

9:2-4.1

LEGISLATIVE HISTORY CHECKLIST
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(Custody & visitation--deny)

NJSA: 9:2-4.1

LAWS OF: 1995 CHAPTER: 55

BILL NO: A538

SPONSOR(S): Weinberg and others

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Judiciary
SENATE: Judiciary

AMENDED DURING PASSAGE: Yes Amendments during passage
Second reprint enacted denoted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: June 20, 1994
SENATE: January 19, 1994

DATE OF APPROVAL: March 17, 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: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: Yes

974.90 New Jersey. Commission to Study the Law of Divorce.
M359 Testimony and discussion regarding...divorce. November 2,
1994 1994.
[see especially pp. 14-20, 59x-67x]

KBG:pp

P.L.1995, CHAPTER 55, approved March 17, 1995

1994 Assembly No. 538 (Second Reprint)

1 AN ACT denying certain parental rights in cases involving rape
2 and supplementing Title 9 of the New Jersey Statutes.

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

6 1. Notwithstanding any provision of law to the contrary, a
7 person convicted of sexual assault under N.J.S.2C:14-2^{1,2} shall
8 not be awarded the custody of or visitation rights to a minor child
9 who was¹ born as a result of ¹or was the victim of¹ the sexual
10 assault¹, except upon a showing by clear and convincing evidence
11 that it is in the best interest of the child for custody or visitation
12 rights to be awarded.] ², except upon a showing by clear and
13 convincing evidence that it is in the best interest of the child for
14 custody or visitation rights to be awarded². A denial of custody
15 or visitation under this section shall not by itself terminate the
16 parental rights of the person denied visitation or custody, nor
17 shall it affect the obligation of the person to support the minor
18 child. In any proceeding for establishment or enforcement of
19 such an obligation of support the victim shall not be required to
20 appear in the presence of the obligor and the victim's and child's
21 whereabouts shall be kept confidential.¹

22 2. This act shall take effect immediately.

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27 Denies custody and visitation to a person who fathers a child
28 through rape.

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:

¹ Assembly AJL committee amendments adopted May 19, 1994.

² Senate SJU committee amendments adopted November 21, 1994.

ASSEMBLY, No. 638
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblywomen WEINBERG and HECK

1 **AN ACT** denying certain parental rights in cases involving rape
2 and supplementing Title 9 of the New Jersey Statutes.

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

6 1. Notwithstanding any provision of law to the contrary, a
7 person convicted of sexual assault under N.J.S.2C:14-2, shall not
8 be awarded the custody of or visitation rights to a minor child
9 born as a result of the sexual assault, except upon a showing by
10 clear and convincing evidence that it is in the best interest of the
11 child for custody or visitation rights to be awarded.

12 2. This act shall take effect immediately.

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14

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STATEMENT

16

17 This bill would prohibit the award of custody of a minor child
18 or parental visitation rights to a person who has fathered a child
19 through rape, where the person has been convicted of sexual
20 assault, except upon a showing by clear and convincing evidence
21 that an award of custody or visitation is in the best interest of
22 the child.

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27 Denies custody and visitation to a person who fathers a child
28 through rape.

**ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE**

STATEMENT TO

ASSEMBLY, No. 538

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 19, 1994

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 538.

As introduced, this bill would prohibit the award of custody of a minor child or parental visitation rights to a person who has fathered a child through rape, where the person has been convicted of sexual assault, except upon a showing by clear and convincing evidence that an award of custody or visitation is in the best interest of the child.

The committee amended the bill to add language to prohibit visitation or custody when the person seeking contact was convicted of sexually assaulting the child, not only if the child was born of the sexual assault. The committee also deleted the language which would have permitted visitation or custody upon a showing in the best interests of the child. Language was added which provides that a denial of custody or visitation under this section shall not by itself terminate the parental rights of the person denied visitation or custody, nor shall it affect the obligation of the person to support the minor child. In any proceeding for establishment or enforcement of such an obligation of support the victim shall not be required to appear in the presence of the obligor and the victim's and child's whereabouts shall be kept confidential.

This bill was prefiled for introduction in the 1994 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

**[FIRST REPRINT]
ASSEMBLY, No. 538**

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 21, 1994

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 538 [1R].

This bill prohibits the award of custody of a minor child or parental visitation rights to a person who has fathered a child through rape, where the person has been convicted of sexual assault. The bill also prohibits the awarding of custody or visitation if the child was the victim of a sexual assault and the person seeking custody was the perpetrator of the sexual assault. In addition, the bill provides that a denial of custody or visitation under this section shall not by itself terminate the parental rights of the person denied visitation or custody nor shall it affect the obligation of the person to support of the minor child. In any proceeding for establishment or enforcement of a support obligation, the victim shall not be required to appear in the presence of the obligor and the victim's and child's whereabouts shall be kept confidential. By amendment, the committee restored language creating an exception to these prohibitions if it is determined by clear and convincing evidence that it is in the best interest of the child for custody or visitation to be awarded.

This bill was prefiled for introduction in the 1994 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.