6D-3) to understand questions and frame answers.

13 c. In a case involving a victim of aggravated sexual assault or
14 sexual assault as defined in subsection a. or c. of N.J.S.2C:14-2, the
15 Office of Victim-Witness Advocacy or the county prosecutor's office
16 involved in the case shall:

17 (1) Notify the victim of the victim's right to obtain an approved
18 serological test for acquired immune deficiency syndrome (AIDS) or
19 infection with the human immunodeficiency virus (HIV) or any other
20 related virus identified as a probable causative agent of AIDS, and
21 assist the victim, or refer the victim for assistance, in obtaining a test
22 and appropriate counseling and medical care;

23 (2) Notify the victim of the victim's right to obtain a court order
24 pursuant to subsection a. of section 4 of P.L.1993, c.364
25 (C.2C:43-2.2) requiring the offender to submit to an approved
26 serological test for acquired immune deficiency syndrome (AIDS) or
27 infection with the human immunodeficiency virus (HIV) or any other
28 related virus identified as a probable causative agent of AIDS in the
29 event that the offender is indicted, formally charged, convicted or
30 adjudicated delinquent;

31 (3) Communicate the request of a victim who agrees to seek an
32 order pursuant to subsection a. of section 4 of P.L.1993, c.364
33 (C.2C:43-2.2) to the prosecutor handling the case and notify the
34 victim or arrange for the victim to be notified of the test result; and

35 (4) Assist the victim in applying to the Violent Crimes
36 Compensation Board for compensation for the costs of testing,
37 counseling and medical care.

38 d. The Attorney General shall, through the Office of
39 Victim-Witness Advocacy and in consultation with the Commissioner
40 of the Department of Health, the Director of the Division of State
41 Police and representatives of providers of sexual assault services, to
42 be designated by the Director of the Office of Victim-Witness
43 Advocacy, coordinate the establishment of standard protocols for the
44 provision of information and services to victims of sexual assault, and
45 shall make such protocols available to victims upon request.

46 (cf: P.L.1995, c.98, s.2)

1 2. This act shall take effect immediately.

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6 Requires the development of standard protocols for services to victims

7 of sexual assault.

1 shall make such protocols available to victims upon request.

2 (cf: P.L.1995, c.98, s.2)

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4 2. This act shall take effect immediately.

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STATEMENT

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9 This bill directs the Office of Victim-Witness Advocacy in
10 cooperation with the Commissioner of the Department of Health, the
11 Director of the State Police and representatives of providers of sexual
12 assault services, to coordinate the establishment of standard protocols
13 concerning the delivery of services to victims of sexual assault and to
14 make these protocols available to victims upon request.

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19 Requires the development of standard protocols for services to victims
20 of sexual assault.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO
SENATE, No. 89

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STATE OF NEW JERSEY

DATED: JUNE 3, 1996

The Assembly Law and Public Safety Committee reports favorably Senate Bill No.89.

Senate Bill No.89 amends section 6 of P.L.1985, c.404 (C.52:4B-44) to require the Office of Victim-Witness Advocacy in the Division of Criminal Justice in the Department of Law and Public Safety, in consultation with the Commissioner of Health, the Superintendent of the Division of State Police, and representatives of providers of sexual assault services, to establish standard protocols for the provision of information and services to victims of sexual assault, and to make those protocols available to victims upon request.

It is the committee's understanding that these statewide protocols would coordinate the efforts of police departments, hospitals, prosecutors and rape crisis centers. In addition, well-defined statewide guidelines and standardized procedures would enhance the collection, preservation and transmission of forensic evidence, which, in turn, would contribute to the effective prosecution of these crimes.

Under section 6 of P.L.1985, c.404 (C.52:4B-44), the Attorney General, through the Office of Victim-Witness Advocacy in the Division of Criminal Justice and in consultation with county prosecutors, is to promulgate standards for law enforcement agencies to ensure that the rights of crime victims are protected and enforced. The standards promulgated under that section currently require the Office of Victim-Witness Advocacy and each county prosecutor's office to provide services to victims and witnesses concerning the criminal justice process; progress and disposition of the case; advice about compensation, restitution, and other forms of recovery and assistance; escort for intimidated victims or witnesses during court appearances; assistance relating to special needs associated with court appearances, such as transportation and child care arrangements; notification to employers if cooperation in the investigation or prosecution causes absence from work; advice about victim's right to make a statement concerning the impact of the crime for inclusion in the presentence report, at the time of parole consideration, or to the county prosecutor prior to the prosecutor accepting a negotiated plea agreement; notification of the right to present an in court statement prior to sentencing; assistance in expediting the return of property when no longer needed as evidence; advice and counseling, or

reference for advice or counseling, for criminal offenses (such as sexual assault) involving a risk of the transmission of disease, including application to the Violent Crimes Compensation Board for compensation for the costs of testing, counseling and care; and notification concerning a defendant's release or escape from custody, or admission to an alternative disposition, such as Intensive Supervision.

In a case involving a victim of aggravated sexual assault or sexual assault, the office or the prosecutor's office is to notify the victim of the victim's right to obtain an AIDS or HIV test; notify the victim of the victim's right to obtain a court order requiring the offender to submit to an AIDS or HIV test; assist victim in obtaining information concerning the results of the offender's test results; and assist the victim in applying to the Violent Crimes Compensation Board for compensation for the costs of testing, counseling and medical care.

SENATE WOMEN'S ISSUES, CHILDREN AND FAMILY
SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 89

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STATE OF NEW JERSEY

DATED: MARCH 14, 1996

The Senate Women's Issues, Children and Family Services Committee favorably reports Senate Bill No. 89.

This bill directs the Office of Victim-Witness Advocacy in cooperation with the Commissioner of the Department of Health, the Director of the State Police and representatives of providers of sexual assault services, to coordinate the establishment of standard protocols concerning the delivery of services to victims of sexual assault and to make these protocols available to victims upon request.

This bill was prefiled for introduction in the 1996-97 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-004

TRENTON, NJ 08625

CONTACT: Becky Taylor
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RELEASE: Sept. 11, 1996

Governor Christie Whitman today signed legislation to improve the delivery of services to victims of sexual assault.

"We must do all that we can to ensure that victims of sexual assault are provided with the necessary services and information to help them during their time of ordeal," said Gov. Whitman. "This legislation will enable victims to be aware of all of the resources available to help them."

This legislation directs the Attorney General, the Commissioner of the Department of Health, and other providers of sexual assault services to coordinate their efforts and establish a standard protocol so that sexual assault victims who require assistance are aware of the services and information available.

S-89/A-1073, was sponsored by Senators Wynona Lipman (D-Essex/Union) and James Cafiero (R-Cape May/Atlantic/Cumberland) and Assembly Members Steve Corodemus (R-Monmouth) and Patrick Roma (R-Bergen).

concerned an East Stroudsberg University student who was sexually assaulted by a fellow student, during which she repeatedly said "No, no, no." Because she did not physically resist her assailant, the defendant was found not guilty on the charge of sexual assault and was convicted of the lesser charge of indecent conduct, which is not barred by the consent of the victim.²⁷

- The collection of evidence is possible if there is a prompt and appropriate response by police and medical personnel. However, the evidence can be destroyed if the victim showers or douches, which is an especially common reaction in acquaintance sexual assaults. A study conducted in Texas found that medical corroboration has the most influence on prosecutors' decisions as to whether to pursue a case or not. In addition, jurors are more willing to find a defendant guilty when there is objective evidence to support the accusation.²⁸

Ironically, each of the three factors that determines how the police and prosecutors will deal with a rape case is likely to be stronger in a stranger rape than the much more common acquaintance rape.²⁹

The rate and effectiveness of prosecutions of sexual assault offenders could be greatly increased if there were uniform statewide protocols for law enforcement personnel dealing with sexual assaults and mandated training for both police and prosecutorial personnel. Without these, there is not only no uniformity, but frequently there are failures to correctly interpret criminal actions, failures to perform necessary procedures, failures to collect vital evidence, and failures to alert crime victims to essential support services and sources of compensation for medical services and lost wages. One county in New Jersey does not even have a dedicated Sex Crimes Unit, but relies on officers who have not been specifically trained in the issues of sexual assault. Local training on the stalking law, which passed in January of 1993, has still never been done.

Therefore, the Commission recommends that uniform, statewide protocols for dealing with incidents of sexual assault be developed and promulgated. It also recommends the training of police and prosecutorial personnel regarding acquaintance rape, sexual assault and aggravated sexual assault.

The Commission also recommends the inclusion of sexual assault information in family life education materials and the encouragement of local school boards to support the inclusion of information about violence against women in board initiated programs as well as curricula.

See Appendix B for proposed legislation.

The federal Hate Crimes Statistics Act, signed by President Bush, directs the U.S. Department of Justice to collect statistics on crimes motivated by a victim's race, religion, ethnicity, or sexual orientation. The Act purposely ignored gender-biased crimes. Courtney Esposito, testifying before the Commission, said, "Women as lightning rods for male abuse were once again officially rendered invisible."³¹ In the current session, a bill is moving through the New Jersey legislature with a provision that is another example of how difficult it is to face the reality of gender crimes. The bill would add crimes motivated by the gender or disability of the victim to the current enhanced penalty provisions of the criminal statutes. (Gender was one obvious class left out of the original "hate crimes" law.) However, the bill specifically