

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 717

STATE OF NEW JERSEY

DATED: FEBRUARY 13, 2020

The Assembly Judiciary Committee reports favorably Assembly Bill No. 717.

This bill would allow prosecutions for certain criminal conduct against minors that takes place outside of New Jersey.

The bill is in response to State v. Sumulikowski, 221 N.J. 93 (2015), where the New Jersey Supreme Court ruled that the State did not have territorial jurisdiction to prosecute two employees of a New Jersey high school for unlawful sexual conduct with three New Jersey students that took place in Germany. The employees, a teacher and a school administrator, had been chaperoning the students on a school-sponsored trip. The defendants were indicted in Bergen County for sexual assault and endangering the welfare of a child, but the court dismissed the charges on jurisdictional grounds. Under current law, set out in N.J.S.2C:1-3, a person may be convicted of an offense under the law of this State if either the conduct which is an element of the offense or the result which is such an element occurs within this State. In Sumulikowski, the court held that no such “conduct” had taken place in New Jersey because the offense did not take place in New Jersey. The court ruled that, although the defendants did take on their status as chaperones for the students in New Jersey, such status was insufficient for jurisdiction.

The bill would expand the jurisdiction of the statutes concerning the following crimes:

- aggravated sexual assault pursuant to subparagraph (b) of paragraph (2) of subsection a. of N.J.S.2C:14-2 (an act of sexual penetration committed by an actor who has supervisory or disciplinary power over a victim who is at least 13 but less than 16 years old; crime of the first degree);
- sexual assault pursuant to subparagraph (b) of paragraph (3) of subsection c. of N.J.S.2C:14-2 (an act of sexual penetration committed by an actor who has supervisory or disciplinary power over a victim who is at least 16 but less than 18 years old; crime of the second degree); and
- endangering the welfare of a child pursuant to subparagraph (a) of paragraph (1) of subsection a. of N.J.S.2C:24-4 (a person having a legal duty for the care of the child engaging

in sexual conduct which would impair or debauch the morals of the child).

Under the bill, for the purposes of determining territorial jurisdiction pursuant to N.J.S.2C:1-3, when an actor's supervisory or disciplinary power over a victim commences in this State, an act of sexual penetration or sexual contact with the victim occurring outside the State constitutes an offense under N.J.S.2C:14-2 as if the conduct occurred in this State.

With regard to N.J.S.2C:24-4, the bill provides that for the purposes of determining territorial jurisdiction pursuant to N.J.S.2C:1-3, the assumption of responsibility in this State for the care of a child would be considered conduct which is a material element of the offense. Under the bill, any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in sexual conduct within this State which would impair or debauch the morals of the child, or any person having a legal duty in this State for the care of a child or who has assumed responsibility in this State for the care of a child who engages in sexual conduct outside this State which would impair or debauch the morals of the child, would be guilty of a crime of the second degree.

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.