

# 2C:24-4

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2001                    **CHAPTER:** 291  
**NJSA:** 2C:24-4                (Technical corrections to 2C:24-4)  
**BILL NO:** A2897                (Substituted for S1845)

**SPONSOR(S):** Heck and Pou

**DATE INTRODUCED:** October 16, 2000

**COMMITTEE:**                    **ASSEMBLY:** Judiciary  
**SENATE:** Judiciary

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**            **ASSEMBLY:** December 11, 2000  
**SENATE:** November 26, 2001

**DATE OF APPROVAL:** December 28, 2001

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (Original version of bill enacted)

#### A2897

**SPONSORS STATEMENT:** (Begins on page 4 of original bill)                    Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** Yes

**SENATE:** Yes

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

#### S1845

**SPONSORS STATEMENT:** (Begins on page 4 of original bill)                    Yes

Bill and Sponsors Statement identical to A2897

**COMMITTEE STATEMENT:**

**ASSEMBLY:** No

**SENATE:** Yes

Identical to Senate Statement for A2897

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

# ASSEMBLY, No. 2897

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED OCTOBER 16, 2000

**Sponsored by:**

**Assemblywoman ROSE MARIE HECK**

**District 38 (Bergen)**

**Assemblywoman NELLIE POU**

**District 35 (Passaic)**

**Co-Sponsored by:**

**Senators Kosco and Bucco**

**SYNOPSIS**

Makes certain technical corrections to N.J.S.2C:24-4.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 11/27/2001)

1 AN ACT concerning criminal proceedings and amending  
2 N.J.S.2C:24-4.

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:24-4 is amended to read as follows:  
8 2C:24-4. Endangering Welfare of Children.

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

18 b. (1) As used in this subsection:

19 "Child" means any person under 16 years of age.

20 "Internet" means the international computer network of both federal  
21 and non-federal interoperable packet switched data networks.

22 "Prohibited sexual act" means

23 (a) Sexual intercourse; or

24 (b) Anal intercourse; or

25 (c) Masturbation; or

26 (d) Bestiality; or

27 (e) Sadism; or

28 (f) Masochism; or

29 (g) Fellatio; or

30 (h) Cunnilingus;

31 (i) Nudity, if depicted for the purpose of sexual stimulation or  
32 gratification of any person who may view such depiction ; or

33 (j) Any act of sexual penetration or sexual contact as defined in  
34 N.J.S.2C:14-1.

35 "Reproduction" means, but is not limited to, computer generated  
36 images.

37 (2) [A person commits a crime of the second degree if he causes  
38 or permits a child to engage in a prohibited sexual act or in the  
39 simulation of such an act if the person knows, has reason to know or  
40 intends that the prohibited act may be photographed, filmed,  
41 reproduced, or reconstructed in any manner, including on the Internet,  
42 or may be part of an exhibition or performance. If the person is a  
43 parent, guardian or other person legally charged with the care or

**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 custody of the child, the person shall be guilty of a crime of the first  
2 degree. ] Deleted by amendment, P.L. , c. (C. )(now  
3 pending before the Legislature as this bill).

4 (3) A person commits a crime of the second degree if he causes or  
5 permits a child to engage in a prohibited sexual act or in the simulation  
6 of such an act if the person knows, has reason to know or intends that  
7 the prohibited act may be photographed, filmed, reproduced, or  
8 reconstructed in any manner, including on the Internet, or may be part  
9 of an exhibition or performance. If the person is a parent, guardian or  
10 other person legally charged with the care or custody of the child, the  
11 person shall be guilty of a crime of the first degree.

12 (4) Any person who photographs or films a child in a prohibited  
13 sexual act or in the simulation of such an act or who uses any device,  
14 including a computer, to reproduce or reconstruct the image of a child  
15 in a prohibited sexual act or in the simulation of such an act is guilty  
16 of a crime of the second degree.

17 [(4)](5) (a) Any person who knowingly receives for the purpose  
18 of selling or who knowingly sells, procures, manufactures, gives,  
19 provides, lends, trades, mails, delivers, transfers, publishes, distributes,  
20 circulates, disseminates, presents, exhibits, advertises, offers or agrees  
21 to offer , through any means , including the Internet, any photograph,  
22 film, videotape, computer program or file, video game or any other  
23 reproduction or reconstruction which depicts a child engaging in a  
24 prohibited sexual act or in the simulation of such an act, is guilty of a  
25 crime of the second degree.

26 (b) Any person who knowingly possesses or knowingly views any  
27 photograph, film, videotape, computer program or file, video game or  
28 any other reproduction or reconstruction which depicts a child  
29 engaging in a prohibited sexual act or in the simulation of such an act,  
30 including on the Internet, is guilty of a crime of the fourth degree.

31 [(5)](6) For purposes of this subsection, a person who is depicted  
32 as or presents the appearance of being under the age of 16 in any  
33 photograph, film, videotape, computer program or file, video game or  
34 any other reproduction or reconstruction shall be rebuttably presumed  
35 to be under the age of 16. If the child who is depicted as engaging in,  
36 or who is caused to engage in, a prohibited sexual act or simulation of  
37 a prohibited sexual act is under the age of 16, the actor shall be strictly  
38 liable and it shall not be a defense that the actor did not know that the  
39 child was under the age of 16, nor shall it be a defense that the actor  
40 believed that the child was 16 years of age or older, even if such a  
41 mistaken belief was reasonable.

42 (cf: P.L.1998, c.126, s.1)

43  
44 2. This act shall take effect immediately, and shall be retroactive  
45 to, May 1, 1999, the effective date of P.L.1998, c.126.

## STATEMENT

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This bill makes a technical correction to accommodate existing statutory references to certain paragraphs of subsection b. of N.J.S.2C:24-4 which were inadvertently affected by renumbering in a recently enacted law P.L.1998, c.126 that law amended the criminal statute concerning endangering the welfare of children, N.J.S.2C:24-4, to clarify, among other things, that the depiction and dissemination of the image of a child in a prohibited sexual act or in the simulation of such an act on the Internet and via use of computers constitute offenses under that statute. That law also, for technical reasons, amended the provisions of subsection b. of N.J.S.2C:24-4, to combine into a single paragraph definitions that had previously been contained in two separate paragraphs. This change necessitated the renumbering of the remainder of the paragraphs in that subsection, although citations to those provisions elsewhere in the New Jersey Code were not amended accordingly. The unintended consequence is that references in numerous statutes to specific endangering offenses now refer to different endangering offenses than intended.

For example, among the sex offenses for which registration is required under Megan's Law, subsection b. of N.J.S.2C:7-2, is the offense of endangering the welfare of a child pursuant to paragraph (4) of subsection b. of N.J.S.2C:24-4, which in 1994 when the law was enacted referred to the second degree offense of photographing or filming a child in a prohibited sexual act or in the simulation of such act or who uses any device to reproduce or reconstruct the image. The 1998 amendment appears to remove the child endangering offenses of producing child pornography from the list of predicate offenses for which registration is required and community notification may be authorized under Megan's Law, and to substitute child pornography trafficking and possession offenses. The renumbering also affects other statutory references to the former subparagraph (4), including: N.J.S.30:4-123.53a., requiring notice to prosecutor and victim prior to anticipated release from incarceration of person convicted or adjudicated of enumerated offense: N.J.S.2C:52-2, prohibiting expungement of a record of conviction for enumerated offense; in N.J.S.2C:41-1 to subparagraph (b) of paragraph (5) of N.J.S.2C:24-4, now renumbered as paragraph (4); N.J.S.30:4-91.8 concerning notice of review for community release of certain inmates; and in N.J.S.2C:47-12 concerning referral to adult treatment centers. These multiple affected references counsel in favor of amending N.J.S.2C:24-4 to include a "place-holder" paragraph to ensure reference to the correct endangering provision rather than amending the other specific statutory references which site to N.J.S.2C:24-4.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2897

# STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2000

The Assembly Judiciary Committee reports favorably Assembly Bill No. 2897.

This bill makes a technical correction to accommodate existing statutory references to certain paragraphs of subsection b. of N.J.S.2C:24-4 which were inadvertently affected by renumbering in P.L.1998, c.126. That law amended the criminal statute concerning endangering the welfare of children, N.J.S.2C:24-4, to clarify, among other things, that the depiction and dissemination of the image of a child in a prohibited sexual act or in the simulation of such an act on the Internet and via use of computers constitute offenses under that statute. That law also, for technical reasons, amended the provisions of subsection b. of N.J.S.2C:24-4, to combine into a single paragraph definitions that had previously been contained in two separate paragraphs. This change necessitated the renumbering of the remainder of the paragraphs in that subsection, although citations to those provisions elsewhere in the New Jersey Code were not amended accordingly. The unintended consequence is that references in numerous statutes to specific endangering offenses now refer to different endangering offenses than intended.

For example, among the sex offenses for which registration is required under Megan's Law, subsection b. of N.J.S.2C:7-2, is the offense of endangering the welfare of a child pursuant to paragraph (4) of subsection b. of N.J.S.2C:24-4, which in 1994 when the law was enacted referred to the second degree offense of photographing or filming a child in a prohibited sexual act or in the simulation of such act or who uses any device to reproduce or reconstruct the image. The 1998 amendment appears to remove the child endangering offenses of producing child pornography from the list of predicate offenses for which registration is required and community notification may be authorized under Megan's Law, and to substitute child pornography trafficking and possession offenses. The renumbering also affects other statutory references to the former subparagraph (4), including: N.J.S.30:4-123.53a., requiring notice to prosecutor and victim prior to anticipated release from incarceration of person convicted or adjudicated of enumerated offense: N.J.S.2C:52-2, prohibiting expungement of a record of conviction for enumerated offense; in N.J.S.2C:41-1 to subparagraph (b) of paragraph (5) of

N.J.S.2C:24-4, now renumbered as paragraph (4); N.J.S.30:4-91.8 concerning notice of review for community release of certain inmates; and in N.J.S.2C:47-12 concerning referral to adult treatment centers. These multiple affected references counsel in favor of amending N.J.S.2C:24-4 to include a "place-holder" paragraph to ensure reference to the correct endangering provision rather than amending the other specific statutory references which cite to N.J.S.2C:24-4.



SENATE JUDICIARY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2897**

**STATE OF NEW JERSEY**

DATED: FEBRUARY 8, 2001

The Senate Judiciary Committee reports favorably Assembly Bill No. 2897.

N.J.S.2C:24-4 contains criminal offenses involving endangering the welfare of children. P.L.1998, c.126 amended N.J.S.2C:24-4 to clarify, among other things, that the depiction and dissemination of the image of a child in a prohibited sexual act or in the simulation of such an act on the Internet and via use of computers constitute offenses under that statute. P.L.1998, c.126 also, for technical reasons, amended the provisions of subsection b. of N.J.S.2C:24-4, to combine into a single paragraph definitions that had previously been contained in two separate paragraphs. This change results in the renumbering of the remainder of the paragraphs in that subsection, although citations to those provisions elsewhere in the New Jersey Code were not amended accordingly. The unintended consequence is that references in numerous statutes (for example 2C:7-2, part of Megan's Law) to specific endangering offenses now refer to different endangering offenses than intended. In order to address this situation this bill would add language to N.J.S.2C:24-4 to indicate that part of subsection b. would be renumbered thus insuring proper cross references in other statutes.

**SENATE, No. 1845**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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INTRODUCED NOVEMBER 9, 2000

**Sponsored by:**

**Senator LOUIS F. KOSCO**

**District 38 (Bergen)**

**Senator ANTHONY R. BUCCO**

**District 25 (Morris)**

**SYNOPSIS**

Makes certain technical corrections to N.J.S. 2C:24-4.

**CURRENT VERSION OF TEXT**

As introduced.



S1845 KOSCO, BUCCO

2

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2 N.J.S.2C:24-4.

3

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8 2C:24-4. Endangering Welfare of Children.

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11 sexual conduct which would impair or debauch the morals of the child,  
12 or who causes the child harm that would make the child an abused or  
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14 c.119, s.1 (C.9:6-8.21) is guilty of a crime of the second degree. Any  
15 other person who engages in conduct or who causes harm as described  
16 in this subsection to a child under the age of 16 is guilty of a crime of  
17 the third degree.

18 b. (1) As used in this subsection:

19 "Child" means any person under 16 years of age.

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21 and non-federal interoperable packet switched data networks.

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23 (a) Sexual intercourse; or

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31 (i) Nudity, if depicted for the purpose of sexual stimulation or  
32 gratification of any person who may view such depiction ; or

33 (j) Any act of sexual penetration or sexual contact as defined in  
34 N.J.S.2C:14-1.

35 "Reproduction" means, but is not limited to, computer generated  
36 images.

37 (2) [A person commits a crime of the second degree if he causes  
38 or permits a child to engage in a prohibited sexual act or in the  
39 simulation of such an act if the person knows, has reason to know or  
40 intends that the prohibited act may be photographed, filmed,  
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**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

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17 [(4)] (5) (a) Any person who knowingly receives for the purpose  
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19 provides, lends, trades, mails, delivers, transfers, publishes, distributes,  
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21 to offer, through any means, including the Internet, any photograph,  
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30 including on the Internet, is guilty of a crime of the fourth degree.

31 [(5)] (6) For purposes of this subsection, a person who is depicted  
32 as or presents the appearance of being under the age of 16 in any  
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34 any other reproduction or reconstruction shall be rebuttably presumed  
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38 liable and it shall not be a defense that the actor did not know that the  
39 child was under the age of 16, nor shall it be a defense that the actor  
40 believed that the child was 16 years of age or older, even if such a  
41 mistaken belief was reasonable.

42 (cf: P.L.1998, c.126, s.1)

43  
44 2. This act shall take effect immediately, and shall be retroactive  
45 to, May 1, 1999, the effective date of P.L.1998, c.126.

STATEMENT

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# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### SENATE, No. 1845

# STATE OF NEW JERSEY

DATED: FEBRUARY 8, 2001

The Senate Judiciary Committee reports favorably Senate Bill No. 1845.

N.J.S.2C:24-4 contains criminal offenses involving endangering the welfare of children. P.L.1998, c.126 amended N.J.S.2C:24-4 to clarify, among other things, that the depiction and dissemination of the image of a child in a prohibited sexual act or in the simulation of such an act on the Internet and via use of computers constitute offenses under that statute. P.L.1998, c.126 also, for technical reasons, amended the provisions of subsection b. of N.J.S.2C:24-4, to combine into a single paragraph definitions that had previously been contained in two separate paragraphs. This change results in the renumbering of the remainder of the paragraphs in that subsection, although citations to those provisions elsewhere in the New Jersey Code were not amended accordingly. The unintended consequence is that references in numerous statutes (for example 2C:7-2, part of Megan's Law) to specific endangering offenses now refer to different endangering offenses than intended. In order to address this situation this bill would add language to N.J.S.2C:24-4 to indicate that part of subsection b. would be renumbered thus insuring proper cross references in other statutes.

**SENATE, No. 1845**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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INTRODUCED NOVEMBER 9, 2000

**Sponsored by:**

**Senator LOUIS F. KOSCO**

**District 38 (Bergen)**

**Senator ANTHONY R. BUCCO**

**District 25 (Morris)**

**SYNOPSIS**

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17 the third degree.

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17 [(4)] (5) (a) Any person who knowingly receives for the purpose  
18 of selling or who knowingly sells, procures, manufactures, gives,  
19 provides, lends, trades, mails, delivers, transfers, publishes, distributes,  
20 circulates, disseminates, presents, exhibits, advertises, offers or agrees  
21 to offer, through any means, including the Internet, any photograph,  
22 film, videotape, computer program or file, video game or any other  
23 reproduction or reconstruction which depicts a child engaging in a  
24 prohibited sexual act or in the simulation of such an act, is guilty of a  
25 crime of the second degree.

26 (b) Any person who knowingly possesses or knowingly views any  
27 photograph, film, videotape, computer program or file, video game or  
28 any other reproduction or reconstruction which depicts a child  
29 engaging in a prohibited sexual act or in the simulation of such an act,  
30 including on the Internet, is guilty of a crime of the fourth degree.

31 [(5)] (6) For purposes of this subsection, a person who is depicted  
32 as or presents the appearance of being under the age of 16 in any  
33 photograph, film, videotape, computer program or file, video game or  
34 any other reproduction or reconstruction shall be rebuttably presumed  
35 to be under the age of 16. If the child who is depicted as engaging in,  
36 or who is caused to engage in, a prohibited sexual act or simulation of  
37 a prohibited sexual act is under the age of 16, the actor shall be strictly  
38 liable and it shall not be a defense that the actor did not know that the  
39 child was under the age of 16, nor shall it be a defense that the actor  
40 believed that the child was 16 years of age or older, even if such a  
41 mistaken belief was reasonable.

42 (cf: P.L.1998, c.126, s.1)

43  
44 2. This act shall take effect immediately, and shall be retroactive  
45 to, May 1, 1999, the effective date of P.L.1998, c.126.

STATEMENT

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This bill makes a technical correction to accommodate existing statutory references to certain paragraphs of subsection b. of N.J.S.2C:24-4 which were inadvertently affected by renumbering in a recently enacted law P.L.1998, c.126. That law amended the criminal statute concerning endangering the welfare of children, N.J.S.2C:24-4, to clarify, among other things, that the depiction and dissemination of the image of a child in a prohibited sexual act or in the simulation of such an act on the Internet and via use of computers constitute offenses under that statute. That law also, for technical reasons, amended the provisions of subsection b. of N.J.S.2C:24-4, to combine into a single paragraph definitions that had previously been contained in two separate paragraphs. This change necessitated the renumbering of the remainder of the paragraphs in that subsection, although citations to those provisions elsewhere in the New Jersey Code were not amended accordingly. The unintended consequence is that references in numerous statutes to specific endangering offenses now refer to different endangering offenses than intended.

For example, among the sex offenses for which registration is required under Megan's Law, subsection b. of N.J.S.2C:7-2, is the offense of endangering the welfare of a child pursuant to paragraph (4) of subsection b. of N.J.S.2C:24-4, which in 1994 when the law was enacted referred to the second degree offense of photographing or filming a child in a prohibited sexual act or in the simulation of such act or who uses any device to reproduce or reconstruct the image. The 1998 amendment appears to remove the child endangering offenses of producing child pornography from the list of predicate offenses for which registration is required and community notification may be authorized under Megan's Law, and to substitute child pornography trafficking and possession offenses. The renumbering also affects other statutory references to the former subparagraph (4), including: N.J.S.30:4-123.53a., requiring notice to prosecutor and victim prior to anticipated release from incarceration of person convicted or adjudicated of enumerated offense: N.J.S.2C:52-2, prohibiting expungement of a record of conviction for enumerated offense; in N.J.S.2C:41-1 to subparagraph (b) of paragraph (5) of N.J.S.2C:24-4, now renumbered as paragraph (4); N.J.S. 30:4-91.8 concerning notice of review for community release of certain inmates; and in N.J.S. 2C:47-12 concerning referral to adult treatment centers. These multiple affected references counsel in favor of amending N.J.S. 2C:24-4 to include a "place-holder" paragraph to ensure reference to the correct endangering provision rather than amending the other specific statutory references which site to N.J.S.2C:24-4.

P.L. 2001, CHAPTER 291, *approved December 28, 2001*  
Assembly, No. 2897

1 AN ACT concerning criminal proceedings and amending  
2 N.J.S.2C:24-4.

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:24-4 is amended to read as follows:  
8 2C:24-4. Endangering Welfare of Children.

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

18 b. (1) As used in this subsection:

19 "Child" means any person under 16 years of age.

20 "Internet" means the international computer network of both federal  
21 and non-federal interoperable packet switched data networks.

22 "Prohibited sexual act" means

23 (a) Sexual intercourse; or

24 (b) Anal intercourse; or

25 (c) Masturbation; or

26 (d) Bestiality; or

27 (e) Sadism; or

28 (f) Masochism; or

29 (g) Fellatio; or

30 (h) Cunnilingus;

31 (i) Nudity, if depicted for the purpose of sexual stimulation or  
32 gratification of any person who may view such depiction ; or

33 (j) Any act of sexual penetration or sexual contact as defined in  
34 N.J.S.2C:14-1.

35 "Reproduction" means, but is not limited to, computer generated  
36 images.

37 (2) [A person commits a crime of the second degree if he causes  
38 or permits a child to engage in a prohibited sexual act or in the  
39 simulation of such an act if the person knows, has reason to know or  
40 intends that the prohibited act may be photographed, filmed,  
41 reproduced, or reconstructed in any manner, including on the Internet,

**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 or may be part of an exhibition or performance. If the person is a  
2 parent, guardian or other person legally charged with the care or  
3 custody of the child, the person shall be guilty of a crime of the first  
4 degree. ] Deleted by amendment, P.L. , c. (C. )(now  
5 pending before the Legislature as this bill).

6 (3) A person commits a crime of the second degree if he causes or  
7 permits a child to engage in a prohibited sexual act or in the simulation  
8 of such an act if the person knows, has reason to know or intends that  
9 the prohibited act may be photographed, filmed, reproduced, or  
10 reconstructed in any manner, including on the Internet, or may be part  
11 of an exhibition or performance. If the person is a parent, guardian or  
12 other person legally charged with the care or custody of the child, the  
13 person shall be guilty of a crime of the first degree.

14 (4) Any person who photographs or films a child in a prohibited  
15 sexual act or in the simulation of such an act or who uses any device,  
16 including a computer, to reproduce or reconstruct the image of a child  
17 in a prohibited sexual act or in the simulation of such an act is guilty  
18 of a crime of the second degree.

19 [(4)](5) (a) Any person who knowingly receives for the purpose  
20 of selling or who knowingly sells, procures, manufactures, gives,  
21 provides, lends, trades, mails, delivers, transfers, publishes, distributes,  
22 circulates, disseminates, presents, exhibits, advertises, offers or agrees  
23 to offer , through any means , including the Internet, any photograph,  
24 film, videotape, computer program or file, video game or any other  
25 reproduction or reconstruction which depicts a child engaging in a  
26 prohibited sexual act or in the simulation of such an act, is guilty of a  
27 crime of the second degree.

28 (b) Any person who knowingly possesses or knowingly views any  
29 photograph, film, videotape, computer program or file, video game or  
30 any other reproduction or reconstruction which depicts a child  
31 engaging in a prohibited sexual act or in the simulation of such an act,  
32 including on the Internet, is guilty of a crime of the fourth degree.

33 [(5)](6) For purposes of this subsection, a person who is depicted  
34 as or presents the appearance of being under the age of 16 in any  
35 photograph, film, videotape, computer program or file, video game or  
36 any other reproduction or reconstruction shall be rebuttably presumed  
37 to be under the age of 16. If the child who is depicted as engaging in,  
38 or who is caused to engage in, a prohibited sexual act or simulation of  
39 a prohibited sexual act is under the age of 16, the actor shall be strictly  
40 liable and it shall not be a defense that the actor did not know that the  
41 child was under the age of 16, nor shall it be a defense that the actor  
42 believed that the child was 16 years of age or older, even if such a  
43 mistaken belief was reasonable.

44 (cf: P.L.1998, c.126, s.1)

1       2. This act shall take effect immediately, and shall be retroactive  
2 to, May 1, 1999, the effective date of P.L.1998, c.126.

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5                                       STATEMENT

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7       This bill makes a technical correction to accommodate existing  
8 statutory references to certain paragraphs of subsection b. of  
9 N.J.S.2C:24-4 which were inadvertently affected by renumbering in a  
10 recently enacted law P.L.1998, c.126 that law amended the criminal  
11 statute concerning endangering the welfare of children, N.J.S.2C:24-4,  
12 to clarify, among other things, that the depiction and dissemination of  
13 the image of a child in a prohibited sexual act or in the simulation of  
14 such an act on the Internet and via use of computers constitute  
15 offenses under that statute. That law also, for technical reasons,  
16 amended the provisions of subsection b. of N.J.S.2C:24-4, to combine  
17 into a single paragraph definitions that had previously been contained  
18 in two separate paragraphs. This change necessitated the renumbering  
19 of the remainder of the paragraphs in that subsection, although  
20 citations to those provisions elsewhere in the New Jersey Code were  
21 not amended accordingly. The unintended consequence is that  
22 references in numerous statutes to specific endangering offenses now  
23 refer to different endangering offenses than intended.

24       For example, among the sex offenses for which registration is  
25 required under Megan's Law, subsection b. of N.J.S.2C:7-2, is the  
26 offense of endangering the welfare of a child pursuant to paragraph (4)  
27 of subsection b. of N.J.S.2C:24-4, which in 1994 when the law was  
28 enacted referred to the second degree offense of photographing or  
29 filming a child in a prohibited sexual act or in the simulation of such  
30 act or who uses any device to reproduce or reconstruct the image.  
31 The 1998 amendment appears to remove the child endangering  
32 offenses of producing child pornography from the list of predicate  
33 offenses for which registration is required and community notification  
34 may be authorized under Megan's Law, and to substitute child  
35 pornography trafficking and possession offenses. The renumbering  
36 also affects other statutory references to the former subparagraph (4),  
37 including: N.J.S.30:4-123.53a., requiring notice to prosecutor and  
38 victim prior to anticipated release from incarceration of person  
39 convicted or adjudicated of enumerated offense: N.J.S.2C:52-2,  
40 prohibiting expungement of a record of conviction for enumerated  
41 offense; in N.J.S.2C:41-1 to subparagraph (b) of paragraph (5) of  
42 N.J.S.2C:24-4, now renumbered as paragraph (4); N.J.S.30:4-91.8  
43 concerning notice of review for community release of certain inmates;  
44 and in N.J.S.2C:47-12 concerning referral to adult treatment centers.  
45 These multiple affected references counsel in favor of amending  
46 N.J.S.2C:24-4 to include a "place-holder" paragraph to ensure

1 reference to the correct endangering provision rather than amending  
2 the other specific statutory references which site to N.J.S.2C:24-4.

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7 Makes certain technical corrections to N.J.S.2C:24-4.

## CHAPTER 291

AN ACT concerning criminal proceedings and amending N.J.S.2C:24-4.

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

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

Endangering welfare of children.

2C:24-4. Endangering Welfare of Children.

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

b. (1) As used in this subsection:

"Child" means any person under 16 years of age.

"Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks.

"Prohibited sexual act" means

- (a) Sexual intercourse; or
- (b) Anal intercourse; or
- (c) Masturbation; or
- (d) Bestiality; or
- (e) Sadism; or
- (f) Masochism; or
- (g) Fellatio; or
- (h) Cunnilingus;
- (i) Nudity, if depicted for the purpose of sexual stimulation or gratification of any person who may view such depiction; or
- (j) Any act of sexual penetration or sexual contact as defined in N.J.S.2C:14-1.

"Reproduction" means, but is not limited to, computer generated images.

(2) (Deleted by amendment, P.L.2001, c.291).

(3) A person commits a crime of the second degree if he causes or permits a child to engage in a prohibited sexual act or in the simulation of such an act if the person knows, has reason to know or intends that the prohibited act may be photographed, filmed, reproduced, or reconstructed in any manner, including on the Internet, or may be part of an exhibition or performance. If the person is a parent, guardian or other person legally charged with the care or custody of the child, the person shall be guilty of a crime of the first degree.

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

(5) (a) Any person who knowingly receives for the purpose of selling or who knowingly sells, procures, manufactures, gives, provides, lends, trades, mails, delivers, transfers, publishes, distributes, circulates, disseminates, presents, exhibits, advertises, offers or agrees to offer, through any means, including the Internet, any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, is guilty of a crime of the second degree.

(b) Any person who knowingly possesses or knowingly views any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, including on the Internet, is guilty of a crime of the fourth degree.

(6) For purposes of this subsection, a person who is depicted as or presents the appearance of being under the age of 16 in any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction shall be rebuttably presumed to be under the age of 16. If the child who is depicted as engaging in, or who is caused to engage in, a

prohibited sexual act or simulation of a prohibited sexual act is under the age of 16, the actor shall be strictly liable and it shall not be a defense that the actor did not know that the child was under the age of 16, nor shall it be a defense that the actor believed that the child was 16 years of age or older, even if such a mistaken belief was reasonable.

2. This act shall take effect immediately, and shall be retroactive to, May 1, 1999, the effective date of P.L.1998, c.126.

Approved December 28, 2001.