

ASSEMBLY, No. 4677

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED OCTOBER 29, 2018

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblywoman JOANN DOWNEY

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SYNOPSIS

Requires collection of DNA sample for child pornography arrests.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/24/2019)

1 AN ACT requiring DNA samples from persons arrested for child
2 pornography and amending P.L.1994, c.136.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 4 of P.L.1994, c.136 (C.53:1-20.20) is amended to
8 read as follows:

9 4. a. On or after January 1, 1995 every person convicted of
10 aggravated sexual assault and sexual assault under N.J.S.2C:14-2 or
11 aggravated criminal sexual contact and criminal sexual contact
12 under N.J.S.2C:14-3 or any attempt to commit any of these crimes
13 and who is sentenced to a term of imprisonment shall have a blood
14 sample drawn or other biological sample collected for purposes of
15 DNA testing upon commencement of the period of confinement.

16 In addition, every person convicted on or after January 1, 1995
17 of these offenses, but who is not sentenced to a term of
18 confinement, shall provide a DNA sample for purposes of DNA
19 testing as a condition of the sentence imposed. A person who has
20 been convicted and incarcerated as a result of a conviction of one or
21 more of these offenses prior to January 1, 1995 shall provide a
22 DNA sample before parole or release from incarceration.

23 Every person arrested for an offense enumerated in this
24 subsection shall provide a DNA sample for purposes of DNA
25 testing prior to the person's release from custody.

26 b. On or after January 1, 1998 every juvenile adjudicated
27 delinquent for an act which, if committed by an adult, would
28 constitute aggravated sexual assault or sexual assault under
29 N.J.S.2C:14-2 or aggravated criminal sexual contact or criminal
30 sexual contact under N.J.S.2C:14-3, or any attempt to commit any
31 of these crimes, shall have a blood sample drawn or other biological
32 sample collected for purposes of DNA testing.

33 Every juvenile arrested for an act which, if committed by an
34 adult, would constitute an offense enumerated in this subsection
35 shall provide a DNA sample for purposes of DNA testing prior to
36 the juvenile's release from custody.

37 c. On or after January 1, 1998 every person found not guilty by
38 reason of insanity of aggravated sexual assault or sexual assault
39 under N.J.S.2C:14-2 or aggravated criminal sexual contact or
40 criminal sexual contact under N.J.S.2C:14-3, or any attempt to
41 commit any of these crimes, or adjudicated not delinquent by reason
42 of insanity for an act which, if committed by an adult, would
43 constitute one of these crimes, shall have a blood sample drawn or
44 other biological sample collected for purposes of DNA testing.

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 d. On or after January 1, 2000 every person convicted of
2 murder pursuant to N.J.S.2C:11-3, manslaughter pursuant to
3 N.J.S.2C:11-4, aggravated assault of the second degree pursuant to
4 paragraph (1) or (6) of subsection b. of N.J.S.2C:12-1, kidnapping
5 pursuant to N.J.S.2C:13-1, luring or enticing a child in violation of
6 P.L.1993, c.291 (C.2C:13-6), **【engaging in sexual conduct which**
7 **would impair or debauch the morals of a child】** endangering
8 welfare of children pursuant to N.J.S.2C:24-4, except for paragraph
9 (2) of subsection a., or any attempt to commit any of these crimes
10 and who is sentenced to a term of imprisonment shall have a blood
11 sample drawn or other biological sample collected for purposes of
12 DNA testing upon commencement of the period of confinement.

13 In addition, every person convicted on or after January 1, 2000
14 of these offenses, but who is not sentenced to a term of
15 confinement, shall provide a DNA sample as a condition of the
16 sentence imposed. A person who has been convicted and
17 incarcerated as a result of a conviction of one or more of these
18 offenses prior to January 1, 2000 shall provide a DNA sample
19 before parole or release from incarceration.

20 Every person arrested for an offense enumerated in this
21 subsection shall provide a DNA sample for purposes of DNA
22 testing prior to the person's release from custody.

23 e. On or after January 1, 2000 every juvenile adjudicated
24 delinquent for an act which, if committed by an adult, would
25 constitute murder pursuant to N.J.S.2C:11-3, manslaughter pursuant
26 to N.J.S.2C:11-4, aggravated assault of the second degree pursuant
27 to paragraph (1) or (6) of subsection b. of N.J.S.2C:12-1,
28 kidnapping pursuant to N.J.S.2C:13-1, luring or enticing a child in
29 violation of P.L.1993, c.291 (C.2C:13-6), **【engaging in sexual**
30 **conduct which would impair or debauch the morals of a child】**
31 endangering welfare of children pursuant to N.J.S.2C:24-4, except
32 for paragraph (2) of subsection a., or any attempt to commit any of
33 these crimes, shall have a blood sample drawn or other biological
34 sample collected for purposes of DNA testing.

35 Every juvenile arrested for an act which, if committed by an
36 adult, would constitute an offense enumerated in this subsection
37 shall provide a DNA sample for purposes of DNA testing prior to
38 the juvenile's release from custody.

39 f. On or after January 1, 2000 every person found not guilty by
40 reason of insanity of murder pursuant to N.J.S.2C:11-3,
41 manslaughter pursuant to N.J.S.2C:11-4, aggravated assault of the
42 second degree pursuant to paragraph (1) or (6) of subsection b. of
43 N.J.S.2C:12-1, kidnapping pursuant to N.J.S.2C:13-1, luring or
44 enticing a child in violation of P.L.1993, c.291 (C.2C:13-6),
45 **【engaging in sexual conduct which would impair or debauch the**
46 **morals of a child】** endangering welfare of children pursuant to
47 N.J.S.2C:24-4, except for paragraph (2) of subsection a., or any

1 attempt to commit any of these crimes, or adjudicated not
2 delinquent by reason of insanity for an act which, if committed by
3 an adult, would constitute one of these crimes, shall have a blood
4 sample drawn or other biological sample collected for purposes of
5 DNA testing.

6 g. Every person convicted or found not guilty by reason of
7 insanity of a crime or a specified disorderly persons offense shall
8 have a blood sample drawn or other biological sample collected for
9 purposes of DNA testing. If the person is sentenced to a term of
10 imprisonment or confinement, the person shall have a blood sample
11 drawn or other biological sample collected for purposes of DNA
12 testing upon commencement of the period of imprisonment or
13 confinement. If the person is not sentenced to a term of
14 imprisonment or confinement, the person shall provide a DNA
15 sample as a condition of the sentence imposed. A person who has
16 been convicted or found not guilty by reason of insanity of a crime
17 prior to the effective date of P.L.2003, c.183 or of a specified
18 disorderly persons offense prior to the effective date of P.L.2015,
19 c.263 and who, on the effective date, is serving a sentence of
20 imprisonment, probation, parole or other form of supervision as a
21 result of the crime or is confined following acquittal by reason of
22 insanity shall provide a DNA sample before termination of
23 imprisonment, probation, parole, supervision or confinement, as the
24 case may be.

25 h. Every juvenile adjudicated delinquent, or adjudicated not
26 delinquent by reason of insanity, for an act which, if committed by
27 an adult, would constitute a crime or a specified disorderly persons
28 offense shall have a blood sample drawn or other biological sample
29 collected for purposes of DNA testing. If under the order of
30 disposition the juvenile is sentenced to some form of imprisonment,
31 detention or confinement, the juvenile shall have a blood sample
32 drawn or other biological sample collected for purposes of DNA
33 testing upon commencement of the period of imprisonment,
34 detention or confinement. If the order of disposition does not
35 include some form of imprisonment, detention or confinement, the
36 juvenile shall provide a DNA sample as a condition of the
37 disposition ordered by the court. A juvenile who, prior to the
38 effective date of P.L.2003, c.183, has been adjudicated delinquent,
39 or adjudicated not delinquent by reason of insanity for an act which,
40 if committed by an adult, would constitute a crime or, prior to the
41 effective date of P.L.2015, c.263, has been adjudicated delinquent
42 or adjudicated not delinquent by reason of insanity for an act which,
43 if committed by an adult, would constitute a specified disorderly
44 persons offense, and who on the effective date is under some form
45 of imprisonment, detention, confinement, probation, parole or any
46 other form of supervision as a result of the offense or is confined
47 following an adjudication of not delinquent by reason of insanity

1 shall provide a DNA sample before termination of imprisonment,
2 detention, supervision or confinement, as the case may be.

3 As used in this act, "specified disorderly persons offense" shall
4 mean assault constituting domestic violence as defined in section 3
5 of P.L.1991, c.261 (C.2C:25-19); prostitution pursuant to
6 N.J.S.2C:34-1; any disorderly persons offense relating to narcotics
7 or dangerous drugs for which a person is required to be
8 fingerprinted pursuant to section 1 of P.L.1952, c.92 (C.53:1-18.1),
9 excluding possession of 50 grams or less of marijuana, including
10 any adulterants or dilutants, or five grams or less of hashish under
11 N.J.S.2C:35-10; or any other disorderly persons offense for which a
12 person is required to be fingerprinted pursuant to R.S.53:1-15. A
13 "specified disorderly persons offense" shall not include shoplifting
14 pursuant to N.J.S.2C:20-11.

15 i. Nothing in this act shall be deemed to limit or preclude
16 collection of DNA samples as authorized by court order or in
17 accordance with any other
18 (cf: P.L.2015, c.263, s.2)

19
20 2. This act shall take effect immediately.

21 22 23 STATEMENT

24
25 This bill requires a DNA sample to be collected from a person
26 arrested for endangering the welfare of a child by committing a
27 child pornography offense.

28 Current law requires a blood or other biological sample to be
29 collected from every adult and juvenile convicted or found not
30 guilty by reason of insanity of a crime of the first, second, third, and
31 fourth degree, as well as for convictions of specified disorderly
32 persons offenses. Current law also requires a blood or other
33 biological sample be collected from every adult and juvenile
34 arrested for any of the following crimes: aggravated sexual assault;
35 sexual assault; aggravated criminal sexual contact; criminal sexual
36 contact; murder; manslaughter; aggravated assault of the second
37 degree; kidnapping; luring or enticing a child; endangering the
38 welfare of a child by engaging in sexual conduct which would
39 impair or debauch the morals of a child; or any attempt to commit
40 any of these crimes.

41 This bill expands the list of crimes for which a DNA sample is
42 collected from a defendant upon arrest to also include those persons
43 charged with endangering the welfare of a child by producing,
44 distributing, or possessing child pornography.