

SENATE No. 701

By Mr. Bertonazzi, petition (accompanied by bill, Senate, No. 701) of Louis P. Bertonazzi and Therese Murray for legislation to extend the rape shield law, so-called. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Three.

AN ACT EXTENDING THE RAPE SHIELD LAW, SO-CALLED.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 233 of the General Laws is hereby amended by inserting
2 after section 21B the following new sections: —

3 Section 21C. Evidence of the reputation of a victim's sexual
4 conduct shall not be admissible in any civil action in which the
5 victim is a party. Evidence of specific instances of a victim's sexual
6 conduct in such proceeding shall not be admissible except
7 evidence of the victim's sexual conduct with the person alleged
8 to be the victim's assailant, or evidence of recent conduct of the
9 victim alleged to be the cause of any physical feature,
10 characteristic, or condition of the victim; provided, however, that
11 such evidence shall be admissible only after an in camera hearing
12 on a written motion for admission of same and an offer of proof.
13 If, after said hearing, the court finds that the weight and relevancy
14 of said evidence is sufficient to outweigh its prejudicial effect to
15 the victim, the evidence shall be admitted; otherwise not. If the
16 proceeding is a trial with jury, said hearing shall be held in the
17 absence of the jury. The finding of the court shall be in writing
18 and filed but shall not be made available to the jury.

19 Section 21D. A victim of a crime which results in physical or
20 mental injury to the victim, or a victim of a crime which involves
21 sexual conduct, who brings a civil action in any court of the
22 Commonwealth, shall have the right to bring said action in a
23 fictitious name, provided that the victim shall file an Affidavit with

24 the court, stating the victim's true name and address, which shall
25 be served upon all parties to the action. Said affidavit shall contain
26 a statement in the heading "Impounded Under G.L. c. 233, s21D,"
27 and shall be automatically impounded by the clerk or register of
28 the court in which it is filed. In all documents filed with the court,
29 the victim shall be referred to only by the fictitious name and no
30 address, or other identifying data, shall be stated or used by any
31 party.