

ASSEMBLY, No. 3773

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Prohibits award of custody or visitation rights to persons convicted of certain sex crimes against minors.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning sex crimes against minors and parental rights
2 and amending P.L.1995, c.55.

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

6
7 1. Section 1 of P.L.1995, c.55 (C.9:2-4.1) is amended to read
8 as follows:

9 1. a. Notwithstanding any provision of law to the contrary, a
10 person convicted of sexual assault under N.J.S.2C:14-2, or an
11 equivalent crime under the laws of another jurisdiction, shall not be
12 awarded the custody of or visitation rights to any minor child,
13 including a minor child who was born as a result of or was the
14 victim of the sexual assault, except upon a showing by clear and
15 convincing evidence that it is in the best interest of the child for
16 custody or visitation rights to be awarded. However, a court that
17 awards such custody or visitation rights to a person convicted of
18 sexual assault under N.J.S.2C:14-2 shall stay enforcement of the
19 order or judgment for at least 10 days in order to permit the appeal
20 of the order or judgment and application for a stay in accordance
21 with the Rules of Court.

22 b. (1) Notwithstanding any provision of law to the contrary, a
23 person **【**convicted of sexual contact under N.J.S.2C:14-3 or
24 endangering the welfare of a child under N.J.S.2C:24-4 **】** shall not
25 be awarded the custody of or visitation rights to any minor child,
26 except upon a showing by clear and convincing evidence that it is in
27 the best interest of the child for such custody or visitation rights to
28 be awarded, if the person is convicted of any of the following
29 crimes or an equivalent crime under the laws of another
30 jurisdiction:

31 (a) First degree kidnapping under paragraph (2) of subsection c.
32 of N.J.S.2C:13-1;

33 (b) Criminal sexual contact under N.J.S.2C:14-3;

34 (c) Luring or enticing a child under P.L.1993, c.291 (C.2C:13-6)
35 if that person has also any time been convicted under N.J.S.2C:14-
36 2, or subsection a. of N.J.S.2C:14-3, or N.J.S.2C:24-4;

37 (d) Human trafficking under paragraph (1) of subsection a. of
38 P.L.2005, c.77, s.1 (C.2C:13-8) if the person is convicted of
39 knowingly holding, recruiting, luring, enticing, harboring,
40 transporting, providing or obtaining, by any means, another, to
41 engage in sexual activity as defined in paragraph (2) of subsection
42 a. of N.J.S.2C:34-1;

43 (e) Lewdness under paragraph (1) of subsection b. of
44 N.J.S.2C:14-4; or

45 (f) Promoting prostitution of a child under the age of 18,
46 promoting prostitution of the actor's child, or engaging in

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 prostitution with a child under the age of 18 under paragraphs (3),
2 (4), or (7) of subsection b. of N.J.S.2C:34-1.

3 (2) **【However, a】** A court that awards **【such】** custody or
4 visitation rights to a person convicted of the crimes set forth in
5 paragraph (1) of this subsection **【sexual contact under N.J.S.2C:14-**
6 **3 or endangering the welfare of a child under N.J.S.2C:24-4】** shall
7 stay enforcement of the order or judgment for at least 10 days in
8 order to permit the appeal of the order or judgment and application
9 for a stay in accordance with the Rules of Court.

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

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

18 (cf: P.L.1999, c.424)

19
20 2. This act shall take effect immediately.

21 22 23 STATEMENT

24
25 This bill expands the types of crimes for which a conviction
26 would prohibit an award of custody of or visitation rights to a child.
27 The bill is similar to legislation recently enacted in Oklahoma.

28 Under current law, pursuant to subsection a. of N.J.S.9:2-4.1, a
29 person convicted of sexual assault shall not be awarded custody of
30 or visitation rights to any minor child, including a minor child who
31 was born as a result of or was the victim of the sexual assault,
32 except upon a showing by clear and convincing evidence that it is in
33 the best interest of the child for custody or visitation rights to be
34 awarded. Pursuant to subsection b. of N.J.S.9:2-4.1, except upon a
35 showing by clear and convincing evidence that it is in the best
36 interest of the child for custody or visitation rights to be awarded, a
37 person convicted of sexual contact or of endangering the welfare of
38 a child shall not be awarded custody of or visitation rights to any
39 minor child.

40 The bill would add additional criminal acts of a sexual nature to
41 the statute. Under the bill, additional crimes for which a conviction
42 would prohibit an award of custody of or visitation rights to a child,
43 except upon a showing by clear and convincing evidence that it is in
44 the best interest of the child for custody or visitation rights to be
45 awarded, include: first degree kidnapping under paragraph (2) of
46 subsection c. of N.J.S.2C:13-1; criminal sexual contact under
47 N.J.S.2C:14-3; luring or enticing a child under N.J.S.2C:13-6 when
48 the person convicted has also any time been convicted under

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1 N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3, or N.J.S.2C:24-4;
2 human trafficking under N.J.S.2C:13-8 when the conviction is
3 based on the person knowingly holding, recruiting, luring, enticing,
4 harboring, transporting, providing or obtaining, by any means,
5 another, to engage in sexual activity as defined in paragraph (2) of
6 subsection a. of N.J.S.2C:34-1; lewdness under paragraph (1) of
7 subsection b. of N.J.S.2C:14-4; promoting prostitution of the actor's
8 child or a child under the age of 18, or engaging in prostitution with
9 a child under the age of 18 under paragraphs (3), (4), or (7) of
10 subsection b. of N.J.S.2C:34-1.

11 This bill would take effect immediately.