

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE, No. 1851

STATE OF NEW JERSEY

ADOPTED JUNE 5, 1997

Sponsored by Senators KYRILLOS, KOSCO, Cafiero, Bubba,  
Matheussen, Sinagra and Scott

1 AN ACT concerning certain dangerous substances and certain sexual  
2 assaults and amending and supplementing various sections of the  
3 statutory law.

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

7  
8 1. N.J.S.2C:14-2 is amended to read as follows:

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

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

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

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

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

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

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

25 (4) The actor is armed with a weapon or any object fashioned in  
26 such a manner as to lead the victim to reasonably believe it to be a

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate floor amendments adopted June 16, 1997.

1 weapon and threatens by word or gesture to use the weapon or object;

2 (5) The actor is aided or abetted by one or more other persons and  
3 <sup>1</sup>[either of the following circumstances exists:

4 (a) The] the<sup>1</sup> actor uses physical force or coercion<sup>1</sup>[, or

5 (b) The victim is one whom the actor knew or should have known  
6 was physically helpless, mentally defective or mentally incapacitated]<sup>1</sup>;

7 (6) The actor uses physical force or coercion and severe personal  
8 injury is sustained by the victim;

9 (7) The victim is one whom the actor knew or should have known  
10 was physically helpless, mentally defective or mentally incapacitated.

11 Aggravated sexual assault is a crime of the first degree.

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

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

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

20 [(2) The victim is one whom the actor knew or should have  
21 known was physically helpless, mentally defective or mentally  
22 incapacitated;

23 (3)](2) The victim is on probation or parole, or is detained in a  
24 hospital, prison or other institution and the actor has supervisory or  
25 disciplinary power over the victim by virtue of the actor's legal,  
26 professional or occupational status;

27 [(4)](3) The victim is at least 16 but less than 18 years old and:

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

30 (b) The actor has supervisory or disciplinary power over the  
31 victim; or

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

34 [(5)](4) The victim is at least 13 but less than 16 years old and the  
35 actor is at least four years older than the victim.

36 Sexual assault is a crime of the second degree.

37 (cf: P.L.1989, c.228, s.3)

38

39 2. N.J.S.2C:14-3 is amended to read as follows:

40 a. An actor is guilty of aggravated criminal sexual contact if he  
41 commits an act of sexual contact with the victim under any of the  
42 circumstances set forth in 2C:14-2a. (2) through [(6)](7).

43 Aggravated criminal sexual contact is a crime of the third degree.

44 b. An actor is guilty of criminal sexual contact if he commits an  
45 act of sexual contact with the victim under any of the circumstances  
46 set forth in section 2C:14-2c. (1) through [(5)](4).

1 Criminal sexual contact is a crime of the fourth degree.  
2 (cf: P.L.1979, c.178, s.27)

3  
4 3. (New section) a. Except as authorized by P.L.1970, c.226  
5 (C.24:21-1 et seq.), it shall be a crime of the second degree for any  
6 person knowingly or purposely to manufacture, distribute or dispense,  
7 or to possess or have under his control with intent to manufacture,  
8 distribute or dispense gamma hydroxybutyrate.

9 b. Notwithstanding the provisions of N.J.S.2C:43-3 or any other  
10 law, a fine of up to \$150,000.00 may be imposed upon a person who  
11 violates this section.

12  
13 4. (New section) a. It is a crime of the third degree for any  
14 person, knowingly or purposely, to obtain, or to possess, gamma  
15 hydroxybutyrate unless the substance was obtained directly, or  
16 pursuant to a valid prescription or order form from a practitioner,  
17 while acting in the course of his professional practice, or except as  
18 otherwise authorized by P.L.1970, c.226 (C.24:21-1 et seq.).

19 b. Notwithstanding the provisions of N.J.S.2C:43-3 or any other  
20 law, a fine of up to \$100,000.00 may be imposed upon a person who  
21 violates this section.

22  
23 5. (New section) a. Except as authorized by P.L.1970, c.226  
24 (C.24:21-1 et seq.), it is unlawful for any person knowingly or  
25 purposely to manufacture, distribute or dispense, or to possess or have  
26 under his control with intent to manufacture, distribute or dispense  
27 flunitrazepam.

28 b. A person who violates subsection a. of this section with respect  
29 to flunitrazepam in a quantity of one gram or more is guilty of a crime  
30 of the first degree and, notwithstanding the provisions of N.J.S.2C:43-  
31 3 or any other law, a fine of up to \$250,000.00 may be imposed upon  
32 the person.

33 c. A person who violates subsection a. of this section with respect  
34 to flunitrazepam in a quantity of less than one gram is guilty of a crime  
35 of the second degree and, notwithstanding the provisions of  
36 N.J.S.2C:43-3 or any other law, a fine of up to \$150,000.00 may be  
37 imposed upon the person.

38  
39 6. (New section) a. It is a crime of the third degree for any  
40 person, knowingly or purposely, to obtain, or to possess,  
41 flunitrazepam, unless the substance was obtained directly, or pursuant  
42 to a valid prescription or order form from a practitioner, while acting  
43 in the course of his professional practice, or except as otherwise  
44 authorized by P.L.1970, c.226 (C.24:21-1 et seq.).

45 b. Notwithstanding the provisions of N.J.S.2C:43-3 or any other  
46 law, a fine of up to \$100,000.00 may be imposed upon a person who

1 violates this section.

2

3 7. (New section) a. The Department of Law and Public Safety  
4 shall establish and maintain a suitable training program for law  
5 enforcement officers regarding the use of narcotics, anesthetics,  
6 intoxicants, and other substances which could be used to facilitate  
7 sexual assault.

8 b. The Department shall adopt, pursuant to the "Administrative  
9 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) rules and  
10 regulations necessary to implement this act.

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12 8. This act shall take effect immediately.

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18 Increases penalties for sexual assault committed with the use of certain  
substances; criminalizes sale and possession of "rape drugs."