

MEMO



Senate of Pennsylvania

December 6, 2010

DEC 08 2010

TO: ALL SENATORS

FROM: Stewart J. Greenleaf *Stewart*

SUBJECT: Cosponsorship -- **Sexual Violence Victim Protection Act**

I am reintroducing **Senate Bill 432**, enacting the Sexual Violence Victim Protection Act. Sexual violence humiliates, degrades and terrorizes its victims. They need safety and protection – just as domestic violence victims do – whether or not they seek criminal prosecution. This bill authorizes a sexual assault victim to petition the court requesting protection from the defendant. The court will hold a hearing at which the plaintiff must prove the need for protection by a preponderance of the evidence. A protection order may include (1) prohibiting the defendant from having any contact with the plaintiff; (2) directing the defendant to refrain from harassing or stalking the plaintiff or other designated persons; and (3) granting any other appropriate relief.

The protection order will be for a fixed period of time not to exceed 36 months. A copy of the protection order must be issued to the plaintiff, the defendant, the district attorney's office, and the law enforcement agency with appropriate jurisdiction to enforce the order. Each law enforcement agency and the sheriff of each county must ensure that all of their officers and employees are familiar with the provisions of this act.

The bill authorizes the court to issue an order that requires the assailant to keep away from a sexual assault victim. The bill's findings and purpose section states "Victims of sexual violence desire safety and protection from future interactions with their offender, regardless of whether they seek criminal prosecution. This legislation provides the victim with a civil remedy requiring the offender to stay away from the victim, as well as other appropriate relief."

This bill was drafted with the support of the Pennsylvania Coalition Against Rape (PCAR). Victims of sexual assault are placed in difficult, fearful, and potentially dangerous circumstances if their assailant remains in or returns to the community. These victims should be offered the same measure of protection already in existence for victims of domestic violence. According to PCAR, "the proposed legislation reflects a growing national trend to protect victims of sexual violence and if passed, will provide victims with a civil remedy that requires the offender to stay away." Nineteen states (Alaska, California, Colorado, Florida, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, North Carolina, Oklahoma, South Dakota, Tennessee, Texas, Vermont, Washington and Wisconsin) have passed laws providing protection orders for sexual assault victims.

This bill is modeled after the Protection From Abuse Act (23 Pa.C.S. Ch. 61) but has been drafted as a free-standing act to avoid confusion with protection from abuse orders in domestic violence cases. Today, in Pennsylvania, orders of protection are available to sexual assault victims only if a criminal case has been initiated. But, in fact, only 28% of victims ever report their victimization to law enforcement. Even when victims do choose to report, many cases are not prosecuted because of the burden of proof or problems with evidence. Traumatized and fearful, victims of sexual assault need orders of protection to help keep them safe from perpetrators.

The Senate passed this legislation during prior sessions.

If you would like to cosponsor this legislation, please contact Pat Snively of my office by e-mailing her at psnively@pasen.gov.