

LEGISLATIVE HISTORY CHECKLIST
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(Sexual assault--dress)

NJS: 2C:14-7

LAWS OF: 1995 CHAPTER: 237

BILL NO: A2047

SPONSOR(S): Lance and others

DATE INTRODUCED: August 29, 1994

COMMITTEE: ASSEMBLY Judiciary

SENATE: Judiciary

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: ASSEMBLY: September 26, 1994

SENATE: June 22, 1995

DATE OF APPROVAL: August 29, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

1 AN ACT concerning the admission of evidence relating to a
2 victim's manner of dress in sexual assault cases and amending
3 N.J.S.2C:14-7.
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5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

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

8 2C:14-7. a. In prosecutions for aggravated sexual assault,
9 sexual assault, aggravated criminal sexual contact, criminal
10 sexual contact, endangering the welfare of a child in violation of
11 N.J.S.2C:24-4 or the fourth degree crime of lewdness in violation
12 of subsection b. of N.J.S.2C:14-4, evidence of the victim's
13 previous sexual conduct shall not be admitted nor reference made
14 to it in the presence of the jury except as provided in this
15 section. When the defendant seeks to admit such evidence for
16 any purpose, the defendant must apply for an order of the court
17 before the trial or preliminary hearing, except that the court may
18 allow the motion to be made during trial if the court determines
19 that the evidence is newly discovered and could not have been
20 obtained earlier through the exercise of due diligence. After the
21 application is made, the court shall conduct a hearing in camera
22 to determine the admissibility of the evidence. If the court finds
23 that evidence offered by the defendant regarding the sexual
24 conduct of the victim is relevant and highly material and meets
25 the requirements of subsections c. and d. of this section and that
26 the probative value of the evidence offered substantially
27 outweighs its collateral nature or the probability that its
28 admission will create undue prejudice, confusion of the issues, or
29 unwarranted invasion of the privacy of the victim, the court shall
30 enter an order setting forth with specificity what evidence may
31 be introduced and the nature of the questions which shall be
32 permitted, and the reasons why the court finds that such evidence
33 satisfies the standards contained in this section. The defendant
34 may then offer evidence under the order of the court.

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

39 c. Evidence of previous sexual conduct with persons other than
40 the defendant which is offered by any lay or expert witness shall
41 not be considered relevant unless it is material to proving the
42 source of semen, pregnancy or disease.

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.

1 d. Evidence of the victim's previous sexual conduct with the
2 defendant shall be considered relevant if it is probative of
3 whether a reasonable person, knowing what the defendant knew
4 at the time of the alleged offense, would have believed that the
5 alleged victim freely and affirmatively permitted the sexual
6 behavior complained of.

7 e. Evidence of the manner in which the victim was dressed at
8 the time an offense was committed shall not be admitted unless
9 such evidence is determined by the court to be relevant and
10 admissible in the interest of justice, after an offer of proof by
11 the proponent of such evidence outside the hearing of the jury or
12 at such hearing as the court may require, and a statement by the
13 court of its findings of fact essential to its determination. A
14 statement by the court of its findings shall also be included in the
15 record.

16 [e.] f. For the purposes of this section, "sexual conduct" shall
17 mean any conduct or behavior relating to sexual activities of the
18 victim, including but not limited to previous or subsequent
19 experience of sexual penetration or sexual contact, use of
20 contraceptives, sexual activities reflected in gynecological
21 records, living arrangement and life style.

22 (cf: P.L.1994, c.95, s.1)

23 2. This act shall take effect immediately.

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STATEMENT

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28 This bill would prohibit the introduction of evidence of the
29 manner in which a victim was dressed at the time of the
30 commission of a sexual offense unless it is determined by the
31 court to be relevant and admissible in the interest of justice.

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36 Excludes certain evidence concerning the type of clothing worn
37 by victim at time of assault.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2047

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 1994

The Assembly Judiciary, Law and Public Safety Committee reports favorably Assembly Bill No. 2047.

This bill amends N.J.S. 2C:14-7 and would prohibit the introduction of evidence of the manner in which a victim was dressed at the time of the commission of a sexual offense unless it is determined by the court to be relevant and admissible in the interest of justice. The bill provides that there be an offer of proof by the proponent of such evidence outside the hearing of the jury or at such hearing as the court may require, and a statement by the court of its findings of fact essential to its determination. A statement by the court of its findings shall also be included in the record.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2047

STATE OF NEW JERSEY

DATED: NOVEMBER 21, 1994

The Senate Judiciary Committee reports favorably Assembly Bill No. 2047.

This bill would prohibit the introduction of evidence of the manner in which a victim was dressed at the time of the commission of a sexual offense unless it is determined by the court to be relevant and admissible in the interest of justice. The bill provides that there be an offer of proof by the proponent of such evidence outside the hearing of the jury or at such hearing as the court may require. A statement by the court of its findings shall also be included in the record.

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RELEASE: TUESDAY
AUG. 29, 1995

Gov. Christie Whitman signed legislation today to prohibit the manner in which a sexual assault victim is dressed from being introduced as evidence.

“Today we affirm the right of every victim of violent crime to be treated with respect,” said Gov. Whitman. “No longer will victims find themselves on trial, having to defend the way they look or the way they dress.”

A-2047/S-1349, sponsored by Assemblyman Leonard Lance (R-Warren/Hunterdon/Mercer) and Senator John Scott (R-Bergen/Essex/Passaic), prohibits the introduction of evidence relating to the manner in which a victim was dressed at the time of the commission of a sexual offense, unless it is determined by the court to be relevant and admissible in the interest of justice.

The bill also provides that the judge must hold a separate hearing outside the presence of the jury to determine whether the type of clothing worn by the victim is relevant and admissible as evidence and must state his or her reasons on the record.