

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 717

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 18, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 717, with committee amendments.

The bill is in response to State v. Sumulikoski, 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 Sumulikoski, 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.

COMMITTEE AMENDMENTS:

The committee amendments are technical in nature. The amendments set out the new language in N.J.S.2C:24-4a.(1) in a separate subparagraph (b).

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the expansion of jurisdiction for certain crimes against minors would result in an indeterminate annual State expenditure increase. The following State agencies would incur caseload and expenditure increases: a) the Department of Law and Public Safety would have to prosecute additional cases; b) the Judiciary would have to adjudicate additional offenders and monitor additional probationers; c) the Office of the Public Defender would have to represent additional low-income criminal defendants; d) the Department of Corrections would have to house and care for more individuals sentenced to prison terms; and e) the State Parole Board would have to supervise the return to society of additional convicts.

The State may also receive indeterminate revenue from additional fines and penalties imposed on individuals convicted by expanding the jurisdiction for certain crimes; however, the State's ability to collect criminal fines and penalties has historically been limited.

The OLS lacks sufficient information to quantify the fiscal impact as it is not possible to know how many additional people would be prosecuted, tried, and sentenced due to the expanded jurisdiction of these crimes.