

[Second Reprint]
SENATE, No. 2709

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JUNE 14, 2018

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SYNOPSIS

Provides that certain persons who commit act of sexual penetration or sexual contact with students who are at least 18 but less than 22 years old are guilty of sexual assault or criminal sexual contact.

CURRENT VERSION OF TEXT

As reported by the Assembly Education Committee on November 26, 2018, with amendments.

(Sponsorship Updated As Of: 3/15/2019)

1 AN ACT concerning sexual assault and ¹**[aggravated]**¹ criminal
2 sexual contact and amending N.J.S.2C:14-2 and 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 ²2C:14-2. Sexual assault.²

9 a. An actor is guilty of aggravated sexual assault if he commits
10 an act of sexual penetration with another person under any one of
11 the following circumstances:

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

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

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

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

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

21 (3) The act is committed during the commission, or attempted
22 commission, whether alone or with one or more other persons, of
23 robbery, kidnapping, homicide, aggravated assault on another,
24 burglary, arson or 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 uses physical force or coercion;

31 (6) The actor uses physical force or coercion and severe
32 personal injury is sustained by the victim;

33 (7) The victim is one whom the actor knew or should have
34 known was physically helpless or incapacitated, intellectually or
35 mentally incapacitated, or had a mental disease or defect which
36 rendered the victim temporarily or permanently incapable of
37 understanding the nature of his conduct, including, but not limited
38 to, being incapable of providing consent.

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

40 Except as otherwise provided in subsection d. of this section, a
41 person convicted under paragraph (1) of this subsection shall be
42 sentenced to a specific term of years which shall be fixed by the
43 court and shall be between 25 years and life imprisonment of which
44 the person shall serve 25 years before being eligible for parole,

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted June 21, 2018.

²Assembly AED committee amendments adopted November 26, 2018.

1 unless a longer term of parole ineligibility is otherwise provided
2 pursuant to this Title.

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

6 c. An actor is guilty of sexual assault if he commits an act of
7 sexual penetration with another person under any one of the
8 following circumstances:

9 (1) The actor uses physical force or coercion, but the victim
10 does not sustain severe personal injury;

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

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

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

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

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

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

24 (5) The victim is a pupil ²[16 years of age or older] at least 18
25 but less than 22 years old² and has not received a high school
26 diploma and ²]:

27 (a) the actor is 21 years of age or older and is employed by, or a
28 volunteer at, the public or private school at which the victim is
29 enrolled or is attending at the time of the sexual penetration; and

30 (b) the actor has had interaction with the victim in the course of
31 performing his or her duties as an employee or volunteer] the actor
32 is a teaching staff member or substitute teacher, school bus driver,
33 other school employee, contracted service provider, or volunteer
34 and the actor has supervisory or disciplinary power of any nature or
35 in any capacity over the victim. As used in this paragraph,
36 “teaching staff member” has the meaning set forth
37 in N.J.S.18A:1-1².

38 Sexual assault is a crime of the second degree.

39 d. Notwithstanding the provisions of subsection a. of this
40 section, where a defendant is charged with a violation under
41 paragraph (1) of subsection a. of this section, the prosecutor, in
42 consideration of the interests of the victim, may offer a negotiated
43 plea agreement in which the defendant would be sentenced to a
44 specific term of imprisonment of not less than 15 years, during
45 which the defendant shall not be eligible for parole. In such event,
46 the court may accept the negotiated plea agreement and upon such
47 conviction shall impose the term of imprisonment and period of

1 parole ineligibility as provided for in the plea agreement, and may
2 not impose a lesser term of imprisonment or parole or a lesser
3 period of parole ineligibility than that expressly provided in the plea
4 agreement. The Attorney General shall develop guidelines to ensure
5 the uniform exercise of discretion in making determinations
6 regarding a negotiated reduction in the term of imprisonment and
7 period of parole ineligibility set forth in subsection a. of this
8 section.

9 (cf: P.L.2014, c.7, s.1)

10

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

12 ²2C:14-3. Criminal sexual contact.²

13 a. An actor is guilty of aggravated criminal sexual contact if he
14 commits an act of sexual contact with the victim under any of the
15 circumstances set forth in 2C:14-2a. (2) through (7) ¹~~and section~~
16 2C:14-2c. (5)¹.

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

18 b. An actor is guilty of criminal sexual contact if he commits
19 an act of sexual contact with the victim under any of the
20 circumstances set forth in section 2C:14-2c. (1) through ¹~~[(4)]~~ (5)¹.

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

22 (cf: P.L.1997, c.194, s.2)

23

24 3. This act shall take effect immediately.