

2A:82-46

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 2A:82-46

(Child victims of
crime of abuse--
prohibit
disclosure of
identity)

LAWS OF: 1989

CHAPTER: 336

Bill No: A4283

Sponsor(s): Imprevduto and others

Date Introduced: February 23, 1989

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: Yes Amendments denoted by asterisks.

Date of Passage: Assembly: June 22, 1989 Re-enacted 1-8-90

Senate: December 14, 1989

Date of Approval: January 12, 1990

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: Yes

(over)

974.90 New Jersey. Legislature. Senate. Committee on Children's
Services.
C536 Public hearing...to examine proposals
1989a for legislation, held 2-9-89. Trenton.

KBG/SLJ

Title 2A.
Chapter 82.
Article 10.(New)
CONTENT AND
AVAILABILITY OF
CERTAIN
RECORDS.
§1-C.2A:82-46
§2-Note to §1
§1-Note to
47:1A-2

P.L.1989, CHAPTER 336, *approved January 12, 1990*
1989 Assembly No. 4283 (*First Reprint*)

1 AN ACT prohibiting disclosure of the identity of the certain
2 crime victims and supplementing Title 2A of the New Jersey
3 Statutes.

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

7 1. a. In prosecutions for aggravated sexual assault, sexual
8 assault, aggravated criminal sexual contact, criminal sexual
9 contact, endangering the welfare of children under
10 N.J.S.2C:24-4, or in any action alleging an abused or neglected
11 child under P.L.1974, c.119 (C.9:6-8.21 et. seq.), the name,
12 address, and identity of a victim who was under the age of 18 at
13 the time of the alleged commission of a offense shall not appear
14 on the indictment, complaint, or any other public record as
15 defined in P.L.1963, c.73 (C.47:1A-1 et. seq.). In its place initials
16 or a fictitious name shall appear.

17 b. Any report, statement, photograph, court document,
18 indictment, complaint or any other public record which states the
19 name, address and identity of a victim shall be confidential and
20 unavailable to the public. ¹Unless authorized pursuant to
21 subsection c. of this section, any person who purposefully
22 discloses, releases or otherwise makes available to the public any
23 of the above-listed documents which contain the name, address
24 and identity of a victim who was under the age of 18 at the time
25 of the alleged commission of an offense enumerated in subsection
26 a. of this section shall be guilty of a disorderly persons offense.¹

27 c. The information described in this act shall remain
28 confidential and unavailable to the public unless the court, after
29 a hearing, determines that good cause exists for disclosure. The
30 hearing shall be held after notice has been made to the victim,
31 parents of victim, spouse, or other person legally responsible for

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.
Assembly amendments adopted in accordance with Governor's
recommendations January 4, 1990.

1 the maintenance and care of the victim, and to the person
2 charged with the commission of the offense, counsel or guardian
3 of that person.

4 d. Nothing contained herein shall prohibit the court from
5 imposing further restrictions with regard to the disclosure of the
6 name, address, and identity of the victim when it deems
7 necessary to prevent trauma or stigma to the victim.

8 ¹[e. Any person who prints, publishes, broadcasts or televises or
9 causes to be printed, published, broadcasted or televised in any
10 forum the name, address, and identity of the victim is guilty of a
11 disorderly persons offense.]¹

12 2. This act shall take effect on the 30th day after enactment.

13

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15

CRIMINAL JUSTICE

16

Children

17

18 Prohibits disclosure of the identity of child victims of sexual
19 assault and child abuse cases.

ASSEMBLY, No. 4283
STATE OF NEW JERSEY

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INTRODUCED FEBRUARY 23, 1989

By Assemblymen IMPREVEDUTO, Doria, Mazur, Kamin, Patero,
Hudak, Bryant, Pascrell, Baer, Smith, Menendez, Spadoro,
Assemblywoman Bush and Assemblyman Salmon

1

3 AN ACT prohibiting disclosure of the identity of the certain
5 crime victims and supplementing Title 2A of the New Jersey
Statutes.

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

9 1. a. In prosecutions for aggravated sexual assault, sexual
assault, aggravated criminal sexual contact, criminal sexual
11 contact, endangering the welfare of children under
N.J.S.2C:24-4, or in any action alleging an abused or neglected
13 child under P.L.1974, c.119 (C.9:6-8.21 et. seq.), the name,
address, and identity of a victim who was under the age of 18 at
15 the time of the alleged commission of a offense shall not appear
on the indictment, complaint, or any other public record as
17 defined in P.L.1963, c.73 (C.47:1A-1 et. seq.). In its place initials
or a fictitious name shall appear.

19 b. Any report, statement, photograph, court document,
indictment, complaint or any other public record which states the
21 name, address and identity of a victim shall be confidential and
unavailable to the public .

23 c. The information described in this act shall remain
confidential and unavailable to the public unless the court, after
25 a hearing, determines that good cause exists for disclosure. The
hearing shall be held after notice has been made to the victim,
27 parents of victim, spouse, or other person legally responsible for
the maintenance and care of the victim, and to the person
29 charged with the commission of the offense, counsel or guardian
of that person.

31 d. Nothing contained herein shall prohibit the court from
imposing further restrictions with regard to the disclosure of the
33 name, address, and identity of the victim when it deems
necessary to prevent trauma or stigma to the victim.

1 e. Any person who prints, publishes, broadcasts or televises or
causes to be printed, published, broadcasted or televised in any
3 forum the name, address, and identity of the victim is guilty of a
disorderly persons offense.

5 2. This act shall take effect on the 30th day after enactment.

7

STATEMENT

9

The purpose of this bill is to protect the child victim in a
11 sexual assault or child abuse case from the stigma and trauma
which often accompanies the publication of the victim's name,
13 address, and identity . The bill prohibits the disclosure of the
child's name, address and identity in public records and requires
15 that initials or a fictitious name be used in place of the child's
identity. The bill also prohibits any person from publishing or
17 broadcasting the child's name, address and identity. The sponsor
hopes that by eliminating the identity from the public record and
19 thereby prohibiting its publication in the media, more victims
would be encouraged to come forward.

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CRIMINAL JUSTICE

Children

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Prohibits disclosure of the identity of child victims of sexual
27 assault and child abuse cases.

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ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4283

STATE OF NEW JERSEY

DATED: May 8, 1989

The Assembly Judiciary Committee reports favorably Assembly Bill No. 4283.

The purpose of this bill is to protect the child victim in a sexual assault, sexual contact, endangering the welfare of a child or child abuse case from publication of the victim's name, address, and identity. The bill prohibits the disclosure of the child's name, address and identity in public records and requires that initials or a fictitious name be used in place of the child's identity. The bill also prohibits any person from publishing or broadcasting the child's name, address and identity by making such act a disorderly persons offense.

Information may be disclosed after a hearing if the court determines good cause was shown for the disclosure.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4283

STATE OF NEW JERSEY

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DATED: NOVEMBER 30, 1989

The Senate Judiciary Committee reports favorably Assembly Bill No. 4283.

This bill would prohibit the disclosure of the name, address and identity of a child victim in a sexual assault or child abuse case. Under the bill, initials or a fictitious name would be used in place of the child's identity in court records and information concerning the child's identity could only be disclosed after a hearing if the court determines that good cause for disclosure was shown.

Any person who publishes or broadcasts the name, address or identity of child victim would be guilty of a disorderly persons offense (up to six months imprisonment; a fine of up to \$1,000 or both).

The bill is not intended in any way to affect the preparation and internal government use of public records such as police reports. However, when any document containing information identifying the name, address or identity of a victim is publicly released, the document would be required to be altered prior to its release so as to contain only initials or a fictitious name in place of the child's identity.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL NO. 4283

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 4283 with my objections for reconsideration.

This bill provides that in prosecutions for aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact, endangering the welfare of a child or any action alleging an abused or neglected child, the name, address and identity of a victim who is under the age of 18 at the time of the offense shall not appear on the indictment, complaint or any other public record. In place of the name of the child victim shall be the victim's initials or a fictitious name. The bill goes on, however, to allow the court to disclose this information if it determines, after a hearing, that good cause exists for such disclosure. Further, the bill notes that nothing contained in it shall prohibit the court from imposing further restrictions with regard to the disclosure of the name, address and identity of the child victim which it deems necessary to prevent trauma and stigma. Finally, the bill provides that any person who prints, publishes, broadcasts or televises the name, address and identity of a child victim is guilty of a disorderly persons offense.

The stated purpose of this bill is to protect child victims of sexual assault and sexual abuse from the stigma and trauma which may accompany the publication of their names, addresses and identities. To accomplish this purpose, the provisions of this bill focus on keeping the victim's name out of the public record of the criminal prosecution. While I wholeheartedly support this aim and endorse the vast majority of this bill, there is one portion of the bill which is problematic. Subsection e provides that any person who publishes or broadcasts the name, address and identity of a child victim is guilty of a disorderly persons offense. This subsection effectively holds the print and broadcast media criminally liable for reporting the name and address of a sexual assault or abuse victim even if the source of the information is other than those specified in the bill; for example, if the information is from an eyewitness, the victim's parents or even the victim. This subsection, on its face, also would apply even if the victim suffered

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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no trauma or stigma or if the importance to the public of publishing the name and identity of the alleged victim clearly outweighed the State's interest in protecting the privacy rights of the victim in a particular case. Because of the breadth and focus of this provision, I am convinced that it would, at the very least, be unconstitutional in many of its possible applications.

As the courts have made clear in cases interpreting the First Amendment, prohibitions on publication by the press of truthful information are highly suspect. Instead, the courts have suggested that the preferable course is to limit the dissemination of information regarding the name, address and identity of child victims of sexual assault and abuse by keeping the victim's identity out of the public record. This is not only preferable in protecting the constitutional rights involved, but as a matter of sound policy, as it strikes the proper balance between competing interests. We should never unnecessarily interfere with the press's freedom to print the truth when the State interest to be protected can be better addressed in a less intrusive manner. It should be noted that the news media has acted responsibly in these matters in the past, and I have every reason to believe that reporters and publishers will continue to treat these cases with sensitivity and discretion.

Accordingly, a meaningful alternative to subsection e is to prohibit the purposeful disclosure, release or other dissemination of confidential documents bearing a child victim's name, address and identity delineated in subsection b of the present bill, that is, any report, statement, photograph, court document, indictment, complaint or any other public record which states the name, address or identity of a child victim. Any person who discloses, releases or otherwise disseminates to the public such information would be guilty of a disorderly persons offense. A similar path has been followed in preserving the privacy rights of victims of child abuse by prohibiting the release of child abuse reports and imposing a criminal sanction on those who purposely violate this prohibition. (See N.J.S.A. 9:6-8.10b.)

For the above reasons, I recommend that subsection e of Assembly Bill No. 4283 be deleted and that in its stead new language be added which prohibits the purposeful release of the name, address or identity of child victims of sexual assault and abuse.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Therefore, I herewith return Assembly Bill No. 4283 and recommend that it be amended as follows:

Page 1, Section 1, Line 22:

After "unavailable to the public." add
"Unless authorized pursuant to sub-
section c., any person who purposefully
discloses, releases or otherwise makes
available to the public any of the
above-listed documents which contain
the name, address and identity of a
victim who was under the age of 18 at
the time of the alleged commission of
an offense enumerated in subsection a.
shall be guilty of a disorderly persons
offense."

Page 2, Section 1, Lines 1-4:

Delete in entirety
Respectfully,

GOVERNOR

Attest:

Chief Counsel