

**ASSEMBLY, No. 3796**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED MARCH 16, 2020

**Sponsored by:**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Assemblyman ROBERT J. KARABINCHAK**

**District 18 (Middlesex)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Co-Sponsored by:**

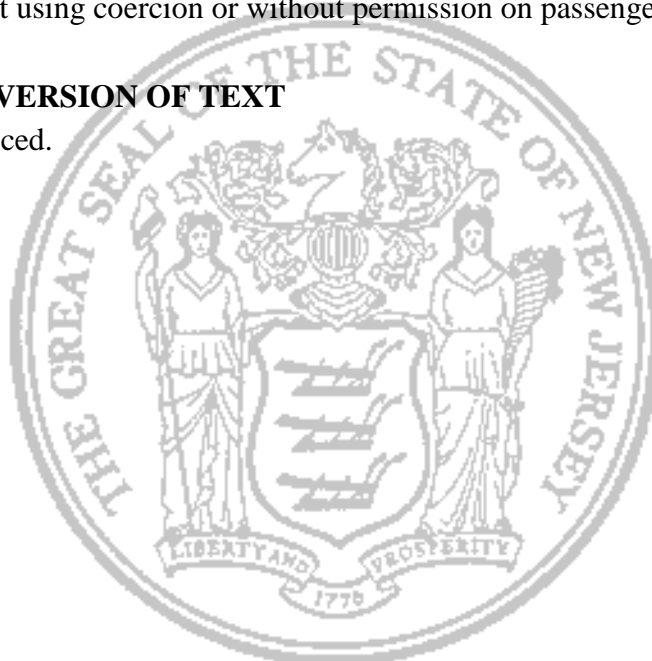
**Assemblywoman Murphy, Assemblyman Mukherji, Assemblywoman Jimenez, Assemblyman Mejia, Assemblywomen Timberlake, Jasey, Swain and Assemblyman Calabrese**

**SYNOPSIS**

Makes it aggravated sexual assault or sexual contact for transportation network company or taxicab driver to commit act of sexual penetration or sexual contact using coercion or without permission on passenger.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/20/2021)**

1 AN ACT concerning certain crimes and amending N.J.S.2C:14-2 and  
2 N.J.S.2C:14-3.

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:14-2 is amended to read as follows:

8 2C:14-2. Sexual assault. a. An actor is guilty of aggravated  
9 sexual assault if the actor commits an act of sexual penetration with  
10 another person 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  
16 victim by virtue of the actor's legal, professional, or occupational  
17 status, or

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

20 (3) The act is committed during the commission, or attempted  
21 commission, whether alone or with one or more other persons, of  
22 robbery, carjacking, kidnapping, homicide, aggravated assault on  
23 the victim or a person other than the victim, burglary, arson, or  
24 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  
28 object;

29 (5) The actor is aided or abetted by one or more other persons  
30 and the actor commits the act using coercion or without the victim's  
31 affirmative and freely-given permission;

32 (6) The actor commits the act using coercion or without the  
33 victim's affirmative and freely-given permission and severe  
34 personal injury is sustained by the victim;

35 (7) The victim, at the time of sexual penetration, is one whom  
36 the actor knew or should have known was:

37 (a) physically helpless or incapacitated;

38 (b) intellectually or mentally incapacitated; or

39 (c) had a mental disease or defect which rendered the victim  
40 temporarily or permanently incapable of understanding the  
41 distinctively sexual nature of the conduct, including, but not limited  
42 to, being incapable of providing consent, or incapable of  
43 understanding or exercising the right to refuse to engage in the  
44 conduct;

45 (8) The actor is a transportation network company driver or a  
46 taxicab driver and commits the act using coercion or without the

**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 victim's affirmative and freely-given permission and the victim is  
2 any passenger.

3 Transportation network company driver has the meaning set  
4 forth in section 2 of P.L.2017, c.26 (C.39:5H-2).

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

6 Except as otherwise provided in subsection d. of this section, a  
7 person convicted under paragraph (1) of this subsection shall be  
8 sentenced to a specific term of years which shall be fixed by the  
9 court and shall be between 25 years and life imprisonment of which  
10 the person shall serve 25 years before being eligible for parole,  
11 unless a longer term of parole ineligibility is otherwise provided  
12 pursuant to this Title.

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

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

19 (1) The actor commits the act using coercion or without the  
20 victim's affirmative and freely-given permission, but the victim  
21 does not sustain severe personal injury;

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

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

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

29 (b) The actor has supervisory or disciplinary power of any  
30 nature or in any capacity over the victim; or

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

33 (4) The victim is at least 13 but less than 16 years old and the  
34 actor is at least four years older than the victim;

35 (5) The victim is a pupil at least 18 but less than 22 years old  
36 and has not received a high school diploma and the actor is a  
37 teaching staff member or substitute teacher, school bus driver, other  
38 school employee, contracted service provider, or volunteer and the  
39 actor has supervisory or disciplinary power of any nature or in any  
40 capacity over the victim. As used in this paragraph, "teaching staff  
41 member" has the meaning set forth in N.J.S.18A:1-1.

42 Sexual assault is a crime of the second degree.

43 d. Notwithstanding the provisions of subsection a. of this  
44 section, where a defendant is charged with a violation under  
45 paragraph (1) of subsection a. of this section, the prosecutor, in  
46 consideration of the interests of the victim, may offer a negotiated  
47 plea agreement in which the defendant would be sentenced to a  
48 specific term of imprisonment of not less than 15 years, during

1 which the defendant shall not be eligible for parole. In such event,  
2 the court may accept the negotiated plea agreement and upon such  
3 conviction shall impose the term of imprisonment and period of  
4 parole ineligibility as provided for in the plea agreement, and may  
5 not impose a lesser term of imprisonment or parole or a lesser  
6 period of parole ineligibility than that expressly provided in the plea  
7 agreement. The Attorney General shall develop guidelines to ensure  
8 the uniform exercise of discretion in making determinations  
9 regarding a negotiated reduction in the term of imprisonment and  
10 period of parole ineligibility set forth in subsection a. of this  
11 section.

12 (cf: P.L.2019, c.474, s.1)

13  
14 2. N.J.S.2C:14-3 is amended to read as follows:

15 2C:14-3. Criminal sexual contact.

16 a. An actor is guilty of aggravated criminal sexual contact if he  
17 commits an act of sexual contact with the victim under any of the  
18 circumstances set forth in 2C:14-2a. (2) through ~~[(7)]~~(8).

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

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

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

24 (cf: P.L.2019, c.108, s.2)

25  
26 3. This act shall take effect immediately.  
27  
28

## 29 STATEMENT

30  
31 This bill makes it an aggravated sexual assault or an aggravated  
32 sexual contact if the actor is a transportation network company  
33 driver or a taxicab driver and commits an act of sexual penetration  
34 or sexual contact using coercion or without the victim's affirmative  
35 and freely-given permission and the victim is any passenger. An  
36 aggravated sexual assault is a crime of the first degree, which is  
37 punishable by 10-20 years imprisonment, up to a \$200,000 fine, or  
38 both. An aggravated criminal sexual contact is a crime of the third  
39 degree, which is punishable by three to five years imprisonment, up  
40 to a \$15,000 fine, or both.

41 Transportation network company driver is defined in the bill as  
42 having the same meaning as provided in section 2 of P.L.2017, c.26  
43 (C.39:5H-2).