

MEMORANDUM

TO: Advisory Committee on the Rights of Survivors of Sexual Assault
FROM: Petya Pucci
DATE: September 27, 2019
RE: AB 176 – Sexual Assault Survivors’ Bill of Rights Act

BACKGROUND

In 2016, the United States Congress unanimously passed the federal *Survivors’ Bill of Rights Act* establishing certain rights to victims of sexual assault, such as the right to a free forensic medical exam; the right to have a victim’s rape kit preserved for 20 years, or for the maximum applicable statute of limitations; and the right to be informed of the rights created by the Act.¹ This historic legislation became reality largely due to the efforts of Amanda Nguyen—an activist, founder of a non-profit organization focused on sexual assault victims’ rights, and a survivor herself—who has since embarked on passing such laws in all 50 states².

In 2019, with the help of advocates from Nguyen’s organization *Rise*, Nevada’s 80th Legislature passed AB 176 (also known as the Sexual Assault Survivors’ Bill of Rights), joining the growing list of states that have passed similar laws³. Section 27 of the law requires the Office of the Nevada Attorney General to develop and make available a document explaining the rights of survivors pursuant to AB 176.⁴ This document must be written in clear language, at a level comprehensible to a fifth-grader; be available in all major languages of the State; and must be accessible to persons with visual disabilities.⁵

FINDINGS

I. Besides Nevada, there are nineteen other states that have enacted bills similar to AB 176, and two of them have developed documents explaining the rights of survivors as required by Section 27.

Currently, there are nineteen states⁶ that have passed legislation granting specific rights to victims of sexual assault: California, New York, Hawaii, Idaho, Illinois, Maryland, New Jersey, Pennsylvania, New Mexico, Massachusetts, New Hampshire, Virginia, Utah, South Dakota, North

¹ Pub. L. No. 114-236 (codified at 34 USC § 12512).

² Alanna Vagianos, *The Rape Survivor Who Turned Her Activism into a Nobel Peace Prize Nomination*, WOMEN (July 20, 2018, 2:51 PM), https://www.huffpost.com/entry/rape-survivor-nobel-peace-prize-nomination_n_5b51e9a8e4b0fd5c73c49f7f.

³ Assemb. B. 176, 80th Reg. Sess. (Nev. 2019).

⁴ *Id.* § 27.

⁵ *Id.*

⁶ Rise claims to have passed “27+” bills, however that number also includes the federal Bill of Rights Act, as well as a law in Japan. As of September 16, 2019, Rise representatives have not yet provided a complete list of the states in which they have claimed to have passed similar laws, however, a number of states have bills currently pending in their respective legislatures.

Carolina, Oregon, Vermont, Washington, and West Virginia; however, these bills range broadly in their scope of protection and level of comprehension.⁷

Only three states—Nevada, California, and New York—require that a formal written document enumerating the rights of survivors as granted by the state is given to victims.⁸ Many of the rest of the states include only general provisions on the survivors’ rights to receive certain information.⁹

II. **While the success of these laws has not been measured yet, they have generally been receiving unanimous support, and there have been no known legal challenges on either the state or federal level.**

There is no indication that any of these laws have been legally challenged on either the federal or state level. To the contrary, these bills are generally passed with unanimous, bipartisan support.¹⁰

Because these laws have been passed within the last 2–3 years, there is little data on their effectiveness to date. Section 4 of the federal Survivors’ Bill of Rights of 2016 provided for the establishment of a Working Group, which was tasked with identifying best practices regarding the treatment and care of survivors.¹¹ In 2018, the Working Group, led by representatives from the U.S. Department of Justice and the U.S. Department of Health and Human Services, issued a *Report to Congress*, listing voluntary best practices and protocols; themes emerging from sessions with stakeholders; and other information about what the Departments are doing to improve the communities’ response to sexual assault¹². The Report, however, does not include any statistical data measuring the effectiveness of the Bill’s implementation.

No equivalent reports or other data measurements have been done on the state level, likely due to the fact that most bills have been passed within the last year or so.

Conclusion

Besides Nevada, there are nineteen other states that have enacted bills similar to AB 176. Two of them have also developed written documents explaining the rights of survivors as required by Section 27: California and New York (See Appendix).

⁷ Compare Cal. Penal Code § 680 (West 2019), with 2019 S.D. Sess. Laws ch. 112.

⁸ See, e.g., Sex offenses—Crime victims—Bill of Rights, 2018 N.Y. Sess. Laws ch. 407 (McKinney).

⁹ See, e.g., Sexual Assault Victims’ Bill of Rights, W. VA. CODE ANN. § 61–11A–9 (West 2019).

¹⁰ E.g., McKinley Corbley, *Congress in Unanimous Vote Passes Bill of Rights for Sexual Assault Victims*, GOOD NEWS NETWORK (Oct. 10, 2016), <https://www.goodnewsnetwork.org/congress-in-unanimous-vote-passes-bill-of-rights-for-sexual-assault-victims/>.

¹¹ Pub. L. No. 114-236 (codified at 34 USC § 12512).

¹² SURVIVORS’ B. OF RIGHTS ACT WORKING GROUP REP. TO CONG., 115TH CONG (2018), <https://www.justice.gov/ovw/page/file/1100476/download>.

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Additional Recommendations

While California and New York's documents may serve as helpful resources in developing Nevada's document explaining the rights of survivors, they fall short of the requirements mandated by Section 27 of AB 176.

Further, the way we communicate the information is only one aspect of the issue; we must also consider how to effectively deliver this information to its intended recipients. In doing so, we may take into account the following considerations:

- Should the information be publicly available or only via medical providers, law enforcement officials, and prosecutors?
- Where do our recipients reside (metropolitan versus rural areas)?
- What access to resources they have?
- What are their technological capabilities?
- What physical and/or emotional state they may be in, and how that may affect their access to resources and use of information?

With that, it may be helpful to consult with IT specialists and evaluate the possibility of utilizing technology to make this information more easily accessible to a wide range of recipients. For example, this may include:

- Creating a page within the Attorney General's official website, specifically devoted to Sexual Assault Survivors' Resources;
- Making the Bill of Rights available online;
- Embedding links to resources within the page;
- Developing an interactive map showing distances between victims and resources;
- Offering live chat support (either our own or utilizing existing networks' resources, such as RAINN or Victim Connect).

Perhaps, a more cost-effective way to develop informational resources may be to engage college students who are pursuing degrees in IT and are looking to gain practical experience.

Finally, we may consider incorporating these recommendations within any future grant proposals made pursuant to Section 40.5 of AB 176.

Appendix