

SENATE, No. 3828

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 1, 2021

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

SYNOPSIS

Makes it aggravated sexual assault or sexual contact for transportation network company or taxicab driver to commit act of sexual penetration or sexual contact using coercion or without permission on passenger.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain crimes and amending N.J.S.2C:14-2 and
2 N.J.S.2C:14-3.

3

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

6

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

8 2C:14-2. Sexual assault. a. An actor is guilty of aggravated
9 sexual assault if the actor commits an act of sexual penetration with
10 another person under any one of the following circumstances:

11 (1) The victim is less than 13 years old;

12 (2) The victim is at least 13 but less than 16 years old; and

13 (a) The actor is related to the victim by blood or affinity to the
14 third degree, or

15 (b) The actor has supervisory or disciplinary power over the
16 victim by virtue of the actor's legal, professional, or occupational
17 status, or

18 (c) The actor is a resource family parent, a guardian, or stands
19 in loco parentis within the household;

20 (3) The act is committed during the commission, or attempted
21 commission, whether alone or with one or more other persons, of
22 robbery, carjacking, kidnapping, homicide, aggravated assault on
23 the victim or a person other than the victim, burglary, arson, or
24 criminal escape;

25 (4) The actor is armed with a weapon or any object fashioned in
26 such a manner as to lead the victim to reasonably believe it to be a
27 weapon and threatens by word or gesture to use the weapon or
28 object;

29 (5) The actor is aided or abetted by one or more other persons
30 and the actor commits the act using coercion or without the victim's
31 affirmative and freely-given permission;

32 (6) The actor commits the act using coercion or without the
33 victim's affirmative and freely-given permission and severe
34 personal injury is sustained by the victim;

35 (7) The victim, at the time of sexual penetration, is one whom
36 the actor knew or should have known was:

37 (a) physically helpless or incapacitated;

38 (b) intellectually or mentally incapacitated; or

39 (c) had a mental disease or defect which rendered the victim
40 temporarily or permanently incapable of understanding the
41 distinctively sexual nature of the conduct, including, but not limited
42 to, being incapable of providing consent, or incapable of
43 understanding or exercising the right to refuse to engage in the
44 conduct;

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 (8) The actor is a transportation network company driver or a
2 taxicab driver and commits the act using coercion or without the
3 victim's affirmative and freely-given permission and the victim is
4 any passenger.

5 Transportation network company driver has the meaning set
6 forth in section 2 of P.L.2017, c.26 (C.39:5H-2).

7 Aggravated sexual assault is a crime of the first degree.

8 Except as otherwise provided in subsection d. of this section, a
9 person convicted under paragraph (1) of this subsection shall be
10 sentenced to a specific term of years which shall be fixed by the
11 court and shall be between 25 years and life imprisonment of which
12 the person shall serve 25 years before being eligible for parole,
13 unless a longer term of parole ineligibility is otherwise provided
14 pursuant to this Title.

15 b. An actor is guilty of sexual assault if the actor commits an
16 act of sexual contact with a victim who is less than 13 years old and
17 the actor is at least four years older than the victim.

18 c. An actor is guilty of sexual assault if the actor commits an
19 act of sexual penetration with another person under any one of the
20 following circumstances:

21 (1) The actor commits the act using coercion or without the
22 victim's affirmative and freely-given permission, but the victim
23 does not sustain severe personal injury;

24 (2) The victim is on probation or parole, or is detained in a
25 hospital, prison or other institution and the actor has supervisory or
26 disciplinary power over the victim by virtue of the actor's legal,
27 professional or occupational status;

28 (3) The victim is at least 16 but less than 18 years old and:

29 (a) The actor is related to the victim by blood or affinity to the
30 third degree; or

31 (b) The actor has supervisory or disciplinary power of any
32 nature or in any capacity over the victim; or

33 (c) The actor is a resource family parent, a guardian, or stands
34 in loco parentis within the household;

35 (4) The victim is at least 13 but less than 16 years old and the
36 actor is at least four years older than the victim;

37 (5) The victim is a pupil at least 18 but less than 22 years old
38 and has not received a high school diploma and the actor is a
39 teaching staff member or substitute teacher, school bus driver, other
40 school employee, contracted service provider, or volunteer and the
41 actor has supervisory or disciplinary power of any nature or in any
42 capacity over the victim. As used in this paragraph, "teaching staff
43 member" has the meaning set forth in N.J.S.18A:1-1.

44 Sexual assault is a crime of the second degree.

45 d. Notwithstanding the provisions of subsection a. of this
46 section, where a defendant is charged with a violation under
47 paragraph (1) of subsection a. of this section, the prosecutor, in
48 consideration of the interests of the victim, may offer a negotiated

1 plea agreement in which the defendant would be sentenced to a
2 specific term of imprisonment of not less than 15 years, during
3 which the defendant shall not be eligible for parole. In such event,
4 the court may accept the negotiated plea agreement and upon such
5 conviction shall impose the term of imprisonment and period of
6 parole ineligibility as provided for in the plea agreement, and may
7 not impose a lesser term of imprisonment or parole or a lesser
8 period of parole ineligibility than that expressly provided in the plea
9 agreement. The Attorney General shall develop guidelines to ensure
10 the uniform exercise of discretion in making determinations
11 regarding a negotiated reduction in the term of imprisonment and
12 period of parole ineligibility set forth in subsection a. of this
13 section.

14 (cf: P.L.2019, c.474, s.1)

15

16 2. N.J.S.2C:14-3 is amended to read as follows:

17 2C:14-3. Criminal sexual contact.

18 a. An actor is guilty of aggravated criminal sexual contact if he
19 commits an act of sexual contact with the victim under any of the
20 circumstances set forth in 2C:14-2a. (2) through **[(7)](8)**.

21 Aggravated criminal sexual contact is a crime of the third degree.

22 b. An actor is guilty of criminal sexual contact if he commits
23 an act of sexual contact with the victim under any of the
24 circumstances set forth in section 2C:14-2c. (1) through (5).

25 Criminal sexual contact is a crime of the fourth degree.

26 (cf: P.L.2019, c.108, s.2)

27

28 3. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 This bill provides that if a transportation network company
34 driver or a taxicab driver commits an act of sexual penetration or
35 sexual contact using coercion or without the victim's affirmative
36 and freely-given permission and the victim is a passenger, the
37 driver is guilty of the crime of aggravated sexual assault. If the
38 driver commits an act of sexual contact under these circumstances,
39 the driver is guilty of aggravated sexual contact. Aggravated sexual
40 assault is a crime of the first degree, which is punishable by 10-20
41 years imprisonment, up to a \$200,000 fine, or both. Aggravated
42 criminal sexual contact is a crime of the third degree, which is
43 punishable by three to five years imprisonment, up to a \$15,000
44 fine, or both.

45 A "transportation network company driver" is defined in the bill
46 as having the same meaning as provided in section 2 of P.L.2017,
47 c.26 (C.39:5H-2).