

SENATE, No. 564

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

SYNOPSIS

Increases mandatory minimum term of imprisonment for certain repeat sex offenders.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning criminal sentencing and amending N.J.S.2C:14-
2 6.

3

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

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7 1. N.J.S.2C:14-6 is amended to read as follows:

8 2C:14-6. a. If a person is convicted of a second or subsequent
9 offense under sections [2C:14-2] N.J.S.2C:14-2, N.J.S.2C:14-3, or
10 [2C:14-3a.] subsection b. of N.J.S.2C:14-4, the sentence imposed
11 under those sections for the second or subsequent offense shall, unless
12 the person is sentenced pursuant to the provisions of [2C:43-7]
13 N.J.S.2C:43-7, include a fixed minimum sentence of not less than [5
14 years] 85 percent of the maximum term of imprisonment applicable to
15 the degree of the offense pursuant to subsection a. of N.J.S.2C:43-6
16 during which the defendant shall not be eligible for parole. [The]
17 Except as otherwise provided in subsection b. of this section, the court
18 may not suspend or make any other non-custodial disposition of any
19 person sentenced as a second or subsequent offender pursuant to this
20 section. For the purpose of this section an offense is considered a
21 second or subsequent offense, if the actor has at any time been
22 convicted under sections [2C:14-2] N.J.S.2C:14-2, N.J.S.2C:14-3, or
23 [2C:14-3a.] subsection b. of N.J.S.2C:14-4 or under any similar
24 statute of the United States, this [state] State, or any other state for an
25 offense that is substantially equivalent to sections [2C:14-2]
26 N.J.S.2C:14-2, N.J.S.2C:14-3, or [2C:14-3a.] subsection b. of
27 N.J.S.2C:14-4. In the event of a conflict between this section and any
28 other mandatory minimum sentencing provision, the greater
29 mandatory minimum term of imprisonment shall apply.

30 b. (1) The court may reduce the term of imprisonment required
31 by subsection a. of this section if the defendant pleads guilty to a
32 negotiated agreement that the court finds is in the best interest of the
33 victim, in which event the court shall not impose a lesser term than the
34 term expressly provided for under the terms of the agreement. Absent
35 an agreement, the court may impose a term less than the maximum
36 term of imprisonment upon a finding that imposition of the maximum
37 term would be a serious injustice that overrides the need to deter the
38 defendant and others from that conduct, provided if the court makes
39 that finding, the court shall impose the greatest term of imprisonment
40 that does not constitute a serious injustice. The court shall state with
41 specificity its reasons for imposing a term less than the maximum term
42 of imprisonment.

43 (2) If, in the absence of a negotiated agreement, the court imposes
44 a term less than the maximum term of imprisonment, the sentence

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 shall not become final for 10 days in order to permit the appeal of that
2 sentence by the prosecution.

3 c. The Attorney General shall develop guidelines to ensure that
4 the prosecution and plea negotiation of second or subsequent sex
5 offenses subject to sentencing under this section are conducted in a
6 uniform manner throughout the State.

7 (cf: N.J.S.2C:14-6)

8
9 2. This act shall take effect immediately.

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12 STATEMENT

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14 This bill requires that a person convicted of a second or
15 subsequent sex offense be sentenced to an increased mandatory
16 minimum term.

17 The provisions of the bill require that any person who is
18 convicted of any second or subsequent crime of sexual assault,
19 criminal sexual contact, or lewdness involving a minor be sentenced
20 to not less than 85 percent of the maximum ordinary sentence
21 applicable to the degree of the crime without eligibility for parole.

22 The bill permits the court to impose a reduced term of
23 imprisonment of less than 85 percent of the term if the defendant
24 pleads guilty to a negotiated agreement, or plea bargain, that the
25 court finds is in the best interest of the victim, in which case the
26 court may impose a term that is no less than the term set forth in the
27 agreement. In the absence of an agreement, the court may impose a
28 term that is less than the maximum term if the court finds that
29 serious injustice would result which overrides the need to deter the
30 defendant and others, in which case the court is required to impose
31 the greatest term that would not constitute a serious injustice. The
32 court is required to state with specificity its reasons for imposing
33 any term that is less than the maximum term of imprisonment.

34 Under the bill, if the court imposes a sentence that is less than
35 the maximum term of imprisonment, the sentence would not
36 become final for a period of 10 days in order to permit the
37 prosecution to appeal the sentence.

38 The bill further provides that the Attorney General is to develop
39 guidelines to ensure that the prosecution and plea negotiation of
40 second or subsequent sex offenses subject to sentencing under the
41 bill are conducted in a uniform manner throughout the State.

42 Under current law, a person who is convicted of a second or
43 subsequent crime of sexual assault or aggravated criminal sexual
44 contact is subject to a mandatory minimum term of five years.

45 Under the bill, the following mandatory minimum terms of
46 imprisonment would be imposed in second or subsequent
47 convictions of the following crimes:

- 1 • 85 percent of 20 years for aggravated sexual assault
2 under subsection a. of N.J.S.2C:14-2 (a crime of the first
3 degree);
- 4 • 85 percent of 10 years for sexual assault under
5 subsections b. or c. of N.J.S.2C:14-2 (a crime of the
6 second degree);
- 7 • 85 percent of five years for aggravated criminal sexual
8 contact under subsection a. of N.J.S.2C:14-3 (a crime of
9 the third degree);
- 10 • 85 percent of 18 months for criminal sexual contact
11 under subsection b. of N.J.S.2C:14-3 (a crime of the
12 fourth degree); and
- 13 • 85 percent of 18 months for lewdness under subsection b.
14 of N.J.S.2C:14-4 (a crime of the fourth degree).

15 The bill specifies that in the event of a conflict between a
16 provision of the bill and another mandatory minimum sentencing
17 provision, the greater mandatory minimum sentence will be
18 imposed.