

ICASA Celebrates Legislative Victories

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2003 was a banner year for the rights of rape victims in the Illinois General Assembly. The legislature passed some of the most significant sexual assault-related bills in recent legislative memory. ICASA is grateful to the sponsors, the supportive legislators, and the many grassroots advocates and survivors who worked tirelessly to bring about such significant changes. The text of all of these bills is available through www.icasa.org. The Governor has signed all of the following bills.

HB 536 The Gender Violence Act

Sponsors: Representative Tom Cross and Senator Carol Ronen

What This Bill Does: Creates a civil cause of action for gender-based violence.

Effective Date: January 1, 2004

Public Act No.: [93-0416](#)

Why This Bill is Important: Current civil and criminal laws do not adequately address gender-based crimes. An overwhelming majority of rapists and batterers are never prosecuted or held accountable for the harm they cause.

Gender-based violence is at epidemic proportions in the United States. Battering is the single largest cause of injury to women in the United States, yet arrest rates run as low as one for every 100 domestic assaults. Less than three in 10 victims of rape will ever report the crime to police, out of fear that the criminal justice system will not provide them with relief or justice. Finally, rape myths – including the myth that being raped or battered by someone familiar causes less injury than being raped or battered by a stranger – impede victims' ability to seek redress for their injuries.

Until the passage of this bill, Illinois had no statute that explicitly provided victims of gender-based violence with the right to file a lawsuit. In addition, because our society is relatively new to recognizing and responding to the realities of sexual assault and domestic violence, there is virtually no legal precedent (i.e. case law) of survivors suing rapists and batterers in civil court.

Although sexual assault and domestic violence harm women – often destroying their emotional, educational and economic well being – we do not yet have legal tools to make rapists and batterers pay out of *their* pockets for the damage they cause. The Gender Violence Act creates an important tool for seeking justice. By attaching serious financial consequences to rape and intimate violence, it may dissuade rapists and batterers from engaging in abusive behavior.

HB 571 Removes the Family Member Sentencing Option

Sponsors: Representative Joe Dunn and Senator Don Harmon

What This Bill Does: Eliminates the option of probation for a defendant convicted of sexual assault against a family member.

Effective Date: January 1, 2004

Public Act No.: [93-0419](#)

Why This Bill is Important: Prior to the passage of this bill, all persons convicted of sexual assault were required to serve a prison sentence except for those persons convicted of sexually assaulting someone in their immediate family. Based on the dominant philosophy of family reunification 20 years ago, those offenders were permitted to return to their families, with some conditions.

During the past two decades, we have learned much about both recidivism rates among sex offenders and the impact of sexual assault. Sex offenders stand apart from other criminals by virtue of the high rate reoffending. Victims report that the devastation they endure when someone in their family violates their bodies and their trust is often far greater than the harm suffered at the hands of strangers. Today we know that family member offenders should be treated in the same manner as sex offenders who do not know the victim they rape.

HB 1400 Civil No Contact Order

Sponsors: Representative John Fritchey and Senator John Cullerton

What This Bill Does: Creates a civil tool to order a rapist to stay away from the rape victim.

Effective Date: January 1, 2004

Public Act No.: [93-0236](#)

Why This Bill is Important: Prior to the passage of this bill, a person who was battered or sexually assaulted could only seek an order of protection against the offender if the victim and the offender had one of the relationships specifically delineated in the law, including husband and wife, paramours, parents of a child in common, or living in a shared household.

While some tools are available within the criminal justice system to require a rapist to stay away from a victim, most rape cases do not go through the criminal justice system. Many victims are fearful of reporting or do not want to face the public exposure of a trial. Some victims report and the investigation stalls or

charges are never filed, leaving the victim with no means of keeping the rapist away from her. The goal of this new civil order is to give the victim with a simple means of ordering the offender to stay away from her. The process for obtaining the order is based on existing procedures for domestic violence orders of protection in Illinois, with the hope that the similarities will allow for easy implementation for the courts.

HB 3552 Adoption Act Consents Bill

Sponsors: Representative Berrios and Senator Martinez

What This Bill Does: Provides that a woman who conceives a child through rape does not have to obtain the consent of the rapist to put the child up for adoption if the offender was indicated for child sexual abuse or was at least five years older than the mother and the mother was under 17 at the time of conception.

Effective Date: January 1, 2004

Public Act No.: [93-0510](#)

Why This Bill is Important: Sex offenders exert control over the women and children they rape not only during the physical assault, but also across the weeks, months and even years after the rape. If a child is born as the result of a rape, the rapist gains another tool to interfere with and control the life of the victim and the child she bore. This bill ensures that a woman who bears a child as the result of rape is able to make a decision regarding placing the child for adoption without consulting the rapist.

SB 406 Consent: No Means No

Sponsors: Senator Dan Rutherford and Representative Rosemary Mulligan

What This Bill Does: Clarifies that a person who initially consents to sexual conduct or sexual penetration is not deemed to have consented to any sexual conduct or sexual penetration that occurs after the victim withdraws consent.

Effective Date: July 25, 2003

Public Act. No.: [93-0389](#)

Why This Bill is Important: This bill affirms the right of every person to define his or her own sexuality. It ensures that in every sexual assault case, the court must determine whether consent was present.

The bill affirms the overall intent of the Illinois Criminal Sexual Assault Act, which is that sexual conduct by force and without consent is criminal. The fact that two people may have previously consented to sex, whether it was two years ago, two weeks ago, or two minutes ago is not relevant. If a person says no to sex, then physically forcing that person to engage in sex is criminal.

In many circumstances in society, two people may consensually agree to one kind of conduct, which, if forced, is criminal. For example, one person may invite another into her house. If, however, no invitation is issued, and the second person forces his way into the home, that conduct becomes a crime.

This bill recognizes the significant harm that can occur when sexual intimacy turns into sexual violence. When two people agree to engage in sex, a certain vulnerability is shared. If sex continues after consent is withdrawn, that vulnerability is transformed to violence. This violence, on the heels of shared trust, causes tremendous emotional harm to a victim.

SB 406 affirms every person's right to withdraw consent to sex at any time that a person becomes scared, is threatened, or simply wants the conduct to stop.

SB 1035 Extension of Civil and Criminal Statute of Limitations

Sponsors: Senator Jacqueline Collins and Representative Jim Brosnahan

What This Bill Does: Extends the time period for prosecutors to file charges against child sex offenders until the victim turns 38.

The bill also extends the time period for an adult survivor of childhood sexual abuse to file a civil suit against the offender until the victim turns 28 or five years after the victim discovers the abuse and understands that she was harmed by the abuse. The bill clarifies that the statute of limitations begins to run only once the victim discovers the causal connection between the abuse and his or her injuries. The bill also provides that the statute of limitations does not run during a time period when the victim is subject to threats, intimidation, manipulation or fraud perpetrated by the abuser or someone on the abuser's behalf.

Effective Date: July 24, 2003

Public Act No.: [93-0356](#)

Why This Bill is Important: Childhood sexual abuse is, by its very nature, secret. The abuse is often the end result of a grooming process through which the perpetrator pressures the victim to keep the abuse secret and/or carefully selects victims whom the perpetrator believes will not tell others about the abuse. Child molesters can convince the child that he or she has caused the inappropriate sexual advances of the adult. Many victims internalize this belief and grow up assuming they are guilty; they may be well into adulthood before they come to the realization that they are victims of crimes. By then, the current statute of limitations has expired

and the perpetrator cannot be held accountable by the criminal and civil court systems. Not holding a perpetrator accountable allows him to get away with the crime and leaves children at risk.

This bill clarifies that a victim must both know that she was abused and understand that her injuries were caused by the abuse before her time period for bringing a civil lawsuit begins to run. This policy reflects the reality that many injuries caused by childhood sexual abuse do not manifest until later in the survivor's life.