

ASSEMBLY, No. 4976

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED NOVEMBER 12, 2020

Sponsored by:

Assemblywoman LISA SWAIN
District 38 (Bergen and Passaic)

Co-Sponsored by:

Assemblywoman Vainieri Huttie

SYNOPSIS

Increases penalty for failing to register as sex offender for more than 24 months.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/16/2020)

1 AN ACT concerning sex offender registration and amending
2 P.L.1994, c.133.

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]** by this act
24 for less than 24 months shall be guilty of a crime of the third
25 degree. Failure to register as required by this act for 24 months or
26 more shall be a crime of the second degree.

27 b. For the purposes of this act a sex offense shall include the
28 following:

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

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

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 c.291 (C.2C:13-6); criminal sexual contact pursuant to N.J.S.2C:14-
2 3b. if the victim is a minor; kidnapping pursuant to N.J.S.2C:13-1,
3 criminal restraint pursuant to N.J.S.2C:13-2, or false imprisonment
4 pursuant to N.J.S.2C:13-3 if the victim is a minor and the offender
5 is not the parent of the victim; knowingly promoting prostitution of
6 a child pursuant to paragraph (3) or paragraph (4) of subsection b.
7 of N.J.S.2C:34-1; leader of a child pornography network pursuant to
8 section 8 of P.L.2017, c.141 (C.2C:24-4.1); or an attempt to commit
9 any of these enumerated offenses if the conviction, adjudication of
10 delinquency or acquittal by reason of insanity is entered on or after
11 the effective date of this act or the offender is serving a sentence of
12 incarceration, probation, parole or other form of community
13 supervision as a result of the offense or is confined following
14 acquittal by reason of insanity or as a result of civil commitment on
15 the effective date of this act;

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

22 (4) Notwithstanding the provisions of paragraph (1), (2), or (3)
23 of this subsection, a sex offense shall not include an adjudication of
24 delinquency for endangering the welfare of a child pursuant to
25 paragraph (4) or (5) of subsection b. of N.J.S.2C:24-4, provided that
26 the actor demonstrates that:

27 (a) the facts of the case are limited to the creation, exhibition or
28 distribution of a photograph depicting nudity or portraying a child
29 in a sexually suggestive manner, as defined in N.J.S.2C:24-4,
30 through the use of an electronic communications device, an
31 interactive wireless communications device, or a computer;

32 (b) the creator and subject of the photograph are juveniles or
33 were juveniles at the time of its making; and

34 (c) the subject of the photograph whose nudity is depicted or
35 who is portrayed in a sexually suggestive manner, as the case may
36 be, knowingly consented to the making of the photograph.

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

40 (1) A person who is required to register and who is under
41 supervision in the community on probation, parole, furlough, work
42 release, or a similar program, shall register at the time the person is
43 placed under supervision or no later than 120 days after the
44 effective date of this act, whichever is later, in accordance with
45 procedures established by the Department of Corrections, the
46 Department of Human Services, the Juvenile Justice Commission
47 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)

1 or the Administrative Office of the Courts, whichever is responsible
2 for supervision;

3 (2) A person confined in a correctional or juvenile facility or
4 involuntarily committed who is required to register shall register
5 prior to release in accordance with procedures established by the
6 Department of Corrections, the Department of Human Services or
7 the Juvenile Justice Commission and, within 48 hours of release,
8 shall also register with the chief law enforcement officer of the
9 municipality in which the person resides or, if the municipality does
10 not have a local police force, the Superintendent of State Police;

11 (3) A person moving to or returning to this State from another
12 jurisdiction shall register with the chief law enforcement officer of
13 the municipality in which the person will reside or, if the
14 municipality does not have a local police force, the Superintendent
15 of State Police within 120 days of the effective date of this act or 10
16 days of first residing in or returning to a municipality in this State,
17 whichever is later;

18 (4) A person required to register on the basis of a conviction
19 prior to the effective date who is not confined or under supervision
20 on the effective date of this act shall register within 120 days of the
21 effective date of this act with the chief law enforcement officer of
22 the municipality in which the person will reside or, if the
23 municipality does not have a local police force, the Superintendent
24 of State Police;

25 (5) A person who in another jurisdiction is required to register
26 as a sex offender and who is enrolled on a full-time or part-time
27 basis in any public or private educational institution in this State,
28 including any secondary school, trade or professional institution,
29 institution of higher education or other post-secondary school shall,
30 within ten days of commencing attendance at such educational
31 institution, register with the chief law enforcement officer of the
32 municipality in which the educational institution is located or, if the
33 municipality does not have a local police force, the Superintendent
34 of State Police;

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

45 (7) In addition to any other registration requirements set forth in
46 this section, a person required to register under this act who is
47 enrolled at, employed by or carries on a vocation at an institution of
48 higher education or other post-secondary school in this State shall,

1 within 10 days after commencing such attendance, employment or
2 vocation, register with the law enforcement unit of the educational
3 institution, if the institution has such a unit.

4 d. (1) Upon a change of address, a person shall notify the law
5 enforcement agency with which the person is registered and shall
6 re-register with the appropriate law enforcement agency no less
7 than 10 days before **【he intends】** intending to first reside at **【his】**
8 the new address. Upon a change of employment or school
9 enrollment status, a person shall notify the appropriate law
10 enforcement agency no later than five days after any such change.
11 A person who fails to notify the appropriate law enforcement
12 agency of a change of address or status in accordance with this
13 subsection **【is】** for less than 24 months shall be guilty of a crime of
14 the third degree. Failure to notify the appropriate law enforcement
15 agency of a change of address or status in accordance with this
16 subsection for 24 months or more shall be a crime of the second
17 degree.

18 (2) A person required to register under this act shall provide the
19 appropriate law enforcement agency with information as to whether
20 the person has routine access to or use of a computer or any other
21 device with Internet capability. A person who fails to notify the
22 appropriate law enforcement agency of such information or of a
23 change in the person's access to or use of a computer or other
24 device with Internet capability or who provides false information
25 concerning the person's access to or use of a computer or any other
26 device with Internet capability **【is】** shall be guilty of a crime of the
27 third degree.

28 e. A person required to register under paragraph (1) of
29 subsection b. of this section or under paragraph (3) of subsection b.
30 due to a sentence imposed on the basis of criteria similar to the
31 criteria set forth in paragraph (1) of subsection b. shall verify **【his】**
32 the person's address with the appropriate law enforcement agency
33 every 90 days in a manner prescribed by the Attorney General. A
34 person required to register under paragraph (2) of subsection b. of
35 this section or under paragraph (3) of subsection b. on the basis of a
36 conviction for an offense similar to an offense enumerated in
37 paragraph (2) of subsection b. shall verify **【his】** the person's
38 address annually in a manner prescribed by the Attorney General.
39 In addition to address information, the person shall provide as part
40 of the verification process any additional information the Attorney
41 General may require. One year after the effective date of this act,
42 the Attorney General shall review, evaluate and, if warranted,
43 modify pursuant to the "Administrative Procedure Act," P.L.1968,
44 c.410 (C.52:14B-1 et seq.) the verification requirement. Any
45 person who knowingly provides false information concerning **【his】**
46 the person's place of residence or who fails to verify **【his】** the
47 person's address with the appropriate law enforcement agency or

1 other entity, as prescribed by the Attorney General in accordance
2 with this subsection, for less than 24 months is guilty of a crime of
3 the third degree. A person who provides false information or fails
4 to verify the person's address in violation of this subsection for 24
5 months or more shall be guilty of a crime of the second degree.

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

13 g. A person required to register under this section who has
14 been convicted of, adjudicated delinquent, or acquitted by reason of
15 insanity for more than one sex offense as defined in subsection b. of
16 this section or who has been convicted of, adjudicated delinquent,
17 or acquitted by reason of insanity for aggravated sexual assault
18 pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault
19 pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not
20 eligible under subsection f. of this section to make application to
21 the Superior Court of this State to terminate the registration
22 obligation.

23 (cf: P.L.2017, c.141, s.3)

24
25 2. This act shall take effect immediately.

26 27 STATEMENT

28
29 This bill increases the penalty for failing to register as a sex
30 offender or providing false information to law enforcement
31 authorities for two or more years.

32 Under current law, sex offenders are required to register with an
33 appropriate law enforcement agency. The registrant is required to
34 provide his or her name, social security number, age, race, sex, date
35 of birth, height, weight, hair and eye color, address of legal
36 residence, address of current temporary residence, and date and
37 place of employment. A sex offender who fails to register, provides
38 false information concerning his or her place of residence, or fails
39 to verify his or her address is guilty of a crime of the third degree.
40 Failure to notify law enforcement of a change of address,
41 employment, or school enrollment status also is a crime of the third
42 degree. Third degree crimes are punishable by a term of
43 imprisonment of three to five years, a fine of up to \$15,000, or both.

44 This bill establishes a second degree crime for a sex offender
45 who for more than two years fails to register, fails to verify the
46 correct address, or provides false information to law enforcement.
47 A crime of the second degree is punishable by a term of imprisonment
48 of five to 10 years, a maximum fine of \$150,000, or both.