

## LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C: 1-6 et al

(Sexual assault--  
amendment)

LAWS OF: 1989

CHAPTER: 228

Bill No: A3320

Sponsor(s): Mazur and others

Date Introduced: June 13, 1988

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: Yes Amendments during passage  
denoted by asterisks.

Date of Passage: Assembly: June 29, 1989

Senate: December 11, 1989

Date of Approval: December 29, 1989

## Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

## Following were printed:

Reports: No

Hearings: No

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[FIRST REPRINT]  
ASSEMBLY, No. 3320

STATE OF NEW JERSEY

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INTRODUCED JUNE 13, 1988

By Assemblymen MAZUR, FELICE, Baer  
and Assemblywoman Randall

1 AN ACT concerning sexual assault and amending N.J.S.2C:1-6,  
N.J.S.2C:14-1 and N.J.S.2C:14-2.

3

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

1. N.J.S.2C:1-6 is amended to read as follows:

7 2C:1-6. Time Limitations. a. A prosecution for <sup>1</sup>[murder] any  
offense set forth in N.J.S.2C:11-3 or N.J.S.2C:11-4<sup>1</sup> may be  
9 commenced at any time.

b. Except as otherwise provided in this section, prosecutions  
11 for other offenses are subject to the following periods of  
limitations:

13 (1) A prosecution for a crime must be commenced within five  
years after it is committed;

15 (2) A prosecution for a disorderly persons offense or petty  
disorderly persons offense must be commenced within one year  
17 after it is committed;

(3) A prosecution for any offense set forth in 2C:27-2,  
19 2C:27-4, 2C:27-6, 2C:27-7, 2C:29-4, <sup>1</sup>[2C:30-1,]<sup>1</sup> 2C:30-2,  
2C:30-3, or any attempt or conspiracy to commit such an  
21 offense, must be commenced within seven years after the  
commission of the offense;

23 (4) A prosecution for an offense set forth in N.J.S.2C:14-2 or  
N.J.S.2C:14-3 <sup>1</sup>or N.J.S.2C:24-4<sup>1</sup>, when the victim at the time of  
25 the offense is below the age of 18 years, must be commenced  
within [two] five years of the victim's attaining the age of 18  
27 [years or within five years after the crime is committed,  
whichever date is later].

29 c. An offense is committed either when every element occurs  
or, if a legislative purpose to prohibit a continuing course of  
31 conduct plainly appears, at the time when the course of conduct

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> Assembly AJU committee amendments adopted August 12, 1988.

1 or the defendant's complicity therein is terminated. Time starts  
to run on the day after the offense is committed.

3 d. A prosecution is commenced for a crime when an  
indictment is found and for a nonindictable offense when a  
5 warrant or other process is issued, provided that such warrant or  
process is executed without unreasonable delay. Nothing  
7 contained in this section, however, shall be deemed to prohibit  
the downgrading of an indictable offense to a nonindictable  
9 offense at any time if the indictable offense was filed within the  
statute of limitations applicable to indictable offenses.

11 e. The period of limitation does not run during any time when  
a prosecution against the accused for the same conduct is pending  
13 in this State.

f. The limitations in this section shall not apply to any person  
15 fleeing from justice.

g. Except as otherwise provided in this code, no civil action  
17 shall be brought pursuant to this code more than five years after  
such action accrues.

19 (cf: P.L.1986, c.166, s.1)

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

21 2C:14-1. Definitions. The following definitions apply to this  
chapter:

23 a. "Actor" means a person accused of an offense proscribed  
under this act;

25 b. "Victim" means a person alleging to have been subjected to  
offenses proscribed by this act;

27 c. "Sexual penetration" means vaginal intercourse,  
cunnilingus, fellatio or anal intercourse between persons or  
29 insertion of the hand, finger or object into the anus or vagina  
either by the actor or upon the actor's instruction. The depth of  
31 insertion shall not be relevant as to the question of commission of  
the crime;

33 d. "Sexual contact" means an intentional touching by the  
victim or actor, either directly or through clothing, of the  
35 victim's or actor's intimate parts for the purpose of degrading or  
humiliating the victim or sexually arousing or sexually gratifying  
37 the actor. Sexual contact of the actor with himself must be in  
view of the victim whom the actor knows to be present;

39 e. "Intimate parts" means the following body parts: sexual

1 organs, genital area, anal area, inner thigh, groin, buttock or  
breast of a person;

3 f. "Severe personal injury" means severe bodily injury,  
disfigurement, disease, incapacitating mental anguish or chronic  
5 pain;

7 g. "Physically helpless" means that condition in which a person  
is unconscious or is physically unable to flee or is physically  
unable to communicate unwillingness to act;

9 h. "Mentally defective" means that condition in which a  
person suffers from a mental disease or defect which renders that  
11 person temporarily or permanently incapable of understanding the  
nature of his conduct <sup>1</sup>[or mentally incapable of providing  
13 consent] , including, but not limited to, being incapable of  
providing consent<sup>1</sup>;

15 i. "Mentally incapacitated" means that condition in which a  
person is rendered temporarily incapable of understanding or  
17 controlling his conduct due to the influence of a narcotic,  
anesthetic, intoxicant, or other substance administered to that  
19 person without his prior knowledge or consent, or due to any  
other act committed upon that person which rendered that person  
21 incapable of appraising or controlling his conduct;

23 j. "Coercion" as used in this chapter shall refer to those acts  
which are defined as criminal coercion in section 2C:13-5(1), (2),  
(3), (4), (6) and (7).

25 (cf: P.L.1983, c.249, s.1)

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

27 2C:14-2. Sexual assault. a. An actor is guilty of aggravated  
sexual assault if he commits an act of sexual penetration with  
29 another person under any one of the following circumstances:

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

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

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

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

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

39 (3) The act is committed during the commission, or attempted

1 commission, whether alone or with one or more other persons, of  
2 robbery, kidnapping, homicide, aggravated assault on another,  
3 burglary, arson or criminal escape;

4 (4) The actor is armed with a weapon or any object fashioned  
5 in such a manner as to lead the victim to reasonably believe it to  
6 be a weapon and threatens by word or gesture to use the weapon  
7 or object;

8 (5) The actor is aided or abetted by one or more other persons  
9 and either of the following circumstances exists:

10 (a) The actor uses physical force or coercion, or

11 (b) The victim is one whom the actor knew or should have  
12 known was physically helpless, mentally defective or mentally  
13 incapacitated;

14 (6) The actor uses physical force or coercion and severe  
15 personal injury is sustained by the victim.

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

17 b. An actor is guilty of sexual assault if he commits an act of  
18 sexual contact with a victim who is less than 13 years old and the  
19 actor is at least 4 years older than the victim.

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

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

25 (2) The victim is one whom the actor knew or should have  
26 known was physically helpless, mentally defective or mentally  
27 incapacitated;

28 (3) The victim is on probation or parole, or is detained in a  
29 hospital, prison or other institution and the actor has supervisory  
30 or disciplinary power over the victim by virtue of the actor's  
31 legal, professional or occupational status;

32 (4) The victim is at least 16 but less than 18 years old and  
33 <sup>1</sup>[the actor is a member of the victim's household with  
34 supervisory or disciplinary power over the victim or the actor has  
35 supervisory or disciplinary power over the victim by virtue of the  
36 actor's legal, professional or occupational status;] :

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

39 (b) The actor has supervisory or disciplinary power over the

1 victim; or

3 (c) The actor is a foster parent, a guardian, or stands in loco  
parentis within the household;<sup>1</sup>

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

7 Sexual assault is a crime of the second degree.

(cf: P.L.1983, c.249, s.2)

9 4. This act shall take effect immediately.

11 **CRIMINAL JUSTICE**  
13 **Criminal Investigation and Arrest**

Revises the laws concerning sexual assault.

1 (5) The actor is aided or abetted by one or more other persons  
and either of the following circumstances exists:

3 (a) The actor uses physical force or coercion, or

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

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

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

b. An actor is guilty of sexual assault if he commits an act of  
11 sexual contact with a victim who is less than 13 years old and the  
actor is at least 4 years older than the victim.

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

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

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

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

25 (4) The victim is at least 16 but less than 18 years old and the  
actor is a member of the victim's household with supervisory or  
27 disciplinary power over the victim or the actor has supervisory or  
disciplinary power over the victim by virtue of the actor's legal,  
29 professional or occupational status;

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

Sexual assault is a crime of the second degree.

33 (cf: P.L. 1983, c. 249, s. 2)

4. This act shall take effect immediately.

35

STATEMENT

37

This bill amends various statutes concerning the prosecution of  
39 sexual assaults. Section 1 amends the time limitations for

1 commencing criminal prosecutions and extends the amount of  
time in which a child victim of aggravated sexual assault or  
3 sexual assault may file charges against the perpetrator to five  
years after the victim reaches the age of 18. Presently, a  
5 prosecution must be commenced within two years after reaching  
eighteen or five years, whichever is later.

7 Section 2 broadens the definition of "mentally defective" to  
include someone who is mentally incapable of providing consent.

9 Section 3 amends N.J.S. 2C:14-2c., sexual assault, by providing  
that an actor is guilty of sexual assault if he commits an act of  
11 sexual penetration with a victim who is at least 16 but less than  
18 and the actor has supervisory or disciplinary power over the  
13 victim by virtue of the actor's legal, professional or occupational  
status. Under these provisions the actor would be guilty of a  
15 second degree offense regardless of whether or not the victim  
consented to the conduct.

17

19

**CRIMINAL JUSTICE**  
**Criminal Investigation and Arrest**

21

Revises the laws concerning sexual assault.



ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

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ASSEMBLY, No. 3320

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 12, 1988

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 3320.

Assembly Bill No. 3320 amends various statutes concerning the prosecution of sexual assaults.

Section 1 amends the statute of limitations for the prosecution of sexual assault of a victim who is a minor by extending the time from two years after reaching 18 or five years after the crime is committed, whichever is later, to five years after reaching age 18. Under the present statutory framework a victim who is 15 or younger would have until age 20 to register a complaint, but a victim 16 or 17 would have until age 21 or 22, respectively. The committee amended this section to include the offense of endangering the welfare of a child, N.J.S.2C:24-2. The other committee amendments to this section are technical in nature and conform the bill to a recently enacted statute.

Section 2 amends the definition of "mentally defective" to include someone who is mentally incapable of providing consent. This was rewritten by the committee to read "including, but not limited to, being incapable of providing consent."

Section 3 amends the offense of sexual assault to include an act of sexual penetration with a victim who is at least 16 but less than 18, and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status. The committee amendments limit this offense to where the actor has supervisory or disciplinary power over the victim. Under this provision the actor would be guilty of a second degree offense regardless of whether or not the victim consents to the conduct. In addition, the committee amendments create two new second degree offenses where the victim of the assault is at least 16 but less than 18 and the actor is related to the victim or the actor is a foster parent, guardian or stands in loco parentis with the household.

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SENATE JUDICIARY COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 3320

STATE OF NEW JERSEY

DATED: AUGUST 3, 1989

The Senate Judiciary Committee reports favorably Assembly Bill No. 3320 [1R].

This bill proposes the following three amendments to the statutes governing the prosecution of sexual assault cases:

1. Presently, a prosecution for sexual assault or criminal sexual contact when the victim at the time of the offense was below the age of 18 may be brought within two years of the victim's attaining the age of 18 or within five years after the crime is committed whichever is later. Thus under present law, a 15 year victim would have until age 20 to file a complaint while a 17 year victim would have until age 22 to file a complaint.

The bill would provide that if the victim of a sexual assault was under 18, the prosecution may be commenced until 5 years after the victim has reached 18. Thus, a complaint in any case involving a youthful victim could be filed up to the victim's 23rd birthday.

The bill also provides that the statute of limitations applicable to prosecution for sexual assault and criminal sexual contact would also be applicable to prosecution for endangering the welfare of children, N.J.S.A.2C:24-4.

2. Under the criminal code, a charge of assault may be based on a sexual act performed on a person who is "mentally defective" even if that person acquiesces to the sexual act. The criminal code presently defines mentally defective in part to mean "that condition in which a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of understanding the nature of his conduct or mentally incapable of providing consent". This bill would add the "including, but not limited to, being incapable of providing consent" to that definition while eliminating "or mentally incapable of providing consent" so that definition does not appear to be phrased in the alternative.

3. Presently, a person is guilty of aggravated sexual assault if the person commits an act of sexual penetration with a child under the age of 13. A person is also guilty of aggravated sexual assault if

the person commits an act of sexual penetration with a child between the age of 13 and 16 if the person is a close relative; has supervisory or disciplinary power over the victim or is a foster parent or guardian.

Also presently, a person is guilty of sexual assault (a crime of the second degree) if the person commits an act of sexual penetration with a child between 16 and 18 if the person is a member of the victim's household with disciplinary power over the victim.

This bill would expand the definition of sexual assault to provide that an act of sexual penetration with a child between 16 and 18 would constitute sexual assault under any of the circumstances presently listed for aggravated sexual assault involving children between 13 and 15 (close relative); supervisory or disciplinary power (foster parents or guardian).

Crimes of the first degree are punishable by between 10 and 20 years imprisonment. Crimes of the second degree are punishable by between 5 and 10 years imprisonment. Both crimes of the first and second degree are punishable by a fine of up to \$100,000.