ASSEMBLY, No. 363

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman SEAN T. KEAN
District 30 (Monmouth and Ocean)
Assemblywoman AURA K. DUNN
District 25 (Morris and Somerset)

Co-Sponsored by:
Assemblyman Peters

SYNOPSIS

Bars custody of and visitation rights to child for a person convicted of aggravated sexual assault of a child under age 13.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 5/1/2020)

AN ACT concerning parental rights in certain cases and amending P.L.1995, c.55.

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

1. Section 1 of P.L.1995, c.55 (C.9:2-4.1) is amended to read as follows:

1. a. (1) Notwithstanding any provision of law to the contrary, a person convicted of aggravated sexual assault or sexual assault under N.J.S.2C:14-2 against a victim who was at least 13 years old at the time of the offense shall not be awarded the custody of or visitation rights to any minor child, including a minor child who was born as a result of or was the victim of the sexual assault, except upon a showing by clear and convincing evidence that it is in the best interest of the child for custody or visitation rights to be awarded. **[**However, a**]** A court that awards such custody or visitation rights to a person convicted of aggravated sexual assault or sexual assault under N.J.S.2C:14-2 shall stay enforcement of the order or judgment for at least 10 days in order to permit the appeal of the order or judgment and application for a stay in accordance with the Rules of Court.

(2) Notwithstanding any provision of law to the contrary, a person convicted of aggravated sexual assault under N.J.S.2C:14-2 against a victim who was less than 13 years old at the time of the offense shall not be awarded the custody of or visitation rights to any minor child, including a minor child who was born as a result of or was the victim of the aggravated sexual assault. A court that awards such custody or visitation rights to a person convicted of aggravated sexual assault under N.J.S.2C:14-2 shall stay enforcement of the order or judgment for at least 10 days in order to permit the appeal of the order or judgment and application for a stay in accordance with the Rules of Court.

b. Notwithstanding any provision of law to the contrary, a person convicted of sexual contact under N.J.S.2C:14-3 or endangering the welfare of a child under N.J.S.2C:24-4 shall not be awarded the custody of or visitation rights to any minor child, except upon a showing by clear and convincing evidence that it is in the best interest of the child for such custody or visitation rights to be awarded. **[**However, a**]** A court that awards such custody or visitation rights to a person convicted of sexual contact under N.J.S.2C:14-3 or endangering the welfare of a child under N.J.S.2C:24-4 shall stay enforcement of the order or judgment for at least 10 days in order to permit the appeal of the order or judgment and application for a stay in accordance with the Rules of Court.

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.

c. A denial of custody or visitation under this section shall not by itself terminate the parental rights of the person denied visitation or custody, nor shall it affect the obligation of the person to support the minor child.

d. In any proceeding for establishment or enforcement of such an obligation of support the victim shall not be required to appear in the presence of the obligor and the victim's and child's whereabouts shall be kept confidential.

(cf: P.L.1999, c.424, s.1)

2. This act shall take effect immediately.

STATEMENT

This bill would bar any right to custody or visitation of a child for any person convicted of aggravated sexual assault against a victim less than 13 years old. Under the Criminal Code, an act of sexual penetration with a victim who is less than 13 years old constitutes aggravated sexual assault, a crime of the first degree (punishable by a term of imprisonment of 10 to 20 years, a fine of up to $200,000, or both). A person convicted of such an offense must also register under Megan’s Law upon release from incarceration.

Under section 1 of P.L.1995, c.55 (C.9:2-4.1), a person convicted of aggravated sexual assault pursuant to N.J.S.2C:14-2; sexual assault pursuant to N.J.S.2C:14-2; sexual contact pursuant to N.J.S.2C:14-3; or endangering the welfare of a child pursuant to N.J.S.2C:24-4 shall not be awarded custody of or visitation rights to any minor child, except upon a showing by clear and convincing evidence that custody or visitation is in the best interest of the child.

This bill would eliminate the opportunity for a sex offender to try to show that custody or visitation is in a child’s best interest in any case where the offender’s crime was the aggravated sexual assault of a child under age 13. Under the bill, such a person could not be awarded custody or visitation of any child under any circumstances.