

ASSEMBLY, No. 1215

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman AUGUSTINE

1 AN ACT concerning penalties for aggravated sexual assault and
2 amending 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.
2 Notwithstanding the provisions of any other law, a person convicted
3 under paragraph (3), (4), (5) or (6) of this subsection where the victim
4 is less than 16 years old shall be sentenced to a term of imprisonment.
5 The term of imprisonment shall include a mandatory minimum term of
6 15 years during which the person 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. Notwithstanding the
31 provisions of any other law, a person convicted under paragraph (1)
32 or (2) of this subsection where the victim is less than 16 years old shall
33 be sentenced to a term of imprisonment. The term of imprisonment
34 shall include a mandatory minimum term of 7 years during which the
35 person 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:14-2 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] paragraph (1) or (2), under
41 paragraph (3), (4), (5) or (6) of N.J.S.2C:14-2 where the victim is 16
42 years old or older or under section 2C:14-3a., the sentence imposed
43 [under those sections] for the second or subsequent offense shall,
44 unless the person is sentenced pursuant to the provisions of 2C:43-7,
45 include a [fixed] mandatory minimum [sentence] term of imprisonment
46 of [not less than] 5 years, during which the defendant shall not be

1 eligible for parole.

2 b. Notwithstanding the provisions of any other law, if a person is
3 convicted of a second or subsequent offense under paragraph (3), (4),
4 (5) or (6) of subsection a. of N.J.S.2C:14-2 where the victim is less
5 than 16 years old, the person shall be sentenced to life imprisonment,
6 during which time the person shall not be eligible for parole.

7 c. Notwithstanding the provisions of any other law, if a person is
8 convicted of a second or subsequent offense under paragraph (1) or
9 (2) of subsection c. of section N.J.S.2C:14-2 where the victim is less
10 than 16 years old, the person shall be sentenced to a mandatory
11 minimum term of imprisonment of 25 years, during which the
12 defendant shall not be eligible for parole.

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

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

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23 3. This act shall take effect immediately.

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STATEMENT

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28 This bill would set a mandatory minimum term of imprisonment of
29 15 years, without eligibility for parole, for a person who commits
30 aggravated sexual assault involving force upon a minor under the age
31 of 16. A person who commits a second or subsequent offense would
32 be sentenced to life imprisonment without eligibility for parole.

33 Aggravated sexual assault is a crime of the first degree. Generally,
34 a crime of the first degree is punishable by a term of imprisonment of
35 up to 10 to 20 years, a fine of up to \$100,000, or both.

36 The bill would also set a mandatory term of imprisonment of 7
37 years for a person who commits sexual assault involving force upon a
38 minor under the age of 16. A second offender would be sentenced to
39 a mandatory minimum term of 25 years.

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44 Establishes mandatory prison terms for sexual assault upon a minor.