

ASSEMBLY, No. 1739

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

SYNOPSIS

Imposes mandatory fine and education requirement for certain prostitution offenses committed within 500 feet of a school, registered day care or licensed child care facility property; creates fund.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning prostitution and amending P.L. 1997, c.93.

2

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

5

6 1. 2C:34-1. Prostitution and Related Offenses.

7 a. As used in this section:

8 (1) "Prostitution" is sexual activity with another person in
9 exchange for something of economic value, or the offer or
10 acceptance of an offer to engage in sexual activity in exchange for
11 something of economic value.

12 (2) "Sexual activity" includes, but is not limited to, sexual
13 intercourse, including genital-genital, oral-genital, anal-genital, and
14 oral-anal contact, whether between persons of the same or opposite
15 sex; masturbation; touching of the genitals, buttocks, or female
16 breasts; sadistic or masochistic abuse and other deviate sexual
17 relations.

18 (3) "House of prostitution" is any place where prostitution or
19 promotion of prostitution is regularly carried on by one person
20 under the control, management or supervision of another.

21 (4) "Promoting prostitution" is:

22 (a) Owning, controlling, managing, supervising or otherwise
23 keeping, alone or in association with another, a house of
24 prostitution or a prostitution business;

25 (b) Procuring an inmate for a house of prostitution or place in a
26 house of prostitution for one who would be an inmate;

27 (c) Encouraging, inducing, or otherwise purposely causing
28 another to become or remain a prostitute;

29 (d) Soliciting a person to patronize a prostitute;

30 (e) Procuring a prostitute for a patron;

31 (f) Transporting a person into or within this State with purpose
32 to promote that person's engaging in prostitution, or procuring or
33 paying for transportation with that purpose; or

34 (g) Knowingly leasing or otherwise permitting a place
35 controlled by the actor, alone or in association with others, to be
36 regularly used for prostitution or promotion of prostitution, or
37 failure to make a reasonable effort to abate such use by ejecting the
38 tenant, notifying law enforcement authorities, or other legally
39 available means.

40 b. A person commits an offense if:

41 (1) The actor engages in prostitution as a patron;

42 (2) The actor promotes prostitution;

43 (3) The actor knowingly promotes prostitution of a child under
44 18 whether or not the actor mistakenly believed that the child was

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 18 years of age or older, even if such mistaken belief was
2 reasonable;

3 (4) The actor knowingly promotes prostitution of the actor's
4 child, ward, or any other person for whose care the actor is
5 responsible;

6 (5) The actor compels another to engage in or promote
7 prostitution;

8 (6) The actor promotes prostitution of the actor's spouse;

9 (7) The actor knowingly engages in prostitution with a person
10 under the age of 18, or if the actor enters into or remains in a house
11 of prostitution for the purpose of engaging in sexual activity with a
12 child under the age of 18, or if the actor solicits or requests a child
13 under the age of 18 to engage in sexual activity. It shall be no
14 defense to a prosecution under this paragraph that the actor
15 mistakenly believed that the child was 18 years of age or older,
16 even if such mistaken belief was reasonable; or

17 (8) The actor engages in prostitution by personally offering
18 sexual activity in exchange for something of economic value.

19 c. Grading of offenses under subsection b.

20 (1) An offense under subsection b. constitutes a crime of the
21 first degree if the offense falls within paragraph (3) or (4) of that
22 subsection.

23 (2) An offense under subsection b. constitutes a crime of the
24 second degree if the offense falls within paragraph (7) of that
25 subsection.

26 (3) An offense under subsection b. constitutes a crime of the
27 third degree if the offense falls within paragraph (5) or (6) of that
28 subsection.

29 (4) An offense under paragraph (2) of subsection b. constitutes a
30 crime of the third degree if the conduct falls within subparagraph
31 (a), (b), (c), (f), or (g) of paragraph (4) of subsection a. Otherwise
32 the offense is a crime of the fourth degree.

33 (5) An offense under subsection b. constitutes a disorderly
34 persons offense if the offense falls within paragraph (1) of that
35 subsection except that a second or third conviction for such an
36 offense constitutes a crime of the fourth degree, and a fourth or
37 subsequent conviction for such an offense constitutes a crime of the
38 third degree. In addition, where a motor vehicle was used in the
39 commission of any offense under paragraph (1) of subsection b. the
40 court shall suspend for six months the driving privilege of any such
41 offender who has a valid driver's license issued by this State. Upon
42 conviction, the court shall immediately collect the offender's
43 driver's license and shall forward it, along with a report stating the
44 first and last day of the suspension imposed pursuant to this
45 paragraph, to the New Jersey Motor Vehicle Commission.

46 (6) An offense under subsection b. constitutes a disorderly
47 persons offense if the offense falls within paragraph (8) of that

1 subsection, except that a second or subsequent conviction for such
2 an offense constitutes a crime of the fourth degree.

3 d. Presumption from living off prostitutes. A person, other
4 than the prostitute or the prostitute's minor child or other legal
5 dependent incapable of self-support, who is supported in whole or
6 substantial part by the proceeds of prostitution is presumed to be
7 knowingly promoting prostitution.

8 e. It is an affirmative defense to prosecution for a violation of
9 this section that, during the time of the alleged commission of the
10 offense, the defendant was a victim of human trafficking pursuant
11 to section 1 of P.L.2005, c.77 (C.2C:13-8) or compelled by another
12 to engage in sexual activity, regardless of the defendant's age.

13 f. (1) Any fine set forth in N.J.S.2C:43-3 that is imposed upon
14 a person by a municipal court for a conviction of a disorderly
15 persons offense under this section shall be collected,
16 notwithstanding the procedures for the collection of fines and
17 restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4), by the
18 municipal court administrator and paid into the municipal treasury
19 of the municipality in which the offense was committed.

20 (2) In addition to any fine, fee, assessment, or penalty
21 authorized under the provisions of Title 2C of the New Jersey
22 Statutes, a person convicted of an offense of prostitution or related
23 offense under paragraph (2), (3), (4), (5), (6), or (7) of subsection b.
24 shall be assessed a penalty of at least \$10,000 but not more than
25 \$50,000, except if the offense involved promotion of the
26 prostitution of a child under the age of 18, the penalty shall be at
27 least \$25,000. All penalties provided for in this subsection,
28 collected as provided for the collection of fines and restitutions in
29 section 3 of P.L.1979, c.396 (C.2C:46-4), shall be forwarded to the
30 Department of the Treasury to be deposited in the "Human
31 Trafficking Survivor's Assistance Fund" established by section 2 of
32 P.L.2013, c.51 (C.52:17B-238).

33 g. In addition to any other disposition authorized by law, the
34 court shall order any person who violates paragraphs (1) and (8) of
35 subsection b. of this section while on any school property used for
36 school purposes which is owned by or leased to any elementary or
37 secondary school or school board, or within 500 feet of such school
38 property or a school bus, or while on any school bus, or while on
39 any property used as a registered family day care provider or as a
40 licensed child care provider to participate in the "Prostitution
41 Offender Education Program," established pursuant to section 5 of
42 P.L. , c. (C.) (pending before the Legislature as this bill), and
43 to pay a fine as set out in section 3 of P.L. , c. (C.) (pending
44 before the Legislature as this bill).

45 A map or true copy of a map depicting the location and
46 boundaries of the area on or within 500 feet of any property used
47 for school purposes which is owned by or leased to any elementary
48 or secondary school or school board produced pursuant to section 1

1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
2 this section.

3 It shall be no defense to a prosecution for a violation of this
4 section that the actor was unaware that the prohibited conduct took
5 place while on or within 500 feet of any school property. Nor shall
6 it be a defense to a prosecution under this section, or under any
7 other provision of this title, that no juveniles were present on the
8 school property at the time of the offense or that the school was not
9 in session.
10 (cf: P.L.2013, c.51, s.9)

11
12 2. (New section) In a prosecution under subsection g. of
13 N.J.S.2C:34-1, a map produced or reproduced by any municipal or
14 county engineer for the purpose of depicting the location and
15 boundaries of the area on or within 500 feet of any property used as
16 a registered family day care provider or as a licensed child care
17 provider or a true copy of such a map, shall, upon proper
18 authentication, be admissible and shall constitute prima facie
19 evidence of the location and boundaries of those areas, provided
20 that the governing body of the municipality or county has adopted a
21 resolution or ordinance approving the map as official finding and
22 record of the location and boundaries of the area or areas on or
23 within 500 feet of the property used as a registered family day care
24 provider or as a licensed child care provider. Any map approved
25 pursuant to this section may be changed from time to time by the
26 governing body of the municipality or county. The original of
27 every map approved or revised pursuant to this section, or a true
28 copy thereof, shall be filed with the clerk of the municipality or
29 county, and shall be maintained as an official record of the
30 municipality or county. Nothing in this section shall be construed to
31 preclude the prosecution from introducing or relying upon any other
32 evidence or testimony to establish any element of this offense; nor
33 shall this section be construed to preclude the use or admissibility
34 of any map or diagram other than one which has been approved by
35 the governing body of a municipality or county, provided that the
36 map or diagram is otherwise admissible pursuant to the Rules of
37 Evidence.

38 It shall be no defense to a prosecution for a violation of
39 subsection g. of N.J.S.2C:34-1 that the actor was unaware that the
40 prohibited conduct took place while on or within 500 feet of any
41 property used as a registered family day care provider or as a
42 licensed child care provider. Nor shall it be a defense to a
43 prosecution under subsection g. of N.J.S.2C:34-1, or under any
44 other provision of this title, that no juveniles were present on the
45 property used as a registered family day care provider or as a
46 licensed child care provider at the time of the offense or that the
47 school was not in session.

1 3. (New section) In addition to any fine, fee, assessment or
2 penalty authorized by law, a person convicted of engaging in a
3 prostitution offense set forth in subsection g. of N.J.S.2C:34-1 shall
4 be assessed a penalty of \$250 for the first offense; \$500 for the
5 second offense; \$1,000 for the third offense; and \$2,000 for the
6 fourth or subsequent offense.

7 All penalties provided for in this section, collected as provided
8 for the collection of fines and restitution in section 3 of P.L.1979,
9 c.396 (C.2C:46-4) shall be forwarded to the Department of the
10 Treasury to be deposited in the "Prostitution Offender Education
11 Fund" established pursuant to section 4 P.L. , c. (C.) (pending
12 before the Legislature as section 4 of this bill).

13
14 4. (New section) There is hereby established a separate, non-
15 lapsing, dedicated fund in the General Fund to be known as the
16 "Prostitution Offender Education Program Fund." This fund shall be
17 administered by the Administrative Office of the Courts and
18 dedicated to the development, establishment, operation and
19 maintenance of the "Prostitution Offender Education Program"
20 created pursuant to section 5 of P.L. , c. (C.) (pending before
21 the Legislature as section 5 of this bill).

22
23 5. (New section) a. There is hereby established an education
24 program to be known as the "Prostitution Offender Education
25 Program."

26 b. The program shall be administered by the Administrative
27 Office of the Courts.

28 c. The program shall educate defendants convicted of engaging
29 in prostitution while on school property or property used as a
30 registered family day care provider or as a licensed child care
31 provider pursuant to subsection g. of N.J.S.2C:34-1 about the risks
32 to young, impressionable persons caused by exposure to conduct
33 amounting to prostitution, including the risks associated with
34 recruitment into prostitution and the correlation between
35 prostitution and human trafficking, especially trafficking of young
36 persons, as well as the long term legal and financial ramifications
37 for families of persons involved in this unlawful activity.

38
39 6. This act shall take effect immediately.

40
41
42 STATEMENT

43
44 This bill would impose mandatory fines on persons who violate
45 paragraphs (1) and (8) of subsection b. of N.J.S.2C:34-1 (engaging
46 in prostitution as a patron, and engaging in prostitution by
47 personally offering sexual activity in exchange for something of
48 economic value, respectively) within 500 feet of a school, day care

1 facility or child care facility. Further, the bill would require a
2 person who is convicted under these paragraphs of engaging in
3 prostitution to participate in a new “Prostitution Offender Education
4 Program.”

5 Under N.J.S.2C:34-1, violations of the prostitution laws range
6 from disorderly persons offenses to crimes of the second degree,
7 depending on the activity. For example, engaging in prostitution is
8 a disorderly persons offense, with a second or subsequent offense
9 constituting a crime of the fourth degree; promoting prostitution by
10 owning or controlling a house of prostitution or a prostitution
11 business is a crime of the third degree; and knowingly promoting
12 the prostitution of a child under the age of 18 is a crime of the
13 second degree.

14 Under this bill, a person who violates paragraphs (1) and (8) of
15 subsection b. of N.J.S.2C:34-1 while on any school property used
16 for school purposes which is owned by or leased to any elementary
17 or secondary school or school board, or within 500 feet of such
18 school property or a school bus, or while on any school bus, or
19 property used as a registered family day care provider or as a
20 licensed child care provider would be assessed a penalty of \$250 for
21 the first offense; \$500 for the second offense; \$1,000 for the third
22 offense; and \$2,000 for the fourth or subsequent offense. This
23 money would be forwarded to the Department of the Treasury to be
24 deposited in the “Prostitution Offender Education Program Fund,”
25 created by this bill. The monies in the fund would be dedicated to
26 the development, establishment, operation and maintenance of the
27 “Prostitution Offender Education Program.” This program would
28 be administered by the Administrative Office of the Courts. These
29 penalties are in addition to any current fines, fees, assessments or
30 penalties already imposed.