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LAW/RWH

P.L.2011, CHAPTER 232, *approved January 17, 2012*  
Assembly, No. 4403 (*First Reprint*)

1 AN ACT concerning the Criminal Code and amending various parts  
2 of the statutory law.

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

6  
7 1. Section 2 of P.L.1999, c.47 (C.2C:12-10.2) is amended to  
8 read as follows:

9 2. a. In any case involving an allegation of stalking where the  
10 victim is a child under the age of 18 years or is developmentally  
11 disabled as defined in section 3 of P.L.1977, c.200 (C.5:5-44.4) or  
12 where the victim is 18 years of age or older and <sup>1</sup>[is] <sup>1</sup>[mentally  
13 defective] <sup>1</sup>[mentally incapable as defined in N.J.S. 2C:14-1] has a  
14 mental disease or defect which renders the victim temporarily or  
15 permanently incapable of understanding the nature of his conduct,  
16 including, but not limited to, being incapable of providing consent<sup>1</sup>  
17 , the court may issue a temporary restraining order against the  
18 defendant which limits the contact of the defendant and the victim.

19 b. The provisions of subsection a. of this section are in addition  
20 to, and not in lieu of, the provisions of section 3 of P.L.1996, c.39  
21 (C.2C:12-10.1) which provide that a judgment of conviction for  
22 stalking shall operate as an application for a permanent restraining  
23 order limiting the contact of the defendant and the victim.

24 c. The parent or guardian of the child or the person described  
25 in subsection a. of this section may file a complaint with the  
26 Superior Court in conformity with the rules of court seeking a  
27 temporary restraining order against a person alleged to have  
28 committed stalking against the child or the person described in  
29 subsection a. of this section. The parent or guardian may seek  
30 emergency, ex parte relief. A decision shall be made by the judge  
31 regarding the emergency relief forthwith. If it appears that the child  
32 or the person described in subsection a. of this section is in danger  
33 of being stalked by the defendant, the judge shall issue a temporary  
34 restraining order pursuant to subsection e. of this section.

35 d. A conviction of stalking shall not be a prerequisite for the  
36 grant of a temporary restraining order under this act.

37 e. A temporary restraining order issued under this act shall  
38 limit the contact of the defendant and the child or the person  
39 described in subsection a. of this section who was stalked and in

**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 January 5, 2012.

1 addition may grant all other relief specified in section 3 of  
2 P.L.1996, c.39 (C.2C:12-10.1).

3 f. A hearing shall be held in the Superior Court within 10 days  
4 of the issuance of any temporary restraining order which was issued  
5 on an emergency, ex parte basis. A copy of the complaint shall be  
6 served on the defendant in conformity with the rules of court. At  
7 the hearing the standard for continuing the temporary restraining  
8 order shall be by a preponderance of the evidence.

9 g. If the court rules that the temporary restraining order shall  
10 be continued, the order shall remain in effect until either:

11 (1) the defendant is convicted of stalking, in which case the  
12 court shall hold a hearing on the issue of whether a permanent  
13 restraining order shall be entered pursuant to section 3 of P.L.1996,  
14 c.39 (C.2C:12-10.1); or

15 (2) the victim's parent or guardian or, in the case of a victim  
16 who has reached the age of 18, the victim, requests that the  
17 restraining order be dismissed and the court finds just cause to do  
18 so.

19 (cf: P.L.1999, c.47, s.2)

20

21 2. N.J.S.2C:13-4 is amended to read as follows:

22 2C:13-4. Interference with custody.

23 a. Custody of children. A person, including a parent, guardian  
24 or other lawful custodian, is guilty of interference with custody if  
25 he:

26 (1) Takes or detains a minor child with the purpose of  
27 concealing the minor child and thereby depriving the child's other  
28 parent of custody or parenting time with the minor child; or

29 (2) After being served with process or having actual knowledge  
30 of an action affecting marriage or custody but prior to the issuance  
31 of a temporary or final order determining custody and parenting  
32 time rights to a minor child, takes, detains, entices or conceals the  
33 child within or outside the State for the purpose of depriving the  
34 child's other parent of custody or parenting time, or to evade the  
35 jurisdiction of the courts of this State; or

36 (3) After being served with process or having actual knowledge  
37 of an action affecting the protective services needs of a child  
38 pursuant to Title 9 of the Revised Statutes in an action affecting  
39 custody, but prior to the issuance of a temporary or final order  
40 determining custody rights of a minor child, takes, detains, entices  
41 or conceals the child within or outside the State for the purpose of  
42 evading the jurisdiction of the courts of this State; or

43 (4) After the issuance of a temporary or final order specifying  
44 custody, joint custody rights or parenting time, takes, detains,  
45 entices or conceals a minor child from the other parent in violation  
46 of the custody or parenting time order.

47 Interference with custody is a crime of the second degree if the  
48 child is taken, detained, enticed or concealed: (i) outside the United

1 States or (ii) for more than 24 hours. Otherwise, interference with  
2 custody is a crime of the third degree but the presumption of non-  
3 imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first  
4 offense of a crime of the third degree shall not apply.

5 b. Custody of committed persons. A person is guilty of a crime  
6 of the fourth degree if he knowingly takes or entices any committed  
7 person away from lawful custody when he is not privileged to do  
8 so. "Committed person" means, in addition to anyone committed  
9 under judicial warrant, any orphan, neglected or delinquent child,  
10 **[mentally defective]** **'[mentally incapable or insane]'** person  
11 **'with a mental disease, defect or illness'**, or other dependent or  
12 incompetent person<sup>1,1</sup> entrusted to another's custody by or through  
13 a recognized social agency or otherwise by authority of law.

14 c. It is an affirmative defense to a prosecution under subsection  
15 a. of this section, which must be proved by clear and convincing  
16 evidence, that:

17 (1) The actor reasonably believed that the action was necessary  
18 to preserve the child from imminent danger to his welfare.  
19 However, no defense shall be available pursuant to this subsection  
20 if the actor does not, as soon as reasonably practicable but in no  
21 event more than 24 hours after taking a child under his protection,  
22 give notice of the child's location to the police department of the  
23 municipality where the child resided, the office of the county  
24 prosecutor in the county where the child resided, or the Division of  
25 Youth and Family Services in the Department of Children and  
26 Families;

27 (2) The actor reasonably believed that the taking or detaining of  
28 the minor child was consented to by the other parent, or by an  
29 authorized State agency; or

30 (3) The child, being at the time of the taking or concealment not  
31 less than 14 years old, was taken away at his own volition and  
32 without purpose to commit a criminal offense with or against the  
33 child.

34 d. It is an affirmative defense to a prosecution under subsection  
35 a. of this section that a parent having the right of custody  
36 reasonably believed he was fleeing from imminent physical danger  
37 from the other parent, provided that the parent having custody, as  
38 soon as reasonably practicable:

39 (1) Gives notice of the child's location to the police department  
40 of the municipality where the child resided, the office of the county  
41 prosecutor in the county where the child resided, or the Division of  
42 Youth and Family Services in the Department of Children and  
43 Families; or

44 (2) Commences an action affecting custody in an appropriate  
45 court.

46 e. The offenses enumerated in this section are continuous in  
47 nature and continue for so long as the child is concealed or  
48 detained.

1 f. (1) In addition to any other disposition provided by law, a  
2 person convicted under subsection a. of this section shall make  
3 restitution of all reasonable expenses and costs, including  
4 reasonable counsel fees, incurred by the other parent in securing the  
5 child's return.

6 (2) In imposing sentence under subsection a. of this section the  
7 court shall consider, in addition to the factors enumerated in chapter  
8 44 of Title 2C of the New Jersey Statutes:

9 (a) Whether the person returned the child voluntarily; and

10 (b) The length of time the child was concealed or detained.

11 g. As used in this section, "parent" means a parent, guardian or  
12 other lawful custodian of a minor child.

13 (cf: P.L.2006, c.47, s.25)

14

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

16 2C:14-1. Definitions. The following definitions apply to this  
17 chapter:

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

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

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

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

33 e. "Intimate parts" means the following body parts: sexual  
34 organs, genital area, anal area, inner thigh, groin, buttock or breast  
35 of a person;

36 f. "Severe personal injury" means severe bodily injury,  
37 disfigurement, disease, incapacitating mental anguish or chronic  
38 pain;

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

42 h. **["Mentally defective"]** **'["Mentally incapable"** means that  
43 condition in which a person **【suffers from】** has a mental disease or  
44 defect which renders that person temporarily or permanently  
45 incapable of understanding the nature of his conduct, including, but  
46 not limited to, being incapable of providing consent. For the  
47 purposes of application, "mentally incapable" shall have the same  
48 meaning as "mentally defective" did prior to the enactment of

1 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)(pending before the Legislature as this  
2 bill); (Deleted by amendment, P.L. \_\_\_\_\_, c. \_\_\_\_\_) (pending before the  
3 Legislature as this bill)<sup>1</sup>

4 i. "Mentally incapacitated" means that condition in which a  
5 person is rendered temporarily incapable of understanding or  
6 controlling his conduct due to the influence of a narcotic,  
7 anesthetic, intoxicant, or other substance administered to that  
8 person without his prior knowledge or consent, or due to any other  
9 act committed upon that person which rendered that person  
10 incapable of appraising or controlling his conduct;

11 j. "Coercion" as used in this chapter shall refer to those acts  
12 which are defined as criminal coercion in section 2C:13-5(1), (2),  
13 (3), (4), (6) and (7).  
14 (cf: P.L.1989, c.228, s.2)

15

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

17 2C:14-2. Sexual assault. a. An actor is guilty of aggravated  
18 sexual assault if he commits an act of sexual penetration with  
19 another person under any one of the following circumstances:

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

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

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

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

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

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

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

37 (5) The actor is aided or abetted by one or more other persons  
38 and the actor uses physical force or coercion;

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

41 (7) The victim is one whom the actor knew or should have  
42 known was physically helpless, **mentally defective** <sup>1</sup>**mentally**  
43 **incapable or** <sup>1</sup>**mentally incapacitated** <sup>1</sup>, or had a mental disease or  
44 defect which rendered the victim temporarily or permanently  
45 incapable of understanding the nature of his conduct, including, but  
46 not limited to, being incapable of providing consent <sup>1</sup>.

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

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

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

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

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

13       (3) The victim is at least 16 but less than 18 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 of any nature  
17 or in any capacity over the victim; or

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

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

22       Sexual assault is a crime of the second degree.

23 (cf: P.L.2004, c.130, s.13)

24

25       5. This act shall take effect ~~immediately~~ on the 60<sup>th</sup> day  
26 following enactment<sup>1</sup>.

27

28

29

30

31       Eliminates the term “mentally defective” from the Criminal  
32 Code.



# ASSEMBLY, No. 4403

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED DECEMBER 8, 2011

**Sponsored by:**

Assemblyman **KEVIN J. RYAN**

District 36 (Bergen, Essex and Passaic)

Assemblyman **GORDON M. JOHNSON**

District 37 (Bergen)

**Co-Sponsored by:**

Assemblymen Caputo and Diegnan

**SYNOPSIS**

Replaces term “mentally defective” with “mentally incapable” in Criminal Code.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 1/6/2012)

1 AN ACT concerning the Criminal Code and amending various parts  
2 of the statutory law.

3

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

6

7 1. Section 2 of P.L.1999, c.47 (C.2C:12-10.2) is amended to  
8 read as follows:

9 2. a. In any case involving an allegation of stalking where the  
10 victim is a child under the age of 18 years or is developmentally  
11 disabled as defined in section 3 of P.L.1977, c.200 (C.5:5-44.4) or  
12 where the victim is 18 years of age or older and is **[mentally**  
13 **defective]** mentally incapable as defined in N.J.S. 2C:14-1, the  
14 court may issue a temporary restraining order against the defendant  
15 which limits the contact of the defendant and the victim.

16 b. The provisions of subsection a. of this section are in addition  
17 to, and not in lieu of, the provisions of section 3 of P.L.1996, c.39  
18 (C.2C:12-10.1) which provide that a judgment of conviction for  
19 stalking shall operate as an application for a permanent restraining  
20 order limiting the contact of the defendant and the victim.

21 c. The parent or guardian of the child or the person described  
22 in subsection a. of this section may file a complaint with the  
23 Superior Court in conformity with the rules of court seeking a  
24 temporary restraining order against a person alleged to have  
25 committed stalking against the child or the person described in  
26 subsection a. of this section. The parent or guardian may seek  
27 emergency, ex parte relief. A decision shall be made by the judge  
28 regarding the emergency relief forthwith. If it appears that the child  
29 or the person described in subsection a. of this section is in danger  
30 of being stalked by the defendant, the judge shall issue a temporary  
31 restraining order pursuant to subsection e. of this section.

32 d. A conviction of stalking shall not be a prerequisite for the  
33 grant of a temporary restraining order under this act.

34 e. A temporary restraining order issued under this act shall  
35 limit the contact of the defendant and the child or the person  
36 described in subsection a. of this section who was stalked and in  
37 addition may grant all other relief specified in section 3 of  
38 P.L.1996, c.39 (C.2C:12-10.1).

39 f. A hearing shall be held in the Superior Court within 10 days  
40 of the issuance of any temporary restraining order which was issued  
41 on an emergency, ex parte basis. A copy of the complaint shall be  
42 served on the defendant in conformity with the rules of court. At  
43 the hearing the standard for continuing the temporary restraining  
44 order shall be by a preponderance of the evidence.

**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 g. If the court rules that the temporary restraining order shall  
2 be continued, the order shall remain in effect until either:

3 (1) the defendant is convicted of stalking, in which case the  
4 court shall hold a hearing on the issue of whether a permanent  
5 restraining order shall be entered pursuant to section 3 of P.L.1996,  
6 c.39 (C.2C:12-10.1); or

7 (2) the victim's parent or guardian or, in the case of a victim  
8 who has reached the age of 18, the victim, requests that the  
9 restraining order be dismissed and the court finds just cause to do  
10 so.

11 (cf: P.L.1999, c.47, s.2)

12

13 2. N.J.S.2C:13-4 is amended to read as follows:

14 2C:13-4. Interference with custody.

15 a. Custody of children. A person, including a parent, guardian  
16 or other lawful custodian, is guilty of interference with custody if  
17 he:

18 (1) Takes or detains a minor child with the purpose of  
19 concealing the minor child and thereby depriving the child's other  
20 parent of custody or parenting time with the minor child; or

21 (2) After being served with process or having actual knowledge  
22 of an action affecting marriage or custody but prior to the issuance  
23 of a temporary or final order determining custody and parenting  
24 time rights to a minor child, takes, detains, entices or conceals the  
25 child within or outside the State for the purpose of depriving the  
26 child's other parent of custody or parenting time, or to evade the  
27 jurisdiction of the courts of this State; or

28 (3) After being served with process or having actual knowledge  
29 of an action affecting the protective services needs of a child  
30 pursuant to Title 9 of the Revised Statutes in an action affecting  
31 custody, but prior to the issuance of a temporary or final order  
32 determining custody rights of a minor child, takes, detains, entices  
33 or conceals the child within or outside the State for the purpose of  
34 evading the jurisdiction of the courts of this State; or

35 (4) After the issuance of a temporary or final order specifying  
36 custody, joint custody rights or parenting time, takes, detains,  
37 entices or conceals a minor child from the other parent in violation  
38 of the custody or parenting time order.

39 Interference with custody is a crime of the second degree if the  
40 child is taken, detained, enticed or concealed: (i) outside the United  
41 States or (ii) for more than 24 hours. Otherwise, interference with  
42 custody is a crime of the third degree but the presumption of non-  
43 imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first  
44 offense of a crime of the third degree shall not apply.

45 b. Custody of committed persons. A person is guilty of a crime  
46 of the fourth degree if he knowingly takes or entices any committed  
47 person away from lawful custody when he is not privileged to do  
48 so. "Committed person" means, in addition to anyone committed

1 under judicial warrant, any orphan, neglected or delinquent child,  
2 **[mentally defective]** mentally incapable or insane person, or other  
3 dependent or incompetent person entrusted to another's custody by  
4 or through a recognized social agency or otherwise by authority of  
5 law.

6 c. It is an affirmative defense to a prosecution under subsection  
7 a. of this section, which must be proved by clear and convincing  
8 evidence, that:

9 (1) The actor reasonably believed that the action was necessary  
10 to preserve the child from imminent danger to his welfare.  
11 However, no defense shall be available pursuant to this subsection  
12 if the actor does not, as soon as reasonably practicable but in no  
13 event more than 24 hours after taking a child under his protection,  
14 give notice of the child's location to the police department of the  
15 municipality where the child resided, the office of the county  
16 prosecutor in the county where the child resided, or the Division of  
17 Youth and Family Services in the Department of Children and  
18 Families;

19 (2) The actor reasonably believed that the taking or detaining of  
20 the minor child was consented to by the other parent, or by an  
21 authorized State agency; or

22 (3) The child, being at the time of the taking or concealment not  
23 less than 14 years old, was taken away at his own volition and  
24 without purpose to commit a criminal offense with or against the  
25 child.

26 d. It is an affirmative defense to a prosecution under subsection  
27 a. of this section that a parent having the right of custody  
28 reasonably believed he was fleeing from imminent physical danger  
29 from the other parent, provided that the parent having custody, as  
30 soon as reasonably practicable:

31 (1) Gives notice of the child's location to the police department  
32 of the municipality where the child resided, the office of the county  
33 prosecutor in the county where the child resided, or the Division of  
34 Youth and Family Services in the Department of Children and  
35 Families; or

36 (2) Commences an action affecting custody in an appropriate  
37 court.

38 e. The offenses enumerated in this section are continuous in  
39 nature and continue for so long as the child is concealed or  
40 detained.

41 f. (1) In addition to any other disposition provided by law, a  
42 person convicted under subsection a. of this section shall make  
43 restitution of all reasonable expenses and costs, including  
44 reasonable counsel fees, incurred by the other parent in securing the  
45 child's return.

46 (2) In imposing sentence under subsection a. of this section the  
47 court shall consider, in addition to the factors enumerated in chapter  
48 44 of Title 2C of the New Jersey Statutes:

1 (a) Whether the person returned the child voluntarily;  
2 and

3 (b) The length of time the child was concealed or  
4 detained.

5 g. As used in this section, "parent" means a parent, guardian or  
6 other lawful custodian of a minor child.  
7 (cf: P.L.2006, c.47, s.25)

8

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

10 2C:14-1. Definitions. The following definitions apply to this  
11 chapter:

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

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

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

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

27 e. "Intimate parts" means the following body parts: sexual  
28 organs, genital area, anal area, inner thigh, groin, buttock or breast  
29 of a person;

30 f. "Severe personal injury" means severe bodily injury,  
31 disfigurement, disease, incapacitating mental anguish or chronic  
32 pain;

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

36 h. **["Mentally defective"]** "Mentally incapable" means that  
37 condition in which a person **[suffers from]** has a mental disease or  
38 defect which renders that person temporarily or permanently  
39 incapable of understanding the nature of his conduct, including, but  
40 not limited to, being incapable of providing consent. For the  
41 purposes of application, "mentally incapable" shall have the same  
42 meaning as "mentally defective" did prior to the enactment of  
43 P.L. , c. (C. )(pending before the Legislature as this bill);

44 i. "Mentally incapacitated" means that condition in which a  
45 person is rendered temporarily incapable of understanding or  
46 controlling his conduct due to the influence of a narcotic,  
47 anesthetic, intoxicant, or other substance administered to that  
48 person without his prior knowledge or consent, or due to any other

1 act committed upon that person which rendered that person  
2 incapable of appraising or controlling his conduct;

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

6 (cf: P.L.1989, c.228, s.2)

7

8 4. 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  
11 another 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  
15 to the third degree, or

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

19 (c) The actor is a resource family parent, a guardian, or  
20 stands in loco 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  
28 object;

29 (5) The actor is aided or abetted by one or more other persons  
30 and the actor uses physical force or coercion;

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

33 (7) The victim is one whom the actor knew or should have  
34 known was physically helpless, **[mentally defective]** mentally  
35 incapable or mentally incapacitated.

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

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

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

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

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

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

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

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

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

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

10 Sexual assault is a crime of the second degree.

11 (cf: P.L.2004, c.130, s.13)

12

13 5. This act shall take effect immediately.

14

15

16

#### STATEMENT

17

18 This bill would replace the term “mentally defective” in the  
19 Criminal Code with the term “mentally incapable.” Advancements  
20 in the rights of individuals with disabilities have necessitated the  
21 replacement of certain statutory language that may bear an  
22 unintended pejorative meaning. In recognition of the value and  
23 dignity of individuals with disabilities, this bill would update the  
24 terminology used in the Criminal Code. The changes made by this  
25 bill are not intended to make any substantive change to the legal  
26 meaning of the affected statutes and should not be deemed to  
27 change or overrule any precedential judicial interpretation as to the  
28 legal meaning of the statutes. If this bill is enacted, “mentally  
29 incapable” shall carry the same meaning as “mentally defective”  
30 does under the current law.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 4403**

**STATE OF NEW JERSEY**

DATED: DECEMBER 12, 2011

The Assembly Judiciary Committee reports favorably Assembly Bill No. 4403.

This bill would replace the term “mentally defective” in the Criminal Code with the term “mentally incapable.” The intent of the bill is to eliminate a pejorative term.

This bill would replace “mentally defective” with “mentally incapable” in the following statutes: N.J.S.A.2C:12-10.2 (*temporary restraining order for allegation of stalking certain victims*); N.J.S.A.2C:13-4 (*interference with custody*); N.J.S.A.2C:14-1 (*definitions of terms used in chapter 14 of Title 2C, sexual offenses*); and N.J.S.A.2C:14-2 (*sexual assault*).

“Mentally defective” is currently defined in N.J.S.A.2C:14-1, for the purposes of the sexual assault statutes, as “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, including, but not limited to, being incapable of providing consent.” The bill provides that, for the purposes of application, “mentally incapable” would have the same meaning as “mentally defective” under current law.

It is the committee’s understanding that the bill would not make any substantive change to the legal meaning of the affected statutes and should not be deemed to change or overrule any precedential judicial interpretation as to that meaning.



# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4403

with committee amendments

# STATE OF NEW JERSEY

DATED: JANUARY 5, 2012

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 4403.

This bill would eliminate the term “mentally defective” in the Criminal Code. The intent of the bill is to eliminate a pejorative term.

As introduced and as previously released by this committee on December 12, 2011, the bill had replaced the phrase “mentally defective” with “mentally incapable” in N.J.S.A.2C:12-10.2 (*temporary restraining order for allegation of stalking certain victims*); N.J.S.A.2C:13-4 (*interference with custody*); N.J.S.A.2C:14-1 (*definitions of terms used in chapter 14 of Title 2C, sexual offenses*); and N.J.S.A.2C:14-2 (*sexual assault*).

As amended by committee, the phrase “mentally incapable” is removed from the bill’s amendments to N.J.S.A.2C:12-10.2 and N.J.S.A.2C:14-2. It is replaced with the following language in N.J.S.A.2C:12-10.2: “has a mental disease or defect which renders the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent.” The phrase “mentally incapable” is replaced with the following language in N.J.S.A.2C:14-2: “had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent.” Because these definitions are virtually identical to that contained in current law for “mentally defective,” that definitional section in N.J.S.A.2C:14-1 is no longer needed and is deleted.

The committee amendments also eliminate the phrase “mentally incapable” from the bill’s amendment to N.J.S.A.2C:13-4 and remove the pejorative term “insane” from the current statute. As amended by committee, the new language in N.J.S.A.2C:13-4 refers to a “person with a mental disease, defect or illness.”

The committee amendments also change the effective date from immediately to the 60th day following enactment.

These committee amendments make this bill identical to S-3181(1R).

COMMITTEE AMENDMENTS

1. Section 1 of the bill (N.J.S.A.2C:12-10.2) is amended to eliminate the phrase “mentally incapable” and replace it with the following language: “has a mental disease or defect which renders the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent.”

2. Section 2 of the bill (N.J.S.A.2C:13-4) is amended to eliminate the phrase “mentally incapable or insane” and replace it with “person with a mental disease, defect or illness.”

3. Section 3 of the bill (N.J.S.A.2C:14-1) is amended to eliminate the definition for “mentally incapable.”

4. Section 4 of the bill (N.J.S.A.2C:14-2) is amended to eliminate the phrase “mentally incapable” and replace it with “had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent.”

5. The committee amendments also change the effective date from immediately to the 60th day following enactment.

**SENATE, No. 3181**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED DECEMBER 15, 2011

**Sponsored by:**

**Senator PAUL A. SARLO**

**District 36 (Bergen, Essex and Passaic)**

**Senator M. TERESA RUIZ**

**District 29 (Essex and Union)**

**SYNOPSIS**

Replaces term “mentally defective” with “mentally incapable” in Criminal Code.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the Criminal Code and amending various parts  
2 of the statutory law.

3

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

6

7 1. Section 2 of P.L.1999, c.47 (C.2C:12-10.2) is amended to  
8 read as follows:

9 2. a. In any case involving an allegation of stalking where the  
10 victim is a child under the age of 18 years or is developmentally  
11 disabled as defined in section 3 of P.L.1977, c.200 (C.5:5-44.4) or  
12 where the victim is 18 years of age or older and is **[mentally**  
13 **defective]** mentally incapable as defined in N.J.S. 2C:14-1, the  
14 court may issue a temporary restraining order against the defendant  
15 which limits the contact of the defendant and the victim.

16 b. The provisions of subsection a. of this section are in addition  
17 to, and not in lieu of, the provisions of section 3 of P.L.1996, c.39  
18 (C.2C:12-10.1) which provide that a judgment of conviction for  
19 stalking shall operate as an application for a permanent restraining  
20 order limiting the contact of the defendant and the victim.

21 c. The parent or guardian of the child or the person described  
22 in subsection a. of this section may file a complaint with the  
23 Superior Court in conformity with the rules of court seeking a  
24 temporary restraining order against a person alleged to have  
25 committed stalking against the child or the person described in  
26 subsection a. of this section. The parent or guardian may seek  
27 emergency, ex parte relief. A decision shall be made by the judge  
28 regarding the emergency relief forthwith. If it appears that the child  
29 or the person described in subsection a. of this section is in danger  
30 of being stalked by the defendant, the judge shall issue a temporary  
31 restraining order pursuant to subsection e. of this section.

32 d. A conviction of stalking shall not be a prerequisite for the  
33 grant of a temporary restraining order under this act.

34 e. A temporary restraining order issued under this act shall  
35 limit the contact of the defendant and the child or the person  
36 described in subsection a. of this section who was stalked and in  
37 addition may grant all other relief specified in section 3 of  
38 P.L.1996, c.39 (C.2C:12-10.1).

39 f. A hearing shall be held in the Superior Court within 10 days  
40 of the issuance of any temporary restraining order which was issued  
41 on an emergency, ex parte basis. A copy of the complaint shall be  
42 served on the defendant in conformity with the rules of court. At  
43 the hearing the standard for continuing the temporary restraining  
44 order shall be by a preponderance of the evidence.

**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 g. If the court rules that the temporary restraining order shall  
2 be continued, the order shall remain in effect until either:

3 (1) the defendant is convicted of stalking, in which case the  
4 court shall hold a hearing on the issue of whether a permanent  
5 restraining order shall be entered pursuant to section 3 of P.L.1996,  
6 c.39 (C.2C:12-10.1); or

7 (2) the victim's parent or guardian or, in the case of a victim  
8 who has reached the age of 18, the victim, requests that the  
9 restraining order be dismissed and the court finds just cause to do  
10 so.

11 (cf: P.L.1999, c.47, s.2)

12

13 2. N.J.S.2C:13-4 is amended to read as follows:

14 2C:13-4. Interference with custody.

15 a. Custody of children. A person, including a parent, guardian or  
16 other lawful custodian, is guilty of interference with custody if he:

17 (1) Takes or detains a minor child with the purpose of  
18 concealing the minor child and thereby depriving the child's other  
19 parent of custody or parenting time with the minor child; or

20 (2) After being served with process or having actual knowledge  
21 of an action affecting marriage or custody but prior to the issuance  
22 of a temporary or final order determining custody and parenting  
23 time rights to a minor child, takes, detains, entices or conceals the  
24 child within or outside the State for the purpose of depriving the  
25 child's other parent of custody or parenting time, or to evade the  
26 jurisdiction of the courts of this State; or

27 (3) After being served with process or having actual knowledge  
28 of an action affecting the protective services needs of a child  
29 pursuant to Title 9 of the Revised Statutes in an action affecting  
30 custody, but prior to the issuance of a temporary or final order  
31 determining custody rights of a minor child, takes, detains, entices  
32 or conceals the child within or outside the State for the purpose of  
33 evading the jurisdiction of the courts of this State; or

34 (4) After the issuance of a temporary or final order specifying  
35 custody, joint custody rights or parenting time, takes, detains,  
36 entices or conceals a minor child from the other parent in violation  
37 of the custody or parenting time order.

38 Interference with custody is a crime of the second degree if the  
39 child is taken, detained, enticed or concealed: (i) outside the United  
40 States or (ii) for more than 24 hours. Otherwise, interference with  
41 custody is a crime of the third degree but the presumption of non-  
42 imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first  
43 offense of a crime of the third degree shall not apply.

44 b. Custody of committed persons. A person is guilty of a crime  
45 of the fourth degree if he knowingly takes or entices any committed  
46 person away from lawful custody when he is not privileged to do  
47 so. "Committed person" means, in addition to anyone committed  
48 under judicial warrant, any orphan, neglected or delinquent child,

1 **【mentally defective】** mentally incapable or insane person, or other  
2 dependent or incompetent person entrusted to another's custody by  
3 or through a recognized social agency or otherwise by authority of  
4 law.

5 c. It is an affirmative defense to a prosecution under subsection  
6 a. of this section, which must be proved by clear and convincing  
7 evidence, that:

8 (1) The actor reasonably believed that the action was necessary  
9 to preserve the child from imminent danger to his welfare.  
10 However, no defense shall be available pursuant to this subsection  
11 if the actor does not, as soon as reasonably practicable but in no  
12 event more than 24 hours after taking a child under his protection,  
13 give notice of the child's location to the police department of the  
14 municipality where the child resided, the office of the county  
15 prosecutor in the county where the child resided, or the Division of  
16 Youth and Family Services in the Department of Children and  
17 Families;

18 (2) The actor reasonably believed that the taking or detaining of  
19 the minor child was consented to by the other parent, or by an  
20 authorized State agency; or

21 (3) The child, being at the time of the taking or concealment not  
22 less than 14 years old, was taken away at his own volition and  
23 without purpose to commit a criminal offense with or against the  
24 child.

25 d. It is an affirmative defense to a prosecution under subsection  
26 a. of this section that a parent having the right of custody  
27 reasonably believed he was fleeing from imminent physical danger  
28 from the other parent, provided that the parent having custody, as  
29 soon as reasonably practicable:

30 (1) Gives notice of the child's location to the police department  
31 of the municipality where the child resided, the office of the county  
32 prosecutor in the county where the child resided, or the Division of  
33 Youth and Family Services in the Department of Children and  
34 Families; or

35 (2) Commences an action affecting custody in an appropriate  
36 court.

37 e. The offenses enumerated in this section are continuous in  
38 nature and continue for so long as the child is concealed or  
39 detained.

40 f. (1) In addition to any other disposition provided by law, a  
41 person convicted under subsection a. of this section shall make  
42 restitution of all reasonable expenses and costs, including  
43 reasonable counsel fees, incurred by the other parent in securing the  
44 child's return.

45 (2) In imposing sentence under subsection a. of this section the  
46 court shall consider, in addition to the factors enumerated in chapter  
47 44 of Title 2C of the New Jersey Statutes:

48 (a) Whether the person returned the child voluntarily; and

1 (b) The length of time the child was concealed or detained.

2 g. As used in this section, "parent" means a parent, guardian or  
3 other lawful custodian of a minor child.

4 (cf: P.L.2006, c.47, s.25)

5

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

7 2C:14-1. Definitions. The following definitions apply to this  
8 chapter:

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

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

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

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

24 e. "Intimate parts" means the following body parts: sexual  
25 organs, genital area, anal area, inner thigh, groin, buttock or breast  
26 of a person;

27 f. "Severe personal injury" means severe bodily injury,  
28 disfigurement, disease, incapacitating mental anguish or chronic  
29 pain;

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

33 h. **["Mentally defective"]** "Mentally incapable" means that  
34 condition in which a person **[suffers from]** has a mental disease or  
35 defect which renders that person temporarily or permanently  
36 incapable of understanding the nature of his conduct, including, but  
37 not limited to, being incapable of providing consent. For the  
38 purposes of application, "mentally incapable" shall have the same  
39 meaning as "mentally defective" did prior to the enactment of  
40 P.L. , c. (C. )(pending before the Legislature as this bill);

41 i. "Mentally incapacitated" means that condition in which a  
42 person is rendered temporarily incapable of understanding or  
43 controlling his conduct due to the influence of a narcotic,  
44 anesthetic, intoxicant, or other substance administered to that  
45 person without his prior knowledge or consent, or due to any other  
46 act committed upon that person which rendered that person  
47 incapable of appraising or controlling his conduct;

1 j. "Coercion" as used in this chapter shall refer to those acts  
2 which are defined as criminal coercion in section 2C:13-5(1), (2),  
3 (3), (4), (6) and (7).  
4 (cf: P.L.1989, c.228, s.2)

5  
6 4. N.J.S.2C:14-2 is amended to read as follows:

7 2C:14-2. Sexual assault. a. An actor is guilty of aggravated  
8 sexual assault if he commits an act of sexual penetration with  
9 another person under any one of the following circumstances:

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

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

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

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

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

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

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

27 (5) The actor is aided or abetted by one or more other persons  
28 and the actor uses physical force or coercion;

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

31 (7) The victim is one whom the actor knew or should have  
32 known was physically helpless, [mentally defective] mentally  
33 incapable or mentally incapacitated.

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

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

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

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

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

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



- 1 (a) The actor is related to the victim by blood or affinity to the  
2 third degree; or  
3 (b) The actor has supervisory or disciplinary power of any  
4 nature or in any capacity over the victim; or  
5 (c) The actor is a resource family parent, a guardian, or stands  
6 in loco parentis within the household;  
7 (4) The victim is at least 13 but less than 16 years old and the  
8 actor is at least four years older than the victim.  
9 Sexual assault is a crime of the second degree.  
10 (cf: P.L.2004, c.130, s.13)

11

12 5. This act shall take effect immediately.

13

14

15

#### STATEMENT

16

17 This bill would replace the term “mentally defective” in the  
18 Criminal Code with the term “mentally incapable.” The intent of  
19 the bill is to eliminate a pejorative term.

20 This bill would replace “mentally defective” with “mentally  
21 incapable” in the following statutes: N.J.S.A.2C:12-10.2  
22 (*temporary restraining order for allegation of stalking certain*  
23 *victims*); N.J.S.A.2C:13-4 (*interference with custody*);  
24 N.J.S.A.2C:14-1 (*definitions of terms used in chapter 14 of Title*  
25 *2C, sexual offenses*); and N.J.S.A.2C:14-2 (*sexual assault*).

26 “Mentally defective” is currently defined in N.J.S.A.2C:14-1,  
27 for the purposes of the sexual assault statutes, as “that condition in  
28 which a person suffers from a mental disease or defect which  
29 renders that person temporarily or permanently incapable of  
30 understanding the nature of his conduct, including, but not limited  
31 to, being incapable of providing consent.” The bill provides that,  
32 for the purposes of application, “mentally incapable” would have  
33 the same meaning as “mentally defective” under current law.

34 The changes made by this bill are not intended to make any  
35 substantive change to the legal meaning of the affected statutes and  
36 should not be deemed to change or overrule any precedential  
37 judicial interpretation as to that meaning.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 3181**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 5, 2012

The Senate Budget and Appropriations Committee releases favorably Senate Bill No. 3181, with committee amendments.

As amended, this bill would eliminate the term “mentally defective” in the Criminal Code. The intent of the bill is to eliminate a pejorative term.

As introduced the bill had replaced the phrase “mentally defective” with “mentally incapable” in N.J.S.A.2C:12-10.2 (*temporary restraining order for allegation of stalking certain victims*); N.J.S.A.2C:13-4 (*interference with custody*); N.J.S.A.2C:14-1 (*definitions of terms used in chapter 14 of Title 2C, sexual offenses*); and N.J.S.A.2C:14-2 (*sexual assault*).

As amended by this committee, the phrase “mentally incapable” is removed from the bill’s amendments to N.J.S.A.2C:12-10.2 and N.J.S.A.2C:14-2. It is replaced with the following language in N.J.S.A.2C:12-10.2: “has a mental disease or defect which renders the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent.” The phrase “mentally incapable” is replaced with the following language in N.J.S.A.2C:14-2: “had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent.” Because these definitions are virtually identical to that contained in current law for “mentally defective,” that definitional section in N.J.S.A.2C:14-1 is no longer needed and is deleted.

As amended by this committee, the bill also eliminates the phrase “mentally incapable” from the bill’s amendment to N.J.S.A.2C:13-4 and removes the pejorative term “insane” from the current statute. As amended by committee, the new language in N.J.S.A.2C:13-4 refers to a “person with a mental disease, defect or illness.”

As released from committee, this bill is identical to Assembly Bill No. 4403 (1R).

COMMITTEE AMENDMENTS:

The committee amendments remove the phrase “mentally incapable” from the bill’s changes to N.J.S.A.2C:12-10.2 and N.J.S.A.2C:14-2. The phrase “mentally incapable” is replaced with the following language in N.J.S.A.2C:12-10.2: “has a mental disease or defect which renders that person temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent.” The phrase “mentally incapable” is replaced with the following language in N.J.S.A.2C:14-2: “had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent.” Because these definitions are virtually identical to that contained in current law for “mentally defective,” that definitional section in N.J.S.A.2C:14-1 is no longer needed and is deleted.

The committee amendments also eliminate the phrase “mentally incapable” from the bill’s amendment to N.J.S.A.2C:13-4 and remove the pejorative term “insane” from the current statute. As amended by committee, the new language in N.J.S.A.2C:13-4 refers to a “person with a mental disease, defect, or illness.”

The committee amendments also change the effective date from immediately to the 60th day following enactment.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.