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MEETING  
of  
ASSEMBLY ADVISORY COUNCIL ON WOMEN

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1994C

ASSEMBLY BILL NO. 677

(Amends the "Rape Shield Law" to exclude certain evidence concerning the victim's past sexual conduct.)

ASSEMBLY BILL NO. 1367

(Establishes central registry of domestic violence orders for use in evaluating firearm permit applications.)

ASSEMBLY BILL NO. 1368

(Restricts purchase of firearms by anyone who has been the subject of a domestic violence restraining order; requires police to seize weapons at the scene of domestic violence incidents.)

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LOCATION: L'Hommideu Hall  
Middlesex County College  
Edison, New Jersey

DATE: April 29, 1994  
1:00 p.m.



MEMBERS OF ADVISORY COUNCIL PRESENT:

Assemblywoman Rose M. Heck, Chairperson  
Assemblywoman Joanna M. Gregory-Scocchi, Vice-Chair  
Assemblywoman Loretta Weinberg

ALSO PRESENT:

Norma Svedosh  
Office of Legislative Services  
Vice, Assembly Advisory Council on Women

New Jersey State Library

**Hearing Recorded and Transcribed by**

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ROSE M. HECK  
Chairperson  
JOANNA M. GREGORY-SCOCCHI  
Vice-Chair  
MARION CRECCO  
E. SCOTT GARRETT  
CHRISTOPHER "KIP" BATEMAN  
SHIRLEY K. TURNER  
LORETTA WEINBERG

New Jersey State Legislature  
ASSEMBLY ADVISORY COUNCIL ON WOMEN  
LEGISLATIVE OFFICE BUILDING  
CN-068  
TRENTON, NEW JERSEY 08625-0068  
(609) 292-1646

ADVISORY COUNCIL NOTICE

TO: MEMBERS OF THE ASSEMBLY ADVISORY COUNCIL  
ON WOMEN

FROM: ASSEMBLYWOMAN ROSE M. HECK, CHAIRPERSON

SUBJECT: ADVISORY COUNCIL MEETING - April 29, 1994

*The public may address comments and questions to Norma Svedosh, Aide to the Advisory Council, or make bill status and scheduling inquiries to Pamela Chisolm, secretary, at (609) 292-1646. Those persons presenting written testimony should provide 10 copies to the Advisory Council on the day of the meeting.*

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The Assembly Advisory Council on Women will meet on **Friday, April 29, 1994 at 1:00 PM** in L'Hommideu Hall, Middlesex County College, 155 Mill Road, Edison, New Jersey.

The following bills will be discussed:

A-677 (1R) Derman/Warsh	Amends the "Rape Shield Law" to exclude certain evidence concerning the victim's past sexual conduct.
A-1367 Weinberg/Heck	Establishes central registry of domestic violence orders for use in evaluating firearm permit applications.
A-1368 Weinberg/Heck	Restricts purchase of firearms by anyone who has been the subject of a domestic violence restraining order; requires police to seize weapons at the scene of domestic violence incidents.

Assistive listening devices available upon 24 hours prior notice  
to the committee aide(s) listed above



STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblywoman DERMAN

1 AN ACT concerning the admissibility of certain evidence in  
2 prosecutions for sex crimes and amending N.J.S.2C:14-7.

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

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

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

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:  
Assembly AJL committee amendments adopted January 20, 1994.

1     d. Evidence of the defendant's previous sexual conduct with  
2     the victim shall be relevant only if the previous sexual conduct  
3     with the victim could lead the defendant to reasonably believe  
4     that the sexual conduct complained of occurred with what a  
5     reasonable person would believe to be affirmative and freely  
6     given permission.

7     e. For the purposes of this section, "sexual conduct" shall  
8     mean any conduct or behavior relating to sexual activities of the  
9     victim, including but not limited to previous or subsequent  
10    experience of sexual penetration or sexual contact, use of  
11    contraceptives. <sup>1</sup>sexual activities reflected in gynecological  
12    records, living arrangement and life style.  
13    (cf: P.L.1988, c.69, s.1)

14    2. This act shall take effect immediately.

15  
16  
17  
18  
19    Amends the "Rape Shield Law" to exclude certain evidence  
20    concerning the victim's past sexual conduct.

ASSEMBLY, No. 1367

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 17, 1994

By Assemblywomen WEINBERG and HECK

1 AN ACT concerning firearms permits, amending N.J.S.2C:58-3  
2 and supplementing Title 2C 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. N.J.S. 2C:58-3 is amended to read as follows:

7 2C:58-3. Purchase of Firearms.

8 a. Permit to purchase a handgun. No person shall sell, give,  
9 transfer, assign or otherwise dispose of, nor receive, purchase, or  
10 otherwise acquire a handgun unless the purchaser, assignee,  
11 donee, receiver or holder is licensed as a dealer under this  
12 chapter or has first secured a permit to purchase a handgun as  
13 provided by this section.

14 b. Firearms purchaser identification card. No person shall  
15 sell, give, transfer, assign or otherwise dispose of nor receive,  
16 purchase or otherwise acquire an antique cannon or a rifle or  
17 shotgun, other than an antique rifle or shotgun, unless the  
18 purchaser, assignee, donee, receiver or holder is licensed as a  
19 dealer under this chapter or possesses a valid firearms purchaser  
20 identification card, and first exhibits said card to the seller,  
21 donor, transferor or assignor, and unless the purchaser, assignee,  
22 donee, receiver or holder signs a written certification, on a form  
23 prescribed by the superintendent, which shall indicate that he  
24 presently complies with the requirements of subsection c. of this  
25 section and shall contain his name, address and firearms  
26 purchaser identification card number or dealer's registration  
27 number. The said certification shall be retained by the seller, as  
28 provided in section 2C:58-2a., or, in the case of a person who is  
29 not a dealer, it may be filed with the chief of police of the  
30 municipality in which he resides or with the superintendent.

31 c. Who may obtain. No person of good character and good  
32 repute in the community in which he lives, and who is not subject  
33 to any of the disabilities set forth in this section or other sections  
34 of this chapter, shall be denied a permit to purchase a handgun or  
35 a firearms purchaser identification card, except as hereinafter  
36 set forth. No handgun purchase permit or firearms purchaser  
37 identification card shall be issued:

38 (1) To any person who has been convicted of a crime, whether  
39 or not armed with or possessing a weapon at the time of such  
40 offense;

41 (2) To any drug dependent person as defined in section 2 of  
42 P.L.1970, c.226 (C.24:21-2), to any person who is confined for a

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 mental disorder to a hospital, mental institution or sanitarium, or  
2 to any person who is presently an habitual drunkard;

3 (3) To any person who suffers from a physical defect or disease  
4 which would make it unsafe for him to handle firearms, to any  
5 person who has ever been confined for a mental disorder, or to  
6 any alcoholic unless any of the foregoing persons produces a  
7 certificate of a medical doctor or psychiatrist licensed in New  
8 Jersey, or other satisfactory proof, that he is no longer suffering  
9 from that particular disability in such a manner that would  
10 interfere with or handicap him in the handling of firearms; to any  
11 person who knowingly falsifies any information on the application  
12 form for a handgun purchase permit or firearms purchaser  
13 identification card;

14 (4) To any person under the age of 18 years;

15 (5) To any person where the issuance would not be in the  
16 interest of the public health, safety or welfare; or

17 (6) To any person who is subject to a court order issued  
18 pursuant to section 13 of P.L.1991, c.261 (C.2C:25-29) prohibiting  
19 the person from possessing any firearm. To ascertain whether  
20 the applicant is subject to such an order, the chief of police of an  
21 organized full-time police department of the municipality where  
22 the applicant resides or the superintendent, in all other cases,  
23 shall conduct a search of the domestic violence registry  
24 established pursuant to section 2 of P.L. . c. (C. )(now pending  
25 before the Legislature as this bill).

26 d. Issuance. The chief of police of an organized full-time  
27 police department of the municipality where the applicant resides  
28 or the superintendent, in all other cases, shall upon application,  
29 issue to any person qualified under the provisions of subsection c.  
30 of this section a permit to purchase a handgun or a firearms  
31 purchaser identification card.

32 Any person aggrieved by the denial of a permit or  
33 identification card may request a hearing in the Superior Court of  
34 the county in which he resides if he is a resident of New Jersey or  
35 in the Superior Court of the county in which his application was  
36 filed if he is a nonresident. The request for a hearing shall be  
37 made in writing within 30 days of the denial of the application for  
38 a permit or identification card. The applicant shall serve a copy  
39 of his request for a hearing upon the chief of police of the  
40 municipality in which he resides, if he is a resident of New  
41 Jersey, and upon the superintendent in all cases. The hearing  
42 shall be held and a record made thereof within 30 days of the  
43 receipt of the application for such hearing by the judge of the  
44 Superior Court. No formal pleading and no filing fee shall be  
45 required as a preliminary to such hearing. Appeals from the  
46 results of such hearing shall be in accordance with law.

47 e. Applications. Applications for permits to purchase a  
48 handgun and for firearms purchaser identification cards shall be  
49 in the form prescribed by the superintendent and shall set forth  
50 the name, residence, place of business, age, date of birth,  
51 occupation, sex and physical description, including distinguishing  
52 physical characteristics, if any, of the applicant, and shall state  
53 whether the applicant is a citizen, whether he is an alcoholic,  
54 habitual drunkard, drug dependent person as defined in section 2



1 of P.L.1970, c.226 (C.24:21-2), whether he has ever been confined  
2 or committed to a mental institution or hospital for treatment or  
3 observation of a mental or psychiatric condition on a temporary,  
4 interim or permanent basis, giving the name and location of the  
5 institution or hospital and the dates of such confinement or  
6 commitment, whether he has been attended, treated or observed  
7 by any doctor or psychiatrist or at any hospital or mental  
8 institution on an inpatient or outpatient basis for any mental or  
9 psychiatric condition, giving the name and location of the doctor,  
10 psychiatrist, hospital or institution and the dates of such  
11 occurrence, whether he presently or ever has been a member of  
12 any organization which advocates or approves the commission of  
13 acts of force and violence to overthrow the Government of the  
14 United States or of this State, or which seeks to deny others their  
15 rights under the Constitution of either the United States or the  
16 State of New Jersey, whether he has ever been convicted of a  
17 crime or disorderly persons offense, whether the person is subject  
18 to a court order issued pursuant to section 13 of P.L.1991, c.261  
19 (C.2C:25-29) prohibiting the person from possessing any firearm,  
20 and such other information as the superintendent shall deem  
21 necessary for the proper enforcement of this chapter. For the  
22 purpose of complying with this subsection, the applicant shall  
23 waive any statutory or other right of confidentiality relating to  
24 institutional confinement. The application shall be signed by the  
25 applicant and shall contain as references the names and addresses  
26 of two reputable citizens personally acquainted with him.

27 Application blanks shall be obtainable from the superintendent,  
28 from any other officer authorized to grant such permit or  
29 identification card, and from licensed retail dealers.

30 The chief police officer or the superintendent shall obtain the  
31 fingerprints of the applicant and shall have them compared with  
32 any and all records of fingerprints in the municipality and county  
33 in which the applicant resides and also the records of the State  
34 Bureau of Identification and the Federal Bureau of Investigation,  
35 provided that an applicant for a handgun purchase permit who  
36 possesses a valid firearms purchaser identification card, or who  
37 has previously obtained a handgun purchase permit from the same  
38 licensing authority for which he was previously fingerprinted, and  
39 who provides other reasonably satisfactory proof of his identity,  
40 need not be fingerprinted again; however, the chief police officer  
41 or the superintendent shall proceed to investigate the application  
42 to determine whether or not the applicant has become subject to  
43 any of the disabilities set forth in this chapter.

44 f. Granting of permit or identification card; fee; term;  
45 renewal; revocation. The application for the permit to purchase  
46 a handgun together with a fee of \$2.00, or the application for the  
47 firearms purchaser identification card together with a fee of  
48 \$5.00, shall be delivered or forwarded to the licensing authority  
49 who shall investigate the same and, unless good cause for the  
50 denial thereof appears, shall grant the permit or the  
51 identification card, or both, if application has been made  
52 therefor, within 30 days from the date of receipt of the  
53 application for residents of this State and within 45 days for  
54 nonresident applicants. A permit to purchase a handgun shall be

1 valid for a period of 90 days from the date of issuance and may  
2 be renewed by the issuing authority for good cause for an  
3 additional 90 days. A firearms purchaser identification card shall  
4 be valid until such time as the holder becomes subject to any of  
5 the disabilities set forth in subsection c. of this section.  
6 whereupon the card shall be void and shall be returned within five  
7 days by the holder to the superintendent, who shall then advise  
8 the licensing authority. Failure of the holder to return the  
9 firearms purchaser identification card to the superintendent  
10 within the said five days shall be an offense under section  
11 2C:39-10a. Any firearms purchaser identification card may be  
12 revoked by the Superior Court of the county wherein the card was  
13 issued, after hearing upon notice, upon a finding that the holder  
14 thereof no longer qualifies for the issuance of such permit. The  
15 county prosecutor of any county, the chief police officer of any  
16 municipality or any citizen may apply to such court at any time  
17 for the revocation of such card.

18 There shall be no conditions or requirements added to the form  
19 or content of the application, or required by the licensing  
20 authority for the issuance of a permit or identification card,  
21 other than those that are specifically set forth in this chapter.

22 g. Disposition of fees. All fees for permits shall be paid to the  
23 State Treasury if the permit is issued by the superintendent, to  
24 the municipality if issued by the chief of police, and to the  
25 county treasurer if issued by the judge of the Superior Court.

26 h. Form of permit; quadruplicate; disposition of copies. The  
27 permit shall be in the form prescribed by the superintendent and  
28 shall be issued to the applicant in quadruplicate. Prior to the  
29 time he receives the handgun from the seller, the applicant shall  
30 deliver to the seller the permit in quadruplicate and the seller  
31 shall complete all of the information required on the form.  
32 Within five days of the date of the sale, the seller shall forward  
33 the original copy to the superintendent and the second copy to  
34 the chief of police of the municipality in which the purchaser  
35 resides, except that in a municipality having no chief of police,  
36 such copy shall be forwarded to the superintendent. The third  
37 copy shall then be returned to the purchaser with the pistol or  
38 revolver and the fourth copy shall be kept by the seller as a  
39 permanent record.

40 i. Restriction on number of firearms person may purchase.  
41 Only one handgun shall be purchased or delivered on each permit,  
42 but a person shall not be restricted as to the number of rifles or  
43 shotguns he may purchase, provided he possesses a valid firearms  
44 purchaser identification card and provided further that he signs  
45 the certification required in subsection b. of this section for each  
46 transaction.

47 j. Firearms passing to heirs or legatees. Notwithstanding any  
48 other provision of this section concerning the transfer, receipt or  
49 acquisition of a firearm, a permit to purchase or a firearms  
50 purchaser identification card shall not be required for the passing  
51 of a firearm upon the death of an owner thereof to his heir or  
52 legatee, whether the same be by testamentary bequest or by the  
53 laws of intestacy. The person who shall so receive, or acquire  
54 said firearm shall, however, be subject to all other provisions of

1 this chapter. If the heir or legatee of such firearm does not  
2 qualify to possess or carry it, he may retain ownership of the  
3 firearm for the purpose of sale for a period not exceeding 180  
4 days, or for such further limited period as may be approved by  
5 the chief law enforcement officer of the municipality in which  
6 the heir or legatee resides or the superintendent, provided that  
7 such firearm is in the custody of the chief law enforcement  
8 officer of the municipality or the superintendent during such  
9 period.

10 k. Sawed-off shotguns. Nothing in this section shall be  
11 construed to authorize the purchase or possession of any  
12 sawed-off shotgun.

13 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to  
14 the sale or purchase of a visual distress signalling device  
15 approved by the United States Coast Guard, solely for possession  
16 on a private or commercial aircraft or any boat; provided,  
17 however, that no person under the age of 18 years shall purchase  
18 nor shall any person sell to a person under the age of 18 years  
19 such a visual distress signalling device.

20 (cf: P.L.1991, c.261, s.19)

21 2. (New section) A domestic violence order registry shall be  
22 established and maintained by the Administrative Office of the  
23 Courts. The registry shall contain identifying information  
24 concerning all persons who are subject to court orders issued  
25 pursuant to section 13 of P.L.1991, c.261 prohibiting them from  
26 possessing firearms. The registry shall be accessed by the  
27 appropriate officials pursuant to N.J.S.2C:58-2 in connection  
28 with every application for a firearms purchaser identification  
29 card or permit to purchase a handgun. The registry shall be  
30 funded by the surcharge on firearm purchases collected pursuant  
31 to section 3 of P.L. , c. (C. )(now pending before the  
32 Legislature as this bill).

33 3. (New section) A Domestic Violence Registry Fund is hereby  
34 created. The fund shall be a dedicated fund within the General  
35 Fund and administered by the Administrative Office of the  
36 Courts, and shall be the depository of moneys realized from the  
37 firearms surcharge imposed pursuant to section 4 of P.L. , c.  
38 (C. )(now pending before the Legislature as this bill).

39 4. (New section) A surcharge of \$10.00 shall be imposed on  
40 every retail purchase of a firearm in this State, except where the  
41 purchaser is licensed as a dealer pursuant to chapter 58 of Title  
42 2C of the New Jersey Statutes. The surcharge shall be collected  
43 by the seller of the firearm and forwarded to the Administrative  
44 Office of the Courts, which shall deposit the monies into the  
45 Domestic Violence Registry Fund established pursuant to section  
46 3 of P.L. , c. (C. )(now pending before the Legislature as  
47 this bill).

48 5. (New section) The Administrative Office of the Courts  
49 shall promulgate administrative procedures necessary to  
50 accomplish the purposes of this act.

51 6. This act shall take effect immediately.

## STATEMENT

1  
2  
3     This bill would establish a central registry of domestic violence  
4 orders. The registry would contain identifying information  
5 concerning all persons who are subject to domestic violence  
6 orders which bar them from purchasing a weapon. The police  
7 would access the registry when evaluating applications for  
8 firearms purchaser identification cards and permits to carry  
9 handguns. The registry would be funded by a \$10.00 surcharge  
10 imposed on firearms purchases.

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15     Establishes central registry of domestic violence orders for use in  
16 evaluating firearm permit applications.

ASSEMBLY, No. 1368  
STATE OF NEW JERSEY

INTRODUCED FEBRUARY 17, 1994

By Assemblywomen WEINBERG and HECK

1 AN ACT concerning firearms and amending P.L.1991, c.261 and  
2 N.J.S.2C:58-3.

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

6 1. Section 5 of P.L.1991, c.261 (C.2C:25-21) is amended to  
7 read as follows

8 5. a. When a person claims to be a victim of domestic  
9 violence, and where a law enforcement officer responding to the  
10 incident finds probable cause to believe that domestic violence  
11 has occurred, the law enforcement officer shall arrest the person  
12 who is alleged to be the person who subjected the victim to  
13 domestic violence and shall sign a criminal complaint if:

14 (1) The victim exhibits signs of injury caused by an act of  
15 domestic violence;

16 (2) A warrant is in effect;

17 (3) There is probable cause to believe that the person has  
18 violated N.J.S.2C:29-9, and there is probable cause to believe  
19 that the person has been served with the order alleged to have  
20 been violated. If the victim does not have a copy of a purported  
21 order, the officer may verify the existence of an order with the  
22 appropriate law enforcement agency; or

23 (4) There is probable cause to believe that a weapon as defined  
24 in N.J.S.2C:39-1 has been involved in the commission of an act of  
25 domestic violence.

26 b. A law enforcement officer may arrest a person; or may sign  
27 a criminal complaint against that person, or may do both, where  
28 there is probable cause to believe that an act of domestic  
29 violence has been committed, but where none of the conditions in  
30 subsection a. of this section applies.

31 c. (1) As used in this section, the word "exhibits" is to be  
32 liberally construed to mean any indication that a victim has  
33 suffered bodily injury, which shall include physical pain or any  
34 impairment of physical condition. Where the victim exhibits no  
35 visible sign of injury, but states that an injury has occurred, the  
36 officer should consider other relevant factors in determining  
37 whether there is probable cause to make an arrest.

38 (2) In determining which party in a domestic violence incident  
39 is the victim where both parties exhibit signs of injury, the  
40 officer should consider the comparative extent of the injuries,  
41 the history of domestic violence between the parties, if any, and  
42 any other relevant factors.

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 (3) No victim shall be denied relief or arrested or charged  
2 under this act with an offense because the victim used reasonable  
3 force in self defense against domestic violence by an attacker.

4 d. (1) In addition to a law enforcement officer's authority to  
5 seize any weapon that is contraband, evidence or an  
6 instrumentality of crime, a law enforcement officer who has  
7 probable cause to believe that an act of domestic violence has  
8 been committed [may] shall:

9 (a) question persons present to determine whether there are  
10 weapons on the premises; and

11 (b) upon observing or learning that a weapon is present on the  
12 premises, seize any weapon that the officer reasonably believes  
13 would expose the victim to a risk of serious bodily injury.

14 (2) A law enforcement officer shall deliver all weapons seized  
15 pursuant to this section to the county prosecutor and shall append  
16 an inventory of all seized weapons to the domestic violence  
17 report.

18 (3) [Weapons] No weapons seized in accordance with the above  
19 shall be returned to the owner except upon order of the Superior  
20 Court. The owner may, upon notice to the prosecutor who has  
21 possession of the seized weapons [may, upon notice to the owner],  
22 petition a judge of the Family Part of the Superior Court,  
23 Chancery Division to order the return of the weapons. The  
24 prosecutor, upon notice to the owner, may apply to the court  
25 [, within 45 days of seizure,] to obtain title to the seized  
26 weapons, or to revoke any and all permits, licenses and other  
27 authorizations for the use, possession, or ownership of such  
28 weapons pursuant to the law governing such use, possession, or  
29 ownership, or may object to the return of the weapons on such  
30 grounds as are provided for the initial rejection or later  
31 revocation of the authorizations, or on the grounds that the  
32 owner is unfit or that the owner poses a threat to the public in  
33 general or a person or persons in particular.

34 A hearing shall be held and a record made thereof within [15]  
35 45 days of the notice provided above. No formal pleading and no  
36 filing fee shall be required as a preliminary to such hearing. The  
37 hearing shall be summary in nature. Appeals from the results of  
38 the hearing shall be to the Superior Court, Appellate Division, in  
39 accordance with the law.

40 [If the prosecutor does not institute an action within 45 days of  
41 seizure, the seized weapons shall be returned to the owner.]

42 After the hearing the court shall order the return of the  
43 firearms, weapons and any authorization papers relating to the  
44 seized weapons to the owner if the complaint has been dismissed  
45 at the request of the complainant and the prosecutor determines  
46 that there is insufficient probable cause to indict; or if the  
47 defendant is found not guilty of the charges; or if the court  
48 determines that the domestic violence situation no longer exists.

49 Nothing in this act shall impair the right of the State to retain  
50 evidence pending a criminal prosecution. Nor shall any provision  
51 of this act be construed to limit the authority of the State or a  
52 law enforcement officer to seize, retain or forfeit property  
53 pursuant to chapter 64 of Title 2C of the New Jersey Statutes.

54 If, after the hearing, the court determines that the weapons

1 are not to be returned to the owner, the court may:

2 (a) With respect to weapons other than firearms, order the  
3 prosecutor to dispose of the weapons if the owner does not  
4 arrange for the transfer or sale of the weapons to an appropriate  
5 person within 60 days; or

6 (b) Order the revocation of the owner's firearms purchaser  
7 identification card or any permit, license or authorization, in  
8 which case the court shall order the owner to surrender any  
9 firearm seized and all other firearms possessed to the prosecutor  
10 and shall order the prosecutor to dispose of the firearms if the  
11 owner does not arrange for the sale of the firearms to a  
12 registered dealer of the firearms within 60 days; or

13 (c) Order such other relief as it may deem appropriate. When  
14 the court orders the weapons forfeited to the State or the  
15 prosecutor is required to dispose of the weapons, the prosecutor  
16 shall dispose of the property as provided in N.J.S.2C:64-6.

17 [(4) A civil suit may be brought to enjoin a wrongful failure to  
18 return a seized firearm where the prosecutor refuses to return  
19 the weapon after receiving a written request to do so and notice  
20 of the owner's intent to bring a civil action pursuant to this  
21 section. Failure of the prosecutor to comply with the provisions  
22 of this act shall entitle the prevailing party in the civil suit to  
23 reasonable costs, including attorney's fees, provided that the  
24 court finds that the prosecutor failed to act in good faith in  
25 retaining the seized weapon.] (Deleted by amendment, P.L. .  
26 c. )(now pending before the Legislature as this bill)

27 [(5) No law enforcement officer or agency shall be held liable  
28 in any civil action brought by any person for failing to learn of,  
29 locate or seize a weapon pursuant to this act, or for returning a  
30 seized weapon to its owner.] (Deleted by amendment, P.L. .  
31 c. )(now pending before the Legislature as this bill)

32 (cf: P.L.1991, c.261, s.5)

33 2. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to  
34 read as follows:

35 13. a. A hearing shall be held in the Family Part of the  
36 Chancery Division of the Superior Court within 10 days of the  
37 filing of a complaint pursuant to section 12 of this act. A copy of  
38 the complaint shall be served on the defendant in conformity with  
39 the rules of court. If a criminal complaint arising out of the same  
40 incident which is the subject matter of a complaint brought under  
41 P.L.1981, c.426 (C.2C:25-1 et seq.) or P.L.1991, c.261 has been  
42 filed, testimony given by the plaintiff or defendant in the  
43 domestic violence matter shall not be used in the simultaneous or  
44 subsequent criminal proceeding against the defendant, other than  
45 domestic violence contempt matters and where it would  
46 otherwise be admissible hearsay under the rules of evidence that  
47 govern where a party is unavailable. At the hearing the standard  
48 for proving the allegations in the complaint shall be by a  
49 preponderance of the evidence. The court shall consider but not  
50 be limited to the following factors:

51 (1) The previous history of domestic violence between the  
52 plaintiff and defendant, including threats, harassment and  
53 physical abuse;

54 (2) The existence of immediate danger to person or property;

- 1 (3) The financial circumstances of the plaintiff and defendant;
- 2 (4) The best interests of the victim and any child;
- 3 (5) In determining custody and visitation the protection of the
- 4 victim's safety; and
- 5 (6) The existence of a verifiable order of protection from
- 6 another jurisdiction.

7 b. In proceedings in which complaints for restraining orders  
8 have been filed, the court shall grant any relief necessary to  
9 prevent further abuse. In addition to any other provisions, any  
10 restraining order issued by the court shall bar the defendant from  
11 receiving a firearms purchaser identification card or a permit to  
12 purchase a handgun pursuant to N.J.S.2C:58-3 for a period of at  
13 least two years. At the hearing the judge of the Family Part of  
14 the Chancery Division of the Superior Court may issue an order  
15 granting any or all of the following relief:

16 (1) An order restraining the defendant from subjecting the  
17 victim to domestic violence, as defined in this act.

18 (2) An order granting exclusive possession to the plaintiff of  
19 the residence or household regardless of whether the residence or  
20 household is jointly or solely owned by the parties or jointly or  
21 solely leased by the parties. This order shall not in any manner  
22 affect title or interest to any real property held by either party  
23 or both jointly. If it is not possible for the victim to remain in  
24 the residence, the court may order the defendant to pay the  
25 victim's rent at a residence other than the one previously shared  
26 by the parties if the defendant is found to have a duty to support  
27 the victim and the victim requires alternative housing.

28 (3) An order providing for visitation. The order shall protect  
29 the safety and well-being of the plaintiff and minor children and  
30 shall specify the place and frequency of visitation. Visitation  
31 arrangements shall not compromise any other remedy provided by  
32 the court by requiring or encouraging contact between the  
33 plaintiff and defendant. Orders for visitation may include a  
34 designation of a place of visitation away from the plaintiff, the  
35 participation of a third party, or supervised visitation.

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40 the court by requiring or encouraging contact between the  
41 plaintiff and defendant. Orders for visitation may include a  
42 designation of a place of visitation away from the plaintiff, the  
43 participation of a third party, or supervised visitation.

44 (a) The court shall consider a request by the plaintiff for an  
45 investigation or evaluation by the appropriate agency to assess  
46 the risk of harm to the child prior to the entry of a visitation  
47 order. Any denial of such a request must be on the record and  
48 shall only be made if the judge finds the request to be arbitrary  
49 or capricious.

50 (b) The court shall consider suspension of the visitation order  
51 and hold an emergent hearing upon an application made by the  
52 plaintiff certifying under oath that the defendant's access to the  
53 child pursuant to the visitation order has threatened the safety  
54 and well-being of the child.



1 (4) An order requiring the defendant to pay to the victim  
2 monetary compensation for losses suffered as a direct result of  
3 the act of domestic violence. The order may require the  
4 defendant to pay the victim directly, to reimburse the Violent  
5 Crimes Compensation Board for any and all compensation paid by  
6 the Violent Crimes Compensation Board directly to or on behalf  
7 of the victim, and may require that the defendant reimburse any  
8 parties that may have compensated the victim, as the court may  
9 determine. Compensatory losses shall include, but not be limited  
10 to, loss of earnings or other support, out-of-pocket losses for  
11 injuries sustained, cost of repair or replacement of real or  
12 personal property damaged or destroyed or taken, cost of  
13 counseling for the victim, moving or other travel expenses,  
14 reasonable attorney's fees, court costs, and compensation for  
15 pain and suffering. Where appropriate, punitive damages may be  
16 awarded in addition to compensatory damages.

17 (5) An order requiring the defendant to receive professional  
18 domestic violence counseling from either a private source or a  
19 source appointed by the court and, in that event, at the court's  
20 discretion requiring the defendant to provide the court at  
21 specified intervals with documentation of attendance at the  
22 professional counseling. The court may order the defendant to  
23 pay for the professional counseling.

24 (6) An order restraining the defendant from entering the  
25 residence, property, school, or place of employment of the victim  
26 or of other family or household members of the victim and  
27 requiring the defendant to stay away from any specified place  
28 that is named in the order and is frequented regularly by the  
29 victim or other family or household members.

30 (7) An order restraining the defendant from making any  
31 communication likely to cause annoyance or alarm including, but  
32 not limited to, personal, written, or telephone contact with the  
33 victim or other family members, or their employers, employees,  
34 or fellow workers, or others with whom communication would be  
35 likely to cause annoyance or alarm to the victim.

36 (8) An order requiring that the defendant make or continue to  
37 make rent or mortgage payments on the residence occupied by  
38 the victim if the defendant is found to have a duty to support the  
39 victim or other dependent household members; provided that this  
40 issue has not been resolved or is not being litigated between the  
41 parties in another action.

42 (9) An order granting either party temporary possession of  
43 specified personal property, such as an automobile, checkbook,  
44 documentation of health insurance, an identification document, a  
45 key, and other personal effects.

46 (10) An order awarding emergent monetary relief to the victim  
47 and other dependents, if any. An ongoing obligation of support  
48 shall be determined at a later date pursuant to applicable law.

49 (11) An order awarding temporary custody of a minor child.  
50 The court shall presume that the best interests of the child are  
51 served by an award of custody to the non-abusive parent.

52 (12) An order requiring that a law enforcement officer  
53 accompany either party to the residence to supervise the removal  
54 of personal belongings in order to ensure the personal safety of

1 the plaintiff when a restraining order has been issued. This order  
2 shall be restricted in duration.

3 (13) An order which permits the victim and the defendant to  
4 occupy the same premises but limits the defendant's use of that  
5 premises, but only if it is documented by the judge granting the  
6 order that:

7 (a) The plaintiff specifically and voluntarily requests such an  
8 order; and

9 (b) The judge determines that the request is made voluntarily  
10 and with the plaintiff's knowledge that the order may not provide  
11 the same protection as an order excluding the defendant from the  
12 premises and with the plaintiff's knowledge that the order may  
13 be difficult to enforce; and

14 (c) Any conditions placed upon the defendant in connection  
15 with the continued access to the premises and any penalties for  
16 noncompliance with those conditions shall be explicitly set out in  
17 the order and shall be in addition to any other remedies for  
18 noncompliance available to the victim.

19 (14) An order granting any other appropriate relief for the  
20 plaintiff and dependent children, provided that the plaintiff  
21 consents to such relief, including relief requested by the plaintiff  
22 at the final hearing, whether or not the plaintiff requested such  
23 relief at the time of the granting of the initial emergency order.

24 (15) An order that requires that the defendant report to the  
25 intake unit of the Family Part of the Chancery Division of the  
26 Superior Court for monitoring of any other provision of the order.

27 (16) An order prohibiting the defendant from possessing any  
28 firearm or other weapon enumerated in subsection r. of  
29 N.J.S.2C:39-1.

30 c. Notice of orders issued pursuant to this section shall be sent  
31 by the clerk of the Family Part of the Chancery Division of the  
32 Superior Court or other person designated by the court to the  
33 appropriate chiefs of police, members of the State Police and any  
34 other appropriate law enforcement agency.

35 d. Upon good cause shown, any final order may be dissolved or  
36 modified upon application to the Family Part of the Chancery  
37 Division of the Superior Court, but only if the judge who dissolves  
38 or modifies the order has available a complete record of the  
39 hearing or hearings on which the order was based.

40 (cf: P.L.1991.c.261,s.13)

41 3. N.J.S.2C:58-3 is amended to read as follows:

42 2C:58-3. Purchase of Firearms.

43 a. Permit to purchase a handgun. No person shall sell, give,  
44 transfer, assign or otherwise dispose of, nor receive, purchase, or  
45 otherwise acquire a handgun unless the purchaser, assignee,  
46 donee, receiver or holder is licensed as a dealer under this  
47 chapter or has first secured a permit to purchase a handgun as  
48 provided by this section.

49 b. Firearms purchaser identification card. No person shall  
50 sell, give, transfer, assign or otherwise dispose of nor receive,  
51 purchase or otherwise acquire an antique cannon or a rifle or  
52 shotgun, other than an antique rifle or shotgun, unless the  
53 purchaser, assignee, donee, receiver or holder is licensed as a  
54 dealer under this chapter or possesses a valid firearms purchaser

1 identification card, and first exhibits said card to the seller,  
2 donor, transferor or assignor, and unless the purchaser, assignee,  
3 donee, receiver or holder signs a written certification, on a form  
4 prescribed by the superintendent, which shall indicate that he  
5 presently complies with the requirements of subsection c. of this  
6 section and shall contain his name, address and firearms  
7 purchaser identification card number or dealer's registration  
8 number. The said certification shall be retained by the seller, as  
9 provided in section 2C:58-2a., or, in the case of a person who is  
10 not a dealer, it may be filed with the chief of police of the  
11 municipality in which he resides or with the superintendent.

12 c. Who may obtain. No person of good character and good  
13 repute in the community in which he lives, and who is not subject  
14 to any of the disabilities set forth in this section or other sections  
15 of this chapter, shall be denied a permit to purchase a handgun or  
16 a firearms purchaser identification card, except as hereinafter  
17 set forth. No handgun purchase permit or firearms purchaser  
18 identification card shall be issued:

19 (1) To any person who has been convicted of a crime, whether  
20 or not armed with or possessing a weapon at the time of such  
21 offense;

22 (2) To any drug dependent person as defined in section 2 of  
23 P.L.1970, c.226 (C.24:21-2), to any person who is confined for a  
24 mental disorder to a hospital, mental institution or sanitarium, or  
25 to any person who is presently an habitual drunkard;

26 (3) To any person who suffers from a physical defect or disease  
27 which would make it unsafe for him to handle firearms, to any  
28 person who has ever been confined for a mental disorder, or to  
29 any alcoholic unless any of the foregoing persons produces a  
30 certificate of a medical doctor or psychiatrist licensed in New  
31 Jersey, or other satisfactory proof, that he is no longer suffering  
32 from that particular disability in such a manner that would  
33 interfere with or handicap him in the handling of firearms; to any  
34 person who knowingly falsifies any information on the application  
35 form for a handgun purchase permit or firearms purchaser  
36 identification card;

37 (4) To any person under the age of 18 years;

38 (5) To any person where the issuance would not be in the  
39 interest of the public health, safety or welfare; or

40 (6) To any person who is] has been the subject [to] of a [court]  
41 restraining order issued pursuant to section 13 of P.L.1991, c.261  
42 (C.2C:25-29) [prohibiting the person from possessing any  
43 firearm]. A person who has been the subject of a restraining  
44 order issued pursuant to section 13 of P.L.1991, c.261  
45 (C.2C:25-29) shall be barred from receiving a handgun purchase  
46 permit or firearms purchaser identification card for a period of  
47 at least two years, as ordered by the court that issued the  
48 restraining order. At the conclusion of that period, the defendant  
49 may request a hearing in the Superior Court, conducted pursuant  
50 to the provisions of this section, to determine whether the bar  
51 shall be lifted or continued for another two-year period. If the  
52 bar is continued, the defendant may request a hearing at  
53 subsequent two-year intervals.

54 d. Issuance. The chief of police of an organized full-time

1 police department of the municipality where the applicant resides  
2 or the superintendent, in all other cases, shall upon application,  
3 issue to any person qualified under the provisions of subsection c.  
4 of this section a permit to purchase a handgun or a firearms  
5 purchaser identification card.

6 Any person aggrieved by the denial of a permit or  
7 identification card may request a hearing in the Superior Court of  
8 the county in which he resides if he is a resident of New Jersey or  
9 in the Superior Court of the county in which his application was  
10 filed if he is a nonresident. The request for a hearing shall be  
11 made in writing within 30 days of the denial of the application for  
12 a permit or identification card. The applicant shall serve a copy  
13 of his request for a hearing upon the chief of police of the  
14 municipality in which he resides, if he is a resident of New  
15 Jersey, and upon the superintendent in all cases. The hearing  
16 shall be held and a record made thereof within 30 days of the  
17 receipt of the application for such hearing by the judge of the  
18 Superior Court. No formal pleading and no filing fee shall be  
19 required as a preliminary to such hearing. Appeals from the  
20 results of such hearing shall be in accordance with law.

21 e. Applications. Applications for permits to purchase a  
22 handgun and for firearms purchaser identification cards shall be  
23 in the form prescribed by the superintendent and shall set forth  
24 the name, residence, place of business, age, date of birth,  
25 occupation, sex and physical description, including distinguishing  
26 physical characteristics, if any, of the applicant, and shall state  
27 whether the applicant is a citizen, whether he is an alcoholic,  
28 habitual drunkard, drug dependent person as defined in section 2  
29 of P.L.1970, c.226 (C.24:21-2), whether he has ever been confined  
30 or committed to a mental institution or hospital for treatment or  
31 observation of a mental or psychiatric condition on a temporary,  
32 interim or permanent basis, giving the name and location of the  
33 institution or hospital and the dates of such confinement or  
34 commitment, whether he has been attended, treated or observed  
35 by any doctor or psychiatrist or at any hospital or mental  
36 institution on an inpatient or outpatient basis for any mental or  
37 psychiatric condition, giving the name and location of the doctor,  
38 psychiatrist, hospital or institution and the dates of such  
39 occurrence, whether he presently or ever has been a member of  
40 any organization which advocates or approves the commission of  
41 acts of force and violence to overthrow the Government of the  
42 United States or of this State, or which seeks to deny others their  
43 rights under the Constitution of either the United States or the  
44 State of New Jersey, whether he has ever been convicted of a  
45 crime or disorderly persons offense, whether the person [is] has  
46 been subject to a court order issued pursuant to section 13 of  
47 P.L.1991, c.261 (C.2C:25-29) [prohibiting the person from  
48 possessing any firearm], and such other information as the  
49 superintendent shall deem necessary for the proper enforcement  
50 of this chapter. For the purpose of complying with this  
51 subsection, the applicant shall waive any statutory or other right  
52 of confidentiality relating to institutional confinement. The  
53 application shall be signed by the applicant and shall contain as  
54 references the names and addresses of two reputable citizens  
55 personally acquainted with him.

1 Application blanks shall be obtainable from the superintendent.  
2 from any other officer authorized to grant such permit or  
3 identification card, and from licensed retail dealers.

4 The chief police officer or the superintendent shall obtain the  
5 fingerprints of the applicant and shall have them compared with  
6 any and all records of fingerprints in the municipality and county  
7 in which the applicant resides and also the records of the State  
8 Bureau of Identification and the Federal Bureau of Investigation,  
9 provided that an applicant for a handgun purchase permit who  
10 possesses a valid firearms purchaser identification card, or who  
11 has previously obtained a handgun purchase permit from the same  
12 licensing authority for which he was previously fingerprinted, and  
13 who provides other reasonably satisfactory proof of his identity,  
14 need not be fingerprinted again; however, the chief police officer  
15 or the superintendent shall proceed to investigate the application  
16 to determine whether or not the applicant has become subject to  
17 any of the disabilities set forth in this chapter.

18 f. Granting of permit or identification card; fee; term;  
19 renewal; revocation. The application for the permit to purchase  
20 a handgun together with a fee of \$2.00, or the application for the  
21 firearms purchaser identification card together with a fee of  
22 \$5.00, shall be delivered or forwarded to the licensing authority  
23 who shall investigate the same and, unless good cause for the  
24 denial thereof appears, shall grant the permit or the  
25 identification card, or both, if application has been made  
26 therefor, within 30 days from the date of receipt of the  
27 application for residents of this State and within 45 days for  
28 nonresident applicants. A permit to purchase a handgun shall be  
29 valid for a period of 90 days from the date of issuance and may  
30 be renewed by the issuing authority for good cause for an  
31 additional 90 days. A firearms purchaser identification card shall  
32 be valid until such time as the holder becomes subject to any of  
33 the disabilities set forth in subsection c. of this section,  
34 whereupon the card shall be void and shall be returned within five  
35 days by the holder to the superintendent, who shall then advise  
36 the licensing authority. Failure of the holder to return the  
37 firearms purchaser identification card to the superintendent  
38 within the said five days shall be an offense under section  
39 2C:39-10a. Any firearms purchaser identification card may be  
40 revoked by the Superior Court of the county wherein the card was  
41 issued, after hearing upon notice, upon a finding that the holder  
42 thereof no longer qualifies for the issuance of such permit. The  
43 county prosecutor of any county, the chief police officer of any  
44 municipality or any citizen may apply to such court at any time  
45 for the revocation of such card.

46 There shall be no conditions or requirements added to the form  
47 or content of the application, or required by the licensing  
48 authority for the issuance of a permit or identification card,  
49 other than those that are specifically set forth in this chapter.

50 g. Disposition of fees. All fees for permits shall be paid to the  
51 State Treasury if the permit is issued by the superintendent, to  
52 the municipality if issued by the chief of police, and to the  
53 county treasurer if issued by the judge of the Superior Court.

54 h. Form of permit; quadruplicate; disposition of copies. The

1 permit shall be in the form prescribed by the superintendent and  
2 shall be issued to the applicant in quadruplicate. Prior to the  
3 time he receives the handgun from the seller, the applicant shall  
4 deliver to the seller the permit in quadruplicate and the seller  
5 shall complete all of the information required on the form.  
6 Within five days of the date of the sale, the seller shall forward  
7 the original copy to the superintendent and the second copy to  
8 the chief of police of the municipality in which the purchaser  
9 resides, except that in a municipality having no chief of police,  
10 such copy shall be forwarded to the superintendent. The third  
11 copy shall then be returned to the purchaser with the pistol or  
12 revolver and the fourth copy shall be kept by the seller as a  
13 permanent record.

14 i. Restriction on number of firearms person may purchase.  
15 Only one handgun shall be purchased or delivered on each permit,  
16 but a person shall not be restricted as to the number of rifles or  
17 shotguns he may purchase, provided he possesses a valid firearms  
18 purchaser identification card and provided further that he signs  
19 the certification required in subsection b. of this section for each  
20 transaction.

21 j. Firearms passing to heirs or legatees. Notwithstanding any  
22 other provision of this section concerning the transfer, receipt or  
23 acquisition of a firearm, a permit to purchase or a firearms  
24 purchaser identification card shall not be required for the passing  
25 of a firearm upon the death of an owner thereof to his heir or  
26 legatee, whether the same be by testamentary bequest or by the  
27 laws of intestacy. The person who shall so receive, or acquire  
28 said firearm shall, however, be subject to all other provisions of  
29 this chapter. If the heir or legatee of such firearm does not  
30 qualify to possess or carry it, he may retain ownership of the  
31 firearm for the purpose of sale for a period not exceeding 180  
32 days, or for such further limited period as may be approved by  
33 the chief law enforcement officer of the municipality in which  
34 the heir or legatee resides or the superintendent, provided that  
35 such firearm is in the custody of the chief law enforcement  
36 officer of the municipality or the superintendent during such  
37 period.

38 k. Sawed-off shotguns. Nothing in this section shall be  
39 construed to authorize the purchase or possession of any  
40 sawed-off shotgun.

41 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to  
42 the sale or purchase of a visual distress signalling device  
43 approved by the United States Coast Guard, solely for possession  
44 on a private or commercial aircraft or any boat; provided,  
45 however, that no person under the age of 18 years shall purchase  
46 nor shall any person sell to a person under the age of 18 years  
47 such a visual distress signalling device.

48 (cf: P.L.1991, c.261, s.19)

49 4. This act shall take effect immediately.

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#### STATEMENT

53

54 This bill would prohibit a person who is or has been the subject  
55 of a restraining order issued pursuant to the "Prevention of

1 Domestic Violence Act of 1991" (N.J.S.A.2C:25-17 et seq.) from  
2 purchasing a firearm for a period of at least two years. In order  
3 to be able to purchase a firearm after that period, the person  
4 would have to undergo a court hearing.

5 In addition, the bill provides that police who respond to calls  
6 alleging domestic violence and find probable cause to believe that  
7 an act of domestic violence occurred must question the persons  
8 present to determine whether there are weapons on the premises  
9 and, if so, must seize the weapons. Currently, the police are  
10 permitted to seize weapons at the scene of domestic violence  
11 incidents, but are not required to do so.

12 The bill also provides that no weapons seized under these  
13 circumstances may be returned to the owner except upon order of  
14 the court.

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19 Restricts purchase of firearms by anyone who has been the  
20 subject of a domestic violence restraining order; requires police  
21 to seize weapons at the scene of domestic violence incidents.





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**ASSEMBLYWOMAN ROSE M. HECK (Chairperson):** Good afternoon everyone. We were waiting for two of our members to arrive, but apparently, they've either been detained or they're lost in one of those many parking lots out there. But we have chosen to begin. You've been very patient.

I would like to introduce to you our Vice-Chairwoman Joanna -- has the the first bill which we will be addressing today. Norma Svedosh is our OLS staff member, and Kathy Glynn is from the Assembly Majority Office. We have staffers in the audience. Do you want to introduce yours?

**ASSEMBLYWOMAN GREGORY-SCOCCHI:** Sure.

Barbara Horl, my Legislative Aide; and Mary Jen Beach, she's our new press agent.

**ASSEMBLYWOMAN HECK:** Suzie Chichester, who helped me initiate the entire idea for the Advisory Council on Women, who is one of my aides, is in the audience, also, and takes a very active role in everything we do.

As you noticed, we have three bills on the agenda today. I think you want to open with your statement, Joanna?

**ASSEMBLYWOMAN GREGORY-SCOCCHI:** Yes, sure, sure.

Good afternoon, my name is Assemblywoman Joanna Gregory-Scocchi. I'm the Vice-Chairwoman of this Assembly Advisory Council on Women.

I'd like to thank the Chairwoman of this Advisory Council, Assemblywoman Rose Heck, for the leadership, guidance, and support that she has provided this Committee. It's my distinct pleasure and honor to be able to work with Assemblywoman Heck and the other distinguished members of this Council, who continue to recognize the many needs of women and who address these issues through legislation.

I would also like to thank Assemblywoman Heck for being generous enough to have this meeting in the 18th District, my home District, at the Middlesex County Community College, where so many positive things related to women and

women's issues take place. I want to thank all of you for attending this very important meeting today.

I am very, very proud to be able to continue the work of my mentor and my predecessor, Harriet Derman, who first introduced this Rape Shield bill. This bill addresses one of the most important issues any woman who has endured the violence and humiliation of rape has ever had to face. It is to put a stop to facing even more humiliation on the witness stand.

For too long, we have treated those victims in court as if they were the criminals. Harriet, as well as I, and many others, I am sure, felt outraged in reading daily reports of the Glen Ridge rape case, in which a young woman was violated by not one, but by four young men. The defense attorneys used the young woman's past sexual history as evidence to confuse the jury, making it look like the woman was consenting to and even pursuing sex.

The tremendous injustice done to this woman has caused Harriet to reach out to Christine McGoey, who you will hear from today, a member of the Essex County Chapter of NOW. Harriet even met with Chris on a holiday, I'm told, because it was the only day that court wasn't in session, and NOW -- National Organization of Women -- would not miss one day of testimony in the monitoring of this case.

The rage that Harriet and many others felt -- the way the victim's sexual history was portrayed -- spilt over to other parties, and in a joint effort of advocates for women's equality, this legislation was born, this Rape Shield bill, to prevent what happened to the Glen Ridge woman from ever happening again in any courtroom in New Jersey.

Please do not think that this legislation does not affect you. It affects each and every one of us. It affects the mothers, the grandmothers, the sisters, the wives, and the daughters of everyone in our families. When one woman is

violated, we're all violated, men and women alike. When we are violated again by a system that is meant to protect us and should encourage us to come forward and punish the guilty party, but we do not, for fear of what we'll face in the witness stand, it is a travesty of justice.

It is my hope that not any one of our family members or even ourselves are ever up there on that witness stand. But should that ever happen, we cannot allow our loved ones to be violated once again. I urge the members of this Committee to join in my efforts and support this legislation to amend the Rape Shield bill.

Thank you.

ASSEMBLYWOMAN HECK: Thank you, Joanna.

I know Harriet was very taken with this particular bill -- the need for it -- and wanted it to move through last year's session. It went through the Assembly, it's my understanding, but that's stuck on the other side, in the Senate.

ASSEMBLYWOMAN GREGORY-SCOCCHI: Yes.

ASSEMBLYWOMAN HECK: So I hope you're more successful. Do you have a--

ASSEMBLYWOMAN GREGORY-SCOCCHI: We're going to push it through.

ASSEMBLYWOMAN HECK: --a Senate champion. Did you choose--

ASSEMBLYWOMAN GREGORY-SCOCCHI: Yes. We actually have written to Senator Gormley to ask him to post this bill as soon as possible.

ASSEMBLYWOMAN HECK: But do we have a Senator who is--

ASSEMBLYWOMAN GREGORY-SCOCCHI: Yes, Senator Jack Sinagra.

ASSEMBLYWOMAN HECK: He is definitely-- Okay.

ASSEMBLYWOMAN GREGORY-SCOCCHI: Of course, from my district -- will help assist us in these efforts.

ASSEMBLYWOMAN HECK: That's very important that you get some action going on that side, too.

ASSEMBLYWOMAN GREGORY-SCOCCHI: Yes.

ASSEMBLYWOMAN HECK: Because we lost a lot of our bills as they went over to the other side, unfortunately.

ASSEMBLYWOMAN GREGORY-SCOCCHI: Well, hopefully--

ASSEMBLYWOMAN HECK: But we have to educate the Senate side, as well.

ASSEMBLYWOMAN GREGORY-SCOCCHI: Rose, with your help and the help of this Council and all the other people in Trenton, I feel confident that we can get it done.

ASSEMBLYWOMAN HECK: Very good.

One of the reasons we hold these types of meetings are to look at every facet of the bill that is being presented and hear arguments either for or against, or, if there are areas that need beefing up, so to speak, before it goes to a standing committee for action. We prefer to see the bills improved to the degree that will lend itself to passage out of a committee and then on to the Assembly floor. This is not an exercise. This is certainly an earnest procedure to make certain that these bills pass. There is a need, we all know that. I think the public at large is beginning to understand the seriousness of all of these interacting proposed laws.

We do have some laws that are working, which are on the books, but have found that there are victims out there who need some support. Harriet and Joanna have taken up that particular fight for those crime victims. I am very proud to have Joanna as Vice-Chair of this Committee. I think she's a marvelous person.

We do have several people here to speak, and I'm looking at this particular printout, but we do have Christine McGoey, from Essex County NOW, who has another appointment, I believe. If you'd like to come forward.

C H R I S T I N E   S H A A C K   M c G O E Y: Good afternoon. Is this on? The middle one?

Good afternoon, I'd like to thank the Committee for holding this hearing on this very important subject, a topic that is so important to the women of the State. I would also like to thank you for giving me an opportunity to give you my thoughts on this particular piece of legislation.

I would like to put this bill a little bit in context. I think one of the things that we all have known as women, most of us experience in our daily lives things that we do to accommodate ourselves, things that we do to avoid situations in which we might be raped.

Recent studies have confirmed that women will go out of their way, because of this fear of rape. We monitor: when we go out at night, where we choose to walk and with whom, where we choose to park our cars. This is a real fear that women have, and, when we look at the statistics on rape in this country, we can really feel the depth of this fear, because the statistics are staggering.

Recently, in connection with The Violence Against Women Act at the Federal level, the Senate took testimony. The Senate was told in those hearings that approximately two million women will be raped in this country this year. The FBI itself has estimated that one out of every three women will be raped. So, when we are looking at the topic of rape, we are not looking at it in a vacuum. This is a crime that many, many of us will face and have to deal with on a personal level.

Beginning in October of 1992, women in this State had another reason to be thinking about rape when opening arguments, in what came to be known as the Glen Ridge rape trial, started. As you probably recall during that trial, four from a gang of thirteen male athletes faced charges of raping a 17-year-old retarded girl with a baseball bat, a broom handle, and a stick. Although the jury ultimately convicted three of

the four men on first degree rape and other charges, when women in New Jersey speak about the trial, they don't mention its outcome. Instead they tell about their shock and their disillusionment, the anger they felt, as day after day, for nearly six months, the defense was allowed to put the victim on trial by resurrecting old myths and stereotypes about rape.

The Glen Ridge trial has shaken women's belief that rape victims will be treated fairly in New Jersey's courts. In short, the trial has created a crisis in confidence.

As one legal commentator recently explained, "When the prosecution of rape incorporates rape myths, it promotes sex discrimination and undermines women's confidence in the legal system. Women, more than one-half of the population, cannot believe in a legal system that operates to continue their historic subordination."

As an attorney and a representative for Essex County NOW, I observed the Glen Ridge trial on a daily basis with my colleague Carol Vasile, who is also sitting here in the room. With the women of New Jersey, Ms. Vasile and I watched as the defense was allowed to portray the Glen Ridge victim as a dangerous and sinister temptress.

As taken from our daily notes and certain trial transcripts, the defense charged that the victim was -- and I want to stress to you that these are all quotes that I've pulled from those sources -- was a "full breasted, devious, sexually aggressive Lolita with a full knowledge of sex -- a long history before this incident -- who was ready, willing, able, and anxious to be assaulted -- who would do it again, who desired to perform these acts." "What did you do, Defense Attorney Michael Querques asked the victim's mother, to protect the young males, in the event that they touched her?"

Witnesses were asked about every detail of the victim's private life: Did she ever talk about boys, about sex? Did she swear, smoke, drink, or display any other immoral



behavior? Couldn't it be that the victim initiated the perverse sexual assault because she was acting out against a strong mother figure? When did her breasts begin to develop? How large did they become? Boys were magnetized to her breasts, weren't they?

And in typical "Did you ever hear that" or "Isn't it true that" form, defense counsel continually insinuated that the victim had engaged in numerous prior acts of "sexual misconduct."

New Jersey's Rape Shield Law, as interpreted by Judge Benjamin Cohen, did not prevent these types of questions, nor did it stop the defense from plumbing the victim's medical, psychological, and gynecological records and arguing that the victim's use of birth control pills proved promiscuity. And I just wanted to have in the record here that the victim's mother had to testify that the victim's -- the birth control was put in the victim's food without her knowledge, after the mother became aware that the victim was very vulnerable because of her mental disability to the threat of rape.

During and after the trial, Ms. Vasile and I spoke with hundreds of women in this State who were all asking the same question: If New Jersey's Rape Shield Law could not prevent "unchastity" based attacks on a young, vulnerable retarded victim, who had been gang raped with implements, how could it prevent such biased attacks on them? As a woman who called me seeking advice for her daughter who had been raped said, "How can we be sure she gets treated fairly? Look what's happened to that girl in Glen Ridge." And as another woman, someone I met in a local library said to me, "I thought if you were raped, they couldn't treat you like that anymore. I thought there was a law against it."

We all thought that there was a law against it, but the Glen Ridge trial has shown the women of this State that the current Rape Shield Law is intrinsically flawed and does not accomplish the purpose for which it was enacted.

I think at this point it's appropriate to remember why we have Rape Shield Laws. Rape Shield Laws were first enacted -- the first law in this country was enacted in 1974 and, throughout the 1970s, they were enacted in all the jurisdictions and on the Federal level. The reason they were enacted was that there was an effort being made to remove hundreds of years of bias against women, which had been incorporated through the common law into our rape laws.

There are two basic legal or two basic theories that had infected the English common law going back as far as the 1600s. The first was that a woman who engaged in sex outside of marriage possessed the character flaw of unchastity. What that meant was, put simply: Consent to sex with one meant consent to sex with all. So that, if you were a woman and you had a sexual relationship and you weren't married, that meant automatically that you're going to have sex with anybody who asked you.

The second belief was that unchaste women were incapable of telling the truth. As one court put it, "promiscuity imports dishonesty." Because of these erroneous and illogical beliefs, courts allowed proof of a victim's unchaste character to be used to defend against rape charges. Of course, these unchaste character rules were deemed inapplicable to men, and, in general, courts, even at that time, proscribed the use of character evidence to prove specific conduct -- except as against women in rape trials. Rape Shield Laws were enacted to remove these false beliefs about "unchastity" and their effects on the law. We understand that a woman's ability to tell the truth does not hinge on her virginity and that a sexually active woman does not automatically consent to sex with all men.

The Glen Ridge trial showed us, however, that the current Rape Shield statute falls short in equalizing the law because it still can be construed to allow the "consent to one is consent to all" defense.

As the statement to A-677 recognizes, "Currently, evidence of the victim's previous sexual conduct is admissible, if it is material to negating the element of force or coercion." Thus, under current law, a defendant may bring in evidence of a victim's past sexual conduct with another person in an attempt to show that the victim consented to the defendant's own sexual conduct.

The new Rape Shield amendment proposed by A-677 takes steps to remove this long recognized defect from the law as it applies to defendants with no prior sexual relationship with the victim. It also takes steps to ensure that where a prior sexual relationship existed between defendant and victim evidence of that relationship would have to be highly material and substantially outweigh its prejudicial value before a judge could admit it. In so doing, A-677 seeks to ensure that rape trials are tried on the facts, instead of on rape myths and centuries-old falsities about the chastity of women.

Certainly, the women of New Jersey deserve to have their rapes evaluated on a fair and factual basis. They and all the citizens of this State should expect nothing less than such fairness from their courts. I commend the Assembly for its action on A-677 and urge the Senate and Senator Gormley to move quickly to approve the bill and to restore women's confidence in our courts.

I thank you very much for this opportunity.

Thank you.

ASSEMBLYWOMAN HECK: Thank you very much.

We have Bob Laurino and Elizabeth Miller-Hall from the Prosecutor's Office of Passaic County.

**R O B E R T   D .   L A U R I N O ,   E S Q .:** Good afternoon. Actually it's Essex County.

ASSEMBLYWOMAN HECK: Is it?

**MR. LAURINO:** Yes. Both Elizabeth and I were the trial attorneys on the Glen Ridge case, together with an additional colleague of ours.

ASSEMBLYWOMAN HECK: Very good.

MR. LAURINO: The legislation that has been passed by the General Assembly and is now before the Senate, I think, is a marvelous testament to the work of Assemblywoman, now, Commissioner Derman.

It was the Glen Ridge trial that gave impetus to this particular proposed revisions. As we learn through the course of Glen Ridge and the trial of Glen Ridge, and this may sound unusual at first, but the Rape Shield Law did work to the extent that there was a body of information that was kept out, that was kept confidential and private. But in saying that, I think what it does, it points up the enormous inadequacies in the law because there was so much more that we could not prevent from coming in. Most people think that everything came in, because it did appear that way, that just about everything regarding this woman's sexual history did come in.

I think the problem there was-- That there are enormous inadequacies in the law -- really wide enough to drive a truck through -- that many of us who have been practitioners over the years in this particular field realized, but I don't think the general public quite realized. I think most of us who are either practitioners or advocates in this area knew what the law meant, but, unfortunately, others didn't. Probably the most important people would be the judges that didn't quite grasp exactly what the main thrust of this particular statute was and the purpose for it.

What we see this law-- The new law that has been proposed is just, really, a fine-tuning to, hopefully, remedy and modify those problems that had existed up to this point in time.

The law is old. This was a law that was enacted-- The rape law itself came in, in the late '70s, with the new criminal code and these Rape Shield Laws in the early '80s.

At that time, this really was a statute that was state of the art and, I think, was looked upon by many other states enviously, as far as the rights that it gave to victims. But the laws failed to keep pace with changes in the law.

One of the changes that we have suggested that is embodied within the first section, paragraph (a), is that the law has been changing. There is now a law regarding lewdness which makes this law no longer a disorderly person's offense, but, now, an indictable offense, where a person commits an act of lewdness in front of a child under the age of 13, or somebody with a mental disease or defect. It's a very important change in the law, because, quite often, we are faced with cases in which someone could be possibly exposing themselves in the front of a school with children. The most you could do, at that point in time, was to bring forth a disorderly person's offense. So you had a revolving door where people were really not being punished for the grave nature of the offense that was actually taking place.

So, with the new Rape Shield Law, we hope, now, to also include among the particular laws that the Rape Shield would take effect is this law of -- or this crime of lewdness, as well, should a defense ever try to bring out a woman's prior sexual history or child's prior history, in the case where there is an actual charge of lewdness.

Within that paragraph (a), I think it's very important that the Committee has introduced such language that not only must the evidence be relevant, but it must be highly material. I think by doing so, what we're trying to say -- what the Legislature is trying to say here, in very clear terms, is that the material that is to come in, if it is to be admissible, would be material that essentially is an exception to the rule. Okay. That basically this type of information should not come in under any circumstances. So, therefore, if it does come in, we are, in fact, saying that this is an exception to the rule under very, very narrow and limited circumstances.

As we move down to the paragraphs (c) and (d) -- these are possibly the most crucial ones -- I think this is where most of the misunderstanding took place within the law, because now what the law is doing is clearly distinguishing any prior sexual activity of the victim with the defendant as opposed to others.

Quite often, I would see judges essentially mixing up the two, and we're permitting the introduction of any testimony of any sexual activity of the victim, with any individual, regardless of whether it was with the defendant or whether it was with another person.

I think the law recognizes, as we have here, that there is a purpose for introducing sexual activity of the victim with someone else under the very narrow areas with respect to semen, pregnancy, or disease. I think that has always been true, not only in this law, but in Federal laws, as well. But then, we're drawing the very clear distinction, indeed, that basically, what we're trying to do is to say that sexual activity of the victim with the defendant is going to be introduced under a very, very, limited circumstance.

What this also does is to try to have this particular law keep pace with recent Supreme Court decisions. The Supreme Court decision in State In The Interest of M.T.S. gave a new definition to this concept of force and coercion, and New Jersey is probably in the forefront with probably one of the best definitions of force that I think anyone who is an advocate of victim's rights could ask for.

Within that paragraph (c) was probably the biggest problem that we had faced in Glen Ridge, which we hope to modify. When we talk about the testimony being introduced by either a lay or an expert witness, part of the failing in Glen Ridge was that because this woman was deemed to be mentally defective, we had to introduce testimony of her particular mental condition. And we had experts, therefore, having to actually interview her and to give an opinion.

The way the law operates is that if an expert is to take the stand and, if he elicits certain information that he bases his expert opinion upon, it is then open to the defense to attack the expert on his conclusions by going to that information. So, of course, if there is a case where a woman is deemed to be mentally defective, a doctor would ask such questions as to what her prior sexual history may be, to see if she really understands the nature of the sexual act itself, which is something that we must prove.

What the defense did under the guise of trying to attack the expert's opinion was to bring out everything that the young woman had told him. So, therefore, I think by including the language here that this law not only pertains to lay testimony but also to expert testimony, again, with the same guidelines that it must be something which is relevant and highly material, hopefully, the excesses that we saw in the testimony of Glen Ridge will not be repeated.

One last thing in Subsection (e), when we talk about the different types of sexual conduct, this law will now provide, as we had suggested -- that we will include such things as the gynecological records of the victim. I think one of the real atrocities in Glen Ridge was that this young woman's gynecological records were being introduced by the defense. No one ever thought that such a thing could probably be done, and I don't think there was anything that probably bristled more people than the concept of having such private and personal records come in wholesale. They did come in, they came in a very limited basis, as we were able to work out an agreement with the defense and with the consultation with the families, so we're able to limit the impact of that. But I think it was unknown to a lot of people that such material would be open for such public disclosure in a courtroom.

Hopefully, this modification of law will go a long way to prevent that type of excess, as well.

Thank you.

ELIZABETH MILLER - HALL, ESQ.: I just wanted to point out that, as Bob said, in paragraph (c) those are probably the most important changes, and by our moving that exception regarding negating the element of force or coercion, that really takes out the biggest loophole that was there previously. That sort of brought in everything in Glen Ridge. It's very nice having that removed.

ASSEMBLYWOMAN HECK: Good.

ASSEMBLYWOMAN GREGORY-SCOCCHI: I think both of you did a good job, even though it didn't turn out the way I would have liked to have seen it. Turning out-- I think both of you did a good job, and thank you for coming this afternoon.

ASSEMBLYWOMAN HECK: I think this is important. It was a terrible situation for that young woman to go through and her family. But it brought forward all of the problems that we do have in the law and, perhaps, that will expedite the passing of this law so, here after, young women and other women of every age won't be put through a tragedy, such as happened in that case.

MR. LAURINO: Yes, if nothing else, it was a marvelous educational experience. I think rape -- the rights of the mentally disabled took a real front burner.

ASSEMBLYWOMAN HECK: Oh, it really did.

MR. LAURINO: I think there has been a lot of discussion. I've had the opportunity to discuss this with a lot of groups for the disabled. I think it's a very healthy thing that people are talking about it, discussing it, and, as you said, that it did give impetus to people understanding that there must be changes in order to prevent those types of abuses.

ASSEMBLYWOMAN HECK: Absolutely, it was kind of a sad situation to have one of the people in that community be so exposed and so tortured, from my point of view.

MR. LAURINO: Yes, I agree.

Thank you all.



ASSEMBLYWOMAN GREGORY-SCOCCHI: Thank you.

ASSEMBLYWOMAN HECK: Thank you very much.

Ruth Anne Koenick.

Hello.

**RUTH ANNE KOENICK:** It's so nice to be here and among people who think the same way that we all think on this. I get to see old friends, so that's really delightful. Let me put my glasses on and let's get started.

My name is Ruth Anne Koenick, and I'm here representing several different constituent -- several different organizations, but with one constituency, individuals who have been victims of sexual violence.

For the past 23 years, I have spent my career working on the complex issues that support and often reward sexual violence in our culture. As founder and current President of the New Jersey Coalition Against Sexual Assault, as the past Director of the Rape Care Program in Middlesex County at Roosevelt Hospital, and currently as the Director of Sexual Assault Services at Rutgers University, I have on a daily basis seen the impact that this type of violence has on individuals and groups within our society. I want to take just a few moments to convey to you, very briefly, some of my thoughts about this. I'm going to leave the intricacies of the language to those who know that better than I and talk to you about how I feel about this particular piece of legislation. I want to thank you for inviting me, because I think it's important to get the perspective of one who has been in the trenches, since we were all a whole lot younger.

Fifteen years ago, the New Jersey Legislature in its wisdom enacted a very progressive sexual assault statute. Now, when I first started working in this field, the way that one state that I looked at how they defined sexual assault was to carnally know and ravish a woman, not your wife, against her

will. It says a lot about how we thought about the issue of sexual violence in those days. It wasn't the statute from New Jersey.

New Jersey has a very progressive law, one I think that is really a leader for this country. Among other things, it's inclusive of all types of sexual violence and really saw no barriers. It acknowledges that sexual violence occurs between strangers and acquaintances, young and old and that a marital contract does not imply consent. But that this also-- What's really important is that this type of violence is not gender specific, that men and women, boys and girls are both victims and actors. And we often forget that. We don't think about the male victims, because traditionally this has been the type of issue that has been looked at by women. I think, it's really important to include this, because rape by any name -- doesn't matter what you call it, doesn't matter who the victim is, the impact is traumatic.

When I first started in this field, it was a given that the legal and medical interventions for a victim or survivor were really a continuation of the trauma that he or she had experienced during the sexual violence itself. In fact, the very word trauma can be conceptualized as something that goes on for a moment but becomes a memory by the traces it leaves behind. What I deal with every day are the traces that this type of violence leaves on the men and women at Rutgers University.

Over the years, the legal entities, the medical personnel, and the laws have sought to change that to a system that is less invasive, less judgmental and more supportive, humane and really an integral part of an individual's recovery. But in the last year, we have been reminded that very little has changed, except the continued interest from the Legislature and the public outcry.

Based partially on the Glen Ridge case but also on the issues of whether a victim's name should be public information, based in the treatment that the victim in Palm Beach received and other disgraceful displays of legal abuse, we've begun to explore the way we treat those who are in compliance with our laws.

Last May 29, there was an article in The New York Times, reporting on the Glen Ridge case, and I bring this up because I think it's important. It reported Judge Cohen's reasoning for not revoking the bail on one of the defendants. And if you could believe -- I generally believe what I read in The New York Times -- but if you can believe what the newspapers said, it reported that he said that the prosecution had failed to produce a witness for live testimony, in order to give the lawyer's a chance to challenge her reliability and credibility. And I ask you, almost a year after I read that in the paper, would any person, including Judge Cohen or any of you or me, having witnessed shameful legal manipulations in that courtroom in Newark come forward and publicly testify about an assault? Would you or any of us not only for ourselves, but ask our sons or daughters to do that? I certainly wouldn't.

Working on a college campus, I can tell you that it is the norm for victims of acquaintance rape, in particular, to refuse to file charges for many reasons, but primarily because of an intense need to regain control over their lives through maintaining some shred of privacy.

Now, although Glen Ridge has obtained a tremendous amount of notability, let me reassure you that what happened in that courtroom happens everyday in courtrooms throughout the State. That an invasion of one's privacy or just the fear of that invasion keeps, on a daily basis, people in our State from getting assistance from the very laws that we support.

Day after day, hour after hour, I talk and work with women and some men who choose not to legally pursue their victimization for fear both of direct and intimate accounts of their current and past history, not only sexual but all components that help us to erroneously judge a person. They believe that this will be open for public scrutiny and voyeurism.

We live in a culture that practically beginning in utero teaches us that men and women are suppose to learn, live, love, dress, dance, and, yes, be sexual in a very rigid, very controlling, well-defined manner. One only has to look at Lakewood, California, and, for that matter, in our own neighborhoods to see how boys and girls, men and women are perceived. The language we use to describe them sexually is very different. The language we use to support their sexuality is very different.

I think it's time for us to take a stand to say that a person has the right to a personal history that is private, that irrelevant conduct and their chosen way of living belongs no place near the courtroom.

Now, in thinking about what I wanted to say to you today, I began to look at the close to 2000 people I think I've worked with. I started to add them up over the years, and it's probably close to 2000, mostly women, a lot of children, and a few men. I thought about the many people who have had their lives changed because of another person's violent actions. But mostly, I thought about the numerous victims particularly adolescents, particularly the people that I work with, primarily, for they are prime targets for this type of violence. Most of what we know about sexual violence says that the most vulnerable time period for a person, for a women being assaulted is the summer after high school and her first year of college.

I thought about the many people that I've worked with in just the four short years I've been at Rutgers, and the cries I've heard for a return of their self-confidence, respect, and dignity, of their fear of once again experiencing the ultimate exposure and of their profound sense of pain.

I thought of those who never tell anyone for the fear of losing their last shred of personal control. I understand that we can't return to them what has been taken away. But I ask that you support A-677 in an attempt to tighten the court discretion, focus the proceedings where they belong and away from irrelevant conduct.

But mostly, I ask that you support A-677, as a means to providing the survivor with a pure sense of human dignity. I also want to add, and I forgot when I was preparing this, I wanted to add that we feel so strongly about the issue of the Rape Shield Law that in our current and our new, soon to be incorporated student disciplinary code that Rutgers has just adapted for beginning in 1995, we have a section in the procedures that says the current Rape Shield Law will be used as a way to look at the evidence that's admissible in our own hearings.

I hope that when it's included in -- when it begins in 1995 that it includes A-677, rather than the current law. I think it will go a long way to make a statement to all of us about the way we feel about this issue.

Thank you.

ASSEMBLYWOMAN HECK: Thank you very much.

ASSEMBLYWOMAN GREGORY-SCOCCHI: Thank you, Ruth.

**M Y R A T E R R Y:** I'm Myra Terry.

Wrong one--

Hello.

Well, I said this off the record, and I want to say it on the record, now, also. It's wonderful being here surrounded by women who ask the questions, who understand the questions,

who understand the answers, and it is a very different way to testify when we're being presented this way, and it's not curiosity, it's an inclusion, inclusive of all of us. It's almost tearful to be in this situation. It's something that we dreamed about 20 years or 30 years ago. We certainly have to go much further than this, but this is great.

My name is Myra Terry, and I am President of the National Organization for Women of New Jersey, which represents 12,000 women in New Jersey. Most of the testimony I was planning on giving today was given very eloquently by Chris McGoey, who spent every single day at the Glen Ridge trial. So I'm going to avoid some of that and go on. I'll just talk a little bit about that just to reiterate.

Assembly Bill No. 677 would limit the admissibility of evidence regarding the sexual conduct of the victim, admitting only evidence that is highly material in proving innocence. In other words, the relevance of a victim's sexual history would have to substantially outweigh the harm that such an invasion of privacy could cause.

Any information about the victim's previous sexual contact, with the defendant or with others, is irrelevant unless it absolutely negates the elements of force or coercion. Whether a woman is a nun or a prostitute, "no" means "no". Whatever might have happened in the past, doesn't matter. If she says no, it's rape. Ruth Anne also dealt with that very eloquently in dealing with the issues of rape.

Assembly Bill No. 677 would spare us from hearing ridiculous information about a person's anatomy and protect the victim from such humiliating, demeaning, and irrelevant scrutiny. After seeing what happened in our Glen Ridge case, victims are genuinely scared to report rapes at all. We do women a grave injustice by being so cavalier as to assume that they should report all rapes. Every case is a case by case basis, and we have got to be less cavalier about it. Without

the assurance that these women will not be victimized and humiliated all over again, women will continue to be afraid to report, and we really won't know how many rapes are really happening out there.

This amendment to the Rape Shield statute arose out of a combined effort of the Women's Section of the New Jersey Bar, then Assemblywoman, as you know, Harriet Derman; Ruth Anne Koenick, who you heard today, from the New Jersey Coalition Against Sexual Assault; Riki Jacobs and Kathy Waldor, of the Commission on Sex Discrimination on the Statutes, and, of course, NOW-New Jersey. We played an integral role in that. It is our intent to prevent what went wrong in Glen Ridge, as it is everyone else's here and the blaming of the victim or all victims and to get rid of this "boys would be boys" attitude being a red light -- a green light -- put up a red light -- no yellow lights.

Does anybody want copies of this?

ASSEMBLYWOMAN GREGORY-SCOCCHI: And thank you for your testimony.

ASSEMBLYWOMAN HECK: I think it's important, Myra, that I point out that not just here today-- I'm glad you're supporting the bill, and we haven't heard any suggestions about improving the bill or changing it. So I'm glad about that. That means we can expedite and start moving it towards the standing Committee on force. Really, we have to get a good group out. We would like to make certain that the people here today are notified of the hearing, when it is scheduled, so that we have large numbers.

It appears that when there is not overwhelming support, our women's bills, such as these, do not appear in the judiciary committees. That they are considered-- Because there are so many crimes out there, and there are -- I'm not saying they're aren't -- there are so many crimes out there that we have been told to wait our turn, because there are so many important matters going on.

However, we have now reached a point where numbers of men and women are attending our Advisory Council Meetings. We pass this word along just like a chain letter, right to the standing Committee. Tell them you would like to see this bill posted and action taken, so it goes to the Assembly floor for a full vote. Unless we move in a concerted effort of support, we are going to see nothing happen, and, as nothing happens, more victims will be brutalized out there.

MS. TERRY: We are now seeing this as something that has to be done in the Senate. Correct? It has gone through the Assembly--

ASSEMBLYWOMAN HECK: Well, actually it has not this year.

MS. TERRY: Okay, it has to be reintroduced.

ASSEMBLYWOMAN HECK: The new legislative session must move through the whole process again. Last session it went through the Assembly, but was left to die in the Senate, so what we were--

MS. GLYNN: It has in the Senate Judiciary Committee.

ASSEMBLYWOMAN HECK: Oh, they're putting it up this year, it's in the judicial--

MS. GLYNN: It's already moved through the Assembly and it's in the Senate Chambers.

ASSEMBLYWOMAN HECK: Oh, it did go through.

MS. HORL: At the beginning of the session, Assemblywoman.

ASSEMBLYWOMAN HECK: All right, then it's over there.

MS. HORL: Yes. Senator or -- we have to petition.

ASSEMBLYWOMAN HECK: So the point being that we have to get it through. How did this get through this Committee so quickly, I'm amazed.

I think the letters have actually-- No, I've sent letters. (laughter)



UNIDENTIFIED SPEAKER: Maybe he wants to be nice to you.

ASSEMBLYWOMAN HECK: I will say this, that there are changes happening because of the number of people coming out. And the number of men and women pushing these things. It's a very important part of the process, and I'm very pleased that he likes you so much. (laughter) But, again one of the things--

MS. HORL: He should be politically correct, though, when he does that-- People are getting into trouble for the way that they like you so much these days, publicly.

ASSEMBLYWOMAN HECK: I'm glad Senator Gormley is doing that. I'm sure it will go before the full Senate and because, if he's giving you his support, he's pretty reliable.

MS. HORL: And if not, it might be time for a--

ASSEMBLYWOMAN HECK: I really think so.

MS. HORL: --joint effort between the women in the Legislature and our joint organizations to do some kind of action.

ASSEMBLYWOMAN HECK: I think this is very important, because we can get lost again. It happened the last time, they can repeat those things.

ASSEMBLYWOMAN GREGORY-SCOCCHI: We need to have those letter writing campaigns also to Senator Gormley, Myra. I'm hoping that all of the organizations that I see, a lot of my friends here in Middlesex County, here, I'm hoping that all of the organizations will write those letters to the Senator, asking for his support of this bill.

ASSEMBLYWOMAN HECK: Absolutely.

ASSEMBLYWOMAN GREGORY-SCOCCHI: It's extremely important.

ASSEMBLYWOMAN HECK: To post it.

MS. HORL: We're asking to post.

ASSEMBLYWOMAN GREGORY-SCOCCHI: We're asking to--  
Right.

ASSEMBLYWOMAN HECK: Absolutely.

ASSEMBLYWOMAN GREGORY-SCOCCHI: And support and all  
the other Senators, also, we should be writing letters to.

MS. HORL: Okay, we'll put that out.

ASSEMBLYWOMAN GREGORY-SCOCCHI: Thank you.

ASSEMBLYWOMAN HECK: Thank you very much.

We're going to see how quickly our bills go through.

Kathy Waldor.

UNIDENTIFIED MEMBER OF AUDIENCE: She's not here.

ASSEMBLYWOMAN HECK: Joan, is it Mattia?

Joan Mattia, Women Helping Women, from Metuchen.

**J O A N M A T T I A:** Hello there. I'm very pleased to be  
here, and I appreciate the opportunity. I'd like to share that  
this is a maiden happening for me with regard to speaking in  
front of your Council or/and your Advisory Committee, or for  
that matter any other. Write letters, I've done; sitting in  
front of you people, I have not done.

As you mentioned, I'm Joan Mattia. I'm from Women  
Helping Women, in Metuchen, New Jersey. We're a nonprofit,  
social service agency, serving the women of Central New  
Jersey. We have been doing this for some 20 years, and we find  
that to be a pretty laudable feat considering that any and all  
women's centers have never been on anybody's high priority list  
of funding during 1975 to the current time.

While Women Helping Women is a nonprofit organization  
serving women, we have on many occasions remained purposely out  
of any political arena with regard to speaking up as an  
organization directly -- vocally. Most of us, many of us have  
personal views, personal opinions, and, yes, we will quietly  
post the notices in our office and on our bulletin boards, but  
we do not go out and speak up, if one is trying to find funders  
and supporters. Through the years, we have learned that,

first, we needed to do that. Second of all, we hoped that we could make an impact by how we produced well women out there.

So I am here today to briefly let you know that times are changing. On behalf of Women Helping Women, all of its members, all of its clients -- we certainly do support the New Jersey Rape Shield Law with the inclusion of the amendment that is being discussed here today. We will definitely, in our more recent newsletter that is going to be coming out, encourage people to write to their legislators to see that this gets passed.

Thank you very much.

ASSEMBLYWOMAN HECK: Thank you.

ASSEMBLYWOMAN GREGORY-SCOCCHI: Thank you, Joan.

I would just like to mention, how fabulous a job Women Helping Women-- Joan Mattia and I have known each other for quite a number of years now. Time flies, doesn't it, Joan? But they truly do help women in Central New Jersey. It's a nonprofit organization that I personally have recommended people to, to go get help. These are women that have been raped in the past or have faced domestic violence situations, and they have done wonderful things. They have support groups, they have individual counselling; it is truly a model of how important it is to have a community center right in a local town. How many women -- I think, Joan, you might mention -- come from all over Central New Jersey into little Metuchen to access and use the facilities that Women Helping Women have set up.

MS. MATTIA: Well, I must admit that it sort of surprises us every now and then. But when we did our last count, we realized that we service probably 3500 women a year. You have to understand that we are a staff of three and a half people. We rely heavily on the work and the commitment of volunteers and counselors, who come to us on a consulting basis, not staff. So we're a small group, but we're pretty mighty and pretty persevering and I think we do a good job.

ASSEMBLYWOMAN GREGORY-SCOCCHI: Thank you, Joan.

ASSEMBLYWOMAN HECK: Melanie Griffin, the Executive Director of -- no it's-- What does that say? Oh, Commission -- I'm saying Common Sex Discrimination. What is that? (laughter)

MELANIE GRIFFIN: I'm sorry, I abbreviated. It's so long.

ASSEMBLYWOMAN HECK: I was a little stunned there. Common Sex--

Okay, Thank you.

MS. GRIFFIN: Good afternoon. Yes, I am Melanie Griffin. I'm the Executive Director of the New Jersey Legislative Commission on Sex Discrimination in the Statutes, which is a body that was formed by the Legislature in 1978 to look at the statutes that discriminate on the basis of sex and recommend to the Legislature a comprehensive revision of those statutes.

Certainly, the work of the Advisory Council on Women, in the Assembly, has helped our cause because we get a lot of publicity for our issues out of this. Obviously, most of the discrimination -- the sex discrimination that goes on in this society hurts women not men, although, we have found some places where it has hurt men, and we've adjusted those statutes accordingly.

So I want to thank you for holding this hearing and for your good work in the last two years, a year and a half -- three years now. Right? Almost.

ASSEMBLYWOMAN HECK: We want to thank you for your input. You've been very helpful to us.

MS. GRIFFIN: Certainly. Well, we have to work together on these things.

ASSEMBLYWOMAN HECK: Yes, absolutely.

MS. GRIFFIN: But I wanted to address Assembly Bill No. 677 at this point. I just want to say that this is something that we've been involved with. The Commission is

currently drafting a report which should be done this summer about violence against women. This is one of the two major concerns that we have with rape prosecutions.

Although, the Glen Ridge trial made it very clear that there were loopholes in the Rape Shield Law, the loopholes had been apparent to rape victims and their advocates for many, many years. As horrible as it was to have to go through watching the Glen Ridge trial and for the participants to have to go through it, it certainly did focus the world's attention on New Jersey's inadequacy in this regard.

The other area that I will just briefly mention is the chain of evidence, which prosecutors always complain about. The hospitals don't get the evidence right away. They don't keep it safe so that the prosecutors can use it. These two problems have contributed greatly to the statistic that was brought out at the Senate -- the U.S. Senate Judiciary Committee hearings on the Violence Against Women Act, at which point, one of the witnesses said, that probably two percent of rapes are ever even prosecuted in this country. One percent, half of those, result in a conviction. So we're talking about a crime that is virtually ignored by our system mostly, again, because of the holes in the Rape Shield Law all over the country.

I have to emphasize that New Jersey does not have certainly the worst law in the country, but it certainly doesn't have the best law either. We're going to be watching what happens after this law goes through because we know that in the states where they have cleaned up their act, as far as Rape Shield, defense attorneys have gotten very creative about things like suing rape victims for slander to try to intimidate them.

Defense attorneys and rapists are abusers in the sense that they are people who are very concerned about discrediting the victim, because it's usually all they have as a defense.

If you get to the point where you're in one of that two percent that gets prosecuted, you're grasping at straws to try to get your client off.

I think, again, that it is important to separate the behavior of the victim with the defendant, from the behavior of the victim with anyone else. That's one of the strengths in this amendment. It may be relevant to what the defendant believed about consent, some previous behavior with the defendant, but it's absolutely irrelevant that the victim ever consented to any sexual activity with anyone else. I think this bill, as drafted, makes that important distinction.

Again, we're talking about the balance of a constitutional right -- a set of constitutional rights the defendants enjoy against society's perceptions about rape victims. We do have to do a balancing act.

I want to join all of my sisters at this table in saying that -- and at that table -- in saying, I think it's very important to push Senator Gormley to hear this bill, because as you've noticed, several times this did get through the Assembly last time. It's through the Assembly now. The Assembly is not the problem. We need to have the women's organizations and the organizations of men and women who support the rights of crime victims to come out and understand how important it is that this crime not be treated differently from other crimes because the victims are primarily women.

Thank you very much.

ASSEMBLYWOMAN HECK: Thank you, Melanie. I appreciate that. Linda Bowker, the Director of the Division on Women, Department of Community Affairs.

L I N D A B O W K E R: Thank you.

I want to reiterate what I've heard several times. It is so nice to be talking to people that I know already get it. I wonder if there isn't a connection to the fact that when you have a number of women in the Assembly and this bill goes

through the Assembly -- we have only one woman in the Senate, it seems to have a rougher time getting through there. Maybe we just need to put more women in the Senate.

As I said, I do appreciate this opportunity and want to take advantage a little and speak on behalf of my Commissioner, Harriet Derman, a former colleague of yours in the Assembly. She is very sorry that she cannot make it here today, but did want me to read her remarks.

"As an Assemblywoman from the 18th district in the 205th Legislature, I was fortunate to have several important pieces of legislation approved and signed into law. I believe, however, that no bill with which I have been involved is more important than the one that is before you today, the bill to amend the Rape Shield Law.

"This legislation is the result of contributions from many different groups, including women's organizations such as NOW, Rape Counsellors, and the Women's Rights Section of the New Jersey Bar Association. The bill strives to protect the defendant's VI amendment rights to confront and cross-examine witnesses while preserving the victim's right to a courtroom examination that focuses on the charges rather than the victim's sexual history.

"The bottom line is that when a woman says 'no,' it means 'no' and must be respected. What she said or did two years ago simply is not relevant.

"I am proud to have been the sponsor of this bill in the last session. On January 27th of this year, when A-677 passed the Assembly by a vote of 75 to 0 of my colleagues, I was elated. I am confident that the bill will reach its fruition in the capable hands of Assemblywoman Joanna Gregory-Scocchi. Joanna will begin where I left off in making sure that women's rights are protected and that victims of sexual assault will not be twice victimized in New Jersey's courtrooms.

"We must say to the women of New Jersey, report the crime of rape, and we will not vilify or crucify you in the courtroom. Report rape and you will be handled with sensitivity. Your rights will be no less than those of your attacker. Your body has been violated; your privacy will not be violated.

"By assisting Assemblywoman Joanna Gregory-Scocchi in her efforts to have Assembly Bill No. 677 advanced into the Senate, you will be assisting all your daughters, sisters, mothers, and wives in attaining the rights due to them in New Jersey's courts of law.

"Thank you."

If I can, I would like to then speak for the Division on Women, which is in the Department of Community Affairs.

In the United States, it is estimated that a woman is raped every 1.3 minutes, and that one out of every three women will be the victim of sexual assault during her lifetime. It is imperative that women know that they will not be put on trial instead of the rapist. The Glen Ridge case had a chilling effect on women's confidence that their privacy would be protected in a rape trial.

No woman should have to have her gynecological records used to impugn her reputation. No woman should have to have the size of her breasts discussed as an excuse for rape. No woman should have her previous sexual history used against her in order to help free a rapist.

We are long past the time, when a woman was the property of a man, with no control of her own body and no recourse when her rights were violated. But a trend is developing for a defendant to claim consent. Without the protection extended by A-677, a woman is very vulnerable to being raped again in court as her character is assaulted and her privacy violated.

The Division on Women supports A-677 in its entirety.



I thank you for what you're doing here. It's really important.

ASSEMBLYWOMAN HECK: We thank you very much.

ASSEMBLYWOMAN GREGORY-SCOCCHI: Thank you, Linda.

ASSEMBLYWOMAN WEINBERG: Linda, if I may. First of all, my apologies for arriving so late, but I had trouble finding my way from Newark to the Middlesex County College campus. I just want to take a moment.

Yesterday was "Take our Daughters to Work Day" and there was a particular celebration in Trenton of this. Joanna brought her lovely young daughter with her. But I just want to complement you, Linda, the Division on Women, and the Department of Community Affairs for the wonderful job you did in putting that day together. It was wonderful.

MS. BOWKER: Thank you and we really appreciate all the support that we got from you.

ASSEMBLYWOMAN WEINBERG: Just a slight -- a side comment from--

MS. BOWKER: Thank you.

ASSEMBLYWOMAN HECK: By the way, this is Assemblywoman Loretta Weinberg, from Bergen County.

ASSEMBLYWOMAN WEINBERG: Thank you.

ASSEMBLYWOMAN HECK: I though you got lost in the parking lot. (laughter)

ASSEMBLYWOMAN WEINBERG: I did that, too. I got lost in Newark and in the parking lot. (laughter)

ASSEMBLYWOMAN HECK: Lauren Ziegler, from New Jersey NARAL. (no response)

ASSEMBLYWOMAN WEINBERG: Did somebody tell you about Shirley Turner?

ASSEMBLYWOMAN HECK: What happened?

ASSEMBLYWOMAN WEINBERG: Let me just announce it properly.

ASSEMBLYWOMAN HECK: Oh, yes, please.

ASSEMBLYWOMAN WEINBERG: On behalf of my colleague, Assemblywoman Shirley Turner, she had to accompany her mother into the University of Pennsylvania Hospital today for some further tests and perhaps some surgery. So that is why she is not with us.

ASSEMBLYWOMAN HECK: Thank you.

ASSEMBLYWOMAN GREGORY-SCOCCHI: Lauren-- I don't see Lauren here.

ASSEMBLYWOMAN HECK: She's here.

ASSEMBLYWOMAN GREGORY-SCOCCHI: Is she?

ASSEMBLYWOMAN HECK: What Evelyn Ortner?

ASSEMBLYWOMAN GREGORY-SCOCCHI: Yes.

ASSEMBLYWOMAN HECK: She's here.

ASSEMBLYWOMAN GREGORY-SCOCCHI: No, Lauren.

ASSEMBLYWOMAN GREGORY-SCOCCHI: Who are you talking about?

ASSEMBLYWOMAN GREGORY-SCOCCHI: No, Lauren.

ASSEMBLYWOMAN HECK: She's not in.

Evelyn Ortner would like to address us. Evelyn is the Executive Director of The Unity Group, a nonprofit, advocacy group for battered women and their children.

EVELYN ORTNER: Thank you so much, Rose, for injecting me into your program. I really do appreciate your indulgence.

I will take just a moment to say how much I admire everyone in this room and, particularly, Rose and her staff for the tremendous job that she and all of you are doing.

On behalf of The Unity Group, I want to express my full support for all of these bills, and we will, in any way possible, support you on an ongoing basis. Please just inform me and the work will be done.

Thank you very, very much and good luck in everything.

ASSEMBLYWOMAN HECK: Thank you. We all need the luck. All of us working in our individual areas.

Irene Von Seydewitz from -- she's AWARE.

MS. HORL: She just had to leave, there was an emergency she had to--

ASSEMBLYWOMAN HECK: Oh, all right.

Is there anyone else who would like to address us? (no response)

No.

I think, though, that you have had full support of your bill. Now the controversial one's come up. We will just give an overview of those.

I think, Loretta, you and I have our work cut out for us. I know that we have no one here to testify today. However, Honorable Loretta Weinberg and Honorable Rose Marie Heck, the Attorney General has something to say to us.

ASSEMBLYWOMAN WEINBERG: I just might listen to her.

ASSEMBLYWOMAN HECK: Did Assemblywoman--

ASSEMBLYWOMAN WEINBERG: Is it in the folder?

ASSEMBLYWOMAN HECK: No, it was just handed to us.

Why don't you read the letter out loud for me, Norma. I have a terrible copy.

MS. SVEDOSH (Committee Aide): This is from the Office of the Attorney General:

"Dear Assemblywomen Weinberg and Heck: We regret that it appears that no one from our office will be available--

ASSEMBLYWOMAN HECK: Excuse me. Any time you get a letter that says, "we regret" it then goes into-- Yes, go ahead.

MS. SVEDOSH: --available to come to the meeting of the Assembly Task Force on the Advisory Council on Women. The purpose of this letter is to advise you that we are reviewing A-1368 and looking at the implications of the changes in the law which this bill will affect in the Domestic Violence Act. We wish to apprise you of two concerns which we have about some provisions in this bill, and we hope that you will consider

these concerns when you are taking whatever action you deem appropriate during your review of this bill.

"Our first concern centers upon that portion of Section 1 of the bill, which would eliminate N.J.S.A. 2C:25-21d, subsection 5, which heretofore has provided law enforcement officers with civil immunity for their alleged failure to learn of, locate, and seize a weapon pursuant to the Domestic Violence Act, and for their alleged wrongful acts in returning a seized weapon to the owner. Of course, we encourage prudent vigilance by law enforcement officers in their determination whether to seize weapons, but the threat of a civil suit may be too harsh and may be an unwise method to accomplish this goal.

"Our second concern centers upon Sections 2 and 3 of the bill, which would mandate at least a two-year period during which the subject of a restraining order would be barred from receiving a handgun purchase permit or a firearms purchase identification card. It may be wiser to allow the judge to have some discretion in this matter.

"We hope that our comments are helpful. If you have any questions, please do not hesitate to contact us."

ASSEMBLYWOMAN HECK: Allowing judges discretion really gets to me. (laughter) I understand that the Attorney General has to look at things from another perspective, but I have to say that this, indeed, is an important area that we should be looking into. I don't think Loretta and I are immovable to reasonable requests.

However, we must consider them reasonable. I think the Attorney General might be more specific at a later date and then we can address it. But, Loretta, these were really your pieces.

ASSEMBLYWOMAN WEINBERG: First of all, let me say that it is a great pleasure to be serving on this Advisory Council. I came from-- When I came here today, the reason that I got so

lost was because I was coming from Newark, where I spoke in front of an employee group at PSE&G, on women and politics. One of the things I talked about was you, Rose -- one of the people I talked about was you -- because in a bipartisan way and really with Rose's cooperation and understanding, we together have tried to accomplish things on behalf of the women of our State.

Since Rose's party is the majority party in the State Legislature at this present time, I appreciate her ability to bring all of this together in behalf of all of us and she does deserve a tribute for that.

So you can all give her a round of applause, if you want. (applause)

ASSEMBLYWOMAN HECK: Do you want to make a note, how we first started, Loretta.

ASSEMBLYWOMAN WEINBERG: Yes, we first met a long, long time ago, when, of course, we were each working in a campaign for somebody else, some man -- each of us a different man.

ASSEMBLYWOMAN WEINBERG: That we have chosen to forget. None of us even remember who the candidate was.

ASSEMBLYWOMAN HECK: Different parties, right.

ASSEMBLYWOMAN WEINBERG: There we were carrying in the absentee ballots to the Board of Elections and we met at the counter. And, you know, sort of mused about-- Yes.

ASSEMBLYWOMAN HECK: And we commiserated, like, we're the only ones who have to do this gofer work.

ASSEMBLYWOMAN WEINBERG: That's right.

ASSEMBLYWOMAN HECK: Because we're dependable. Women are dependable.

ASSEMBLYWOMAN WEINBERG: So, anyway that was -- we kind of struck up a relationship then, never knowing that it was going to lead to, hopefully, some fruitful action here in the State Legislature.

But I wholeheartedly agree. I sort of smiled a little bit when I read that sentence. I mean, in this age of mandatory minimum sentences, to decide that a judge can use his or her discretion in the case of a firearm in a domestic violence case, when we know that in Bergen County, a judge used his discretion to send a spouse home to murder his wife in a terrible case and chose not to allow that spouse to speak in court to say why that restraining order shouldn't be lifted--

So I think this is one case, until we get to a stage where we know all of those judges are properly trained and sensitized about this particular issue, that this is an area that I would not want to see left to the discretion of the judiciary. I feel very strongly about that.

The other portion, you know, I think we certainly should discuss the civil immunity. I don't want to put law enforcement officers in more jeopardy than they already are in carrying out their duties. So, you know, hopefully we can get together and--

ASSEMBLYWOMAN HECK: Anything that's reasonable, I think, you know, each of us is of a mind to find improvements. Melanie, you have something to offer?

MS. GRIFFIN: I did want to talk a little bit about these bills, but particularly, as to the civil immunity. The immunity that was put in there for police officers when these -- when this amendment to the 1991 law was drafted it was put in at the request of the NRA. And it's kind of a pro-gun owner immunity, to keep police balanced on the side of leaving guns in the hands of gun owners.

If that special immunity didn't exist, which your amendment would accomplish, then the police would just fall back on their regular immunity, which is, they're immune from everything, as long as they act in good faith.

ASSEMBLYWOMAN HECK: Yes.

ASSEMBLYWOMAN WEINBERG: Right.

MS. GRIFFIN: So this takes away the requirement of good faith where it comes to guns. So you could be not finding that gun, because it's your brother-in-law who is the abuser, and you would be actually immune. I don't want to see police officers immune in that circumstance.

So I applaud your effort to do that. I have spoken to people in the Division of Criminal Justice about this, and they are still considering their position on that. I don't think that is written in stone at this point.

ASSEMBLYWOMAN WEINBERG: Yes, well the fact, as you said, if I may-- Then the police officer still has the regular immunity then? Okay.

MS. GRIFFIN: Absolutely, and it's very broad. We know the police should not be put in jeopardy of being sued for carrying out this law. It conflicts with the regular immunity and the good-faith requirement.

As to the rest of these bills, I want to applaud the effort of your office for putting these in and for being so strong about putting them forth. They're going to be very hard bills to get through.

ASSEMBLYWOMAN HECK: Well, let's look at some of the testimony. I don't think you were there that day, Melanie. We were in Sussex County at the community college up there, and a group of women from the Battered Women's Shelter had asked their director to come to testify, if they could come to testify, and they did.

One of the women was the mother of three little children, toddlers, you know, pre-school. She said that her husband had been abusing her for years, and she would have gone on taking the abuse with no problem because she didn't want her family to know, didn't want her friends to know.

I wouldn't think that the girl was -- woman was more than 28 years old, very young, very sensitive, and very sweet. But she said her husband had threatened her, and had a firearm,

and chose to wield it around in his threatening of her, and it fired, she thought, accidentally. But the point I'm trying to make is that it passed by her and struck the wall near her child's crib.

That having occurred-- The child was, of course, not injured. That having occurred gave her the courage to leave this man, because she felt that even though she could take the battering and the threats, that accidentally -- that's questionable too -- one of her children might be killed or harmed. So, to get them out of harms way, she came forward.

So, I mean, that's amazing. But there are many, many women out there just like that. Firearms are used to threaten and ultimately kill the victims. No doubt about that.

MS. GRIFFIN: That's right.

Yes, we've certainly had testimony from a number of battered women who have been terrorized by firearms that have never been shot to the point where they would not leave the house, because they were told that the firearm would be used. It's terrifying. They're horrible--

ASSEMBLYWOMAN HECK: Yes, absolutely. And let's not forget that psychologically and emotionally these people are murdered. They're gone. They're just -- they've lost their self-confidence, their dignity, their self-esteem, and they live in fear all the time. So they're not a whole human being anymore.

ASSEMBLYWOMAN WEINBERG: You know, if we look upon owning a gun as a privilege -- I believe, I'm quoting some of our national figures when I say that -- just as a driver's license is a privilege, then those people who are prone to violence should not have that privilege, because it is too dangerous for the recipient, as well as the perpetrator, in this particular case.

It just seems to me so clear, that why would you want somebody who is prone to that kind of physical violence, within



his own family unit, to have access to a gun and more easily really inflict serious harm. I know people say, "Well, you've got knives in your kitchen drawers." Yes, we all do. We all take our lives in our hands when we cross the street. But we don't have to cross against the light and make it even more dangerous. We can take certain precautions and this would appear to me to be a very simple and straightforward one.

MS. GRIFFIN: I did have two other suggestions about Assembly Bill No. 1367, if you'll indulge me.

One of the things that I did want to just say on the record was that we found, over the years, that 50 percent of women are subjected to domestic violence at some point in America -- during their marriages, during their lives -- and that does not mean that 50 percent of men are batterers. What happens is that men are serial batterers. They go and they're allowed to get-- They're released by the system again to find -- if that women gets out -- to find a new victim. That's why it is essential that the registry that you've provided for in A-1367 be established.

If A-1368 also passes, then obviously all of the orders that are entered in this State will come under that. I think that one of the things that is going to be very important is that that is adequately funded, and so I would just urge this Committee to take a careful look -- this Council and the substantive Committees that hear the bill -- to take a careful look at whether the funding is adequate for the bill. And to consider, perhaps-- One of the things that was suggested at the women's summit last year was a surcharge not only on guns, which this provides for, which can be bought illegally without the surcharge, but on ammunition, which generally is not bought under the table. So that may be a source of funding for that.

ASSEMBLYWOMAN HECK: It could be an amendment, Loretta. Because, you know, appropriations will never hear it.

ASSEMBLYWOMAN WEINBERG: That's a good idea.

MS. GRIFFIN: The other suggestion I had was just that the current bill, A-1367, only requires the registry of orders that are entered under the new law. I would suggest that persons who have orders that are still in force under the old law be allowed to come in and enter those orders into the registry, as well as orders from other states.

There are a lot of women who try to escape abuse by coming across the state lines. If they come into New Jersey and they are battered here by a batterer who follows them, I think it's essential that there be a record that there is an order in another state, either restricting that person from having a firearm or just being a perpetrator.

So I would just suggest that the registry be broadened a little bit to include women who want to register orders that are--

ASSEMBLYWOMAN HECK: Let's look at those things--

ASSEMBLYWOMAN WEINBERG: We would probably need some kind of an interstate compact for that to take place. In order for New York or Connecticut or Pennsylvania, for instances, to notify--

MS. GRIFFIN: Well, I wasn't meaning that the state should notify. I meant that if the woman comes into the State she should be able to go to the police officer and say, you know, let's -- can I put this on the registry so that you can find him if he tries to buy a gun here?

ASSEMBLYWOMAN HECK: She should say they have X,Y and Z.

ASSEMBLYWOMAN WEINBERG: Sure, so at the request of the victim in this case.

Okay, good.

MS. GRIFFIN: That's right.

Thank you very much.

ASSEMBLYWOMAN HECK: Thank you.

Does anyone else wish to--

Yes?

N A N C Y   K E S S L E R: Hi, my name is Nancy Kessler. I'm from the Administrative Office of the Courts. I forwarded some material to your staff with regard to the registry, and I just wanted to be available if you had any questions about the material and, perhaps, to just make some suggestions.

ASSEMBLYWOMAN HECK: Yes, we just received that, and I know that I haven't had a chance to review it. I appreciate the fact that you have done that. Perhaps, we can meet in Trenton with Loretta or perhaps--

MS. KESSLER: That would be wonderful. The materials support what Melanie was already talking about--

ASSEMBLYWOMAN HECK: Very good.

MS. KESSLER: --in terms of extending the registry.

ASSEMBLYWOMAN WEINBERG: Extending it to allow somebody to enter it.

MS. KESSLER: Well, to support her extensions, but also to not only register orders that include prohibition against weapons possession, but to register all domestic violence restraining orders.

There was a bill in last session that was introduced, I think, by Assemblyman Azzolina, and we had done an extensive analysis of what the cost would be for that bill. Now, if Assembly Bill No. 1368 passes, in effect, you would be doing the same thing. But if it doesn't, Assembly Bill No. 1367 would be more limited than his bill had been.

The judiciary is already involved in a much smaller way in trying to come up with a comprehensive registry. We thought that we would like to bring to your attention that fact that the other bill would actually involve recording all restraining orders and making that information available on a 24-hour basis to all law enforcement officers and to other people who are in the position of having to enforce those orders.

ASSEMBLYWOMAN HECK: So why won't we meet with Nancy, or at least begin the process. All right? Or at least have staff meet and then--

MS. KESSLER: That would be great. Okay.

Thank you.

ASSEMBLYWOMAN HECK: We'll be in touch.

Thank you very much, Nancy.

ASSEMBLYWOMAN WEINBERG: Nancy, thank you very much.

ASSEMBLYWOMAN HECK: Does anyone else wish to speak?  
(no response)

What time is it?

MS. SVEDOSH: It's 3:00.

ASSEMBLYWOMAN HECK: I think we're going to close with some words from Loretta, and then Joanna.

Loretta?

ASSEMBLYWOMAN WEINBERG: Well, I'll just repeat what I said a little earlier. I appreciate the opportunity to participate in this. Domestic violence has been something -- the legislation concerning domestic violence -- I mean, has been very close to my heart for a number of years, as one of the founding Board Members of Shelter Our Sisters in Bergen County, which is the domestic violence shelter that we have located in the community in which I live, as a matter of fact, and their annual brunch is being held this Sunday. The Bergen Record is one of recipients of awards because of the outstanding job that they have done on their series on domestic violence.

So this is an important issue. I think Rose pointed out, though, it tends to take a back seat in the press of other businesses or whatever, what I fondly call the crime of the week.

So, you know, if they've done a series on juvenile justice, then everybody bends over backwards to do something on juvenile justice. Those of you in the audience and your

contacts are the people that we depend upon to help us bring this to the forefront. You have got to keep those letters coming, particularly to the Chairs of the Judiciary Committees, where these bills are.

It's not that anybody intentionally pushes it to the bottom of the pile but the-- I have a friend who always says the same backwards, "The greasy wheel gets squeaked." In this case, "The greasy wheel will get squeaked," unless we really pull out all the stops and keep this in the forefront of the importance of passing this legislation and of moving it through the Legislature. And I know, with the cooperation of Rose Heck and Joanna, as a newer member of the group -- and I'm delighted to see her -- that we're going to see something done in all of these areas.

Thank you.

ASSEMBLYWOMAN HECK: Thank you, Loretta.

Joanna?

ASSEMBLYWOMAN GREGORY-SCOCCHI: Yes, I'd also like to, number one, thank the Committee and Rose. Just the few sessions that I have been sitting in on have been extremely gratifying for me, as somebody from Middlesex County who has been involved in women's groups and women's issues for a number of years. I am very gratified to be sitting here on this Committee. Hopefully, not even hopefully -- it will happen; we will push these issues through. They must be done -- we must start to--

The tremendous work that this Committee has done last year, that I've heard all about and the -- just the commitment that the members of this Committee and not only the members of this Committee but all of the groups throughout the State of New Jersey that I have met, from Bergen County to Lower South Jersey, and now hearing the groups from my own, Middlesex County, who are sitting in this room today -- we all have commitment and that's extremely important that we all work

together. Even the ceremony yesterday "Take your Daughters to Work Day," certainly showed how we're starting to finally get these groups and support each other, and we must continue that fight.

Hopefully, Senator Gormley, like Loretta mentioned, will post this bill. Your letter writing campaigns, and your coming to our Committee hearings, and your coming to Trenton to support our work are so important because, without your help and without your voices down in Trenton, maybe it does get pushed to the side. We cannot allow that to happen anymore. These issues are too important, especially the Rape Shield bill I feel so strongly about and I know that Harriet Derman feels very strongly about, also.

So we look forward to seeing you, again, down in Trenton and again, thank you members of this Committee, especially Rose.

ASSEMBLYWOMAN HECK: You're very welcome.

I really have great faith in each of us serving on this Advisory Council. The people on it are very dedicated to making certain that good things happen. We promoted the displaced homemakers bill last year, and that became a reality. We're very pleased about that.

We're certain, I mean, I really mean certain that we're going to move the domestic violence bills through. We have an agenda; there is no doubt about it. The fact that we are orchestrating the various groups to come together as one voice and a strong effort, we're going to make this happen. And we're going to do it and do it right.

I really believe that your bill will become law and crime victims will be -- their pain will be eased. I truly believe that the domestic violence issue is in -- even when the new pieces become law -- we'll see some assistance given. But I'm afraid that the fallout of all the pain of all the victims will be with us for maybe another generation, unfortunately,

because our children have experienced so much, and the ill effects are being witnessed by the fact that we do have children on the street causing pain themselves.

I think early intervention, as we've spoken about, Loretta, is a must today because there is something happening in our society that has to be addressed immediately. And immediately is not soon enough, because we, as I said, have our children hurting other children, our children thinking in terms of what they will wear when they die. I mean, you know, life is precious. I don't believe children have that kind of a happy outlook anymore.

People in certain areas are experiencing pain to such a degree that that kind of pain that they see, that they witness, they believe is the way of life. We see that in our number of suicides involved in the various areas. So I believe that women will lead the way, as we have as mothers. I have to say this, because I believe we are the caretakers. I don't think that will ever change. I think that men have joined us in our search to make the world better. I truly believe that the women are the ones who will lead the way to solving the problems.

I'm very grateful to all who came today and hopefully we'll get this moving, as well as the other issues on May 19.

Thank you very much for coming.

**(HEARING CONCLUDED)**

