

[Second Reprint]  
ASSEMBLY, No. 1285

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywomen GILL, BUONO, Assemblyman Barnes,  
Assemblywomen Weinberg and Vandervalk

1 AN ACT concerning child abuse and neglect and <sup>2</sup>[revising parts of  
2 statutory law] amending N.J.S.2C:24-4<sup>2</sup>.

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:24-4 is amended to read as follows:

8 2C:24-4. Endangering Welfare of Children. a. Any person having  
9 a legal duty for the care of a child <sup>1</sup>under the age of 18<sup>1</sup> or who has  
10 assumed responsibility for the care of a child <sup>1</sup>[who engages in sexual  
11 conduct which would impair or debauch the morals of the child, or  
12 who causes the child harm that would make the child an abused or  
13 neglected child as defined in [R.S.9:6-1, R.S.9:6-3 and] P.L.1974,  
14 c.119, s.1 (C.9:6-8.21) is guilty of a crime of the second degree. Any  
15 other person who engages in conduct or who causes harm as described  
16 in this subsection to a child under the age of 16 is guilty of a crime of  
17 the third degree.]under the age of 18 who purposely, knowingly,  
18 <sup>2</sup>[recklessly]<sup>2</sup> or under circumstances manifesting extreme indifference  
19 to the value of human life<sup>2</sup>, recklessly engages in conduct which  
20 includes, but is not limited to<sup>2</sup>:

21 (1) <sup>2</sup>**[Burns]** Burning<sup>2</sup> the child;

22 (2) <sup>2</sup>**[Causes]** Causing<sup>2</sup> the child to sustain disfigurement or  
23 significant bodily injury as defined in 2C:11-1d;

24 (3) <sup>2</sup>**[Causes]** Causing<sup>2</sup> the child to suffer mental pain or physical  
25 impairment;

26 (4) <sup>2</sup>**[Causes]** Causing<sup>2</sup> damage to the child's central nervous  
27 system;

28 (5) <sup>2</sup>**[Inflicts]** Inflicting<sup>2</sup> punishment or discipline on the child that  
29 is unreasonable in its cruelty, severity or frequency;

30 (6) <sup>2</sup>**[Engages]** Engaging<sup>2</sup> in sexual conduct with the child<sup>2</sup>, which

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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly ACO committee amendments adopted May 5, 1997.

<sup>2</sup> Assembly floor amendments adopted June 19, 1997.

1 conduct may tend to impair or diminish the morals of the child,<sup>2</sup> or  
2 <sup>2</sup>[solicits] soliciting<sup>2</sup> the child to engage in such conduct;

3 (7) <sup>2</sup>[Causes] Causing<sup>2</sup> the child to engage in conduct which is  
4 prohibited by Title 2C of the New Jersey Statutes or section 4 of  
5 P.L.1982, c.77 (C.2A:4A-23), or <sup>2</sup>[engages] engaging <sup>2</sup>in such  
6 conduct in the presence of the child;

7 (8) <sup>2</sup>[Fails] Failing<sup>2</sup> to provide necessary food, clothing, shelter or  
8 compulsory education;

9 (9) <sup>2</sup>[Leaves] Leaving<sup>2</sup> the child unattended or without <sup>2</sup>proper<sup>2</sup>  
10 supervision under circumstances creating a risk of harm to the child;

11 (10) <sup>2</sup>[Fails] Failing<sup>2</sup> to provide necessary medical care for the  
12 child; or

13 (11) <sup>2</sup>[Abandons] Abandoning<sup>2</sup> the child  
14 is guilty of a crime of the second degree.

15 <sup>2</sup>[Any person having a legal duty for the care of a child under the  
16 age of 18, or who has assumed responsibility for the care of a child  
17 under the age of 18 who knowingly permits any other person to violate  
18 the provisions of paragraphs (1) through (11) of this subsection or  
19 who recklessly engages in conduct or causes harm as described in  
20 paragraphs (1) through (11) of this subsection, is guilty of a crime of  
21 the third degree.

22 Any other person who engages in conduct or causes harm as  
23 described in paragraphs (1) through (7) of this subsection to a child  
24 under the age of 16 is guilty of a crime of the third degree.

25 Nothing in paragraph (10) of this subsection shall be construed to  
26 prohibit a person responsible for the care of a child from making good-  
27 faith decisions regarding medical care for the child consistent with the  
28 tenets of that person's religion.<sup>1</sup><sup>2</sup>

29 b. As used in this subsection:

30 (1) "Child" shall mean any person under 16 years of age.

31 (2) "Prohibited sexual act" means

32 (a) Sexual intercourse; or

33 (b) Anal intercourse; or

34 (c) Masturbation; or

35 (d) Bestiality; or

36 (e) Sadism; or

37 (f) Masochism; or

38 (g) Fellatio; or

39 (h) Cunnilingus; or

40 (i) Nudity, if depicted for the purpose of sexual stimulation or  
41 gratification of any person who may view such depiction.

42 (3) Any person, including any parent, guardian, or other person  
43 legally charged with the care or custody of a child, who causes or  
44 permits a child to engage in a prohibited sexual act or in the simulation  
45 of such an act if the person knows, has reason to know or intends that  
46 the prohibited act may be photographed, filmed, reproduced, or

1 reconstructed in any manner or may be part of an exhibition or  
2 performance is guilty of a crime of the second degree.

3 (4) Any person who photographs or films a child in a prohibited  
4 sexual act or in the simulation of such an act or who uses any device  
5 to reproduce or reconstruct the image of a child in a prohibited sexual  
6 act or in the simulation of such an act is guilty of a crime of the second  
7 degree.

8 (5) (a) Any person who knowingly receives for the purpose of  
9 selling or who knowingly sells, procures, manufactures, gives,  
10 provides, lends, trades, mails, delivers, transfers, publishes, distributes,  
11 circulates, disseminates, presents, exhibits, advertises, offers or agrees  
12 to offer any photograph, film, videotape, computer program, video  
13 game or any other reproduction or reconstruction which depicts a  
14 child engaging in a prohibited sexual act or in the simulation of such  
15 an act, is guilty of a crime of the second degree.

16 (b) Any person who knowingly possesses or knowingly views any  
17 photograph, film, videotape, computer program, video game or any  
18 other reproduction or reconstruction which depicts a child engaging  
19 in a prohibited sexual act or in the simulation of such an act, is guilty  
20 of a crime of the fourth degree.

21 (6) For purposes of this subsection, a person who is depicted as or  
22 presents the appearance of being under the age of 16 in any  
23 photograph or film shall be rebuttably presumed to be under the age  
24 of 16.

25 <sup>2</sup>c. Any person having a legal duty for the care of a child under the  
26 age of 18, or who has assumed responsibility for the care of a child  
27 under the age of 18 who knowingly permits any other person to violate  
28 the provisions of paragraphs (1) through (11) of subsection a. of this  
29 section or who recklessly engages in conduct or causes harm as  
30 described in paragraphs (1) through (11) of subsection a. of this  
31 section, is guilty of a crime of the third degree.

32 d. Any person other than a person described in subsections a. and  
33 c. of this section who engages in conduct or causes harm as described  
34 in paragraphs (1) through (7) of subsection a. of this section to a child  
35 under the age of 16 is guilty of a crime of the third degree.

36 e. Nothing in paragraph (10) of subsection a. of this section shall  
37 be construed to prohibit a person responsible for the care of a child  
38 from making good-faith decisions regarding medical care for the child  
39 consistent with the tenets of that person's religion.<sup>2</sup>

40 (cf: P.L.1995, c.109, s.1)

41

42 <sup>2</sup>[2. (New section) a. For the purposes of this section, abuse of  
43 a child shall consist of any <sup>1</sup>of<sup>1</sup> the following acts: (1) disposing of the  
44 custody of a child contrary to law; (2) employing or permitting a child  
45 to be employed in any vocation or employment injurious <sup>1</sup>or likely to  
46 create a risk<sup>1</sup> to his health or dangerous to his life or limb, or contrary

1 to the laws of this State; (3) employing or permitting a child to be  
2 employed in any occupation, employment or vocation dangerous to the  
3 morals of such child; or (4) using excessive physical restraint on the  
4 child under circumstances which do not indicate that the child's  
5 behavior is harmful to himself, others or property.

6 Abandonment of a child shall mean the willful forsaking of a child  
7 by anyone having the custody or control of the child.

8 Cruelty of a child shall mean inflicting unnecessarily severe corporal  
9 punishment upon a child by anyone having the custody or control of  
10 the child.

11 Neglect of a child shall mean the willfull failure by anyone having  
12 the custody and control of a child to provide proper and sufficient  
13 food, clothing, maintenance, regular school education as required by  
14 law, medical attendance or surgical treatment, and a clean and proper  
15 home.

16 b. Any parent or guardian or person having the care, custody or  
17 control of a child who abuses, abandons, is cruel to or neglectful of  
18 such child, or any person who abuses, is cruel to, or neglectful of any  
19 child is guilty of a crime of the fourth degree.]<sup>2</sup>

20

21 <sup>2</sup>[3. Section 2 of P.L.1971, c.437 (C.9:6-8.9) is amended to read  
22 as follows:

23 2. For purposes of this act:

24 "Abused child" means a child under the age of 18 years whose  
25 parent, guardian, or other person having his custody and control:

26 a. Inflicts or allows to be inflicted upon such child physical injury  
27 by other than accidental means which causes or creates a substantial  
28 risk of death, or serious or protracted disfigurement, or protracted  
29 impairment of physical or emotional health or protracted loss or  
30 impairment of the function of any bodily organ;

31 b. Creates or allows to be created a substantial or ongoing risk of  
32 physical injury to such child by other than accidental means which  
33 would be likely to cause death or serious or protracted disfigurement,  
34 or protracted loss or impairment of the function of any bodily organ;  
35 or

36 c. Commits or allows to be committed an act of sexual abuse  
37 against the child;

38 d. Or a child whose physical, mental, or emotional condition has  
39 been impaired or is in imminent danger of becoming impaired as the  
40 result of the failure of his parent or guardian, or such other person  
41 having his custody and control, to exercise a minimum degree of care  
42 (1) in supplying the child with adequate food, clothing, shelter,  
43 education, medical or surgical care <sup>1</sup>[or a clean and proper home]<sup>1</sup>  
44 though financially able to do so or though offered financial or other  
45 reasonable means to do so, or (2) in providing the child with proper  
46 supervision or guardianship, by unreasonably inflicting or allowing to

1 be inflicted harm, or substantial risk thereof, including the infliction of  
 2 excessive corporal punishment or using excessive physical restraint  
 3 under circumstances which do not indicate that the child's behavior is  
 4 harmful to himself, others or property; or by any other act of a  
 5 similarly serious nature requiring the aid of the court;

6 e. Or a child who has been willfully abandoned by his parent or  
 7 guardian, or such other person having his custody and control;

8 f. Or a child who is in an institution as defined in section 1 of  
 9 P.L.1974, c.119 (C.9:6-8.21) and (1) has been so placed  
 10 inappropriately for a continued period of time with the knowledge that  
 11 the placement has resulted and may continue to result in harm to the  
 12 child's mental or physical well-being or (2) has been willfully isolated  
 13 from ordinary social contact under circumstances which indicate  
 14 emotional or social deprivation[.];

15 g. Commits any willful act of omission or commission whereby  
 16 <sup>1</sup>[unnecessary]<sup>1</sup> pain and suffering, whether mental or physical, is  
 17 caused or permitted to be inflicted on a child; <sup>1</sup>or<sup>1</sup>

18 h. Exposes a child to <sup>1</sup>[unnecessary]<sup>1</sup> hardship, fatigue or mental  
 19 or physical <sup>1</sup>[strains] stresses<sup>1</sup> that may tend to injure the health or  
 20 physical or <sup>1</sup>[moral] emotional<sup>1</sup> well-being of the child; <sup>1</sup>or<sup>1</sup>

21 i. Fails to care for and keep the control and custody of a child so  
 22 that child is exposed to physical or <sup>1</sup>[moral] emotional <sup>1</sup> risk without  
 23 <sup>1</sup>[proper and]<sup>1</sup> sufficient protection <sup>1</sup>[:or

24 j. Fails to care for and keep the control and custody of a child so  
 25 that the child is liable to be supported and maintained at the expense  
 26 of the public, or by child care societies or private persons not legally  
 27 chargeable with his care, custody and control]<sup>1</sup> .

28 A child shall not be considered abused or neglected pursuant to  
 29 subsection f. of this section if the acts or omissions described therein  
 30 occur in a day school as defined in section 1 of P.L.1974, c.119  
 31 (C.9:6-8.21).

32 (cf. P.L.1987, c.341, s.3)]<sup>2</sup>

33

34 <sup>2</sup>[4. Section 4 of P.L.1971, c.437 (C.9:6-8.11) is amended to read  
 35 as follows:

36 4. Upon receipt of any such report the [Bureau of Children's  
 37 Services] Division of Youth and Family Services shall immediately  
 38 take such action as shall be necessary to insure the safety of the child  
 39 and to that end may request and shall receive appropriate assistance  
 40 from local and State law enforcement officials. The [bureau] division  
 41 shall also, within 72 hours, forward a report of such matter to the  
 42 Central Registry of the [Bureau of Children's Services] Division of  
 43 Youth and Family Services in Trenton. No information received in the  
 44 central registry shall be considered as a public record within the  
 45 meaning of P.L.1963, c.73.

46 (cf. P.L.1971, c.437 s.4)]<sup>2</sup>

1       <sup>2</sup>[5. Section 5 of P.L.1971, c.437 (C.9:6-8.12) is amended to read  
2 as follows:

3       5. The [Bureau of Children's Services] Division of Youth and  
4 Family Services shall maintain in each of its districts on a 24 hour daily  
5 basis throughout each year an emergency telephone service for the  
6 receipt of child abuse calls.  
7 (cf. P.L.1971, c.437 s.5)]<sup>2</sup>

8

9       <sup>2</sup>[6. Section 8 of P.L.1971, c.437 (C.9:6-8.15) is amended to read  
10 as follows:

11       8. The [Bureau of Children's Services] Division of Youth and  
12 Family Services shall from time to time promulgate such rules and  
13 regulations as may be necessary to effectuate the provisions of this act.  
14 (cf. P.L.1971, c.437 s.8)]<sup>2</sup>

15

16       <sup>2</sup>[7. Section 1 of P.L.1974, c.119 (C.9:6-8.21) is amended to read  
17 as follows:

18       1. As used in this act, unless the specific context indicates  
19 otherwise:

20       a. "Parent or guardian" means any natural parent, adoptive parent,  
21 foster parent, stepparent, or any person, who has assumed  
22 responsibility for the care, custody or control of a child or upon whom  
23 there is a legal duty for such care. Parent or guardian includes a  
24 teacher, employee or volunteer, whether compensated or  
25 uncompensated, of an institution who is responsible for the child's  
26 welfare and any other staff person of an institution regardless of  
27 whether or not the person is responsible for the care or supervision of  
28 the child. Parent or guardian also includes a teaching staff member or  
29 other employee, whether compensated or uncompensated, of a day  
30 school as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21).

31       b. "Child" means any child alleged to have been abused or  
32 neglected.

33       c. "Abused or neglected child" means a child less than 18 years of  
34 age whose parent or guardian, as herein defined, (1) inflicts or allows  
35 to be inflicted upon such child physical injury by other than accidental  
36 means which causes or creates a substantial risk of death, or serious  
37 or protracted disfigurement, or protracted impairment of physical or  
38 emotional health or protracted loss or impairment of the function of  
39 any bodily organ; (2) creates or allows to be created a substantial or  
40 ongoing risk of physical injury to such child by other than accidental  
41 means which would be likely to cause death or serious or protracted  
42 disfigurement, or protracted loss or impairment of the function of any  
43 bodily organ; (3) commits or allows to be committed an act of sexual  
44 abuse against the child; (4) or a child whose physical, mental, or  
45 emotional condition has been impaired or is in imminent danger of  
46 becoming impaired as the result of the failure of his parent or

1 guardian, as herein defined, to exercise a minimum degree of care (a)  
2 in supplying the child with adequate food, clothing, shelter, education,  
3 medical or surgical care <sup>1</sup>[or a clean and proper home]<sup>1</sup> though  
4 financially able to do so or though offered financial or other reasonable  
5 means to do so, or (b) in providing the child with proper supervision  
6 or guardianship, by unreasonably inflicting or allowing to be inflicted  
7 harm, or substantial risk thereof, including the infliction of excessive  
8 corporal punishment; or by any other acts of a similarly serious nature  
9 requiring the aid of the court; (5) or a child who has been willfully  
10 abandoned by his parent or guardian, as herein defined; (6) or a child  
11 upon whom excessive physical restraint has been used under  
12 circumstances which do not indicate that the child's behavior is  
13 harmful to himself, others or property; (7) or a child who is in an  
14 institution and (a) has been placed there inappropriately for a  
15 continued period of time with the knowledge that the placement has  
16 resulted or may continue to result in harm to the child's mental or  
17 physical well-being or (b) who has been willfully isolated from  
18 ordinary social contact under circumstances which indicate emotional  
19 or social deprivation; or (8) commits any willful act of omission or  
20 commission whereby <sup>1</sup>[unnecessary]<sup>1</sup> pain and suffering, whether  
21 mental or physical, is caused or permitted to be inflicted on a child; or  
22 (9) exposes a child to <sup>1</sup>[unnecessary]<sup>1</sup> hardship, fatigue or mental or  
23 physical <sup>1</sup>[strains] stresses<sup>1</sup> that may tend to injure the health or  
24 physical or <sup>1</sup>[moral] emotional<sup>1</sup> well-being of the child; or (10) fails to  
25 care for and keep control and custody of a child so that child is  
26 exposed to physical or <sup>1</sup>[moral] emotional<sup>1</sup> risk without <sup>1</sup>[proper and]  
27 sufficient protection <sup>1</sup>; or (11) fails to care for and keep the control  
28 and custody of a child so that the child shall be liable to be supported  
29 and maintained at the expense of the public, or by child care societies  
30 or private persons not legally chargeable with his care, custody and  
31 control]<sup>1</sup>.

32 A child shall not be considered abused or neglected pursuant to  
33 paragraph (7) of subsection c. of this section if the acts or omissions  
34 described therein occur in a day school as defined in this section.

35 No child who in good faith is under treatment by spiritual means  
36 alone through prayer in accordance with the tenets and practices of a  
37 recognized church or religious denomination by a duly accredited  
38 practitioner thereof shall for this reason alone be considered to be  
39 abused or neglected.

40 d. "Law guardian" means an attorney admitted to the practice of  
41 law in this State, regularly employed by the Office of the Public  
42 Defender or appointed by the court, and designated under this act to  
43 represent minors in alleged cases of child abuse or neglect.

44 e. "Attorney" means an attorney admitted to the practice of law in  
45 this State who shall be privately retained; or, in the instance of an  
46 indigent parent or guardian, an attorney from the Office of the Public

1 Defender or an attorney appointed by the court who shall be appointed  
2 in order to avoid conflict between the interests of the child and the  
3 parent or guardian in regard to representation.

4 f. "Division" means the Division of Youth and Family Services in  
5 the Department of Human Services unless otherwise specified.

6 g. "Institution" means a public or private facility in the State which  
7 provides children with out of home care, supervision or maintenance.  
8 Institution includes, but is not limited to, a correctional facility,  
9 detention facility, treatment facility, day care center, residential school,  
10 shelter and hospital.

11 h. "Day school" means a public or private school which provides  
12 general or special educational services to day students in grades  
13 kindergarten through 12. Day school does not include a residential  
14 facility, whether public or private, which provides care on a 24-hour  
15 basis.

16 (cf. P.L.1994, c.58 s.39)]<sup>2</sup>

17

18 <sup>2</sup>[8. P.L.1950, c.125 (C.9:6-1.1) and R.S.9:6-1 through R.S.9:6-8,  
19 inclusive, are repealed.]<sup>2</sup>

20

21 <sup>2</sup>[9.] 2.<sup>2</sup> This act shall take effect immediately.

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26 \_\_\_\_\_  
Makes various changes to the State's child abuse and neglect statutes.