

SENATE, No. 581

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator JAMES BEACH

District 6 (Burlington and Camden)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Provides that information technology professionals who find child pornography on computers must report the finding to law enforcement.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning reporting child pornography to law
2 enforcement and supplementing Title 9 of the Revised Statutes.

3

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

6

7 1. a. (1) Any information technology professional who, while
8 acting in the scope of his professional duties, knows or has
9 reasonable cause to believe that there resides on, has been
10 transmitted to or is stored on an electronic communication system a
11 file containing an image depicting a child engaging in a prohibited
12 sexual act or in the simulation of such an act in violation of
13 N.J.S.2C:24-4 shall report or cause to be reported the same
14 immediately, by telephone or otherwise, to an investigative or law
15 enforcement officer.

16 (2) Any employee or agent of a public entity who, while acting
17 in the scope of his professional duties, knows or has reasonable
18 cause to believe that there resides on, has been transmitted to or is
19 stored on an electronic communication system owned, maintained,
20 utilized or operated by the public entity a file containing an image
21 depicting a child engaging in a prohibited sexual act or in the
22 simulation of such an act in violation of N.J.S.2C:24-4 shall report
23 or cause to be reported the same immediately, by telephone or
24 otherwise, to the employee's supervisor or to an investigative or
25 law enforcement officer.

26 (3) Any other person who has reasonable cause to believe that
27 there resides on, has been transmitted to or is stored on an
28 electronic communication system a file containing an image
29 depicting a child engaging in a prohibited sexual act or in the
30 simulation of such an act in violation of N.J.S.2C:24-4 may report
31 the same immediately, by telephone or otherwise, to an
32 investigative or law enforcement officer.

33 b. Any person who reports information pursuant to this act, or
34 provides information to the appropriate authorities concerning the
35 existence of a file containing an image depicting a child engaging in
36 a prohibited sexual act or in the simulation of such an act in
37 violation of N.J.S.2C:24-4, or testifies at a grand jury, judicial or
38 administrative proceeding resulting from the report, is immune from
39 civil and criminal liability arising from the report, information or
40 testimony, unless the person acts in bad faith or with malicious
41 purpose.

42 c. An employer or any other person shall not take any
43 discriminatory or retaliatory action against an employee who,
44 pursuant to this act, in good faith reports or causes to be reported
45 the existence of a file containing an image depicting a child
46 engaging in a prohibited sexual act or in the simulation of such an
47 act in violation of N.J.S.2C:24-4. An employer or any other person
48 shall not discharge, demote or reduce the salary of an employee

1 because the employee reported information in good faith pursuant
2 to this act. A person who violates this subsection is liable for a fine
3 of up to \$1,000.

4 d. An employee who, pursuant to this act, reports or causes to
5 be reported an allegation concerning the existence of a file
6 containing an image depicting a child engaging in a prohibited
7 sexual act or in the simulation of such an act in violation of
8 N.J.S.2C:24-4 encountered during the course of his or her
9 employment and as a result thereof is discharged from employment
10 or in any manner discriminated against with respect to
11 compensation, hire, tenure or terms, conditions or privileges of
12 employment, may file a cause of action for appropriate relief in the
13 Superior Court in the county in which the discharge or alleged
14 discrimination occurred or in the county of the person's primary
15 residence. If the court finds that the person was discharged or
16 discriminated against as a result of the person's reporting an
17 allegation concerning the existence of a file containing an image
18 depicting a child engaging in a prohibited sexual act or in the
19 simulation of such an act in violation of N.J.S.2C:24-4, the court
20 may grant reinstatement of employment with back pay or other
21 legal or equitable relief and impose a fine as authorized in
22 subsection d. of this section.

23 e. As used in this section:

24 (1) "Electronic communication system" means any wire, radio,
25 electromagnetic, photo-optical or photoelectronic facilities for the
26 transmission of electronic communications, and any computer
27 facilities or related electronic equipment for the electronic storage
28 of such communications;

29 (2) "Electronic storage" means any temporary, intermediate
30 storage of a wire or electronic communication incidental to the
31 electronic transmission thereof, and any storage of such
32 communication by an electronic communication service for purpose
33 of backup protection of the communication;

34 (3) "Investigative or law enforcement officer" means any officer
35 of the State of New Jersey or of a political subdivision thereof who
36 is empowered by law to conduct investigations of, or to make
37 arrests for, any offense enumerated in Title 2C of the New Jersey
38 statutes and any attorney authorized by law to prosecute or
39 participate in the prosecution of any such offense.

40 (4) "Information technology professional" means any person,
41 who may but need not be employed by the owner or operator of an
42 electronic communication system, whose professional duties or
43 responsibilities include the performance of programming,
44 maintenance, repair, implementation or support services for the
45 electronic communication system or for the software, hardware or
46 firmware related to such system.

47
48 2. This act shall take effect immediately.

STATEMENT

This bill provides that information technology professionals and employees of public entities who find child pornography on computers must report the finding to law enforcement. In addition, the bill provides that any other person may report such findings.

Under the bill, any information technology professional who, while acting in the scope of his professional duties, knows or has reasonable cause to believe that there resides on, has been transmitted to or is stored on an electronic communication system a file containing an image depicting a child engaging in a prohibited sexual act or in the simulation of such an act in violation of N.J.S.2C:24-4 (endangering the welfare of a child), shall report or cause to be reported the same immediately to an investigative or law enforcement officer.

The bill also provides that any employee or agent of a public entity who, while acting in the scope of his professional duties, knows or has reasonable cause to believe that there resides on, has been transmitted to or is stored on an electronic communication system owned, maintained, utilized or operated by the public entity a file containing such an image shall report or cause to be reported the same immediately to the employee's supervisor or to an investigative or law enforcement officer.

Under the bill, any other person who has reasonable cause to believe that there resides on, has been transmitted to or is stored on an electronic communication system a file containing such an image may report the same immediately to an investigative or law enforcement officer.

The bill provides that any person who reports information pursuant to the bill, or testifies at a grand jury, judicial or administrative proceeding resulting from the report, is immune from civil and criminal liability arising from the report, information or testimony, unless the person acts in bad faith or with malicious purpose.

Under the bill, an employer or any other person shall not take any discriminatory or retaliatory action against an employee who in good faith makes or causes to be made such a report. The bill provides that an employer or any other person shall not discharge, demote or reduce the salary of an employee because the employee reported information in good faith. A person who violates this subsection is liable for a fine of up to \$1,000.

The bill provides that an employee who is discharged from employment or discriminated against with respect to compensation, hire, tenure or terms, conditions or privileges of employment because of making the report may file a cause of action for appropriate relief in the Superior Court. The court may grant reinstatement of employment with back pay or other legal or equitable relief and impose a fine.