

# *Expert Testimony in Sexual Assault Cases*



The 2011 legislative session is the third time legislation will be introduced to allow expert testimony to be introduced in sexual assault cases in Pennsylvania. There have been two successful public hearings on the bill. Pennsylvania is currently the only state that specifically prohibits this form of testimony.

## **The Problem**

Community members and potential jurors are bombarded by media depicting what they deem to be a victim's "usual reaction" to sexual assault.

These messages work well for fictionalized accounts in entertainment media, but in the lives of real victims, they create confusion and barriers to justice. Jurors have preconceived notions about how victims behave after an assault, where they go and who they tell, what they wear and look like, where they come from, and ultimately, who they are.

These misconceptions lead to a bias that can be impossible for prosecutors to overcome without assistance from an expert witness who knows the truth about victim responses to sexual assault.

Instead of focusing on the elements of the crime and the Commonwealth's ability to prove the guilt of a perpetrator, juries commonly judge the victim. There are many qualified experts who can testify to dispel these notions in Pennsylvania.

Pennsylvania has a network of 51 rape crisis center programs staffed with advocates that have certified training in counseling and advocating for victims of sexual assault.

## *Support for the bill*

**Pennsylvania Coalition Against Rape  
Pennsylvania District Attorneys Association  
Pennsylvania Office of the Victim Advocate  
Coalition of Crime Victims Organizations.**

There are also licensed social workers, therapists and psychologists who, through their work with victims, can testify to the wide variety of emotional responses and behaviors of victims during and after the horrible offense that is committed against them.

## **The Resolution**

The Commonwealth must join the rest of the nation in giving prosecutors every possible tool that they can use to convict perpetrators of sexual assault. Victims are asked to endure a grueling process in the criminal justice system. They are judged, examined, made to share personal details of their private lives and re-live the assault, and cope with loss of income, emotional distress, duration of the criminal process, and invasion of privacy.

We owe it to prosecutors and victims alike to pass this legislation to keep our communities safe, and keep sex offenders off our streets.

*Please contact members of the House Judiciary committee to ask for swift passage of this critical legislation.*

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# *Sexual Violence Protection Act*

## *Senate Bill 58*



### Why is this important?

Sexual violence is a major public health problem throughout the nation and Pennsylvania.

Rape crisis centers provided services to 31,474 Pennsylvanian men, women, boys and girls in 2010.

The majority of sexual assaults are committed by perpetrators known to victims. Traumatized and fearful of repeated assaults, many victims of sexual violence need orders of protection to help keep them safe from perpetrators.

Yet, under current Pennsylvania law, many victims of sexual violence are not legally protected.

#### Examples of victims not protected:

- a student raped by a classmate at a college
- a man sexually assaulted by a neighbor
- a professional sexually assaulted by a coworker

Pennsylvania law provides protection for domestic violence victims who are assaulted by a spouse, relative, and/or intimate partner under 23 PSA section 6101 et seq. Many sexual violence victims are not eligible for such protection because their assailants are not spouses, relatives and/or intimate partners.

Sexual violence victims who are assaulted by a stranger, acquaintance, friend, classmate, colleague or neighbor are left vulnerable by existing law without the legal protections they deserve and need. In Pennsylvania, no contact orders are available to sexual violence victims only if a criminal case has

been initiated against a perpetrator. But not every assault results in prosecution.

It is estimated that only 28.3 percent of rape/sexual assault victimizations are reported to law enforcement.

Many victims do not report – out of fear of retaliation, shame, lack of resources to devote to the prosecutorial process, and/or trauma – and therefore do not seek criminal prosecution. Furthermore, even when victims do choose to report, many cases do not proceed due to lack of sufficient evidence.

Therefore, protection orders that are issued in the context of criminal prosecution are not sufficient to protect all victims of sexual violence.

The proposed legislation reflects a growing national trend by other states to protect victims of sexual violence with a civil remedy that requires the offender to stay away.

By allowing civil protection orders for victims of sexual violence, safety can be afforded to victims waiting until the perpetrator comes to justice. In past sessions this bill has unanimously passed the Senate and was deemed to have no fiscal impact on the Commonwealth.

By passing the Sexual Violence Victim Protection Act, the Pennsylvania legislature is sending a powerful message to victims and the nation – that victims of sexual violence deserve safety and legal protection.

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