

SENATE, No. 545

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex and Morris)

SYNOPSIS

Requires mandatory imprisonment for child luring and requires certain information about Megan's Law to be provided to sex offenders annually.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning child luring and other sex offenses, and
2 amending P.L.1993, c.291 and 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 1 of P.L.1993, c.291 (C.2C:13-6) is amended to read
8 as follows:

9 1. a. A person commits a crime of the second degree if he
10 attempts, via electronic or any other means, to lure or entice a child
11 or one who he reasonably believes to be a child into a motor
12 vehicle, structure or isolated area, or to meet or appear at any other
13 place, with a purpose to commit a criminal offense with or against
14 the child.

15 b. As used in this section:

16 "Child" means a person less than 18 years old.

17 "Electronic means" includes, but is not limited to, the Internet,
18 which shall have the meaning set forth in N.J.S.2C:24-4.

19 "Structure" means any building, room, ship, vessel or airplane
20 and also means any place adapted for overnight accommodation of
21 persons, or for carrying on business therein, whether or not a person
22 is actually present.

23 c. Nothing herein shall be deemed to preclude, if the evidence
24 so warrants, an indictment and conviction for attempted kidnapping
25 under the provisions of N.J.S.2C:13-1.

26 d. A person convicted **[of a second or subsequent offense]**
27 under this section shall be sentenced to a term of imprisonment.
28 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6,
29 the term of imprisonment shall include, unless the person is
30 sentenced pursuant to the provisions of N.J.S.2C:43-7, a mandatory
31 minimum term of one-third to one-half of the sentence imposed, or
32 **[three] five years**, whichever is greater, during which time the
33 defendant shall not be eligible for parole. **[If the person is**
34 **sentenced pursuant to N.J.S.2C:43-7, the court shall impose a**
35 **minimum term of one-third to one-half of the sentence imposed, or**
36 **five years, whichever is greater.]** The court may not suspend or
37 make any other non-custodial disposition of any person sentenced
38 **[as a second or subsequent offender]** pursuant to this section.

39 **[For the purposes of this section, an offense is considered a**
40 **second or subsequent offense if the actor has at any time been**
41 **convicted pursuant to this section, or under any similar statute of**
42 **the United States, this State or any other state for an offense that is**
43 **substantially equivalent to this section.]**

44 e. A person convicted of an offense under this section who has
45 previously been convicted of a violation of N.J.S.2C:14-2,

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 subsection a. of N.J.S.2C:14-3 or N.J.S.2C:24-4 shall be sentenced
2 to a term of imprisonment~~].~~ Notwithstanding the provisions of
3 subsection a. of N.J.S.2C:43-6, the term of imprisonment shall
4 include, unless the person is sentenced pursuant to the provisions of
5 N.J.S.2C:43-7, a mandatory minimum term of five years, during
6 which time the defendant shall not be eligible for parole~~], which,~~
7 notwithstanding the provisions of subsection a. of N.J.S.2C:43-6 or
8 any other law to the contrary, shall include a minimum term of 85
9 percent of the sentence imposed or five years, whichever is greater,
10 during which the defendant shall not be eligible for parole. The
11 court may not suspend or make any other non-custodial disposition
12 of any person sentenced pursuant to this section.

13 For the purposes of this subsection, an offense is considered a
14 previous conviction of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-
15 3 or N.J.S.2C:24-4 if the actor has at any time been convicted under
16 any of these sections or under any similar statute of the United
17 States, this State or any other state for an offense that is
18 substantially equivalent to any of these sections.

19 f. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
20 law, a conviction under this section shall not merge with a
21 conviction of any other criminal offense, nor shall such other
22 conviction merge with a conviction under this section, and the court
23 shall impose separate sentences upon each violation of this section
24 and any other criminal offense. The court may not suspend or make
25 any other non-custodial disposition of any person sentenced
26 pursuant to this section.

27 (cf: P.L.2007, c.273, s.1)

28

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

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

35 (2) A person who in another jurisdiction is required to register
36 as a sex offender and (a) is enrolled on a full-time or part-time basis
37 in any public or private educational institution in this State,
38 including any secondary school, trade or professional institution,
39 institution of higher education or other post-secondary school, or
40 (b) is employed or carries on a vocation in this State, on either a
41 full-time or a part-time basis, with or without compensation, for
42 more than 14 consecutive days or for an aggregate period exceeding
43 30 days in a calendar year, shall register in this State as provided in
44 subsections c. and d. of this section.

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

47 b. For the purposes of this act a sex offense shall include the
48 following:

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

8 (2) A conviction, adjudication of delinquency, or acquittal by
9 reason of insanity for aggravated sexual assault; sexual assault;
10 aggravated criminal sexual contact; kidnapping pursuant to
11 paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the
12 welfare of a child by engaging in sexual conduct which would
13 impair or debauch the morals of the child pursuant to subsection a.
14 of N.J.S.2C:24-4; endangering the welfare of a child pursuant to
15 paragraph (3) or (4), subparagraph (a), or sub-subparagraph (i) or
16 (ii) of subparagraph (b) of paragraph (5) of subsection b. of
17 N.J.S.2C:24-4; luring or enticing pursuant to section 1 of P.L.1993,
18 c.291 (C.2C:13-6); criminal sexual contact pursuant to
19 **[N.J.S.2C:14-3b.]** subsection b. of N.J.S.2C:14-3 if the victim is a
20 minor; kidnapping pursuant to N.J.S.2C:13-1, criminal restraint
21 pursuant to N.J.S.2C:13-2, or false imprisonment pursuant to
22 N.J.S.2C:13-3 if the victim is a minor and the offender is not the
23 parent of the victim; knowingly promoting prostitution of a child
24 pursuant to paragraph (3) or paragraph (4) of subsection b. of
25 N.J.S.2C:34-1; leader of a child pornography network pursuant to
26 section 8 of P.L.2017, c.141 (C.2C:24-4.1); or an attempt to commit
27 any of these enumerated offenses if the conviction, adjudication of
28 delinquency or acquittal by reason of insanity is entered on or after
29 the effective date of this act or the offender is serving a sentence of
30 incarceration, probation, parole or other form of community
31 supervision as a result of the offense or is confined following
32 acquittal by reason of insanity or as a result of civil commitment on
33 the effective date of this act;

34 (3) A conviction, adjudication of delinquency, or acquittal by
35 reason of insanity for an offense similar to any offense enumerated
36 in paragraph (2) or a sentence on the basis of criteria similar to the
37 criteria set forth in paragraph (1) of this subsection entered or
38 imposed under the laws of the United States, this State, or another
39 state.

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

45 (a) the facts of the case are limited to the creation, exhibition or
46 distribution of a photograph depicting nudity or portraying a child
47 in a sexually suggestive manner, as defined in N.J.S.2C:24-4,

1 through the use of an electronic communications device, an
2 interactive wireless communications device, or a computer;

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

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

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

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

21 (2) A person confined in a correctional or juvenile facility or
22 involuntarily committed who is required to register shall register
23 prior to release in accordance with procedures established by the
24 Department of Corrections, the Department of Human Services or
25 the Juvenile Justice Commission and, within 48 hours of release,
26 shall also register with the chief law enforcement officer of the
27 municipality in which the person resides or, if the municipality does
28 not have a local police force, the Superintendent of State Police;

29 (3) A person moving to or returning to this State from another
30 jurisdiction shall register with the chief law enforcement officer of
31 the municipality in which the person will reside or, if the
32 municipality does not have a local police force, the Superintendent
33 of State Police within 120 days of the effective date of this act or 10
34 days of first residing in or returning to a municipality in this State,
35 whichever is later;

36 (4) A person required to register on the basis of a conviction
37 prior to the effective date who is not confined or under supervision
38 on the effective date of this act shall register within 120 days of the
39 effective date of this act with the chief law enforcement officer of
40 the municipality in which the person will reside or, if the
41 municipality does not have a local police force, the Superintendent
42 of State Police;

43 (5) A person who in another jurisdiction is required to register
44 as a sex offender and who is enrolled on a full-time or part-time
45 basis in any public or private educational institution in this State,
46 including any secondary school, trade or professional institution,
47 institution of higher education or other post-secondary school shall,
48 within **【ten】** 10 days of commencing attendance at such educational

1 institution, register with the chief law enforcement officer of the
2 municipality in which the educational institution is located or, if the
3 municipality does not have a local police force, the Superintendent
4 of State Police;

5 (6) A person who in another jurisdiction is required to register
6 as a sex offender and who is employed or carries on a vocation in
7 this State, on either a full-time or a part-time basis, with or without
8 compensation, for more than 14 consecutive days or for an
9 aggregate period exceeding 30 days in a calendar year, shall, within
10 **【ten】** 10 days after commencing such employment or vocation,
11 register with the chief law enforcement officer of the municipality
12 in which the employer is located or where the vocation is carried
13 on, as the case may be, or, if the municipality does not have a local
14 police force, the Superintendent of State Police;

15 (7) In addition to any other registration requirements set forth in
16 this section, a person required to register under this act who is
17 enrolled at, employed by or carries on a vocation at an institution of
18 higher education or other post-secondary school in this State shall,
19 within 10 days after commencing such attendance, employment or
20 vocation, register with the law enforcement unit of the educational
21 institution, if the institution has such a unit.

22 d. (1) Upon a change of address, a person shall notify the law
23 enforcement agency with which the person is registered and shall
24 re-register with the appropriate law enforcement agency no less
25 than 10 days before he intends to first reside at his new address.
26 Upon a change of employment or school enrollment status, a person
27 shall notify the appropriate law enforcement agency no later than
28 five days after any such change. A person who fails to notify the
29 appropriate law enforcement agency of a change of address or status
30 in accordance with this subsection is guilty of a crime of the third
31 degree.

32 (2) A person required to register under this act shall provide the
33 appropriate law enforcement agency with information as to whether
34 the person has routine access to or use of a computer or any other
35 device with Internet capability. A person who fails to notify the
36 appropriate law enforcement agency of such information or of a
37 change in the person's access to or use of a computer or other
38 device with Internet capability or who provides false information
39 concerning the person's access to or use of a computer or any other
40 device with Internet capability is guilty of a crime of the third
41 degree.

42 e. (1) A person required to register under paragraph (1) of
43 subsection b. of this section or under paragraph (3) of subsection b.
44 due to a sentence imposed on the basis of criteria similar to the
45 criteria set forth in paragraph (1) of subsection b. shall verify his
46 address with the appropriate law enforcement agency every 90 days
47 in a manner prescribed by the Attorney General. A person required
48 to register under paragraph (2) of subsection b. of this section or

1 under paragraph (3) of subsection b. on the basis of a conviction for
2 an offense similar to an offense enumerated in paragraph (2) of
3 subsection b. shall verify his address annually in a manner
4 prescribed by the Attorney General. In addition to address
5 information, the person shall provide as part of the verification
6 process any additional information the Attorney General may
7 require. One year after the effective date of this act, the Attorney
8 General shall review, evaluate and, if warranted, modify pursuant to
9 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.) the verification requirement. Any person who knowingly
11 provides false information concerning his place of residence or who
12 fails to verify his address with the appropriate law enforcement
13 agency or other entity, as prescribed by the Attorney General in
14 accordance with this subsection, is guilty of a crime of the third
15 degree.

16 (2) Whenever a person registers or verifies his address pursuant
17 to paragraph (1) of this subsection, the registrant shall be informed,
18 in accordance with procedures established by the Attorney General,
19 of the penalties for committing a subsequent offense, including but
20 not limited to luring a child pursuant to section 1 of P.L.1993, c.291
21 (C.2C:13-6), aggravated sexual assault, sexual assault, aggravated
22 criminal sexual contact, and criminal sexual contact, in addition to
23 the registration and verification requirements of Megan's Law.

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

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

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

42

43 3. Section 1 of this act shall take effect immediately; section 2
44 shall take effect on the first day of the fifth month after enactment,
45 except that the Attorney General, prior to the effective date, may
46 take any anticipatory action necessary for the timely
47 implementation of this act.

STATEMENT

This bill enhances the penalties for luring a child with the intent to commit a criminal offense against the child. The bill also requires that registered sex offenders be informed of the penalties for committing certain sex offenses.

Under current law, luring a child is a crime of the second degree, punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both. Second degree crimes carry a presumption that the court will sentence the offender to a term of incarceration, unless that presumption is overcome by the offender. An offender who is sentenced to incarceration receives a mandatory minimum term of imprisonment without parole eligibility. In addition, current law prohibits the court from suspending or making any other non-custodial disposition of a second or subsequent offender.

Under the provisions of this bill all offenders convicted of luring a child would receive a mandatory minimum term of imprisonment of one-third to one-half of the sentence imposed, or five years, whichever is greater, during which the defendant would not be eligible for parole. The court is not permitted to suspend or make any other non-custodial disposition of any offender convicted of luring a child.

Current law also provides that an offender convicted of luring a child who has a previous conviction for aggravated sexual assault, sexual assault, aggravated criminal sexual contact, or endangering the welfare of a child is to be sentenced to a mandatory minimum term of imprisonment of five years, during which the offender is not eligible for parole. Under this bill, a person convicted of luring a child who had been previously convicted of one of the foregoing crimes will be required to serve 85 percent of the sentence imposed, or five years, whichever is greater, during which he or she would not be eligible for parole.

Finally, the bill requires that a sex offender receives certain information whenever registering or verifying his or her address. The bill requires the registered sex offender to be informed, in accordance with procedures established by the Attorney General, of the penalties for subsequent sex offenses, including, but not limited to luring a child, aggravated sexual assault, sexual assault, aggravated criminal sexual contact, and criminal sexual contact. This information is to be provided in addition to the information regarding the registration and verification requirements of Megan's Law provided under current law.