

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.

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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  
27 weapon and threatens by word or gesture to use the weapon or object;  
28 (5) The actor is aided or abetted by one or more other persons and  
29 either of the following circumstances exists:  
30 (a) The actor uses physical force or coercion, or  
31 (b) The victim is one whom the actor knew or should have known

**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.**

1 was physically helpless, mentally defective or mentally incapacitated;

2

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

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

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

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

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

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

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

19 (3)](2) The victim is on probation or parole, or is detained in a  
20 hospital, prison or other institution and the actor has supervisory or  
21 disciplinary power over the victim by virtue of the actor's legal,  
22 professional or occupational status;

23 [(4)](3) The victim is at least 16 but less than 18 years old and:

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

26 (b) The actor has supervisory or disciplinary power over the  
27 victim; or

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

30 [(5)](4) The victim is at least 13 but less than 16 years old and the  
31 actor is at least four years older than the victim.

32 Sexual assault is a crime of the second degree.

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

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

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

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

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

43 Criminal sexual contact is a crime of the fourth degree.

44 (cf: P.L.1979, c.178, s.27)

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46 3. (New section) a. Except as authorized by P.L.1970, c.226

1 (C.24:21-1 et seq.), it shall be a crime of the second degree for any  
2 person knowingly or purposely to manufacture, distribute or dispense,  
3 or to possess or have under his control with intent to manufacture,  
4 distribute or dispense gamma hydroxybutyrate.

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

8  
9 4. (New section) a. It is a crime of the third degree for any  
10 person, knowingly or purposely, to obtain, or to possess, gamma  
11 hydroxybutyrate unless the substance was obtained directly, or  
12 pursuant to a valid prescription or order form from a practitioner,  
13 while acting in the course of his professional practice, or except as  
14 otherwise authorized by P.L.1970, c.226 (C.24:21-1 et seq.).

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

18  
19 5. (New section) a. Except as authorized by P.L.1970, c.226  
20 (C.24:21-1 et seq.), it is unlawful for any person knowingly or  
21 purposely to manufacture, distribute or dispense, or to possess or have  
22 under his control with intent to manufacture, distribute or dispense  
23 flunitrazepam.

24 b. A person who violates subsection a. of this section with respect  
25 to flunitrazepam in a quantity of one gram or more is guilty of a crime  
26 of the first degree and, notwithstanding the provisions of N.J.S.2C:43-  
27 3 or any other law, a fine of up to \$250,000.00 may be imposed upon  
28 the person.

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

34  
35 6. (New section) a. It is a crime of the third degree for any  
36 person, knowingly or purposely, to obtain, or to possess,  
37 flunitrazepam, unless the substance was obtained directly, or pursuant  
38 to a valid prescription or order form from a practitioner, while acting  
39 in the course of his professional practice, or except as otherwise  
40 authorized by P.L.1970, c.226 (C.24:21-1 et seq.).

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

44  
45 7. (New section) a. The Department of Law and Public Safety  
46 shall establish and maintain a suitable training program for law

1 enforcement officers regarding the use of narcotics, anesthetics,  
2 intoxicants, and other substances which could be used to facilitate  
3 sexual assault.

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

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8 8. This act shall take effect immediately.

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