

ASSEMBLY, No. 374

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman HOLZAPFEL

1 AN ACT concerning certain sex offenders and amending  
2 N.J.S.2C:47-3.

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

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7 1. N.J.S.2C:47-3 is amended to read as follows:  
8 2C:47-3. Disposition.

9 a. If the report of the examination reveals that the offender's  
10 conduct was characterized by a pattern of repetitive, compulsive  
11 behavior, the court shall determine whether the offender's conduct was  
12 so characterized and shall record its findings on the judgment of  
13 conviction.

14 b. If the court finds that the offender's conduct was characterized  
15 by a pattern of repetitive, compulsive behavior, the court may, upon  
16 the recommendation of the Adult Diagnostic and Treatment Center,  
17 sentence the offender to the Center for a program of specialized  
18 treatment for his mental condition or place the offender on probation  
19 with the requirement, as a condition of probation, that he receive  
20 outpatient psychological or psychiatric treatment as prescribed.

21 c. A sentence of [incarceration or] probation imposed pursuant to  
22 subsection b. of this section shall be set in accordance with chapters  
23 43, 44 and 45 of this code. A sentence of incarceration imposed  
24 pursuant to subsection b. of this subsection shall be for an  
25 indeterminate term. For purposes of this subsection, indeterminate  
26 shall mean a period of 30 years or until the person is released pursuant  
27 to N.J.S.2C:47-5, whichever is greater.

28 d. The court shall impose sentence in accordance with chapters 43,  
29 44 and 45 of this Title and not as provided in subsection b. of this  
30 section:

31 (1) If it shall appear from the report of such examination made of  
32 such person that the offender's conduct was not characterized by a

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 pattern of repetitive, compulsive behavior; or

2 (2) If the report of the examination does not recommend that the  
3 offender be sentenced to the Adult Diagnostic and Treatment Center  
4 for treatment or placed on probation conditioned upon receipt of  
5 treatment.

6 e. The court may, in its discretion, sentence an offender who is  
7 eligible for sentence pursuant to subsection b. of this section in  
8 accordance with chapters 43, 44 and 45 of this Title.

9 (cf: P.L.1994, c.134, s.2)

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11 2. This act shall take effect immediately.

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#### STATEMENT

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16 Under the provisions of this bill, a sex offender who is incarcerated  
17 for a conviction of aggravated sexual assault, sexual assault or  
18 aggravated criminal sexual contact, or an attempt to commit any of  
19 these crimes, and who was found to be "compulsive and repetitive"  
20 would be sentenced to a 30-year indeterminate term. The offender  
21 would not be released until he had served 30 years or was paroled  
22 pursuant to the provisions of N.J.S.2C:47-5. That section provides  
23 that, in order to be paroled, the offender must be "capable of making  
24 an acceptable social adjustment in the community."

25 Under current law, the vast majority of sex offenders who serve  
26 their sentences at the Adult Diagnostic and Treatment Center (ADTC),  
27 the correctional facility where most of the State's compulsive and  
28 repetitive sex offenders are incarcerated, are not paroled. These  
29 offenders serve their full sentences ("max out") and are not subject to  
30 any supervision or restrictions when they leave the institution. Jesse  
31 Timendequas, who was accused of murdering seven-year old Megan  
32 Kanka of Hamilton Township, "maxed out" of the ADTC.

33 This bill implements a recommendation of the Joint Task Force to  
34 Study the ADTC, which was established by the Legislature with the  
35 enactment of the package of bills known as "Megan's Law." It is the  
36 sponsor's intent that sentencing a sex offender to an indeterminate  
37 term will provide an incentive for the offender to receive treatment.  
38 If a sex offender is still considered a danger to the community after 30  
39 years, the State could move to have the sex offender civilly committed.

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44 Provides for 30-year indeterminate term for compulsive and repetitive  
45 sex offenders.