

ASSEMBLY, No. 771

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman BRIAN E. RUMPF

District 9 (Atlantic, Burlington and Ocean)

Assemblywoman DIANNE C. GOVE

District 9 (Atlantic, Burlington and Ocean)

SYNOPSIS

Requires certain offenders to register under Megan's Law; upgrades the crimes of invasion of privacy and peering into a window of a dwelling for a second or subsequent offense.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning Megan’s Law and amending P.L.1994, c.133,
2 P.L.2003, c.206 and N.J.S.2C:18-3.

3

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

6

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

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

13 (2) A person who in another jurisdiction is required to register
14 as a sex offender and (a) is enrolled on a full-time or part-time basis
15 in any public or private educational institution in this State,
16 including any secondary school, trade or professional institution,
17 institution of higher education or other post-secondary school, or
18 (b) is employed or carries on a vocation in this State, on either a
19 full-time or a part-time basis, with or without compensation, for
20 more than 14 consecutive days or for an aggregate period exceeding
21 30 days in a calendar year, shall register in this State as provided in
22 subsections c. and d. of this section.

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

25 b. For the purposes of this act a sex offense shall include the
26 following:

27 (1) Aggravated sexual assault, sexual assault, aggravated
28 criminal sexual contact, kidnapping pursuant to paragraph (2) of
29 subsection c. of N.J.S.2C:13-1 or an attempt to commit any of these
30 crimes if the court found that the offender’s conduct was
31 characterized by a pattern of repetitive, compulsive behavior,
32 regardless of the date of the commission of the offense or the date
33 of conviction;

34 (2) A conviction, adjudication of delinquency, or acquittal by
35 reason of insanity for aggravated sexual assault; sexual assault;
36 aggravated criminal sexual contact; kidnapping pursuant to
37 paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the
38 welfare of a child by engaging in sexual conduct which would
39 impair or debauch the morals of the child pursuant to subsection a.
40 of N.J.S.2C:24-4; invasion of privacy pursuant to section 1 of
41 P.L.2003, c.206 (C.2C:14-9); peering into a window pursuant to
42 subsection c. of N.J.S.2C:18-3; endangering the welfare of a child
43 pursuant to paragraph (3) or (4) or subparagraph (a) of paragraph
44 (5) of subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to
45 section 1 of P.L.1993, c.291 (C.2C:13-6); criminal sexual contact

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 pursuant to N.J.S.2C:14-3b. if the victim is a minor; kidnapping
2 pursuant to N.J.S.2C:13-1, criminal restraint pursuant to
3 N.J.S.2C:13-2, or false imprisonment pursuant to N.J.S.2C:13-3 if
4 the victim is a minor and the offender is not the parent of the
5 victim; knowingly promoting prostitution of a child pursuant to
6 paragraph (3) or paragraph (4) of subsection b. of N.J.S.2C:34-1; or
7 an attempt to commit any of these enumerated offenses if the
8 conviction, adjudication of delinquency or acquittal by reason of
9 insanity is entered on or after the effective date of this act or the
10 offender is serving a sentence of incarceration, probation, parole or
11 other form of community supervision as a result of the offense or is
12 confined following acquittal by reason of insanity or as a result of
13 civil commitment on the effective date of this act;

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

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

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

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

41 (3) A person moving to or returning to this State from another
42 jurisdiction shall register with the chief law enforcement officer of
43 the municipality in which the person will reside or, if the
44 municipality does not have a local police force, the Superintendent
45 of State Police within 120 days of the effective date of this act or 10
46 days of first residing in or returning to a municipality in this State,
47 whichever is later;

48 (4) A person required to register on the basis of a conviction

1 prior to the effective date who is not confined or under supervision
2 on the effective date of this act shall register within 120 days of the
3 effective date of this act with the chief law enforcement officer of
4 the municipality in which the person will reside or, if the
5 municipality does not have a local police force, the Superintendent
6 of State Police;

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

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

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

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

44 (2) A person required to register under this act shall provide the
45 appropriate law enforcement agency with information as to whether
46 the person has routine access to or use of a computer or any other
47 device with Internet capability. A person who fails to notify the
48 appropriate law enforcement agency of such information or of a

1 change in the person's access to or use of a computer or other
2 device with Internet capability or who provides false information
3 concerning the person's access to or use of a computer or any other
4 device with Internet capability is guilty of a crime of the fourth
5 degree.

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

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

32 g. A person required to register under this section who has
33 been convicted of, adjudicated delinquent, or acquitted by reason of
34 insanity for more than one sex offense as defined in subsection b. of
35 this section or who has been convicted of, adjudicated delinquent,
36 or acquitted by reason of insanity for aggravated sexual assault
37 pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault
38 pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not
39 eligible under subsection f. of this section to make application to
40 the Superior Court of this State to terminate the registration
41 obligation.

42 (cf: P.L.2007, c.219, s.2)

43

44 2. Section 1 of P.L.2003, c.206 (C.2C:14-9) is amended to read
45 as follows:

46 1. a. An actor commits a crime of the fourth degree if,
47 knowing that he is not licensed or privileged to do so, and under
48 circumstances in which a reasonable person would know that

1 another may expose intimate parts or may engage in sexual
2 penetration or sexual contact, he observes another person without
3 that person's consent and under circumstances in which a reasonable
4 person would not expect to be observed. A person who is convicted
5 of a second or subsequent crime under this subsection is guilty of a
6 crime of the third degree.

7 b. An actor commits a crime of the third degree if, knowing
8 that he is not licensed or privileged to do so, he photographs, films,
9 videotapes, records, or otherwise reproduces in any manner, the
10 image of another person whose intimate parts are exposed or who is
11 engaged in an act of sexual penetration or sexual contact, without
12 that person's consent and under circumstances in which a reasonable
13 person would not expect to be observed.

14 c. An actor commits a crime of the third degree if, knowing
15 that he is not licensed or privileged to do so, he discloses any
16 photograph, film, videotape, recording or any other reproduction of
17 the image of another person whose intimate parts are exposed or
18 who is engaged in an act of sexual penetration or sexual contact,
19 unless that person has consented to such disclosure. For purposes
20 of this subsection, "disclose" means sell, manufacture, give,
21 provide, lend, trade, mail, deliver, transfer, publish, distribute,
22 circulate, disseminate, present, exhibit, advertise or offer.
23 Notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
24 fine not to exceed \$30,000 may be imposed for a violation of this
25 subsection.

26 d. It is an affirmative defense to a crime under this section that:
27 (1) the actor posted or otherwise provided prior notice to the
28 person of the actor's intent to engage in the conduct specified in
29 subsection a., b., or c., and

30 (2) the actor acted with a lawful purpose.

31 e. (1) It shall not be a violation of subsection a. or b. to observe
32 another person in the access way, foyer or entrance to a fitting room
33 or dressing room operated by a retail establishment or to
34 photograph, film, videotape, record or otherwise reproduce the
35 image of such person, if the actor conspicuously posts at the
36 entrance to the fitting room or dressing room prior notice of his
37 intent to make the observations, photographs, films, videotapes,
38 recordings or other reproductions.

39 (2) It shall be a violation of subsection c. to disclose in any
40 manner any such photograph, film, videotape or recording of
41 another person using a fitting room or dressing room except under
42 the following circumstances:

43 (a) to law enforcement officers in connection with a criminal
44 prosecution;

45 (b) pursuant to subpoena or court order for use in a legal
46 proceeding; or

47 (c) to a co-worker, manager or supervisor acting within the
48 scope of his employment.

1 f. It shall be a violation of subsection a. or b. to observe
2 another person in a private dressing stall of a fitting room or
3 dressing room operated by a retail establishment or to photograph,
4 film, videotape, record or otherwise reproduce the image of another
5 person in a private dressing stall of a fitting room or dressing room.

6 g. For purposes of this act, a law enforcement officer, or a
7 corrections officer or guard in a correctional facility or jail, who is
8 engaged in the official performance of his duties shall be deemed to
9 be licensed or privileged to make and to disclose observations,
10 photographs, films, videotapes, recordings or any other
11 reproductions.

12 h. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
13 provisions of law, a conviction arising under subsection b. of this
14 section shall not merge with a conviction under subsection c. of this
15 section, nor shall a conviction under subsection c. merge with a
16 conviction under subsection b.

17 (cf: P.L.2003, c.206, s.1)

18

19 3. N.J.S.2C:18-3 is amended to read as follows:

20 2C:18-3. a. Unlicensed entry of structures. A person commits
21 an offense if, knowing that he is not licensed or privileged to do so,
22 he enters or surreptitiously remains in any research facility,
23 structure, or separately secured or occupied portion thereof. An
24 offense under this subsection is a crime of the fourth degree if it is
25 committed in a school or on school. The offense is a crime of the
26 fourth degree if it is committed in a dwelling. An offense under this
27 section is a crime of the fourth degree if it is committed in a
28 research facility, power generation facility, waste treatment facility,
29 public sewage facility, water treatment facility, public water
30 facility, nuclear electric generating plant or any facility which
31 stores, generates or handles any hazardous chemical or chemical.
32 Otherwise it is a disorderly persons offense.

33 b. Defiant trespasser. A person commits a petty disorderly
34 persons offense if, knowing that he is not licensed or privileged to
35 do so, he enters or remains in any place as to which notice against
36 trespass is given by:

37 (1) Actual communication to the actor; or

38 (2) Posting in a manner prescribed by law or reasonably likely
39 to come to the attention of intruders; or

40 (3) Fencing or other enclosure manifestly designed to exclude
41 intruders.

42 c. Peering into windows or other openings of dwelling places.
43 A person commits a crime of the fourth degree if, knowing that he
44 is not licensed or privileged to do so, he peers into a window or
45 other opening of a dwelling or other structure adapted for overnight
46 accommodation for the purpose of invading the privacy of another
47 person and under circumstances in which a reasonable person in the
48 dwelling or other structure would not expect to be observed. A

1 person who is convicted of a second or subsequent crime under this
2 subsection is guilty of a crime of the third degree.

3 d. Defenses. It is an affirmative defense to prosecution under
4 this section that:

5 (1) A structure involved in an offense under subsection a. was
6 abandoned;

7 (2) The structure was at the time open to members of the public
8 and the actor complied with all lawful conditions imposed on access
9 to or remaining in the structure; or

10 (3) The actor reasonably believed that the owner of the
11 structure, or other person empowered to license access thereto,
12 would have licensed him to enter or remain, or, in the case of
13 subsection c. of this section, to peer.

14 (cf: P.L.2005, c.100, s.1).

15
16 4. This act shall take effect immediately.
17
18

19 STATEMENT
20

21 This bill amends “Megan’s Law,” N.J.S.A.2C:7-2, to expand the
22 enumerated list of offenses which would require an offender to
23 comply with the State’s sex offender registration requirements.
24 Under the provisions of the bill, a person who is convicted of,
25 adjudicated delinquent or found not guilty by reason of insanity for
26 the commission of the crime of invasion of privacy, N.J.S.A.2C:14-
27 9, or the crime of peering into windows or other openings of a
28 dwelling, N.J.S.A.2C:18-3, would be required to register under the
29 State’s “Megan’s Law” registry. The crime of invasion of privacy,
30 subsection a. of N.J.S.A.2C:14-9, results when a person, knowing
31 that he is not licensed or privileged to do so, and under
32 circumstances in which a reasonable person would know that
33 another person may expose intimate parts or may engage in sexual
34 penetration or sexual contact, observes another person without that
35 person’s consent and under circumstances in which a reasonable
36 person would not expect to be observed. A person commits the
37 crime of peering into a window or other opening, subsection c. of
38 N.J.S.A.2C:18-3, if knowing that he is not licensed or privileged to
39 do so, he peers into a window or other opening of a dwelling or
40 other structure adapted for overnight accommodation for the
41 purpose of invading the privacy of another person and under
42 circumstances in which a reasonable person in the dwelling or other
43 structure would not expect to be observed.

44 In addition, this bill would upgrade these enumerated crimes
45 from crimes of the fourth degree to crimes of the third degree if a
46 person is convicted of a second or subsequent crime under either
47 invasion of privacy or peering into a window.