

(CORRECTED COPY)

P.L.2017, CHAPTER 141, *approved July 21, 2017*

Senate, No. 3219 (*First Reprint*)

1 **AN ACT** concerning the sexual exploitation of children, amending  
2 various parts of the statutory law, and supplementing Title 2C of  
3 the New Jersey Statutes.

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

7  
8 1. N.J.S.2C:24-4 is amended to read as follows:  
9 2C:24-4. Endangering Welfare of Children.

10 a. (1) Any person having a legal duty for the care of a child or  
11 who has assumed responsibility for the care of a child who engages  
12 in sexual conduct which would impair or debauch the morals of the  
13 child is guilty of a crime of the second degree. Any other person  
14 who engages in conduct or who causes harm as described in this  
15 paragraph to a child is guilty of a crime of the third degree.

16 (2) Any person having a legal duty for the care of a child or who  
17 has assumed responsibility for the care of a child who causes the  
18 child harm that would make the child an abused or neglected child  
19 as defined in R.S.9:6-1, R.S.9:6-3<sub>2</sub> and section 1 of P.L.1974,  
20 c.119<sup>1</sup>, s.1<sup>1</sup> (C.9:6-8.21) is guilty of a crime of the second degree.  
21 Any other person who engages in conduct or who causes harm as  
22 described in this paragraph to a child is guilty of a crime of the third  
23 degree.

24 b. (1) As used in this subsection:

25 "Child" means any person under 18 years of age.

26 "Distribute" means to sell, or to manufacture, give, provide, lend,  
27 trade, mail, deliver, publish, circulate, disseminate, present, exhibit,  
28 display, share, advertise, offer, or make available via the Internet or  
29 by any other means, whether for pecuniary gain or not. The term  
30 also includes an agreement or attempt to distribute.

31 "File-sharing program" means a computer program, application,  
32 software or operating system that allows the user of a computer on  
33 which such program, application, software or operating system is  
34 installed to designate files as available for searching by and copying  
35 to one or more other computers, to transmit such designated files  
36 directly to one or more other computers, and to request the  
37 transmission of such designated files directly from one or more  
38 other computers. The term "file-sharing program" includes but is

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SLP committee amendments adopted June 15, 2017.

1 not limited to a computer program, application or software that  
2 enables a computer user to participate in a peer-to-peer network.

3 "Internet" means the international computer network of both  
4 federal and non-federal interoperable packet switched data  
5 networks.

6 "Item depicting the sexual exploitation or abuse of a child"  
7 means a photograph, film, video, an electronic, electromagnetic or  
8 digital recording, an image stored or maintained in a computer  
9 program or file or in a portion of a file, or any other reproduction or  
10 reconstruction which ;

11 (a) depicts a child engaging in a prohibited sexual act or in the  
12 simulation of such an act; or

13 (b) portrays a child in a sexually suggestive manner.

14 "Peer-to-peer network" means a connection of computer systems  
15 through which files are shared directly between the systems on a  
16 network without the need of a central server.

17 "Portray a child in a sexually suggestive manner" means:

18 (a) to depict a child's less than completely and opaquely covered  
19 intimate parts, as defined in N.J.S.2C:14-1, <sup>1</sup>in a manner that, by  
20 means of the posing, composition, format, or animated sensual  
21 details, emits sensuality with sufficient impact to concentrate  
22 prurient interest on the child;<sup>1</sup> or

23 <sup>1</sup>(b) to depict<sup>1</sup> any form of contact with <sup>1</sup>**[the]** a child's<sup>1</sup>  
24 intimate parts <sup>1</sup>, as defined in N.J.S.2C:14-1, <sup>1</sup> in a manner that, by  
25 means of the posing, composition, format, or animated sensual  
26 details, emits sensuality with sufficient impact to concentrate  
27 prurient interest on the child; or

28 <sup>1</sup>**[(b)]** (c)<sup>1</sup> to otherwise depict a child for the purpose of sexual  
29 stimulation or gratification of any person who may view the  
30 depiction where the depiction does not have serious literary, artistic,  
31 political, or scientific value.

32 "Prohibited sexual act" means

33 (a) Sexual intercourse; or

34 (b) Anal intercourse; or

35 (c) Masturbation; or

36 (d) Bestiality; or

37 (e) Sadism; or

38 (f) Masochism; or

39 (g) Fellatio; or

40 (h) Cunnilingus; or

41 (i) Nudity, if depicted for the purpose of sexual stimulation or  
42 gratification of any person who may view such depiction; or

43 (j) Any act of sexual penetration or sexual contact as defined in  
44 N.J.S.2C:14-1.

45 "Reproduction" means, but is not limited to, computer generated  
46 images.

47 (2) (Deleted by amendment, P.L.2001, c.291).

1 (3) A person commits a crime of the first degree if he causes or  
2 permits a child to engage in a prohibited sexual act or in the  
3 simulation of such an act or to be portrayed in a sexually suggestive  
4 manner if the person knows, has reason to know or intends that the  
5 prohibited act or portrayal may be photographed, filmed,  
6 reproduced, or reconstructed in any manner, including on the  
7 Internet, or may be part of an exhibition or performance.

8 (4) A person commits a crime of the second degree if he  
9 photographs or films a child in a prohibited sexual act or in the  
10 simulation of such an act or for portrayal in a sexually suggestive  
11 manner or who uses any device, including a computer, to reproduce  
12 or reconstruct the image of a child in a prohibited sexual act or in  
13 the simulation of such an act or for portrayal in a sexually  
14 suggestive manner.

15 (5) (a) A person commits a crime **【of the second degree】** if, by  
16 any means, including but not limited to the Internet, he:

17 (i) knowingly distributes an item depicting the sexual  
18 exploitation or abuse of a child;

19 (ii) knowingly possesses an item depicting the sexual  
20 exploitation or abuse of a child with the intent to distribute that  
21 item; or

22 (iii) knowingly stores or maintains an item depicting the sexual  
23 exploitation or abuse of a child using a file-sharing program which  
24 is designated as available for searching by or copying to one or  
25 more other computers.

26 In a prosecution under sub-subparagraph (iii) of this  
27 subparagraph, the State shall not be required to offer proof that an  
28 item depicting the sexual exploitation or abuse of a child had  
29 actually been searched, copied, transmitted or viewed by another  
30 user of the file-sharing program, or by any other person, and it shall  
31 be no defense that the defendant did not intend to distribute the item  
32 to another user of the file-sharing program or to any other person.  
33 Nor shall the State be required to prove that the defendant was  
34 aware that the item depicting the sexual exploitation or abuse of a  
35 child was available for searching or copying to one or more other  
36 computers, and the defendant shall be strictly liable for failing to  
37 designate the item as not available for searching or copying by one  
38 or more other computers.

39 A violation of this subparagraph that involves 1,000 or more  
40 items depicting the sexual exploitation or abuse of a child is a crime  
41 of the first degree; otherwise it is a crime of the second degree.

42 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-  
43 6, a person whose offense under this subparagraph involved at least  
44 **25 【or more】** but less than 1,000 items depicting the sexual  
45 exploitation or abuse of a child shall be sentenced to a mandatory  
46 minimum term of imprisonment, which shall be fixed at, or  
47 between, one-third and one-half of the sentence imposed by the

1 court or five years, whichever is greater, during which the  
2 defendant shall be ineligible for parole.

3 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-  
4 6, a person whose offense under this subparagraph involved 1,000  
5 or more items depicting the sexual exploitation or abuse of a child  
6 shall be sentenced to a mandatory minimum term of imprisonment,  
7 which shall be fixed at, or between, one-third and one-half of the  
8 sentence imposed by the court or 10 years, whichever is greater,  
9 during which the defendant shall be ineligible for parole.

10 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-  
11 6, a person convicted of a second or subsequent offense under this  
12 subparagraph shall be sentenced to an extended term of  
13 imprisonment as set forth in N.J.S.2C:43-7. For the purposes of this  
14 subparagraph, an offense is considered a second or subsequent  
15 offense if the actor has at any time been convicted pursuant to  
16 paragraph (3), (4),<sub>2</sub> or (5) of this subsection, or under any similar  
17 statute of the United States, this State,<sub>1</sub> or any other state for an  
18 offense that is substantially equivalent to paragraph (3), (4),<sub>2</sub> or (5)  
19 of this subsection.

20 For purposes of this subparagraph, the term "possess" includes  
21 receiving, viewing, or having under one's control, through any  
22 means, including the Internet.

23 (b) (i) A person commits a crime of the first degree if he  
24 knowingly possesses, knowingly views, or knowingly has under his  
25 control, through any means, including the Internet, 100,000 or more  
26 items depicting the sexual exploitation or abuse of a child.

27 (ii) A person commits a crime of the second degree if he  
28 knowingly possesses, knowingly views, or knowingly has under his  
29 control, through any means, including the Internet, at least 1,000  
30 but less than 100,000 items depicting the sexual exploitation or  
31 abuse of a child.

32 (iii) A person commits a crime of the third degree if he  
33 knowingly possesses, knowingly views, or knowingly has under his  
34 control, through any means, including the Internet, [an item] less  
35 than 1,000 items depicting the sexual exploitation or abuse of a  
36 child.

37 Notwithstanding the provisions of subsection e. of N.J.S.2C:44-  
38 1, in any instance where a person was convicted of an offense under  
39 this subparagraph that involved 100 or more items depicting the  
40 sexual exploitation or abuse of a child, the court shall impose a  
41 sentence of imprisonment unless, having regard to the character and  
42 condition of the defendant, it is of the opinion that imprisonment  
43 would be a serious injustice which overrides the need to deter such  
44 conduct by others.

45 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-  
46 6, a person convicted of a second or subsequent offense under this  
47 subparagraph shall be sentenced to an extended term of  
48 imprisonment as set forth in N.J.S.2C:43-7. For the purposes of this

1 subparagraph, an offense is considered a second or subsequent  
2 offense if the actor has at any time been convicted pursuant to  
3 paragraph (3), (4),<sub>2</sub> or (5) of this subsection, or under any similar  
4 statute of the United States, this State,<sub>2</sub> or any other state for an  
5 offense that is substantially equivalent to paragraph (3), (4),<sub>2</sub> or (5)  
6 of this subsection.

7 Nothing in this subparagraph shall be construed to preclude or  
8 limit any prosecution or conviction for the offense set forth in  
9 subparagraph (a) of this paragraph.

10 (6) For purposes of this subsection, a person who is depicted as  
11 or presents the appearance of being under the age of 18 in any  
12 photograph, film, videotape, computer program or file, video game,<sub>2</sub>  
13 or any other reproduction or reconstruction shall be rebuttably  
14 presumed to be under the age of 18. If the child who is depicted as  
15 engaging in, or who is caused to engage in, a prohibited sexual act  
16 or simulation of a prohibited sexual act or portrayed in a sexually  
17 suggestive manner is under the age of 18, the actor shall be strictly  
18 liable and it shall not be a defense that the actor did not know that  
19 the child was under the age of 18, nor shall it be a defense that the  
20 actor believed that the child was 18 years of age or older, even if  
21 such a mistaken belief was reasonable.

22 (7) For aggregation purposes, each depiction of the sexual  
23 exploitation or abuse of a child shall be considered a separate item,  
24 provided that each depiction that is in the form of a photograph,  
25 picture, image, or visual depiction of a similar nature shall be  
26 considered to be one item and each depiction that is in the form of a  
27 film, video, video-clip, movie, or visual depiction of a similar  
28 nature shall be considered to be 10 separate items, and each  
29 individual act of distribution of an item depicting the sexual  
30 exploitation or abuse of a child shall be considered a separate item.  
31 For purposes of determining the number of items depicting the  
32 sexual exploitation or abuse of a child for purposes of sentencing  
33 pursuant to subparagraph (a) of paragraph (5) of this subsection, the  
34 court shall aggregate all items involved, whether the act or acts  
35 constituting the violation occurred at the same time or at different  
36 times and, with respect to distribution, whether the act or acts of  
37 distribution were to the same person or several persons or occurred  
38 at different times, provided that each individual act was committed  
39 within the applicable statute of limitations. For purposes of  
40 determining the number of items depicting the sexual exploitation  
41 or abuse of a child for purposes of sentencing pursuant to  
42 subparagraph (b) of paragraph (5) of this subsection, the court shall  
43 aggregate all items involved, whether the possession of such items  
44 occurred at the same time or at different times, provided that each  
45 individual act was committed within the applicable statute of  
46 limitations.

47 (cf: P.L.2013, c.136, s.1)

1       2. Section 2 of P.L.2011, c.128 (C.2A:4A-71.1) is amended to  
2 read as follows:

3       2. a. Where a complaint against a juvenile pursuant to section  
4 11 of P.L.1982, c.77 (C.2A:4A-30) alleges that the juvenile has  
5 committed an eligible offense as defined in subsection c. of this  
6 section and the court has approved diversion of the complaint  
7 pursuant to section 4 of P.L.1982, c.81 (C.2A:4A-73), the resolution  
8 of the complaint shall include the juvenile's participation in a  
9 remedial education or counseling program. The parents or guardian  
10 of the juvenile shall bear the cost of participation in the program,  
11 except that the court shall take into consideration the ability of the  
12 juvenile's parents or guardian to pay and the availability of such a  
13 program in the area in which the juvenile resides and, where  
14 appropriate, may permit the juvenile to participate in a self-guided  
15 awareness program in lieu of a remedial education or counseling  
16 program provided that it satisfies the requirements of subsection b.  
17 of this section.

18       b. A remedial education or counseling program satisfies the  
19 requirements of this act if the program is designed to increase the  
20 juvenile's awareness of:

21       (1) the legal consequences and penalties for sharing sexually  
22 suggestive or explicit materials, including applicable federal and  
23 State statutes;

24       (2) the non-legal consequences of sharing sexually suggestive or  
25 explicit materials including, but not limited to, the effect on  
26 relationships, loss of educational and employment opportunities,  
27 and being barred or removed from school programs and  
28 extracurricular activities;

29       (3) the potential, based upon the unique characteristics of  
30 cyberspace and the Internet, of long-term and unforeseen  
31 consequences for sharing sexually suggestive or explicit materials;  
32 and

33       (4) the possible connection between bullying and cyber-bullying  
34 and juveniles sharing sexually suggestive or explicit materials.

35       c. As used in this act, "eligible offense" means an offense in  
36 which:

37       (1) the facts of the case involve the creation, exhibition or  
38 distribution of a photograph depicting nudity or portraying a child  
39 in a sexually suggestive manner, as defined in N.J.S.2C:24-4,  
40 through the use of an electronic communication device, an  
41 interactive wireless communications device, or a computer; and

42       (2) the creator and subject of the photograph are juveniles or  
43 were juveniles at the time of its making.

44 (cf: P.L.2011, c.128, s.2)

45

46       3. Section 2 of P.L.1994, c.133 (C.2C:7-2) is amended to read  
47 as follows:

1       a. (1) A person who has been convicted, adjudicated  
2 delinquent or found not guilty by reason of insanity for commission  
3 of a sex offense as defined in subsection b. of this section shall  
4 register as provided in subsections c. and d. of this section.

5       (2) A person who in another jurisdiction is required to register  
6 as a sex offender and (a) is enrolled on a full-time or part-time basis  
7 in any public or private educational institution in this State,  
8 including any secondary school, trade or professional institution,  
9 institution of higher education or other post-secondary school, or  
10 (b) is employed or carries on a vocation in this State, on either a  
11 full-time or a part-time basis, with or without compensation, for  
12 more than 14 consecutive days or for an aggregate period exceeding  
13 30 days in a calendar year, shall register in this State as provided in  
14 subsections c. and d. of this section.

15       (3) A person who fails to register as required under this act shall  
16 be guilty of a crime of the third degree.

17       b. For the purposes of this act a sex offense shall include the  
18 following:

19       (1) Aggravated sexual assault, sexual assault, aggravated  
20 criminal sexual contact, kidnapping pursuant to paragraph (2) of  
21 subsection c. of N.J.S.2C:13-1 or an attempt to commit any of these  
22 crimes if the court found that the offender's conduct was  
23 characterized by a pattern of repetitive, compulsive behavior,  
24 regardless of the date of the commission of the offense or the date  
25 of conviction;

26       (2) A conviction, adjudication of delinquency, or acquittal by  
27 reason of insanity for aggravated sexual assault; sexual assault;  
28 aggravated criminal sexual contact; kidnapping pursuant to  
29 paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the  
30 welfare of a child by engaging in sexual conduct which would  
31 impair or debauch the morals of the child pursuant to subsection a.  
32 of N.J.S.2C:24-4; endangering the welfare of a child pursuant to  
33 paragraph (3) or (4), **【or】** subparagraph (a), or sub-subparagraph (i)  
34 or (ii) of subparagraph (b) of paragraph (5) of subsection b. of  
35 N.J.S.2C:24-4; luring or enticing pursuant to section 1 of P.L.1993,  
36 c.291 (C.2C:13-6); criminal sexual contact pursuant to N.J.S.2C:14-  
37 3b. if the victim is a minor; kidnapping pursuant to N.J.S.2C:13-1,  
38 criminal restraint pursuant to N.J.S.2C:13-2, or false imprisonment  
39 pursuant to N.J.S.2C:13-3 if the victim is a minor and the offender  
40 is not the parent of the victim; knowingly promoting prostitution of  
41 a child pursuant to paragraph (3) or paragraph (4) of subsection b.  
42 of N.J.S.2C:34-1; leader of a child pornography network pursuant to  
43 section 8 of P.L. (C. ) (pending before the Legislature as  
44 this bill); or an attempt to commit any of these enumerated offenses  
45 if the conviction, adjudication of delinquency or acquittal by reason  
46 of insanity is entered on or after the effective date of this act or the  
47 offender is serving a sentence of incarceration, probation, parole or  
48 other form of community supervision as a result of the offense or is

1 confined following acquittal by reason of insanity or as a result of  
2 civil commitment on the effective date of this act;

3 (3) A conviction, adjudication of delinquency, or acquittal by  
4 reason of insanity for an offense similar to any offense enumerated  
5 in paragraph (2) or a sentence on the basis of criteria similar to the  
6 criteria set forth in paragraph (1) of this subsection entered or  
7 imposed under the laws of the United States, this State, or another  
8 state.

9 (4) Notwithstanding the provisions of paragraph (1), (2), or (3)  
10 of this subsection, a sex offense shall not include an adjudication of  
11 delinquency for endangering the welfare of a child pursuant to  
12 paragraph (4) or (5) of subsection b. of N.J.S.2C:24-4, provided that  
13 the actor demonstrates that:

14 (a) the facts of the case are limited to the creation, exhibition or  
15 distribution of a photograph depicting nudity or portraying a child  
16 in a sexually suggestive manner, as defined in N.J.S.2C:24-4,  
17 through the use of an electronic communications device, an  
18 interactive wireless communications device, or a computer;

19 (b) the creator and subject of the photograph are juveniles or  
20 were juveniles at the time of its making; and

21 (c) the subject of the photograph whose nudity is depicted or  
22 who is portrayed in a sexually suggestive manner, as the case may  
23 be, knowingly consented to the making of the photograph.

24 c. A person required to register under the provisions of this act  
25 shall do so on forms to be provided by the designated registering  
26 agency as follows:

27 (1) A person who is required to register and who is under  
28 supervision in the community on probation, parole, furlough, work  
29 release, or a similar program, shall register at the time the person is  
30 placed under supervision or no later than 120 days after the  
31 effective date of this act, whichever is later, in accordance with  
32 procedures established by the Department of Corrections, the  
33 Department of Human Services, the Juvenile Justice Commission  
34 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)  
35 or the Administrative Office of the Courts, whichever is responsible  
36 for supervision;

37 (2) A person confined in a correctional or juvenile facility or  
38 involuntarily committed who is required to register shall register  
39 prior to release in accordance with procedures established by the  
40 Department of Corrections, the Department of Human Services or  
41 the Juvenile Justice Commission and, within 48 hours of release,  
42 shall also register with the chief law enforcement officer of the  
43 municipality in which the person resides or, if the municipality does  
44 not have a local police force, the Superintendent of State Police;

45 (3) A person moving to or returning to this State from another  
46 jurisdiction shall register with the chief law enforcement officer of  
47 the municipality in which the person will reside or, if the  
48 municipality does not have a local police force, the Superintendent



1 of State Police within 120 days of the effective date of this act or 10  
2 days of first residing in or returning to a municipality in this State,  
3 whichever is later;

4 (4) A person required to register on the basis of a conviction  
5 prior to the effective date who is not confined or under supervision  
6 on the effective date of this act shall register within 120 days of the  
7 effective date of this act with the chief law enforcement officer of  
8 the municipality in which the person will reside or, if the  
9 municipality does not have a local police force, the Superintendent  
10 of State Police;

11 (5) A person who in another jurisdiction is required to register  
12 as a sex offender and who is enrolled on a full-time or part-time  
13 basis in any public or private educational institution in this State,  
14 including any secondary school, trade or professional institution,  
15 institution of higher education or other post-secondary school shall,  
16 within ten days of commencing attendance at such educational  
17 institution, register with the chief law enforcement officer of the  
18 municipality in which the educational institution is located or, if the  
19 municipality does not have a local police force, the Superintendent  
20 of State Police;

21 (6) A person who in another jurisdiction is required to register  
22 as a sex offender and who is employed or carries on a vocation in  
23 this State, on either a full-time or a part-time basis, with or without  
24 compensation, for more than 14 consecutive days or for an  
25 aggregate period exceeding 30 days in a calendar year, shall, within  
26 ten days after commencing such employment or vocation, register  
27 with the chief law enforcement officer of the municipality in which  
28 the employer is located or where the vocation is carried on, as the  
29 case may be, or, if the municipality does not have a local police  
30 force, the Superintendent of State Police;

31 (7) In addition to any other registration requirements set forth in  
32 this section, a person required to register under this act who is  
33 enrolled at, employed by or carries on a vocation at an institution of  
34 higher education or other post-secondary school in this State shall,  
35 within **[ten]** 10 days after commencing such attendance,  
36 employment or vocation, register with the law enforcement unit of  
37 the educational institution, if the institution has such a unit.

38 d. (1) Upon a change of address, a person shall notify the law  
39 enforcement agency with which the person is registered and shall  
40 re-register with the appropriate law enforcement agency no less  
41 than 10 days before he intends to first reside at his new address.  
42 Upon a change of employment or school enrollment status, a person  
43 shall notify the appropriate law enforcement agency no later than  
44 five days after any such change. A person who fails to notify the  
45 appropriate law enforcement agency of a change of address or status  
46 in accordance with this subsection is guilty of a crime of the third  
47 degree.

1       (2) A person required to register under this act shall provide the  
2 appropriate law enforcement agency with information as to whether  
3 the person has routine access to or use of a computer or any other  
4 device with Internet capability. A person who fails to notify the  
5 appropriate law enforcement agency of such information or of a  
6 change in the person's access to or use of a computer or other  
7 device with Internet capability or who provides false information  
8 concerning the person's access to or use of a computer or any other  
9 device with Internet capability is guilty of a crime of the third  
10 degree.

11       e. A person required to register under paragraph (1) of  
12 subsection b. of this section or under paragraph (3) of subsection b.  
13 due to a sentence imposed on the basis of criteria similar to the  
14 criteria set forth in paragraph (1) of subsection b. shall verify his  
15 address with the appropriate law enforcement agency every 90 days  
16 in a manner prescribed by the Attorney General. A person required  
17 to register under paragraph (2) of subsection b. of this section or  
18 under paragraph (3) of subsection b. on the basis of a conviction for  
19 an offense similar to an offense enumerated in paragraph (2) of  
20 subsection b. shall verify his address annually in a manner  
21 prescribed by the Attorney General. In addition to address  
22 information, the person shall provide as part of the verification  
23 process any additional information the Attorney General may  
24 require. One year after the effective date of this act, the Attorney  
25 General shall review, evaluate and, if warranted, modify pursuant to  
26 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
27 seq.) the verification requirement. Any person who knowingly  
28 provides false information concerning his place of residence or who  
29 fails to verify his address with the appropriate law enforcement  
30 agency or other entity, as prescribed by the Attorney General in  
31 accordance with this subsection, is guilty of a crime of the third  
32 degree.

33       f. Except as provided in subsection g. of this section, a person  
34 required to register under this act may make application to the  
35 Superior Court of this State to terminate the obligation upon proof  
36 that the person has not committed an offense within 15 years  
37 following conviction or release from a correctional facility for any  
38 term of imprisonment imposed, whichever is later, and is not likely  
39 to pose a threat to the safety of others.

40       g. A person required to register under this section who has  
41 been convicted of, adjudicated delinquent, or acquitted by reason of  
42 insanity for more than one sex offense as defined in subsection b. of  
43 this section or who has been convicted of, adjudicated delinquent,  
44 or acquitted by reason of insanity for aggravated sexual assault  
45 pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault  
46 pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not  
47 eligible under subsection f. of this section to make application to

1 the Superior Court of this State to terminate the registration  
2 obligation.

3 (cf: P.L.2013, c.214, s.1)  
4

5 4. Section 1 of P.L.2009, c.143 (C.2C:43-3.8) is amended to  
6 read as follows:

7 1. a. In addition to any disposition authorized by this Title, the  
8 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), or any  
9 other statute indicating the dispositions that can be ordered for an  
10 adjudication of delinquency, every person convicted of or  
11 adjudicated delinquent for a violation of **【subparagraph (b) of 】**  
12 **paragraph (3), (4), or (5) of subsection b. of N.J.S.2C:24-4【,】;**  
13 **section 8 of P.L. c. (C. ) (pending before the Legislature as**  
14 **this bill); N.J.S.2C:34-3【,】;** or an offense involving computer  
15 criminal activity in violation of any provision of chapter 20 of this  
16 title shall be assessed for each such offense a penalty fixed at:

17 (a) \$2,000 in the case of a crime of the first degree;

18 (b) \$1,000 in the case of a crime of the second degree;

19 (c) \$750 in the case of a crime of the third degree;

20 (d) \$500 in the case of a crime of the fourth degree;

21 (e) \$250 in the case of a disorderly persons or petty disorderly  
22 persons offense.

23 b. All penalties provided for in this section shall be collected as  
24 provided for collection of fines and restitutions in section 3 of  
25 P.L.1979, c.396 (C.2C:46-4), and shall be forwarded to the  
26 Department of the Treasury as provided in subsection c. of this  
27 section.

28 c. All moneys collected pursuant to this section shall be  
29 forwarded to the Department of the Treasury to be deposited in a  
30 nonlapsing revolving fund to be known as the "Computer Crime  
31 Prevention Fund." Moneys in the fund shall be appropriated by the  
32 Legislature to the Department of Law and Public Safety on an  
33 annual basis for the purposes of investigating and prosecuting  
34 computer-related crime, and funding continuing educational  
35 programs on high technology crimes and the 24-hour toll-free  
36 computer crime hotline telephone service established pursuant to  
37 section 3 of P.L.1998, c.134 (C.52:17B-193) and publicizing  
38 thereof, as well as other programs designed to enhance public  
39 awareness of computer-related crime, including but not limited to  
40 use of the Internet to facilitate sexual predatory acts, cyber-stalking  
41 and cyberbullying, online child pornography, threats of violence in  
42 schools or other institutions, Internet fraud, and unauthorized  
43 intrusions into computer systems.

44 d. There is created in the Department of Treasury a non-lapsing  
45 fund entitled the "Computer Crime Prevention Fund." The fund  
46 shall be the depository for assessments collected pursuant to  
47 subsection a. of this section, to be appropriated and used in

1 accordance with the purposes set forth in subsection c. of this  
2 section.

3 (cf: P.L.2009, c.143, s.1)

4

5 5. Section 2 of P.L.1994, c.130 (C.2C:43-6.4) is amended to  
6 read as follows:

7 2. a. Notwithstanding any provision of law to the contrary, a  
8 judge imposing sentence on a person who has been convicted of  
9 aggravated sexual assault, sexual assault, aggravated criminal  
10 sexual contact, kidnapping pursuant to paragraph (2) of subsection  
11 c. of N.J.S.2C:13-1, endangering the welfare of a child by engaging  
12 in sexual conduct which would impair or debauch the morals of the  
13 child pursuant to subsection a. of N.J.S.2C:24-4, endangering the  
14 welfare of a child pursuant to paragraph (3) or sub-subparagraph (i)  
15 or (ii) of subparagraph (b) of paragraph (5) of subsection b. of  
16 N.J.S.2C:24-4, luring, violating a condition of a special sentence of  
17 community supervision for life pursuant to subsection d. of this  
18 section, or an attempt to commit any of these offenses shall include,  
19 in addition to any sentence authorized by this Code, a special  
20 sentence of parole supervision for life. Notwithstanding any  
21 provision of law to the contrary, a court imposing sentence on a  
22 person who has been convicted of endangering the welfare of a  
23 child pursuant to paragraph (4) or sub-subparagraph (iii) of  
24 subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-  
25 4, leader of a child pornography network pursuant to section 8 of  
26 P.L. c. (C. ) (pending before the Legislature as this bill), or  
27 an attempt to commit either of these offenses shall include, upon  
28 motion of the prosecutor, a special sentence of parole supervision  
29 for life in addition to any sentence authorized by Title 2C of the  
30 New Jersey Statutes, unless the court finds on the record that the  
31 special sentence is not needed to protect the community or deter the  
32 defendant from future criminal activity.

33 b. The special sentence of parole supervision for life required  
34 by this section shall commence immediately upon the defendant's  
35 release from incarceration. If the defendant is serving a sentence of  
36 incarceration for another offense at the time he completes the  
37 custodial portion of the sentence imposed on the present offense,  
38 the special sentence of parole supervision for life shall not  
39 commence until the defendant is actually released from  
40 incarceration for the other offense. Persons serving a special  
41 sentence of parole supervision for life shall remain in the legal  
42 custody of the Commissioner of Corrections, shall be supervised by  
43 the Division of Parole of the State Parole Board, shall be subject to  
44 the provisions and conditions set forth in subsection c. of section 3  
45 of P.L.1997, c.117 (C.30:4-123.51b) and sections 15 through 19 and  
46 21 of P.L.1979, c.441 (C.30:4-123.59 through 30:4-123.63 and  
47 30:4-123.65), and shall be subject to conditions appropriate to  
48 protect the public and foster rehabilitation. Such conditions may

1 include the requirement that the person comply with the conditions  
2 set forth in subsection f. of this section concerning use of a  
3 computer or other device with access to the Internet. If the  
4 defendant violates a condition of a special sentence of parole  
5 supervision for life, the defendant shall be subject to the provisions  
6 of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60  
7 through 30:4-123.63 and 30:4-123.65), and for the purpose of  
8 calculating the limitation on time served pursuant to section 21 of  
9 P.L.1979, c.441 (C.30:4-123.65) the custodial term imposed upon  
10 the defendant related to the special sentence of parole supervision  
11 for life shall be deemed to be a term of life imprisonment. When the  
12 court suspends the imposition of sentence on a defendant who has  
13 been convicted of any offense enumerated in subsection a. of this  
14 section, the court may not suspend imposition of the special  
15 sentence of parole supervision for life, which shall commence  
16 immediately, with the Division of Parole of the State Parole Board  
17 maintaining supervision over that defendant, including the  
18 defendant's compliance with any conditions imposed by the court  
19 pursuant to N.J.S.2C:45-1, in accordance with the provisions of this  
20 subsection. Nothing contained in this subsection shall prevent the  
21 court from at any time proceeding under the provisions of  
22 N.J.S.2C:45-1 through **【2C:45-4】** N.J.S.2C:45-4 against any such  
23 defendant for a violation of any conditions imposed by the court  
24 when it suspended imposition of sentence, or prevent the Division  
25 of Parole from proceeding under the provisions of sections 16  
26 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-  
27 123.63 and C.30:4-123.65) against any such defendant for a  
28 violation of any conditions of the special sentence of parole  
29 supervision for life, including the conditions imposed by the court  
30 pursuant to N.J.S.2C:45-1. In any such proceeding by the Division  
31 of Parole, the provisions of subsection c. of section 3 of P.L.1997,  
32 c.117 (C.30:4-123.51b) authorizing revocation and return to prison  
33 shall be applicable to such a defendant, notwithstanding that the  
34 defendant may not have been sentenced to or served any portion of  
35 a custodial term for conviction of an offense enumerated in  
36 subsection a. of this section.

37 c. A person sentenced to a term of parole supervision for life  
38 may petition the Superior Court for release from that parole  
39 supervision. The judge may grant a petition for release from a  
40 special sentence of parole supervision for life only upon proof by  
41 clear and convincing evidence that the person has not committed a  
42 crime for 15 years since the last conviction or release from  
43 incarceration, whichever is later, and that the person is not likely to  
44 pose a threat to the safety of others if released from parole  
45 supervision. Notwithstanding the provisions of section 22 of  
46 P.L.1979, c.441 (C.30:4-123.66), a person sentenced to a term of  
47 parole supervision for life may be released from that parole  
48 supervision term only by court order as provided in this subsection.

1       d. A person who violates a condition of a special sentence of  
2 community supervision for life or parole supervision for life  
3 imposed pursuant to this section without good cause is guilty of a  
4 crime of the third degree. Notwithstanding any other law to the  
5 contrary, a person sentenced pursuant to this subsection shall be  
6 sentenced to a term of imprisonment, unless the court is clearly  
7 convinced that the interests of justice so far outweigh the need to  
8 deter this conduct and the interest in public safety that a sentence to  
9 imprisonment would be a manifest injustice. Nothing in this  
10 subsection shall preclude subjecting a person who violates any  
11 condition of a special sentence of parole supervision for life to the  
12 provisions of sections 16 through 19 and 21 of P.L.1979, c.441  
13 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) pursuant to  
14 the provisions of subsection c. of section 3 of P.L.1997, c.117  
15 (C.30:4-123.51b).

16       e. A person who, while serving a special sentence of parole  
17 supervision for life imposed pursuant to this section, commits a  
18 violation of N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:11-5,  
19 subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, section 1 of  
20 P.L.1993, c.291 (C.2C:13-6), N.J.S.2C:14-2, N.J.S.2C:14-3,  
21 N.J.S.2C:24-4, section 8 of P.L.    c.    (C.    ) (pending before the  
22 Legislature as this bill), N.J.S.2C:18-2 when the offense is a crime  
23 of the second degree, or subsection a. of N.J.S.2C:39-4 shall be  
24 sentenced to an extended term of imprisonment as set forth in  
25 N.J.S.2C:43-7, which term shall, notwithstanding the provisions of  
26 N.J.S.2C:43-7 or any other law, be served in its entirety prior to the  
27 person's resumption of the term of parole supervision for life.

28       f. The special sentence of parole supervision for life required  
29 by this section may include any of the following Internet access  
30 conditions:

31       (1) Prohibit the person from accessing or using a computer or  
32 any other device with Internet capability without the prior written  
33 approval of the court except the person may use a computer or any  
34 other device with Internet capability in connection with that  
35 person's employment or search for employment with the prior  
36 approval of the person's parole officer;

37       (2) Require the person to submit to periodic unannounced  
38 examinations of the person's computer or any other device with  
39 Internet capability by a parole officer, law enforcement officer or  
40 assigned computer or information technology specialist, including  
41 the retrieval and copying of all data from the computer or device  
42 and any internal or external peripherals and removal of such  
43 information, equipment or device to conduct a more thorough  
44 inspection;

45       (3) Require the person to submit to the installation on the  
46 person's computer or device with Internet capability, at the person's  
47 expense, one or more hardware or software systems to monitor the  
48 Internet use;

1 (4) Require the person to submit to any other appropriate  
2 restrictions concerning the person's use or access of a computer or  
3 any other device with Internet capability; and

4 (5) Require the person to disclose all passwords used by the  
5 person to access any data, information, image, program, signal or  
6 file on the person's computer or any other device with Internet  
7 capability.

8 (cf: P.L.2013, c.214, s.4)

9  
10 6. N.J.S.2C:47-1 is amended to read as follows:

11 2C:47-1. Referral to Adult Diagnostic and Treatment Center;  
12 Commitment; Examination.

13 Whenever a person is convicted of the offense of aggravated  
14 sexual assault, sexual assault, aggravated criminal sexual contact,  
15 kidnapping pursuant to paragraph (2) of subsection c. of  
16 N.J.S.2C:13-1, endangering the welfare of a child by engaging in  
17 sexual conduct which would impair or debauch the morals of the  
18 child pursuant to subsection a. of N.J.S.2C:24-4, endangering the  
19 welfare of a child pursuant to paragraph (4) or (5) of subsection b.  
20 of N.J.S.2C:24-4, leader of a child pornography network pursuant to  
21 section 8 of P.L. c. (C. ) (pending before the Legislature as  
22 this bill), or an attempt to commit any such crime, the judge shall  
23 order the Department of Corrections to complete a psychological  
24 examination of the offender, except the judge shall not require a  
25 psychological examination if the offender is to be sentenced to a  
26 term of life imprisonment without eligibility for parole. The  
27 examination shall include a determination of whether the offender's  
28 conduct was characterized by a pattern of repetitive, compulsive  
29 behavior and, if it was, a further determination of the offender's  
30 amenability to sex offender treatment and willingness to participate  
31 in such treatment. The court's order shall contain a determination  
32 of the offender's legal settlement in accordance with subdivision D  
33 of article 3 of chapter 4 of Title 30 of the Revised Statutes.

34 (cf: P.L.1998, c.72, s.1)

35  
36 7. N.J.S.2C:52-2 is amended to read as follows:

37 2C:52-2. Indictable Offenses.

38 a. In all cases, except as herein provided, wherein a person has  
39 been convicted of a crime under the laws of this State and who has  
40 not been convicted of any prior or subsequent crime, whether within  
41 this State or any other jurisdiction, and has not been convicted of a  
42 disorderly persons or petty disorderly persons offense on more than  
43 two occasions may, after the expiration of a period of 10 years from  
44 the date of his most recent conviction, payment of fine, satisfactory  
45 completion of probation or parole, or release from incarceration for  
46 that crime or for any disorderly persons or petty disorderly persons  
47 offense, whichever is later, present an expungement application to  
48 the Superior Court in the county in which the conviction for the

1 crime was adjudged, which contains a duly verified petition as  
2 provided in N.J.S.2C:52-7 for the criminal conviction sought to be  
3 expunged, and may also contain additional duly verified petitions  
4 for no more than two convictions for any disorderly persons or petty  
5 disorderly persons offenses, praying that the conviction, or  
6 convictions if applicable, and all records and information pertaining  
7 thereto be expunged. The petition for each conviction appended to  
8 an application shall comply with the requirements set forth in  
9 N.J.S.2C:52-1 et seq.

10 Notwithstanding the provisions of the preceding paragraph, a  
11 petition may be filed and presented, and the court may grant an  
12 expungement pursuant to this section, although less than 10 years  
13 has expired in accordance with the requirements of the preceding  
14 paragraph where the court finds:

15 (1) less than 10 years has expired from the satisfaction of a fine,  
16 but the ten-year time requirement is otherwise satisfied, and the  
17 court finds that the person substantially complied with any payment  
18 plan ordered pursuant to N.J.S.2C:46-1 et seq., or could not do so  
19 due to compelling circumstances affecting his ability to satisfy the  
20 fine; or

21 (2) at least five years has expired from the date of his  
22 conviction, payment of fine, satisfactory completion of probation or  
23 parole, or release from incarceration, whichever is later; the person  
24 has not been convicted of a crime, disorderly persons offense, or  
25 petty disorderly persons offense since the time of the conviction;  
26 and the court finds in its discretion that expungement is in the  
27 public interest, giving due consideration to the nature of the  
28 offense, and the applicant's character and conduct since conviction.

29 In determining whether compelling circumstances exist for the  
30 purposes of paragraph (1) of this subsection, a court may consider  
31 the amount of the fine or fines imposed, the person's age at the time  
32 of the offense, the person's financial condition and other relevant  
33 circumstances regarding the person's ability to pay.

34 Although subsequent convictions for no more than two  
35 disorderly or petty disorderly persons offenses shall not be an  
36 absolute bar to relief, the nature of those conviction or convictions  
37 and the circumstances surrounding them shall be considered by the  
38 court and may be a basis for denial of relief if they or either of them  
39 constitute a continuation of the type of unlawful activity embodied  
40 in the criminal conviction for which expungement is sought.

41 b. Records of conviction pursuant to statutes repealed by this  
42 Code for the crimes of murder, manslaughter, treason, anarchy,  
43 kidnapping, rape, forcible sodomy, arson, perjury, false swearing,  
44 robbery, embracery, or a conspiracy or any attempt to commit any  
45 of the foregoing, or aiding, assisting or concealing persons accused  
46 of the foregoing crimes, shall not be expunged.

47 Records of conviction for the following crimes specified in the  
48 New Jersey Code of Criminal Justice shall not be subject to



1 expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except  
2 death by auto as specified in N.J.S.2C:11-5; N.J.S.2C:13-1  
3 (Kidnapping); section 1 of P.L.1993, c.291 (C.2C:13-6) (Luring or  
4 Enticing); section 1 of P.L.2005, c.77 (C.2C:13-8) (Human  
5 Trafficking); N.J.S.2C:14-2 (Sexual Assault or Aggravated Sexual  
6 Assault); subsection a. of N.J.S.2C:14-3 (Aggravated Criminal  
7 Sexual Contact); if the victim is a minor, subsection b. of  
8 N.J.S.2C:14-3 (Criminal Sexual Contact); if the victim is a minor  
9 and the offender is not the parent of the victim, N.J.S.2C:13-2  
10 (Criminal Restraint) or N.J.S.2C:13-3 (False Imprisonment);  
11 N.J.S.2C:15-1 (Robbery); N.J.S.2C:17-1 (Arson and Related  
12 Offenses); subsection a. of N.J.S.2C:24-4 (Endangering the welfare  
13 of a child by engaging in sexual conduct which would impair or  
14 debauch the morals of the child, or causing the child other harm);  
15 paragraph (4) of subsection b. of N.J.S.2C:24-4 (Photographing or  
16 filming a child in a prohibited sexual act or for portrayal in a  
17 sexually suggestive manner); paragraph (3) of subsection b. of  
18 N.J.S.2C:24-4 (Causing or permitting a child to engage in a  
19 prohibited sexual act or the simulation of an act, or to be portrayed  
20 in a sexually suggestive manner); subparagraph (a) of paragraph (5)  
21 of subsection b. of N.J.S.2C:24-4 (Distributing, possessing with  
22 intent to distribute or using a file-sharing program to store items  
23 depicting the sexual exploitation or abuse of a child); subparagraph  
24 (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4 (Possessing  
25 or viewing items depicting the sexual exploitation or abuse of a  
26 child); section 8 of P.L. c. (C. ) (pending before the  
27 Legislature as this bill) (Leader of a child pornography network);  
28 N.J.S.2C:28-1 (Perjury); N.J.S.2C:28-2 (False Swearing); paragraph  
29 (4) of subsection b. of N.J.S.2C:34-1 (Knowingly promoting the  
30 prostitution of the actor's child); section 2 of P.L.2002, c.26  
31 (C.2C:38-2) (Terrorism); subsection a. of section 3 of P.L.2002,  
32 c.26 (C.2C:38-3) (Producing or Possessing Chemical Weapons,  
33 Biological Agents or Nuclear or Radiological Devices); and  
34 conspiracies or attempts to commit such crimes.

35 Records of conviction for any crime committed by a person  
36 holding any public office, position or employment, elective or  
37 appointive, under the government of this State or any agency or  
38 political subdivision thereof and any conspiracy or attempt to  
39 commit such a crime shall not be subject to expungement if the  
40 crime involved or touched such office, position or employment.

41 c. In the case of conviction for the sale or distribution of a  
42 controlled dangerous substance or possession thereof with intent to  
43 sell, expungement shall be denied except where the crimes involve:

44 (1) Marijuana, where the total quantity sold, distributed or  
45 possessed with intent to sell was 25 grams or less;

46 (2) Hashish, where the total quantity sold, distributed or  
47 possessed with intent to sell was five grams or less; or

1 (3) Any controlled dangerous substance provided that the  
2 conviction is of the third or fourth degree, where the court finds that  
3 expungement is consistent with the public interest, giving due  
4 consideration to the nature of the offense and the petitioner's  
5 character and conduct since conviction.

6 d. In the case of a State licensed physician or podiatrist  
7 convicted of an offense involving drugs or alcohol or pursuant to  
8 section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the  
9 court shall notify the State Board of Medical Examiners upon  
10 receipt of a petition for expungement of the conviction and records  
11 and information pertaining thereto.

12 (cf: P.L.2015, c.261, s.2)

13  
14 8. (New section) a. A person is a leader of a child pornography  
15 network if he knowingly conspires with others as an organizer,  
16 moderator, administrator, programmer, recruiter, or facilitator to  
17 engage in a scheme or course of conduct to establish or maintain an  
18 interconnected network through which files containing one or more  
19 items depicting the sexual exploitation or abuse of a child are in any  
20 way made available to or accessible among an organized group of  
21 users or participants.

22 b. Leader of a child pornography network is a crime of the first  
23 degree if the offense involves 100,000 or more items depicting the  
24 sexual exploitation or abuse of a child; a crime of the second degree  
25 if the offense involves at least 1,000 but less than 100,000 items  
26 depicting the sexual exploitation or abuse of a child; and a crime of  
27 the third degree if the offense involves less than 1,000 items  
28 depicting the sexual exploitation or abuse of a child.

29 c. For aggregation purposes, each item depicting the sexual  
30 exploitation or abuse of a child made available or accessible  
31 through a distribution network shall be considered a separate item,  
32 provided that each item that is in the form of a photograph, picture,  
33 image, or visual depiction of a similar nature shall be considered to  
34 be one item and each depiction that is in the form of a film, video,  
35 video-clip, movie, or visual depiction of a similar nature shall be  
36 considered to be 10 separate items.

37 d. Notwithstanding the provisions of N.J.S.2C:1-8, a conviction  
38 of leader of a child pornography network shall not merge with the  
39 conviction for any offense which is the object of the conspiracy, nor  
40 shall the other conviction merge with a conviction under this  
41 section. Nothing contained in this section shall be construed in any  
42 way to preclude or limit the prosecution or conviction of any person  
43 for conspiracy under the provisions of N.J.S.2C:5-2, or any  
44 prosecution or conviction for endangering the welfare of children  
45 under the provisions of N.J.S.2C:24-4 or any other provision of law.

46 e. As used in this section:

47 "Interconnected network" means a set of computer nodes,  
48 including but not limited to personal computers, mobile devices,

1 and physical or virtual servers that are linked together to facilitate  
2 the transmission of data between users.

3 “Item depicting the sexual exploitation or abuse of a child” shall  
4 have the same meaning as provided in subsection b. of N.J.S.2C:24-  
5 4.

6  
7 9. This act shall take effect on the first day of the seventh  
8 month following enactment.

9  
10  
11 \_\_\_\_\_  
12  
13 Establishes additional penalties related to child pornography and  
14 expands crime to include portrayal of child in sexual manner;  
15 establishes crime of leader of child pornography network.