

ASSEMBLY, No. 1185

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblyman ANTWAN L. MCCLELLAN

District 1 (Atlantic, Cape May and Cumberland)

Co-Sponsored by:

Assemblyman Simonsen, Assemblywomen Dunn, Reynolds-Jackson,

Assemblyman Scharfenberger, Assemblywoman Flynn, Assemblyman

Miller and Assemblywoman Ramirez

SYNOPSIS

Upgrades offense of prostitution as patron; directs fines collected to "Human Trafficking Survivor's Assistance Fund."

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee with technical review.



(Sponsorship Updated As Of: 1/23/2025)

1 AN ACT concerning prostitution as a patron and amending
2 N.J.S.2C:34-1 and P.L.2013, c.51.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. N.J.S.2C:34-1 is amended to read as follows:

8 2C:34-1. Prostitution and Related Offenses.

9 a. As used in this section:

10 (1) "Prostitution" is sexual activity with another person in
11 exchange for something of economic value, or the offer or
12 acceptance of an offer to engage in sexual activity in exchange for
13 something of economic value.

14 (2) "Sexual activity" includes, but is not limited to, sexual
15 intercourse, including genital-genital, oral-genital, anal-genital, and
16 oral-anal contact, whether between persons of the same or opposite
17 sex; masturbation; touching of the genitals, buttocks, or female
18 breasts; sadistic or masochistic abuse and other deviate sexual
19 relations.

20 (3) "House of prostitution" is any place where prostitution or
21 promotion of prostitution is regularly carried on by one person
22 under the control, management or supervision of another.

23 (4) "Promoting prostitution" is:

24 (a) Owning, controlling, managing, supervising or otherwise
25 keeping, alone or in association with another, a house of
26 prostitution or a prostitution business;

27 (b) Procuring an inmate for a house of prostitution or place in a
28 house of prostitution for one who would be an inmate;

29 (c) Encouraging, inducing, or otherwise purposely causing
30 another to become or remain a prostitute;

31 (d) Soliciting a person to patronize a prostitute;

32 (e) Procuring a prostitute for a patron;

33 (f) Transporting a person into or within this State with purpose
34 to promote that person's engaging in prostitution, or procuring or
35 paying for transportation with that purpose; or

36 (g) Knowingly leasing or otherwise permitting a place
37 controlled by the actor, alone or in association with others, to be
38 regularly used for prostitution or promotion of prostitution, or
39 failure to make a reasonable effort to abate such use by ejecting the
40 tenant, notifying law enforcement authorities, or other legally
41 available means.

42 b. A person commits an offense if:

43 (1) The actor engages in prostitution as a patron;

44 (2) The actor promotes prostitution;

45 (3) The actor knowingly promotes prostitution of a child under

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 18 whether or not the actor mistakenly believed that the child was
2 18 years of age or older, even if such mistaken belief was
3 reasonable;

4 (4) The actor knowingly promotes prostitution of the actor's
5 child, ward, or any other person for whose care the actor is
6 responsible;

7 (5) The actor compels another to engage in or promote
8 prostitution;

9 (6) The actor promotes prostitution of the actor's spouse;

10 (7) The actor knowingly engages in prostitution with a person
11 under the age of 18, or if the actor enters into or remains in a house
12 of prostitution for the purpose of engaging in sexual activity with a
13 child under the age of 18, or if the actor solicits or requests a child
14 under the age of 18 to engage in sexual activity. It shall be no
15 defense to a prosecution under this paragraph that the actor
16 mistakenly believed that the child was 18 years of age or older,
17 even if such mistaken belief was reasonable; or

18 (8) The actor engages in prostitution by personally offering
19 sexual activity in exchange for something of economic value.

20 c. Grading of offenses under subsection b.

21 (1) An offense under subsection b. constitutes a crime of the
22 first degree if the offense falls within paragraph (3) or (4) of that
23 subsection.

24 (2) An offense under subsection b. constitutes a crime of the
25 second degree if the offense falls within paragraph (7) of that
26 subsection.

27 (3) An offense under subsection b. constitutes a crime of the
28 third degree if the offense falls within paragraph (5) or (6) of that
29 subsection.

30 (4) An offense under paragraph (2) of subsection b. constitutes a
31 crime of the third degree if the conduct falls within subparagraph
32 (a), (b), (c), (f), or (g) of paragraph (4) of subsection a. Otherwise
33 the offense is a crime of the fourth degree.

34 (5) An offense under [subsection b. constitutes a disorderly
35 persons offense if the offense falls within] paragraph (1) of [that]
36 subsection b. [except that a second or third conviction for such an
37 offense] constitutes a crime of the fourth degree, [and] except that
38 a fourth or subsequent conviction for such an offense constitutes a
39 crime of the third degree. In addition, where a motor vehicle was
40 used in the commission of any offense under paragraph (1) of
41 subsection b. the court shall suspend for six months the driving
42 privilege of any such offender who has a valid driver's license
43 issued by this State. Upon conviction, the court shall immediately
44 collect the offender's driver's license and shall forward it, along
45 with a report stating the first and last day of the suspension imposed
46 pursuant to this paragraph, to the New Jersey Motor Vehicle
47 Commission.

1 (6) An offense under subsection b. constitutes a disorderly
2 persons offense if the offense falls within paragraph (8) of that
3 subsection, except that a second or subsequent conviction for such
4 an offense constitutes a crime of the fourth degree.

5 d. Presumption from living off prostitutes. A person, other
6 than the prostitute or the prostitute's minor child or other legal
7 dependent incapable of self-support, who is supported in whole or
8 substantial part by the proceeds of prostitution is presumed to be
9 knowingly promoting prostitution.

10 e. It is an affirmative defense to prosecution for a violation of
11 this section that, during the time of the alleged commission of the
12 offense, the defendant was a victim of human trafficking pursuant
13 to section 1 of P.L.2005, c.77 (C.2C:13-8) or compelled by another
14 to engage in sexual activity, regardless of the defendant's age.

15 f. (1) Any fine set forth in N.J.S.2C:43-3 that is imposed upon
16 a person by a municipal court for a conviction of a disorderly
17 persons offense under this section shall be collected,
18 notwithstanding the procedures for the collection of fines and
19 restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4), by the
20 municipal court administrator and paid into the municipal treasury
21 of the municipality in which the offense was committed.

22 (2) In addition to any fine, fee, assessment, or penalty
23 authorized under the provisions of Title 2C of the New Jersey
24 Statutes, a person convicted of an offense of prostitution or related
25 offense under paragraph (2), (3), (4), (5), (6), or (7) of subsection b.
26 shall be assessed a penalty of at least \$10,000 but not more than
27 \$50,000, except if the offense involved promotion of the
28 prostitution of a child under the age of 18, the penalty shall be at
29 least \$25,000. All penalties provided for in this subsection,
30 collected as provided for the collection of fines and restitutions in
31 section 3 of P.L.1979, c.396 (C.2C:46-4), shall be forwarded to the
32 Department of the Treasury to be deposited in the "Human
33 Trafficking Survivor's Assistance Fund" established by section 2 of
34 P.L.2013, c.51 (C.52:17B-238).

35 (3) Any fine set forth in N.J.S.2C:43-3 that is imposed upon a
36 person convicted of an offense of prostitution under paragraph (1)
37 of subsection b. of this section shall be collected, notwithstanding
38 the procedures for the collection of fines and restitutions in section
39 3 of P.L.1979, c.396 (C.2C:46-4), and forwarded to the Department
40 of the Treasury to be deposited in the "Human Trafficking
41 Survivor's Assistance Fund" established by section 2 of P.L.2013,
42 c.51 (C.52:17B-238).

43 (cf: P.L.2013, c.51, s.9)

44

45 2. Section 11 of P.L. 2013, c.51 (C.2C:34-1.2) is amended to
46 read as follows:

47 11. a. In addition to any other disposition authorized by law,
48 the court shall order any person convicted of a [disorderly persons

1 offense] crime of the fourth degree for engaging in prostitution as a
2 patron pursuant to paragraph (1) of subsection b. of N.J.S.2C:34-1
3 to participate in the "Prostitution Offender Program" established
4 pursuant to subsection d. of this section, unless the prosecutor, by
5 motion, requests that the mandatory participation be waived, in
6 which case the court may waive the program participation required
7 by this section.

8 b. In addition to any fine, fee, assessment, or penalty
9 authorized under the provisions of Title 2C of the New Jersey
10 Statutes, a person convicted of an offense of engaging in
11 prostitution as a patron pursuant to paragraph (1) of subsection b. of
12 N.J.S.2C:34-1 shall be assessed, if ordered to participate in the
13 "Prostitution Offender Program," a fee of \$500.

14 c. Each \$500 fee assessed as required by this section shall be
15 collected by the court, and forwarded to the Department of the
16 Treasury to be deposited in the "Human Trafficking Survivor's
17 Assistance Fund" established by section 2 of P.L.2013, c.51
18 (C.52:17B-238). From this fee, \$200 shall be retained in the fund,
19 and the remaining \$300 shall be distributed as follows: \$200 to the
20 approved provider of the "Prostitution Offender Program," as
21 established under subsection d. of this section, attended by the
22 person; and \$100 to the law enforcement agency that arrested the
23 person resulting in that person's conviction.

24 d. (1) There is hereby established an education program to be
25 known as the "Prostitution Offender Program," which shall consist
26 of an instructional program on prostitution and human trafficking
27 schemes offered in one or more locations throughout the State as
28 follows:

29 (a) by a county or local governmental entity, if that county or
30 local governmental entity demonstrates an interest in establishing a
31 program, submits information pertaining to the proposed operation
32 of an instructional program by the county or local governmental
33 entity, or alternatively, by a nonprofit or other private provider on
34 behalf of the county or local governmental entity, and the Attorney
35 General, in consultation with the Commission on Human
36 Trafficking created by section 1 of P.L.2013, c.51 (C.52:17B-237),
37 approves the program and the provider thereof, if the proposed
38 provider is a nonprofit or other private entity. If a county or local
39 governmental entity establishes and operates an instructional
40 program, then all courts operating within the jurisdiction of that
41 county or local governmental entity shall order a person convicted
42 of an eligible offense under subsection a. of this section to attend
43 that county or local governmental entity's program; provided, a
44 court shall not be required to order a person to attend that program
45 until the first day of the month next following the date on which the
46 Attorney General notifies the Administrative Office of the Courts
47 that the program has been established and approved by the Attorney
48 General; and

1 (b) by the State, to be established within six months of the
2 effective date of this section, based upon the Attorney General, in
3 consultation with the Commission on Human Trafficking created by
4 section 1 of P.L.2013, c.51 (C.52:17B-237), approving an
5 instructional program to be provided by one or more approved
6 nonprofit or other private providers in multiple locations throughout
7 the State. Any court in a jurisdiction that does not have an
8 approved county or local governmental entity instructional program
9 as established under subparagraph (a) of this paragraph shall order a
10 person convicted of an eligible offense under subsection a. of this
11 section to attend the approved State program established under this
12 subparagraph, unless there is an extra-jurisdictional county or local
13 governmental entity instructional program within 25 miles of the
14 court, and the court has been notified in accordance with this
15 subparagraph, or subparagraph (a) of this paragraph, of the
16 availability of that program to accept participants from the court, in
17 which case the court may instead order a person to attend the
18 county or local governmental entity's instructional program;
19 regarding any program notice under this subparagraph, a court shall
20 not be required to order a person to attend a program until the first
21 day of the month next following the date on which the Attorney
22 General notifies the Administrative Office of the Courts that the
23 program has been established and approved by the Attorney
24 General.

25 (2) The program shall include information intended to increase
26 the person's awareness of:

27 (a) the causes of prostitution and its relationship to human
28 trafficking;

29 (b) the health risks connected with prostitution, including the
30 risk of transmittable diseases;

31 (c) the consequences of convictions for prostitution or human
32 trafficking, including penalties for subsequent convictions; and

33 (d) the pervasiveness of human trafficking and the effects of
34 human trafficking on its victims.

35 (3) Pursuant to section 2 of P.L.2013, c.51 (C.52:17B-238), the
36 Attorney General, in consultation with the Commission on Human
37 Trafficking, may provide for the expenditures of monies from the
38 "Human Trafficking Survivor's Assistance Fund" to assist with the
39 development, maintenance, revision, and distribution of
40 instructional program materials for the "Prostitution Offender
41 Program," and the operation of this instructional program.

42 (cf: P.L.2013, c.51, s.11)

43

44 3. This act shall take effect immediately.