

SENATE, No. 2054

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED APRIL 21, 2016

Sponsored by:

Senator KRISTIN CORRADO

District 40 (Bergen, Essex, Morris and Passaic)

Senator KEVIN J. O'TOOLE

District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Revises restrictions for Internet access by sex offenders.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/6/2017)

1 AN ACT concerning certain sex offenders and amending various
2 sections of the statutory law.

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.2007, c.219 (C.2C:43-6.6) is amended to
8 read as follows:

9 1. a. In the case of a person who has been convicted,
10 adjudicated delinquent or found not guilty by reason of insanity for
11 the commission of a sex offense as defined in subsection b. of
12 section 2 of P.L.1994, c.133 (C.2C:7-2), and who is required to
13 register as provided in subsections c. and d. of section 2 of
14 P.L.1994, c.133 (C.2C:7-2), or who is serving a special sentence of
15 community or parole supervision for life as provided in section 2 of
16 P.L.1994, c.130 (C.2C:43-6.4), or who has been convicted,
17 adjudicated delinquent or found not guilty by reason of insanity for
18 a violation of N.J.S.2C:34-3, and where the trier of fact makes a
19 finding that a computer or any other device with Internet capability
20 was used to facilitate the commission of the crime the court shall, in
21 addition to any other disposition, order the following Internet access
22 conditions:

23 (1) Prohibit the person from accessing or using a computer or
24 any other device with Internet capability without the prior written
25 approval of the court except, if such person is on probation or
26 parole, the person may use a computer or any other device with
27 Internet capability in connection with that person's employment or
28 search for employment with the prior approval of the person's
29 probation or parole officer;

30 (2) Require the person to submit to periodic unannounced
31 examinations of the person's computer or any other device with
32 Internet capability by a probation officer, parole officer, law
33 enforcement officer or assigned computer or information
34 technology specialist, including the retrieval and copying of all data
35 from the computer or device and any internal or external peripherals
36 and removal of such information, equipment or device to conduct a
37 more thorough inspection;

38 (3) Require the person to submit to the installation on the
39 person's computer or device with Internet capability, at the person's
40 expense, one or more hardware or software systems to monitor the
41 Internet use; **[and]**

42 (4) Require the person to submit to any other appropriate
43 restrictions concerning the person's use or access of a computer or
44 any other device with Internet capability; and

45 (5) Require the person to disclose all passwords, email
46 addresses, usernames or identifiers used by the person to access any

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 data, information, image, program, signal or file on the person's
2 computer or any other device with Internet capability.

3 b. A person who fails to comply with the Internet access
4 conditions set forth in this section shall be guilty of a crime of the
5 **【fourth】** third degree.

6 c. The appropriate agency heads shall promulgate guidelines
7 which set forth standards to guide agency action in regard to the
8 specific Internet access conditions which may be imposed on a
9 person pursuant to the provisions of this act.

10 d. The Attorney General or the County Prosecutor may petition
11 the court to impose restrictions pursuant to this section upon any
12 person who is required to register as provided in section 2 of
13 P.L.1994, c.133 (C.2C:7-2) for a sex offense set forth in paragraph
14 (3) of subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2).
15 (cf: P.L.2007, c.219, s.1)

16

17 2. N.J.S.2C:45-1 is amended to read as follows:

18 2C:45-1. Conditions of Suspension or Probation.

19 a. When the court suspends the imposition of sentence on a
20 person who has been convicted of an offense or sentences him to be
21 placed on probation, it shall attach such reasonable conditions,
22 authorized by this section, as it deems necessary to insure that he
23 will lead a law-abiding life or is likely to assist him to do so. These
24 conditions may be set forth in a set of standardized conditions
25 promulgated by the county probation department and approved by
26 the court.

27 b. The court, as a condition of its order, may require the
28 defendant:

29 (1) To support his dependents and meet his family
30 responsibilities;

31 (2) To find and continue in gainful employment;

32 (3) To undergo available medical or psychiatric treatment and to
33 enter and remain in a specified institution, when required for that
34 purpose;

35 (4) To pursue a prescribed secular course of study or vocational
36 training;

37 (5) To attend or reside in a facility established for the
38 instruction, recreation or residence of persons on probation;

39 (6) To refrain from frequenting unlawful or disreputable places
40 or consorting with disreputable persons;

41 (7) Not to have in his possession any firearm or other dangerous
42 weapon unless granted written permission;

43 (8) (Deleted by amendment, P.L.1991, c.329);

44 (9) To remain within the jurisdiction of the court and to notify
45 the court or the probation officer of any change in his address or his
46 employment;

1 (10) To report as directed to the court or the probation officer, to
2 permit the officer to visit his home, and to answer all reasonable
3 inquiries by the probation officer;

4 (11) To pay a fine;

5 (12) To satisfy any other conditions reasonably related to the
6 rehabilitation of the defendant and not unduly restrictive of his
7 liberty or incompatible with his freedom of conscience;

8 (13) To require the performance of community-related service;
9 and

10 (14) To be subject to Internet access conditions pursuant to
11 paragraph (2) of subsection d. of this section.

12 In addition to any condition of probation, the court may enter an
13 order prohibiting a defendant who is convicted of a sex offense
14 from having any contact with the victim including, but not limited
15 to, entering the victim's residence, place of employment or business,
16 or school, and from harassing or stalking the victim or victim's
17 relatives in any way, and may order other protective relief as
18 provided in section 2 of P.L.2007, c.133 (C.2C:14-12).

19 c. The court, as a condition of its order, shall require the
20 defendant to pay any assessments required by section 2 of P.L.1979,
21 c.396 (C.2C:43-3.1) and shall, consistent with the applicable
22 provisions of N.J.S.2C:43-3, N.J.S.2C:43-4 and N.J.S.2C:44-2 or
23 section 1 of P.L.1983, c.411 (C.2C:43-2.1) require the defendant to
24 make restitution.

25 d. (1) In addition to any condition imposed pursuant to
26 subsection b. or c., the court shall order a person placed on
27 probation to pay a fee, not exceeding \$25.00 per month for the
28 probationary term, to probation services for use by the State, except
29 as provided in subsection g. of this section. This fee may be waived
30 in cases of indigency upon application by the chief probation officer
31 to the sentencing court.

32 (2) In addition to any conditions imposed pursuant to subsection
33 b. or c., the court may order a person who has been convicted or
34 adjudicated delinquent of a sex offense as defined in subsection b.
35 of section 2 of P.L.1994, c.133 (C.2C:7-2), and who is required to
36 register as provided in subsections c. and d. of section 2 of
37 P.L.1994, c.133 (C.2C:7-2), or who has been convicted or
38 adjudicated delinquent for a violation of N.J.S.2C:34-3 to be subject
39 to any of the following Internet access conditions:

40 (a) Prohibit the person from accessing or using a computer or
41 any other device with Internet capability without the prior written
42 approval of the court, except the person may use a computer or any
43 other device with Internet capability in connection with that
44 person's employment or search for employment with the prior
45 approval of the person's probation officer;

46 (b) Require the person to submit to periodic unannounced
47 examinations of the person's computer or any other device with
48 Internet capability by a probation officer, law enforcement officer

1 or assigned computer or information technology specialist,
2 including the retrieval and copying of all data from the computer or
3 device and any internal or external peripherals and removal of such
4 information, equipment or device to conduct a more thorough
5 inspection;

6 (c) Require the person to submit to the installation on the
7 person's computer or device with Internet capability, at the person's
8 expense, one or more hardware or software systems to monitor the
9 Internet use; **[and]**

10 (d) Require the person to submit to any other appropriate
11 restrictions concerning the person's use or access of a computer or
12 any other device with Internet capability; and

13 (e) Require the person to disclose all passwords, email addresses,
14 usernames or identifiers used by the person to access any data,
15 information, image, program, signal or file on the person's computer
16 or any other device with Internet capability.

17 e. When the court sentences a person who has been convicted
18 of a crime to be placed on probation, it may require him to serve a
19 term of imprisonment not exceeding 364 days as an additional
20 condition of its order. When the court sentences a person convicted
21 of a disorderly persons offense to be placed on probation, it may
22 require him to serve a term of imprisonment not exceeding 90 days
23 as an additional condition of its order. In imposing a term of
24 imprisonment pursuant to this subsection, the sentencing court shall
25 specifically place on the record the reasons which justify the
26 sentence imposed. The term of imprisonment imposed hereunder
27 shall be treated as part of the sentence, and in the event of a
28 sentence of imprisonment upon the revocation of probation, the
29 term of imprisonment served hereunder shall be credited toward
30 service of such subsequent sentence. A term of imprisonment
31 imposed under this section shall be governed by the "Parole Act of
32 1979," P.L.1979, c.441 (C.30:4-123.45 et al.).

33 Whenever a person is serving a term of parole as a result of a
34 sentence of incarceration imposed as a condition of probation,
35 supervision over that person shall be maintained pursuant to the
36 provisions of the law governing parole. Upon termination of the
37 period of parole supervision provided by law, the county probation
38 department shall assume responsibility for supervision of the person
39 under sentence of probation. Nothing contained in this section shall
40 prevent the sentencing court from at any time proceeding under the
41 provisions of this chapter against any person for a violation of
42 probation.

43 f. The defendant shall be given a copy of the terms of his
44 probation or suspension of sentence and any requirements imposed
45 pursuant to this section, stated with sufficient specificity to enable
46 him to guide himself accordingly. The defendant shall
47 acknowledge, in writing, his receipt of these documents and his
48 consent to their terms.

1 g. Of the moneys collected under the provisions of subsection
2 d. of this section, \$15.00 of each monthly fee collected before
3 January 1, 1995 shall be deposited in the temporary reserve fund
4 created by section 25 of P.L.1993, c.275, and \$10.00 of each shall
5 be deposited into a "Community Service Supervision Fund" which
6 shall be established by each county. The moneys in the
7 "Community Service Supervision Fund" shall be expended only in
8 accordance with the provisions of State law as shall be enacted to
9 provide for expenditures from this fund for the purpose of
10 supervising and monitoring probationers performing community
11 service to ensure, by whatever means necessary and appropriate,
12 that probationers are performing the community service ordered by
13 the court and that the performance is in the manner and under the
14 terms ordered by the court.
15 (cf: P.L.2007, c.219, s.4)

16
17 3. Section 15 of P.L.1979, c.441 (C.30:4-123.59) is amended to
18 read as follows:

19 15. a. Each adult parolee shall at all times remain in the legal
20 custody of the Commissioner of Corrections and under the
21 supervision of the State Parole Board and each juvenile parolee
22 shall at all times remain in the legal custody of the Juvenile Justice
23 Commission established pursuant to section 2 of P.L.1995,
24 c.284 (C.52:17B-170), except that the Commissioner of Corrections
25 or the Executive Director of the Juvenile Justice Commission, after
26 providing notice to the Attorney General, may consent to the
27 supervision of a parolee by the federal government pursuant to the
28 Witness Security Reform Act, Pub.L.98-473 (18 U.S.C. s.3521 et
29 seq.). An adult parolee, except those under the Witness Security
30 Reform Act, shall remain under the supervision of the State Parole
31 Board and in the legal custody of the Department of Corrections,
32 and a juvenile parolee, except those under the Witness Security
33 Reform Act, shall remain under the supervision of the Juvenile
34 Justice Commission, as appropriate, in accordance with the policies
35 and rules of the board.

36 b. (1) Each parolee shall agree, as evidenced by his signature
37 to abide by specific conditions of parole established by the
38 appropriate board panel which shall be enumerated in writing in a
39 certificate of parole and shall be given to the parolee upon release.
40 Such conditions shall include, among other things, a requirement
41 that the parolee conduct himself in society in compliance with all
42 laws and refrain from committing any crime, a requirement that the
43 parolee will not own or possess any firearm as defined in subsection
44 f. of N.J.S.2C:39-1 or any other weapon enumerated in subsection r.
45 of N.J.S.2C:39-1, a requirement that the parolee refrain from the
46 use, possession or distribution of a controlled dangerous substance,
47 controlled substance analog or imitation controlled dangerous
48 substance as defined in N.J.S.2C:35-2 and N.J.S.2C:35-11, a

1 requirement that the parolee obtain permission from his parole
2 officer for any change in his residence, and a requirement that the
3 parolee report at reasonable intervals to an assigned parole officer.
4 In addition, based on prior history of the parolee or information
5 provided by a victim or a member of the family of a murder victim,
6 the member or board panel certifying parole release pursuant to
7 section 11 of P.L.1979, c.441 (C.30:4-123.55) may impose any
8 other specific conditions of parole deemed reasonable in order to
9 reduce the likelihood of recurrence of criminal or delinquent
10 behavior, including a requirement that the parolee comply with the
11 Internet access conditions set forth in paragraph (2) of this
12 subsection. Such special conditions may include, among other
13 things, a requirement that the parolee make full or partial
14 restitution, the amount of which restitution shall be set by the
15 sentencing court upon request of the board. In addition, the member
16 or board panel certifying parole release may, giving due regard to a
17 victim's request, impose a special condition that the parolee have no
18 contact with the victim, which special condition may include, but
19 need not be limited to, restraining the parolee from entering the
20 victim's residence, place of employment, business or school, and
21 from harassing or stalking the victim or victim's relatives in any
22 way. Further, the member, board panel or board certifying parole
23 release may impose a special condition that the person shall not
24 own or possess an animal for an unlawful purpose or to interfere in
25 the performance of duties by a parole officer.

26 (2) In addition, the member or board panel certifying parole
27 release may impose on any person who has been convicted or
28 adjudicated delinquent for the commission of a sex offense as
29 defined in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2),
30 and who is required to register as provided in subsections c. and d.
31 of section 2 of P.L.1994, c.133 (C.2C:7-2), or who has been
32 convicted or adjudicated delinquent for a violation of N.J.S.2C:34-
33 3 any of the following Internet access conditions:

34 (a) Prohibit the person from accessing or using a computer or
35 any other device with Internet capability without the prior written
36 approval of the court, except the person may use a computer or any
37 other device with Internet capability in connection with that
38 person's employment or search for employment with the prior
39 approval of the person's parole officer;

40 (b) Require the person to submit to periodic unannounced
41 examinations of the person's computer or any other device with
42 Internet capability by a parole officer, law enforcement officer or
43 assigned computer or information technology specialist, including
44 the retrieval and copying of all data from the computer or device
45 and any internal or external peripherals and removal of such
46 information, equipment or device to conduct a more thorough
47 inspection;

1 (c) Require the person to submit to the installation on the
2 person's computer or device with Internet capability, at the person's
3 expense, one or more hardware or software systems to monitor the
4 Internet use; **and**

5 (d) Require the person to submit to any other appropriate
6 restrictions concerning the person's use or access of a computer or
7 any other device with Internet capability; and

8 (e) Require the person to disclose all passwords, email addresses,
9 usernames or identifiers used by the person to access any data,
10 information, image, program, signal or file on the person's computer
11 or any other device with Internet capability.

12 c. The appropriate board panel may in writing relieve a parolee
13 of any parole conditions, and may permit a parolee to reside outside
14 the State pursuant to the provisions of the Uniform Act for Out-of-
15 State Parolee Supervision (N.J.S.2A:168-14 et seq.), the Interstate
16 Compact on Juveniles, P.L.1955, c.55 (C.9:23-1 to 9:23-4), and,
17 with the consent of the Commissioner of the Department of
18 Corrections or the Executive Director of the Juvenile Justice
19 Commission after providing notice to the Attorney General, the
20 federal Witness Security Reform Act, if satisfied that such change
21 will not result in a substantial likelihood that the parolee will
22 commit an offense which would be a crime under the laws of this
23 State. The appropriate board panel may revoke such permission,
24 except in the case of a parolee under the Witness Security Reform
25 Act, or reinstate relieved parole conditions for any period of time
26 during which a parolee is under its jurisdiction.

27 d. The appropriate board panel may parole an inmate to any
28 residential facility funded in whole or in part by the State if the
29 inmate would not otherwise be released pursuant to section 9 of
30 P.L.1979, c.441 (C.30:4-123.53) without such placement. But if the
31 residential facility provides treatment for mental illness or mental
32 retardation, the board panel only may parole the inmate to the
33 facility pursuant to the laws and admissions policies that otherwise
34 govern the admission of persons to that facility, and the facility
35 shall have the authority to discharge the inmate according to the
36 laws and policies that otherwise govern the discharge of persons
37 from the facility, on 10 days' prior notice to the board panel. The
38 board panel shall acknowledge receipt of this notice in writing prior
39 to the discharge. Upon receipt of the notice the board panel shall
40 resume jurisdiction over the inmate.

41 e. Parole officers shall provide assistance to the parolee in
42 obtaining employment, education or vocational training or in
43 meeting other obligations to assure the parolee's compliance with
44 meeting legal requirements related to sex offender notification,
45 address changes and participation in rehabilitation programs as
46 directed by the assigned parole officer.

1 f. The board panel on juvenile commitments and the assigned
2 parole officer shall insure that the least restrictive available
3 alternative is used for any juvenile parolee.

4 g. If the board has granted parole to any inmate from a State
5 correctional facility or juvenile facility and the court has imposed a
6 fine on such inmate, the appropriate board panel shall release such
7 inmate on condition that the parolee make specified fine payments
8 to the State Parole Board or the Juvenile Justice Commission. For
9 violation of such conditions, or for violation of a special condition
10 requiring restitution, parole may be revoked only for refusal or
11 failure to make a good faith effort to make such payment.

12 h. Upon collection of the fine the same shall be paid over by
13 the Department of Corrections or by the Juvenile Justice
14 Commission to the State Treasury.
15 (cf: P.L.2007, c.219, s.5)

16

17 4. This act shall take effect immediately.

18

19

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STATEMENT

21

22 This bill upgrades the criminal penalties for sex offenders who
23 fail to comply with the Internet access restrictions set out in current
24 law. In addition, the bill expands the current Internet access
25 restrictions to require the offender to disclose any passwords, email
26 addresses, usernames or identifiers used to access any data, image
27 or programs.

28 This bill amends N.J.S.A.2C:43-6.6 which requires the court to
29 order Internet access restrictions for sex offenders who used a
30 computer in the commission of a crime to require the sex offenders
31 to disclose passwords, email addresses, usernames or identifiers
32 used to access any data. This bill upgrades a violation of the statute
33 from the current crime of the fourth degree to a crime of the third
34 degree. A crime of the third degree is punishable by a term of
35 imprisonment of three to five years, a fine of \$15,000, or both.

36 The bill also amends N.J.S.A.2C:45-1 concerning suspended
37 sentences or probation, to authorize the court to order sex offenders
38 to disclose passwords, email addresses, usernames or identifiers
39 used to access any data.

40 Finally, the bill amends N.J.S.A.30:4-123.59 to authorize the
41 Parole Board to require sex offenders to disclose passwords, email
42 addresses, usernames or identifiers used to access any data.