

ASSEMBLY, No. 5498

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 17, 2021

Sponsored by:

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Directs referral of certain persons under 18 for determination of status as socially or economically disadvantaged youth.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/25/2021)

1 AN ACT concerning prostitution and amending N.J.S.2C:34-1 and
2 supplementing chapter 34 of Title 2C of the New Jersey Statutes.

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:34-1 is amended to read as follows:

8 2C:34-1. Prostitution and Related Offenses.

9 a. As used in this section:

10 (1) "Prostitution" is sexual activity with another person in
11 exchange for something of economic value, or the offer or
12 acceptance of an offer to engage in sexual activity in exchange for
13 something of economic value.

14 (2) "Sexual activity" includes, but is not limited to, sexual
15 intercourse, including genital-genital, oral-genital, anal-genital, and
16 oral-anal contact, whether between persons of the same or opposite
17 sex; masturbation; touching of the genitals, buttocks, or female
18 breasts; sadistic or masochistic abuse and other deviate sexual
19 relations.

20 (3) "House of prostitution" is any place where prostitution or
21 promotion of prostitution is regularly carried on by one person
22 under the control, management or supervision of another.

23 (4) "Promoting prostitution" is:

24 (a) Owning, controlling, managing, supervising or otherwise
25 keeping, alone or in association with another, a house of
26 prostitution or a prostitution business;

27 (b) Procuring an inmate for a house of prostitution or place in a
28 house of prostitution for one who would be an inmate;

29 (c) Encouraging, inducing, or otherwise purposely causing
30 another to become or remain a prostitute;

31 (d) Soliciting a person to patronize a prostitute;

32 (e) Procuring a prostitute for a patron;

33 (f) Transporting a person into or within this State with purpose
34 to promote that person's engaging in prostitution, or procuring or
35 paying for transportation with that purpose; or

36 (g) Knowingly leasing or otherwise permitting a place
37 controlled by the actor, alone or in association with others, to be
38 regularly used for prostitution or promotion of prostitution, or
39 failure to make a reasonable effort to abate such use by ejecting the
40 tenant, notifying law enforcement authorities, or other legally
41 available means.

42 b. A person commits an offense if:

43 (1) The actor engages in prostitution as a patron;

44 (2) The actor promotes prostitution;

45 (3) The actor knowingly promotes prostitution of a child under

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 18 whether or not the actor mistakenly believed that the child was
2 18 years of age or older, even if such mistaken belief was
3 reasonable;

4 (4) The actor knowingly promotes prostitution of the actor's
5 child, ward, or any other person for whose care the actor is
6 responsible;

7 (5) The actor compels another to engage in or promote
8 prostitution;

9 (6) The actor promotes prostitution of the actor's spouse;

10 (7) The actor knowingly engages in prostitution with a person
11 under the age of 18, or if the actor enters into or remains in a house
12 of prostitution for the purpose of engaging in sexual activity with a
13 child under the age of 18, or if the actor solicits or requests a child
14 under the age of 18 to engage in sexual activity. It shall be no
15 defense to a prosecution under this paragraph that the actor
16 mistakenly believed that the child was 18 years of age or older,
17 even if such mistaken belief was reasonable; or

18 (8) The actor engages in prostitution by personally offering
19 sexual activity in exchange for something of economic value.

20 c. Grading of offenses under subsection b.

21 (1) An offense under subsection b. constitutes a crime of the
22 first degree if the offense falls within paragraph (3) or (4) of that
23 subsection.

24 (2) An offense under subsection b. constitutes a crime of the
25 second degree if the offense falls within paragraph (7) of that
26 subsection.

27 (3) An offense under subsection b. constitutes a crime of the
28 third degree if the offense falls within paragraph (5) or (6) of that
29 subsection.

30 (4) An offense under paragraph (2) of subsection b. constitutes a
31 crime of the third degree if the conduct falls within subparagraph
32 (a), (b), (c), (f), or (g) of paragraph (4) of subsection a. Otherwise
33 the offense is a crime of the fourth degree.

34 (5) An offense under subsection b. constitutes a disorderly
35 persons offense if the offense falls within paragraph (1) of that
36 subsection except that a second or third conviction for such an
37 offense constitutes a crime of the fourth degree, and a fourth or
38 subsequent conviction for such an offense constitutes a crime of the
39 third degree. In addition, where a motor vehicle was used in the
40 commission of any offense under paragraph (1) of subsection b. the
41 court shall suspend for six months the driving privilege of any such
42 offender who has a valid driver's license issued by this State. Upon
43 conviction, the court shall immediately collect the offender's
44 driver's license and shall forward it, along with a report stating the
45 first and last day of the suspension imposed pursuant to this
46 paragraph, to the New Jersey Motor Vehicle Commission.

47 (6) An offense under subsection b. constitutes a disorderly
48 persons offense if the offense falls within paragraph (8) of that

1 subsection, except that a second or subsequent conviction for such
2 an offense constitutes a crime of the fourth degree.

3 d. Presumption from living off prostitutes. A person, other
4 than the prostitute or the prostitute's minor child or other legal
5 dependent incapable of self-support, who is supported in whole or
6 substantial part by the proceeds of prostitution is presumed to be
7 knowingly promoting prostitution.

8 e. It is an affirmative defense to prosecution for a violation of
9 this section that, during the time of the alleged commission of the
10 offense, the defendant was under 18 years of age, was a victim of
11 human trafficking pursuant to section 1 of P.L.2005, c.77 (C.2C:13-
12 8) or compelled by another to engage in sexual activity, regardless
13 of the defendant's age.

14 f. (1) Any fine set forth in N.J.S.2C:43-3 that is imposed upon a
15 person by a municipal court for a conviction of a disorderly persons
16 offense under this section shall be collected, notwithstanding the
17 procedures for the collection of fines and restitutions in section 3 of
18 P.L.1979, c.396 (C.2C:46-4), by the municipal court administrator
19 and paid into the municipal treasury of the municipality in which
20 the offense was committed.

21 (2) In addition to any fine, fee, assessment, or penalty
22 authorized under the provisions of Title 2C of the New Jersey
23 Statutes, a person convicted of an offense of prostitution or related
24 offense under paragraph (2), (3), (4), (5), (6), or (7) of subsection b.
25 shall be assessed a penalty of at least \$10,000 but not more than
26 \$50,000, except if the offense involved promotion of the
27 prostitution of a child under the age of 18, the penalty shall be at
28 least \$25,000. All penalties provided for in this subsection,
29 collected as provided for the collection of fines and restitutions in
30 section 3 of P.L.1979, c.396 (C.2C:46-4), shall be forwarded to the
31 Department of the Treasury to be deposited in the "Human
32 Trafficking Survivor's Assistance Fund" established by section 2 of
33 P.L.2013, c.51 (C.52:17B-238).

34 (cf: P.L.2013, c.51, s.9)

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36 2. (New section) a. A person under the age of 18 shall not be
37 considered to commit an act of juvenile delinquency which, under
38 section 4 of P.L.1982, c.77 (C.2A:4A-23), would be a violation of
39 N.J.S.2C:34-1 if committed by an adult but shall be referred by law
40 enforcement to the Department of Children and Family Services for
41 a determination of whether the person is a "socially or economically
42 disadvantaged youth."

43 b. As used in this act, a "socially or economically disadvantaged
44 youth" means shall mean those persons below 18 years of age from
45 socially disadvantaged or lower income families and whose conduct
46 resulting in the referral likely stemmed from the social or economic
47 disadvantage.

1 3. This act shall take effect immediately.

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STATEMENT

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6 This bill would provide an affirmative defense to any person
7 under the age of 18 who commits an act of juvenile delinquency
8 which if committed by an adult would be prostitution. The bill is
9 intended to address situations where disadvantaged youth are taken
10 into custody for conduct which stems from the person's
11 background, their environment, lack of support or systemic racism
12 or bias.

13 Under the bill, a person under the age of 18 shall not be
14 considered to commit an act of juvenile delinquency which, under
15 N.J.S.A.2A:4A-23, would be a violation of N.J.S.A.2C:34-1 if
16 committed by an adult but shall be referred by law enforcement to
17 the Department of Children and Family Services for a determination
18 of whether the person is a "socially or economically disadvantaged
19 youth."

20 Under the bill, a "socially or economically disadvantaged youth"
21 means shall mean those persons below 18 years of age from socially
22 disadvantaged or lower income families and whose conduct
23 resulting in the referral likely stemmed from the social or economic
24 disadvantage.