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NEW JERSEY CRIME VICTIMS' LAW CENTER

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March 31, 2021


**First Class Mail**
Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Rules Comments
Hughes Justice Complex
PO Box 037
Trenton, NJ 08625-0037

**Re: Comment on the Proposed Amendment to N.J.R.E. 803(c)(27)**

Dear Judge Grant,

Please accept this letter of opposition from the New Jersey Crime Victims' Law Center (NJCVLC) to the proposed amendments to N.J.R.E. 803(c)(27) that set forth the *tender years exception to* the hearsay rule that is applied by the New Jersey state courts.

The specific areas of concern include:

1. The proposal appears to preclude tender years testimony under the confrontation clause in situations where the child in fact, testifies at trial.

2. The reduction in the broad discretion given to trial judges will result in cases not being charged because the success of conviction will be further diminished.

In 1991, the Constitution of the State of New Jersey was amended for the first time since 1844 to establish protected civil rights for a class of persons. Art. 1, par. 22 of the New Jersey Constitution mandates that crime victims be treated with *fairness, compassion, and respect* by the criminal justice system. These rights are substantive, and our State Supreme Court has ruled that these rights are to be given their full import under our law. *State v. Muhammad*, 145 N.J. 23 (1996); *State v. Timmendequas*, 161 N.J. 515 (1999).

A frequent situation encountered by the NJCVLC involves complaints by parents of child victims of sex crimes that the county prosecutor has decided to not criminally charge the perpetrator. The decision to not prosecute is often centered on the fact that there is a likely chance of acquittal because court rulings regarding evidence admissibility have made prosecution and conviction increasingly difficult.

The general consensus of the statewide victims' rights community with which NJCVLC and I are associated is that the rights of crime victims, including victims of sex crimes, have continued to be diminished by court decisions that substantially handicap prosecutors resulting in a judicial process that denies victims their rights to justice in a fair judicial system. Has anyone supporting the rule proposal consulted directly with crime victims or their attorneys?

I have reviewed the CPANJ recommendations and my associates and I are in agreement with its commentary and proposals.

Thank you for your attention to this letter. My direct phone number is 973-903-9848.

Respectfully yours,

Richard Pompelio

ajp