

ASSEMBLY, No. 391

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman HECK

1 AN ACT concerning penalties for sexual assault amending  
2 N.J.S.2C:14-2 and N.J.S.2C:14-6.

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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:14-2 is amended to read as follows:

8 2C:14-2. Sexual assault. a. An actor is guilty of aggravated sexual  
9 assault if he commits an act of sexual penetration with another person  
10 under any one of the following circumstances:

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

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

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

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

17 (c) The actor is a foster parent, a guardian, or stands in loco  
18 parentis within the household;

19 (3) The act is committed during the commission, or attempted  
20 commission, whether alone or with one or more other persons, of  
21 robbery, kidnapping, homicide, aggravated assault on another,  
22 burglary, arson or criminal escape;

23 (4) The actor is armed with a weapon or any object fashioned in  
24 such a manner as to lead the victim to reasonably believe it to be a  
25 weapon and threatens by word or gesture to use the weapon or object;

26 (5) The actor is aided or abetted by one or more other persons and  
27 either of the following circumstances exists:

28 (a) The actor uses physical force or coercion, or

29 (b) The victim is one whom the actor knew or should have known  
30 was physically helpless, mentally defective or mentally incapacitated;

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

**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       Aggravated sexual assault is a crime of the first degree. A person  
2 convicted under paragraphs (1) and (2) of this subsection shall be  
3 sentenced to a term of imprisonment. Notwithstanding the provisions  
4 of paragraph (1) of subsection a. of N.J.S.2C:43-6, the term of  
5 imprisonment shall include a mandatory minimum term of 10 years,  
6 during which time the defendant shall not be eligible for parole.

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

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

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

15       (2) The victim is one whom the actor knew or should have known  
16 was physically helpless, mentally defective or mentally incapacitated;

17       (3) The victim is on probation or parole, or is detained in a  
18 hospital, prison or other institution and the actor has supervisory or  
19 disciplinary power over the victim by virtue of the actor's legal,  
20 professional or occupational status;

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

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

24       (b) The actor has supervisory or disciplinary power over the  
25 victim; or

26       (c) The actor is a foster parent, a guardian, or stands in loco  
27 parentis within the household;

28       (5) The victim is at least 13 but less than 16 years old and the actor  
29 is at least four years older than the victim.

30       Sexual assault is a crime of the second degree. A person convicted  
31 under subsection b. and paragraphs (4) and (5) of subsection c. shall  
32 be sentenced to a term of imprisonment. Notwithstanding the  
33 provisions of paragraph (2) of subsection a. of N.J.S. 2C:43-6, the  
34 term of imprisonment shall include a mandatory minimum term of five  
35 years, during which time the defendant shall not be eligible for parole.  
36 (cf: P.L.1989, c.228, s.3)

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38       2. N.J.S.2C:14-6 is amended to read as follows:

39       2C:14-6. Sentencing. a. If a person is convicted of a second or  
40 subsequent offense under [sections 2C:14-2 or] section 2C:14-3a., the  
41 sentence imposed under [those sections] that section for the second or  
42 subsequent offense shall, unless the person is sentenced pursuant to  
43 the provisions of 2C:43-7, include a [fixed] mandatory minimum  
44 [sentence] term of imprisonment of [not less than] 5 years, during  
45 which the defendant shall not be eligible for parole.

46       b. If a person is convicted of a second or subsequent offense under

1 subsection a. of N.J.S.2C:14-2, the sentence imposed under that  
2 section for the second or subsequent offense shall, unless the person  
3 is sentenced pursuant to the provisions of 2C:43-7, include a  
4 mandatory minimum term of imprisonment of 15 years, during which  
5 the defendant shall not be eligible for parole.

6 c. If a person is convicted of a second or subsequent offense under  
7 subsection b. of N.J.S.2C:14-2, the sentence imposed under that  
8 section for the second or subsequent offense shall, unless the person  
9 is sentenced pursuant to the provisions of 2C:43-7, include a  
10 mandatory minimum term of imprisonment of 7 years, during which  
11 the defendant shall not be eligible for parole.

12 The court may not suspend or make any other non-custodial  
13 disposition of any person sentenced as a second or subsequent  
14 offender pursuant to this section. For the purpose of this section an  
15 offense is considered a second or subsequent offense, if the actor has  
16 at any time been convicted under sections 2C:14-2 or 2C:14-3a. or  
17 under any similar statute of the United States, this state, or any other  
18 state for an offense that is substantially equivalent to sections 2C:14-2  
19 or 2C:14-3a.

20 (cf: P.L.1978, c.95, s.2C:14-6)

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22 3. This act shall take effect immediately.

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#### STATEMENT

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27 This bill would impose mandatory terms of imprisonment, without  
28 eligibility for parole, on any persons convicted of aggravated sexual  
29 assault and sexual assault where the victim is less than 16.

30 Specifically, the bill provides that a person convicted of aggravated  
31 sexual assault under these circumstances would be sentenced to a  
32 mandatory minimum term of 10 years, during which time the defendant  
33 shall not be eligible for parole. A person convicted of sexual assault  
34 under these circumstances would be sentenced to a mandatory  
35 minimum term of five years, during which time the defendant would be  
36 ineligible for parole.

37 In addition, the bill amends N.J.S.2C:14-6 to increase the  
38 mandatory minimum term of imprisonment for a person who has been  
39 convicted of a second or subsequent offense of aggravated sexual  
40 assault from five to 15 years and for a person who has been convicted  
41 of a second or subsequent offense of sexual assault from five years to  
42 7 years.

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3 Provides for a mandatory minimum term without eligibility of parole

4 for sexual assault.