

2C:24-4

LEGISLATIVE HISTORY CHECKLIST
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(Children--endangering welfare)

NJSA: 2C:24-4
LAWS OF: 1992 CHAPTER: 6
BILL NO: A307
SPONSOR(S): Crecco
DATE INTRODUCED: Pre-filed
COMMITTEE: ASSEMBLY: Judiciary
SENATE: Judiciary
AMENDED DURING PASSAGE: No
DATE OF PASSAGE: ASSEMBLY: February 10, 1992
SENATE: April 2, 1992
DATE OF APPROVAL: May 13, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes
COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes
FISCAL NOTE: No
VETO MESSAGE: No
MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No
HEARINGS: No

For newspaper clippings see Legislative history of L.1992 c.7

KBG:pp

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1 **AN ACT** concerning child welfare and amending N.J.S.2C:24-4.

2

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

5 1. N.J.S.2C:24-4 is amended to read as follows:

6 2C:24-4. Endangering Welfare of Children. a. Any person
7 having a legal duty for the care of a child or who has assumed
8 responsibility for the care of a child who engages in sexual
9 conduct which would impair or debauch the morals of the child,
10 or who causes the child harm that would make the child an abused
11 or neglected child as defined in R.S.9:6-1, R.S.9:6-3 and
12 P.L.1974, c.119, s.1 (C.9:6-8.21) is guilty of a crime of the [third]
13 second degree. Any other person who engages in conduct or who
14 causes harm as described in this subsection to a child under the
15 age of 16 is guilty of a crime of the [fourth] third degree.

16 b. As used in this subsection:

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

18 (2) "Prohibited sexual act" means

19 (a) Sexual intercourse; or

20 (b) Anal intercourse; or

21 (c) Masturbation; or

22 (d) Bestiality; or

23 (e) Sadism; or

24 (f) Masochism; or

25 (g) Fellatio; or

26 (h) Cunnilingus; or

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

29 (3) Any person, including any parent, guardian, or other person
30 legally charged with the care or custody of a child, who causes or
31 permits a child to engage in a prohibited sexual act or in the
32 simulation of such an act if the person knows, has reason to know
33 or intends that the prohibited act may be photographed, filmed,
34 reproduced, or reconstructed in any manner or may be part of an
35 exhibition or performance is guilty of a crime of the second
36 degree.

37 (4) Any person who photographs or films a child in a prohibited
38 sexual act or in the simulation of such an act or who uses any
39 device to reproduce or reconstruct the image of a child in a
40 prohibited sexual act or in the simulation of such an act is guilty
41 of a crime of the second degree.

42 (5) Any person who knowingly receives for the purpose of

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 selling or who knowingly sells, procures, manufactures, gives,
2 provides, lends, trades, mails, delivers, transfers, publishes,
3 distributes, circulates, disseminates, presents, exhibits,
4 advertises, offers or agrees to offer any photograph, film, video
5 tape or any other reproduction or reconstruction which depicts a
6 child engaging in a prohibited sexual act or in the simulation of
7 such an act, is guilty of a crime of the second degree.

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

12 (cf: P.L.1983, c.494, s.1)

13 2. This act shall take effect immediately.

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18 _____
19 Increases the penalties for endangering the welfare of a child in
certain instances.

ASSEMBLY, No. 307

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1992 SESSION

By Assemblywoman CRECCO and Assemblyman STUHLTRAGER

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2

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4 *State of New Jersey:*

5 1. N.J.S.2C:24-4 is amended to read as follows:

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8 responsibility for the care of a child who engages in sexual
9 conduct which would impair or debauch the morals of the child,
10 or who causes the child harm that would make the child an abused
11 or neglected child as defined in R.S.9:6-1, R.S.9:6-3 and
12 P.L.1974, c.119, s.1 (C.9:6-8.21) is guilty of a crime of the [third]
13 second degree. Any other person who engages in conduct or who
14 causes harm as described in this subsection to a child under the
15 age of 16 is guilty of a crime of the [fourth] third degree.

16 b. As used in this subsection:

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

18 (2) "Prohibited sexual act" means

19 (a) Sexual intercourse; or

20 (b) Anal intercourse; or

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25 (g) Fellatio; or

26 (h) Cunnilingus; or

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

29 (3) Any person, including any parent, guardian, or other person
30 legally charged with the care or custody of a child, who causes or
31 permits a child to engage in a prohibited sexual act or in the
32 simulation of such an act if the person knows, has reason to know
33 or intends that the prohibited act may be photographed, filmed,
34 reproduced, or reconstructed in any manner or may be part of an
35 exhibition or performance is guilty of a crime of the second
36 degree.

37 (4) Any person who photographs or films a child in a prohibited
38 sexual act or in the simulation of such an act or who uses any
39 device to reproduce or reconstruct the image of a child in a
40 prohibited sexual act or in the simulation of such an act is guilty
41 of a crime of the second degree.

42 (5) Any person who knowingly receives for the purpose of

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 selling or who knowingly sells, procures, manufactures, gives,
2 provides, lends, trades, mails, delivers, transfers, publishes,
3 distributes, circulates, disseminates, presents, exhibits,
4 advertises, offers or agrees to offer any photograph, film, video
5 tape or any other reproduction or reconstruction which depicts a
6 child engaging in a prohibited sexual act or in the simulation of
7 such an act, is guilty of a crime of the second degree.

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

12 (cf: P.L.1983, c.494, s.1)

13 2. This act shall take effect immediately.

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STATEMENT

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18 This bill would increase the penalties for endangering the
19 welfare of a child in certain cases. At present, it is a crime of
20 the third degree for any person having a legal duty for the care of
21 a child to engage in sexual conduct which would impair or
22 debauch the morals of the child or cause the child harm so as to
23 make him an abused or neglected child. Any other person who
24 engages in such conduct is guilty of a crime of the fourth degree.

25 Under the bill, if a person who has legal duty to care for a child
26 engages in the prohibited conduct, that person shall be guilty of a
27 crime of the second degree. A crime of the second degree is
28 punishable by a term of imprisonment between five and ten years
29 and a fine up to \$100,000.00 or both. Any other person who
30 engages in the prohibited conduct shall be guilty of a crime of the
31 third degree. A crime of the third degree is punishable by a term
32 of imprisonment between three and five years and a fine up to
33 \$7,500.00 or both.

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38 Increases the penalties for endangering the welfare of a child in
39 certain instances.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 307

STATE OF NEW JERSEY

DATED: JANUARY 30, 1992

The Assembly Judiciary, Law and Public Safety Committee reports favorably Assembly Bill No. 307.

This bill would upgrade the penalties for endangering the welfare of a child in certain cases. Presently, it is a crime of the third degree for any person having a legal duty for the care of a child to engage in sexual conduct which would impair or debauch the morals of the child or cause the child harm so as to make him an abused or neglected child. Any other person who engages in such conduct is guilty of a crime of the fourth degree. This bill increases the penalties for each of these crimes by one degree in subsection a. of N.J.S.A.2C:24-4.

Under the provisions of the bill, if a person who has a legal duty to care for a child engages in the prohibited conduct, that person shall be guilty of a crime of the second degree. A crime of the second degree is punishable by a term of imprisonment between five and ten years or a fine not to exceed \$100,000.00, or both. Any other person who engages in the prohibited conduct shall be guilty of a crime of the third degree. A crime of the third degree is punishable by a term of imprisonment between three and five years or a fine not to exceed \$7,500.00, or both.

This bill was pre-filed for introduction in the 1992 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 307

STATE OF NEW JERSEY

DATED: MARCH 23, 1992

The Senate Judiciary Committee reports favorably Assembly Bill No. 307.

Presently, it is a crime of the third degree for any person having a legal duty for the care of a child to engage in sexual conduct which would impair or debauch the morals of the child or cause the child harm so as to make him an abused or neglected child. Any other person who engages in such conduct is guilty of a crime of the fourth degree.

Under the provisions of this bill, if a person who has a legal duty to care for a child engages in the prohibited conduct, that person shall be guilty of a crime of the second degree. Any other person who engages in the prohibited conduct shall be guilty of a crime of the third degree.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001

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Release: Wednesday
May 13, 1992

GOVERNOR FLORIO SIGNS LAWS TOUGHENING PENALTIES AND BOOSTING CHILD PROTECTION EFFORTS

EDISON -- Because children are the most vulnerable members of our society, Governor Jim Florio today signed a trio of bills toughening laws and increasing penalties for persons who exploit and abuse children.

"Today we sign child protection legislation in the form of three bills that reflect our commitment to the cherished place children hold in our hearts. The well-being of our children demands that we provide increased deterrence for heinous crimes. Too often, their cries and needs go unheard," said Governor Florio. "After all, children are our most important, but the most vulnerable members of our society. And our children are not represented by lobbyists or political action committees."

"It is our responsibility to protect our children from the moral vultures that prey upon them. In government, we must use the full measure of the law to protect the rights of the innocent. Today, we're taking a major step toward fulfilling that mandate," he said.

The bills would:

- **Establish tougher penalties against persons who sexually exploit children for profit.** The bill would establish a civil action against persons who sexually exploit children for profit through the distribution of child pornography or through other means. The bill allows a child, either personally upon reaching the age of 18 or through a parent or child advocacy group, to seek an injunction or damages against a person or company who sexually exploits the child. If successful, the child would be entitled to damages equal to three times the defendant's financial gain from the exploitation. A 381/S 541 was sponsored by Assemblypersons Rose Marie Heck and Marion Crecco, and Senator Jack Sinagra.
- **Increases penalties for lewdness committed in the presence of a child under 13 or a mentally disabled person.** The law upgrades the crime from a disorderly persons offense (six months in jail) to a fourth degree crime with a standard penalty of 18 months imprisonment and a maximum fine of \$7,500. A 850 was sponsored by Assemblypersons Harriet Derman and Frank Catania.

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- ***Increase penalties for endangering the welfare of a child.*** This offense is defined as either engaging in sexual conduct that would impair or debauch the morals of the child or causing the child harm that would make the child abused and neglected. Included are conducts such as willful failure to provide food to a child and creation of a substantial risk of physical injury by other than accidental means.

The bill increases the crime from third degree to a second-degree crime when committed by a parent or other adult with a legal duty to care for the child and authorizes a longer prison term of up to five to ten years, from the previous five year maximum. Making it a second degree crime carries a presumption of incarceration, so even in the case of first-time offenders, a jail term is nearly guaranteed. A 307/S 563 was sponsored by Assemblypersons Marion Crecco and Gary Stuhltrager, and Senator John Matheussen.

New Jersey law already prohibits the sale and production of child pornography. And in April, Governor Florio signed a law giving law enforcement officials another tool in efforts to crack down on the exploitive child pornography business by making it a crime in the state to possess pornographic materials using children.

The law makes it a fourth degree crime to possess child pornography materials, with a prison term of up to 18 months and fines up to \$7,500. In 1990, the U.S. Supreme Court ruled that states could ban possession of child pornography materials without violating the federal Constitution. The Court based its ruling on its finding that a state was justified in protecting children by banning possession as a way to cut off the market

"Our new laws will make sure that criminals pay with hard time and significant fines and these laws should further our efforts to destroy any and all markets that exploit children," said Governor Florio. "Child pornography and sexual abuse leave our children with scars that may be invisible. But they are deep and crippling and sometimes, they are permanent. There is no place for such behavior in a civilized society and we will not tolerate it in New Jersey."

"On behalf of all the brave survivors of childhood sexual abuse and especially on behalf of the children, it is my pleasure to sign into laws these bills that will help make their world safer," he said.

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