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REPORTS: No

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NEWSPAPER ARTICLES: Yes

OTHER: Yes

See New Jersey Legislative History for [L. 2007, c. 128](#) (N.J.S.A. 30:4-123.89 and [L. 2011, c. 232](#) (N.J.S.A 2C:14-2) referenced in sponsor statement.

See the Florida statue entitled "Jessica Lunsford Act," Chapter No. 2005-28 referenced in sponsor statement.

"Christie signs bill increasing sentences in child-sex assaults," The Star Ledger, 5-16-14

"Longer jail terms for child-sex offenses," The Record, 5-16-14

LAW/RWH

P.L.2014, CHAPTER 7, *approved May 15, 2014*

Assembly, No. 892

1 **AN ACT** concerning certain sexual assaults, designated the “Jessica
2 Lunsford Act,” and amending N.J.S.2C:14-2.

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

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

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

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

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

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

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

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

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

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

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

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

32 (7) The victim is one whom the actor knew or should have
33 known was physically helpless or incapacitated, intellectually or
34 mentally incapacitated, or had a mental disease or defect which
35 rendered the victim temporarily or permanently incapable of
36 understanding the nature of his conduct, including, but not limited
37 to, being incapable of providing consent.

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

39 Except as otherwise provided in subsection d. of this section, a
40 person convicted under paragraph (1) of this subsection shall be
41 sentenced to a specific term of years which shall be fixed by the
42 court and shall be between 25 years and life imprisonment of which

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 the person shall serve 25 years before being eligible for parole,
2 unless a longer term of parole ineligibility is otherwise provided
3 pursuant to this Title.

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

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

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

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

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

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

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

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

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

25 Sexual assault is a crime of the second degree.

26 d. Notwithstanding the provisions of subsection a. of this
27 section, where a defendant is charged with a violation under
28 paragraph (1) of subsection a. of this section, the prosecutor, in
29 consideration of the interests of the victim, may offer a negotiated
30 plea agreement in which the defendant would be sentenced to a
31 specific term of imprisonment of not less than 15 years, during
32 which the defendant shall not be eligible for parole. In such event,
33 the court may accept the negotiated plea agreement and upon such
34 conviction shall impose the term of imprisonment and period of
35 parole ineligibility as provided for in the plea agreement, and may
36 not impose a lesser term of imprisonment or parole or a lesser
37 period of parole ineligibility than that expressly provided in the plea
38 agreement. The Attorney General shall develop guidelines to ensure
39 the uniform exercise of discretion in making determinations
40 regarding a negotiated reduction in the term of imprisonment and
41 period of parole ineligibility set forth in subsection a. of this
42 section.

43 (cf: P.L.2013, c.214, s.3)

44

45 2. This act shall take effect immediately.

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Enacts the “Jessica Lunsford Act”; imposes mandatory term of

4

imprisonment; provides for negotiated reduction of mandatory term

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under certain circumstances.

ASSEMBLY, No. 892

STATE OF NEW JERSEY

216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Assemblywoman MARY PAT ANGELINI

District 11 (Monmouth)

Assemblywoman ALISON LITTELL MCHOSE

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Assemblymen Caputo, S.Kean, Rumana, Bramnick, Assemblywoman Tucker, Assemblymen Fuentes, Wolfe, McGuckin, Clifton, Peterson, Assemblywoman Casagrande, Assemblyman Johnson, Assemblywoman Simon, Assemblymen Giblin, Egan, Assemblywoman Schepisi, Assemblymen Diegnan, Rible, C.A.Brown, Rumpf, Assemblywomen Gove, Vainieri Huttle, Assemblymen A.M.Bucco, Prieto, Ciattarelli, O'Scanlon, Assemblywomen Handlin, Spencer, Assemblyman Russo, Assemblywomen B.DeCroce, Caride, Assemblymen Webber, DiMaio, Assemblywoman Mosquera, Assemblymen C.J.Brown, Garcia, Fiocchi, Burzichelli, Wimberly and O'Donnell

SYNOPSIS

Enacts the "Jessica Lunsford Act;" imposes mandatory term of imprisonment; provides for negotiated reduction of mandatory term under certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

(Sponsorship Updated As Of: 2/21/2014)

1 AN ACT concerning certain sexual assaults, designated the “Jessica
2 Lunsford Act,” and amending N.J.S.2C:14-2.

3

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

6

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

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

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

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

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

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

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

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

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

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

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

32 (7) The victim is one whom the actor knew or should have
33 known was physically helpless, mentally incapacitated, or had a
34 mental disease or defect which rendered the victim temporarily or
35 permanently incapable of understanding the nature of his conduct,
36 including, but not limited to, being incapable of providing consent.

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

38 Except as otherwise provided in subsection d. of this section, a
39 person convicted under paragraph (1) of this subsection shall be
40 sentenced to a specific term of years which shall be fixed by the
41 court and shall be between 25 years and life imprisonment of which
42 the person shall serve 25 years before being eligible for parole,
43 unless a longer term of parole ineligibility is otherwise provided
44 pursuant to this Title.

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 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
17 nature or in any capacity over the victim; or

18 (c) The actor is a resource family parent, a guardian, or stands
19 in 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 d. Notwithstanding the provisions of subsection a. of this
24 section, where a defendant is charged with a violation under
25 paragraph (1) of subsection a. of this section the prosecutor, in
26 consideration of the interests of the victim, may offer a negotiated
27 plea agreement in which the defendant would be sentenced to a
28 specific term of imprisonment of not less than 15 years, during
29 which the defendant shall not be eligible for parole. In such event,
30 the court may accept the negotiated plea agreement and upon such
31 conviction shall impose the term of imprisonment and period of
32 parole ineligibility as provided for in the plea agreement, and may
33 not impose a lesser term of imprisonment or parole or a lesser
34 period of parole ineligibility than that expressly provided in the plea
35 agreement. The Attorney General shall develop guidelines to ensure
36 the uniform exercise of discretion in making determinations
37 regarding a negotiated reduction in the term of imprisonment and
38 period of parole ineligibility set forth in subsection a. of this
39 section.

40 (cf: P.L.2011, c.232, s.4)

41

42 2. This act shall take effect immediately.

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STATEMENT

This bill, designated the “Jessica Lunsford Act,” would impose mandatory terms of imprisonment on persons convicted of aggravated sexual assault against a child under the age of 13.

Under paragraph (1) of subsection a. of N.J.S.2C:14-2, a person is guilty of aggravated sexual assault, a crime of the first degree, if he commits an act of sexual penetration with a victim under the age of 13. A crime of the first degree is ordinarily punishable by a term of imprisonment of 10 to 20 years or a fine of up to \$200,000 or both. Under the bill, the person would be sentenced to a specific term of years fixed by the court. The term would be between 25 years and life imprisonment of which the person must serve 25 years before being eligible for parole. The bill provides that the person must serve the 25-year parole ineligibility term unless a longer term of parole ineligibility is otherwise provided pursuant to law.

The bill would allow for a negotiated reduction of the mandatory term under certain circumstances. This would allow the prosecutor, in consideration of the interests of the victim, to offer a negotiated plea agreement in which the defendant would be sentenced to a specific term of imprisonment of not less than 15 years, during which the defendant shall not be eligible for parole. The court may accept the negotiated plea agreement and impose the term of imprisonment and period of parole ineligibility as provided for in the plea agreement. The court may not impose a lesser term of imprisonment or parole or a lesser period of parole ineligibility than that expressly provided in the plea agreement.

The bill also requires the Attorney General to develop guidelines to ensure the uniform exercise of discretion in making determinations regarding a negotiated reduction in the term of imprisonment and period of parole ineligibility.

The bill makes a technical amendment to reflect the enactment of P.L.2011, c.232 which amended N.J.S.2C:14-2 to eliminate the term “mentally defective.”

This bill is modeled on provisions of Florida’s “Jessica Lunsford Act,” Chapter No. 2005-28. Jessica, a nine-year-old Florida resident, was kidnapped, raped, and murdered by a registered sex offender. The Florida enactment imposed a mandatory term of imprisonment of 25 years for sex crimes against children and required satellite monitoring to track the location of sex offenders after release.

In 2007, New Jersey enacted a statute similar to the provision of the Florida enactment that provided for satellite monitoring to track the location of sex offenders after release, P.L.2007, c.128 (C.30:4-123.89 et seq.).

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 892

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 2014

The Assembly Judiciary Committee reports favorably Assembly Bill No. 892.

This bill, designated the “Jessica Lunsford Act,” would impose mandatory terms of imprisonment on persons convicted of aggravated sexual assault against a child under the age of 13.

Under paragraph (1) of subsection a. of N.J.S.2C:14-2, a person is guilty of aggravated sexual assault, a crime of the first degree, if he commits an act of sexual penetration with a victim under the age of 13. A crime of the first degree is ordinarily punishable by a term of imprisonment of 10 to 20 years or a fine of up to \$200,000 or both. Under the bill, the person would be sentenced to a specific term of years fixed by the court. The term would be between 25 years and life imprisonment of which the person must serve 25 years before being eligible for parole. The bill provides that the person must serve the 25-year parole ineligibility term unless a longer term of parole ineligibility is otherwise provided pursuant to law.

The bill would allow for a negotiated reduction of the mandatory term under certain circumstances. This would allow the prosecutor, in consideration of the interests of the victim, to offer a negotiated plea agreement in which the defendant would be sentenced to a specific term of imprisonment of not less than 15 years, during which the defendant shall not be eligible for parole. The court may accept the negotiated plea agreement and impose the term of imprisonment and period of parole ineligibility as provided for in the plea agreement. The court may not impose a lesser term of imprisonment or parole or a lesser period of parole ineligibility than that expressly provided in the plea agreement.

The bill also requires the Attorney General to develop guidelines to ensure the uniform exercise of discretion in making determinations regarding a negotiated reduction in the term of imprisonment and period of parole ineligibility.

This bill is modeled on provisions of Florida’s “Jessica Lunsford Act,” Chapter No. 2005-28. Jessica, a nine-year-old Florida resident, was kidnapped, raped, and murdered by a registered sex offender. The Florida enactment imposed a mandatory term of imprisonment of 25 years for sex crimes against children and required satellite monitoring to track the location of sex offenders after release.

In 2007, New Jersey enacted a statute similar to the provision of the Florida enactment requiring satellite monitoring, P.L.2007, c.128 (C.30:4-123.89 et seq.).

This bill was pre-filed for introduction in the 2014-2015 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 892
STATE OF NEW JERSEY
216th LEGISLATURE

DATED: MARCH 20, 2014

SUMMARY

Synopsis: Enacts the “Jessica Lunsford Act;” imposes mandatory term of imprisonment; provides for negotiated reduction of mandatory term under certain circumstances.

Type of Impact: General Fund expenditure.

Agencies Affected: Department of Corrections, Judiciary

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) **concurs** with the Administrative Office of the Courts’ (AOC) statement from a fiscal note of a prior Legislative Session (Assembly Bill No. 2027 (2R) of 2012, that the fiscal impact of this bill could not accurately be determined. However, the OLS notes that for those offenders who would be serving increased terms of imprisonment, Department of Corrections (DOC) data indicates that the average cost to house an inmate in FY 2013 is \$43,000 per inmate per year.
- The bill, designated the “Jessica Lunsford Act,” would impose mandatory terms of imprisonment on persons convicted of aggravated sexual assault against a child under the age of 13.
- In a fiscal note for this bill in the prior Legislative Session the AOC stated that the Judiciary was unable to estimate the fiscal impact of the legislation with any accuracy.

BILL DESCRIPTION

Assembly Bill No. 892 of 2014, designated the “Jessica Lunsford Act,” imposes mandatory terms of imprisonment on persons convicted of aggravated sexual assault against a child under the age of 13. The substitute also authorizes negotiated reductions of the term under certain circumstances.

Under paragraph (1) of subsection a. of N.J.S.2C:14-2, a person is guilty of aggravated sexual assault, a crime of the first degree, if he commits an act of sexual penetration with a victim under the age of 13. A crime of the first degree is ordinarily punishable by a term of imprisonment of 10 to 20 years or a fine of up to \$200,000 or both. Under the bill, the person would be sentenced to a specific term of years fixed by the court. The term would be between 25 years and life imprisonment of which the person must serve 25 years before being eligible for parole, unless a longer term of parole ineligibility is otherwise provided pursuant to law.

In addition, the bill allows for a negotiated reduction of the mandatory term under certain circumstances. Under the bill, the prosecutor, in consideration of the interests of the victim, is authorized to offer a negotiated plea agreement in which the defendant would be sentenced to a specific term of imprisonment of not less than 15 years, during which the defendant would not be eligible for parole. The court may accept the negotiated plea agreement and impose the term of imprisonment and period of parole ineligibility as provided for in the plea agreement. The court may not impose a lesser term of imprisonment or parole or a lesser period of parole ineligibility than that expressly provided in the plea agreement.

The bill also requires the Attorney General to develop guidelines to ensure the uniform exercise of discretion in making determinations regarding a negotiated reduction in the term of imprisonment and period of parole ineligibility.

This bill is modeled on provisions of Florida's "Jessica Lunsford Act," Chapter No. 2005-28. Jessica, a nine-year-old Florida resident, was kidnapped, raped, and murdered by a registered sex offender. The Florida enactment imposed a mandatory term of imprisonment of 25 years for sex crimes against children and required satellite monitoring to track the location of sex offenders after release. New Jersey currently provides for satellite monitoring to track the location of sex offenders after release (P.L.2007, c.128; C.30:4-123.89 et seq.).

FISCAL ANALYSIS

EXECUTIVE BRANCH

Department of Corrections

None received.

Administrative Office of the Courts

In a fiscal note for this bill in the prior Legislative Session (Assembly Bill No. 2027 (2R)), the AOC stated that the Judiciary does not maintain data regarding the specific circumstances of sexual assault or aggravated sexual assault cases (e.g., age, relationship, mental capacity, etc.) In this regard, the Judiciary could not determine what impact the legislation would have on the number of cases filed, the trial rate or the conviction rate. In addition, the Judiciary does not have a means to estimate the number of cases that would qualify for consideration of a negotiated plea agreement under the proposed legislation. As a result, the Judiciary was unable to estimate the fiscal impact of the legislation with any accuracy.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the AOC statement that the fiscal impact of this bill could not accurately be determined. However, the OLS notes that for those offenders who would be serving increased terms of imprisonment, DOC data indicates that the average cost to house an inmate in FY 2013 is \$43,000 per inmate per year.

Section: Judiciary

*Analyst: Anne Raughley
Principal Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 215

STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Senator DIANE B. ALLEN

District 7 (Burlington)

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

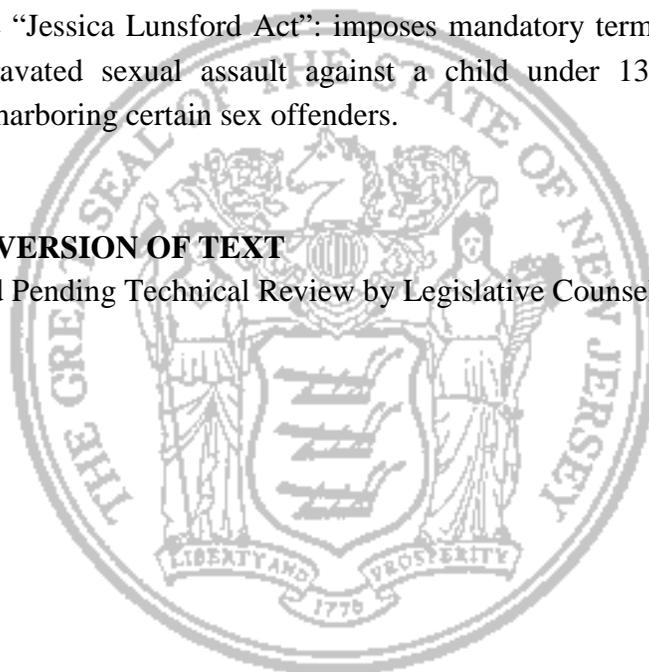
Senators Singer, Kyrillos, A.R.Bucco, Cardinale, Weinberg, Van Drew, Connors, Bateman, Beck, Sweeney, Cunningham, Addiego, Beach, Doherty, Greenstein, Holzapfel, O'Toole, Pennacchio, Stack and Thompson

SYNOPSIS

Enacts the "Jessica Lunsford Act": imposes mandatory term of 25 years to life for aggravated sexual assault against a child under 13 and increases penalties for harboring certain sex offenders.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning certain sexual offenders, designated the “Jessica
2 Lunsford Act,” and amending N.J.S.2C:14-2 and N.J.S.2C:29-3.

3

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

6

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

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

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

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

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

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

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

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

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

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

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

32 (7) The victim is one whom the actor knew or should have
33 known was physically helpless, mentally incapacitated, or had a
34 mental disease or defect which rendered the victim temporarily or
35 permanently incapable of understanding the nature of his conduct,
36 including, but not limited to, being incapable of providing consent.

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

38 A person convicted under paragraph (1) of this subsection shall
39 be sentenced to a specific term of years which shall be fixed by the
40 court and shall be between 25 years and life imprisonment of which
41 the person shall serve 25 years before being eligible for parole,
42 unless a longer term of parole ineligibility is otherwise provided
43 pursuant to this Title.

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 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 does
8 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.2011, c.232, s.4)

24

25 2. N.J.S.2C:29-3 is amended to read as follows:

26 2C:29-3. Hindering Apprehension or Prosecution. a. A person
27 commits an offense if, with purpose to hinder the detention,
28 apprehension, investigation, prosecution, conviction or punishment
29 of another for an offense or violation of Title 39 of the Revised
30 Statutes or a violation of chapter 33A of Title 17 of the Revised
31 Statutes he:

32 (1) Harbors or conceals the other;

33 (2) Provides or aids in providing a weapon, money,
34 transportation, disguise or other means of avoiding discovery or
35 apprehension or effecting escape;

36 (3) Suppresses, by way of concealment or destruction, any
37 evidence of the crime, or tampers with a witness, informant,
38 document or other source of information, regardless of its
39 admissibility in evidence, which might aid in the discovery or
40 apprehension of such person or in the lodging of a charge against
41 him;

42 (4) Warns the other of impending discovery or apprehension,
43 except that this paragraph does not apply to a warning given in
44 connection with an effort to bring another into compliance with
45 law;

46 (5) Prevents or obstructs, by means of force, intimidation or
47 deception, anyone from performing an act which might aid in the

1 discovery or apprehension of such person or in the lodging of a
2 charge against him;

3 (6) Aids such person to protect or expeditiously profit from an
4 advantage derived from such crime; or

5 (7) Gives false information to a law enforcement officer or a
6 civil State investigator assigned to the Office of the Insurance Fraud
7 Prosecutor established by section 32 of P.L.1998, c.21 (C.17:33A-
8 16).

9 An offense under paragraph (5) of subsection a. of this section is
10 a crime of the second degree, unless the actor is a spouse, domestic
11 partner, partner in a civil union, parent or child to the person aided
12 who is the victim of the offense, in which case the offense is a
13 crime of the fourth degree. Otherwise, the offense is a crime of the
14 third degree if the conduct which the actor knows has been charged
15 or is liable to be charged against the person aided would constitute a
16 crime of the second degree or greater, unless the actor is a spouse,
17 domestic partner, partner in a civil union, parent or child of the
18 person aided, in which case the offense is a crime of the fourth
19 degree. The offense is a crime of the fourth degree if such conduct
20 would constitute a crime of the third degree. Otherwise it is a
21 disorderly persons offense.

22 Notwithstanding any other provisions of this subsection, a person
23 who violates this subsection, with the purpose to hinder the
24 detention, apprehension, investigation, prosecution, conviction or
25 punishment of another for an offense set forth in subsection a., d.,
26 or e. of section 2 of P.L.1994, c.133 (C.2C:7-2), commits a crime of
27 the fourth degree. Notwithstanding the term of imprisonment
28 provided under N.J.S.2C:43-6 and the provisions of subsection e. of
29 N.J.S.2C:44-1, the sentence imposed shall include a fixed minimum
30 sentence of not less than six months during which the defendant
31 shall not be eligible for parole.

32 b. A person commits an offense if, with purpose to hinder his
33 own detention, apprehension, investigation, prosecution, conviction
34 or punishment for an offense or violation of Title 39 of the Revised
35 Statutes or a violation of chapter 33A of Title 17 of the Revised
36 Statutes, he:

37 (1) Suppresses, by way of concealment or destruction, any
38 evidence of the crime or tampers with a document or other source of
39 information, regardless of its admissibility in evidence, which might
40 aid in his discovery or apprehension or in the lodging of a charge
41 against him; or

42 (2) Prevents or obstructs by means of force or intimidation
43 anyone from performing an act which might aid in his discovery or
44 apprehension or in the lodging of a charge against him; or

45 (3) Prevents or obstructs by means of force, intimidation or
46 deception any witness or informant from providing testimony or
47 information, regardless of its admissibility, which might aid in his

1 discovery or apprehension or in the lodging of a charge against him;
2 or

3 (4) Gives false information to a law enforcement officer or a
4 civil State investigator assigned to the Office of the Insurance Fraud
5 Prosecutor established by section 32 of P.L.1998, c.21 (C.17:33A-
6 16).

7 An offense under paragraph (3) of subsection b. of this section is
8 a crime of the second degree. Otherwise, the offense is a crime of
9 the third degree if the conduct which the actor knows has been
10 charged or is liable to be charged against him would constitute a
11 crime of the second degree or greater. The offense is a crime of the
12 fourth degree if such conduct would constitute a crime of the third
13 degree. Otherwise it is a disorderly persons offense.

14 (cf: P.L.2008, c.81, s.2)

15

16 3. This act shall take effect immediately.

17

18

19

STATEMENT

20

21 This bill, designated the "Jessica Lunsford Act," requires
22 mandatory terms of imprisonment for persons convicted of
23 aggravated sexual assault against a child under the age of 13, for a
24 specific term of years fixed by the sentencing court, between 25
25 years and life imprisonment, of which 25 years or more must be
26 served before parole eligibility.

27 Under paragraph (1) of subsection a. of N.J.S.2C:14-2, a person
28 is guilty of aggravated sexual assault, a crime of the first degree, if
29 he commits an act of sexual penetration with a victim under the age
30 of 13. A crime of the first degree is ordinarily punishable by a term
31 of imprisonment of 10 to 20 years, a fine of up to \$200,000 or both.
32 Under the bill, the person would be sentenced to a specific term of
33 years fixed by the court. The term would be between 25 years and
34 life imprisonment, of which the person must serve 25 years before
35 being eligible for parole. However, if there is a longer term of
36 parole ineligibility otherwise provided by law, that person would be
37 sentenced to the longer term.

38 The bill, also provides that it is a crime of the fourth degree for a
39 person to hinder the apprehension or prosecution of a sex offender
40 who has not registered or verified his address with the appropriate
41 law enforcement agency. A crime of the fourth degree is
42 punishable by up to 18 months imprisonment, a fine of up to
43 \$10,000, or both. In addition the bill requires the person to be
44 sentenced to a mandatory minimum term of not less than six months
45 of imprisonment during which the person would not be eligible for
46 parole.

47 According to the sponsors, this bill is modeled on provisions of
48 Florida's "Jessica Lunsford Act," Chapter No. 2005-28. Jessica, a

1 nine-year-old Florida resident, was kidnapped, raped, and murdered
2 by a registered sex offender. The Florida enactment imposed a
3 mandatory term of imprisonment of 25 years for sex crimes against
4 children, imposed penalties for harboring or concealing a sex
5 offender, and required satellite monitoring to track the location of
6 sex offenders after release.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 215**

STATE OF NEW JERSEY

DATED: JANUARY 30, 2014

The Senate Law and Public Safety Committee reports favorably Senate Committee Substitute No. 215.

The Senate Committee Substitute for Senate Bill No. 215, designated the “Jessica Lunsford Act,” imposes mandatory terms of imprisonment on persons convicted of aggravated sexual assault against a child under the age of 13. The substitute also authorizes negotiated reductions of the term under certain circumstances.

Under paragraph (1) of subsection a. of N.J.S.2C:14-2, a person is guilty of aggravated sexual assault, a crime of the first degree, if he commits an act of sexual penetration with a victim under the age of 13. A crime of the first degree is ordinarily punishable by a term of imprisonment of 10 to 20 years or a fine of up to \$200,000 or both. Under the committee substitute, the person would be sentenced to a specific term of years fixed by the court. The term would be between 25 years and life imprisonment of which the person must serve 25 years before being eligible for parole, unless a longer term of parole ineligibility is otherwise provided pursuant to law.

In addition, the committee substitute allows for a negotiated reduction of the mandatory term under certain circumstances. Under the committee substitute, the prosecutor, in consideration of the interests of the victim, is authorized to offer a negotiated plea agreement in which the defendant would be sentenced to a specific term of imprisonment of not less than 15 years, during which the defendant would not be eligible for parole. The court may accept the negotiated plea agreement and impose the term of imprisonment and period of parole ineligibility as provided for in the plea agreement. The court may not impose a lesser term of imprisonment or parole or a lesser period of parole ineligibility than that expressly provided in the plea agreement. The committee substitute requires the Attorney General to develop guidelines to ensure the uniform exercise of discretion in making determinations regarding a negotiated reduction in the term of imprisonment and period of parole ineligibility.

This committee substitute is modeled on provisions of Florida’s “Jessica Lunsford Act,” Chapter No. 2005-28. Jessica, a nine-year-old Florida resident, was kidnapped, raped, and murdered by a registered

sex offender. The Florida enactment imposed a mandatory term of imprisonment of 25 years for sex crimes against children and required satellite monitoring to track the location of sex offenders after release. New Jersey currently provides for satellite monitoring to track the location of sex offenders after release (P.L.2007, c.128; C.30:4-123.89 et seq.).

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 215

STATE OF NEW JERSEY

DATED: MARCH 20, 2014

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 215 (SCS).

This bill, designated the “Jessica Lunsford Act,” imposes mandatory terms of imprisonment on persons convicted of aggravated sexual assault against a child under the age of 13. The bill also authorizes negotiated reductions of the term under certain circumstances.

Under paragraph (1) of subsection a. of N.J.S.2C:14-2, a person is guilty of aggravated sexual assault, a crime of the first degree, if he commits an act of sexual penetration with a victim under the age of 13. A crime of the first degree is ordinarily punishable by a term of imprisonment of 10 to 20 years or a fine of up to \$200,000 or both. Under the bill, the offender would be sentenced to a specific term of years fixed by the court between 25 years and life imprisonment, of which the person must serve 25 years before being eligible for parole, unless a longer term of parole ineligibility is otherwise provided pursuant to law.

In addition, the bill allows for a negotiated reduction of the mandatory term of imprisonment under certain circumstances. Under the bill, the prosecutor, in consideration of the interests of the victim, is authorized to offer a negotiated plea agreement in which the defendant would be sentenced to a specific term of imprisonment of not less than 15 years, during which the defendant would not be eligible for parole. The court may accept the negotiated plea agreement and impose the term of imprisonment and period of parole ineligibility as provided for in the plea agreement. The court may not impose a lesser term of imprisonment or parole or a lesser period of parole ineligibility than that expressly provided in the plea agreement. The bill requires the Attorney General to develop guidelines to ensure the uniform exercise of discretion in making determinations regarding a negotiated reduction in the term of imprisonment and period of parole ineligibility.

This bill is modeled on provisions of Florida’s “Jessica Lunsford Act,” Chapter No. 2005-28. Jessica, a nine-year-old Florida resident,

was kidnapped, raped, and murdered by a registered sex offender. The Florida enactment imposed a mandatory term of imprisonment of 25 years for sex crimes against children and required satellite monitoring to track the location of sex offenders after release. New Jersey currently provides for satellite monitoring to track the location of sex offenders after release in accordance with the “Sex Offender Monitoring Act”, P.L.2007, c.128 (C.30:4-123.89 et seq.).

FISCAL IMPACT:

In a fiscal note for a similar bill in the prior Legislative Session (Assembly Bill No. 2027 (2R)), the Administrative Office of the Courts (AOC) stated that the Judiciary does not maintain data regarding the specific circumstances of sexual assault or aggravated sexual assault cases (e.g., age of victim, relationship, mental capacity, etc.) In this regard, the Judiciary could not determine what impact the bill would have on the number of cases filed, the trial rate or the conviction rate. In addition, the Judiciary does not have the means to estimate the number of cases that would qualify for consideration of a negotiated plea agreement under this bill. As a result, the Judiciary was not able to estimate the fiscal impact of the bill.

The Office of Legislative Services (OLS) concurs with the AOC statement that the fiscal impact of the bill can not be accurately determined. However, the OLS notes that for those offenders who would be serving increased terms of imprisonment, DOC data indicates that the average cost to house an inmate in FY 2013 is \$43,000 per inmate per year.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 215
STATE OF NEW JERSEY
216th LEGISLATURE

DATED: MARCH 26, 2014

SUMMARY

Synopsis: Enacts the “Jessica Lunsford Act;” imposes mandatory term of imprisonment; provides for negotiated reduction of mandatory term under certain circumstances.

Type of Impact: General Fund expenditure.

Agencies Affected: Department of Corrections, Judiciary

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) **concurs** with the Administrative Office of the Courts’ (AOC) statement from a fiscal note of a prior legislative session (Assembly Bill No. 2027 (2R) of 2012), that the fiscal impact of this bill could not accurately be determined. However, the OLS notes that for those offenders who would be serving increased terms of imprisonment, Department of Corrections (DOC) data indicates that the average cost to house an inmate in FY 2013 is \$43,000 per inmate per year.
- The bill, designated the “Jessica Lunsford Act,” would impose mandatory terms of imprisonment on persons convicted of aggravated sexual assault against a child under the age of 13.
- In a fiscal note for this bill in the prior Legislative Session the AOC stated that the Judiciary was unable to estimate the fiscal impact of the legislation with any accuracy.

BILL DESCRIPTION

The Senate Committee Substitute for Senate Bill No. 215 of 2014, designated the “Jessica Lunsford Act,” imposes mandatory terms of imprisonment on persons convicted of aggravated

sexual assault against a child under the age of 13. The substitute also authorizes negotiated reductions of the term under certain circumstances.

Under paragraph (1) of subsection a. of N.J.S.2C:14-2, a person is guilty of aggravated sexual assault, a crime of the first degree, if he commits an act of sexual penetration with a victim under the age of 13. A crime of the first degree is ordinarily punishable by a term of imprisonment of 10 to 20 years or a fine of up to \$200,000 or both. Under the committee substitute, the person would be sentenced to a specific term of years fixed by the court. The term would be between 25 years and life imprisonment of which the person must serve 25 years before being eligible for parole, unless a longer term of parole ineligibility is otherwise provided pursuant to law.

In addition, the committee substitute allows for a negotiated reduction of the mandatory term under certain circumstances. Under the committee substitute, the prosecutor, in consideration of the interests of the victim, is authorized to offer a negotiated plea agreement in which the defendant would be sentenced to a specific term of imprisonment of not less than 15 years, during which the defendant would not be eligible for parole. The court may accept the negotiated plea agreement and impose the term of imprisonment and period of parole ineligibility as provided for in the plea agreement. The court may not impose a lesser term of imprisonment or parole or a lesser period of parole ineligibility than that expressly provided in the plea agreement.

The committee substitute also requires the Attorney General to develop guidelines to ensure the uniform exercise of discretion in making determinations regarding a negotiated reduction in the term of imprisonment and period of parole ineligibility.

This committee substitute is modeled on provisions of Florida's "Jessica Lunsford Act," Chapter No. 2005-28. Jessica, a nine-year-old Florida resident, was kidnapped, raped, and murdered by a registered sex offender. The Florida enactment imposed a mandatory term of imprisonment of 25 years for sex crimes against children and required satellite monitoring to track the location of sex offenders after release. New Jersey currently provides for satellite monitoring to track the location of sex offenders after release (P.L.2007, c.128; C.30:4-123.89 et seq.).

FISCAL ANALYSIS

EXECUTIVE BRANCH

Department of Corrections

None received.

Administrative Office of the Courts

In a fiscal note for this bill in the prior Legislative Session (Assembly Bill No. 2027 (2R)), the AOC stated that the Judiciary does not maintain data regarding the specific circumstances of sexual assault or aggravated sexual assault cases (e.g., age, relationship, mental capacity, etc.) In this regard, the Judiciary could not determine what impact the legislation would have on the number of cases filed, the trial rate or the conviction rate. In addition, the Judiciary does not have a means to estimate the number of cases that would qualify for consideration of a negotiated plea agreement under the proposed legislation. As a result, the Judiciary was unable to estimate the fiscal impact of the legislation with any accuracy.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the AOC statement that the fiscal impact of this bill could not accurately be determined. However, the OLS notes that for those offenders who would be serving increased terms of imprisonment, DOC data indicates that the average cost to house an inmate in FY 2013 is \$43,000 per inmate per year.

Section: Judiciary

*Analyst: Anne Raughley
 Principal Fiscal Analyst*

*Approved: David J. Rosen
 Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Christie Signs Jessica Lunsford Act To Strengthen Penalties For Sexual Assault Against Children

Thursday, May 15, 2014 Tags: [Bill Action](#)



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Bill Requires Mandatory Minimum Sentence of 25 Years to Life for Aggravated Sexual Assault Against Children Under 13 Years of Age

Trenton, NJ – Governor Chris Christie today acted to strengthen penalties for sexual predators who commit sexual assault against children. The Governor signed the Jessica Lunsford Act, Assembly Bill 892/Senate Bill 215, which provides mandatory minimum sentences of no fewer than 25 years to life, with no possibility of parole prior to a convicted person serving at least 25 years, for the act of aggravated sexual assault committed against a child under the age of 13. The law provides flexibility to prosecutors in very limited circumstances for terms of no fewer than 15 years, only when such a plea is in the best interest of the victim as determined by plea guidelines established by the Attorney General's Office.

Primary sponsors for the Jessica Lunsford Act included Senators Diane Allen, Tom Kean Jr., and Steve Oroho, and Assemblymembers Nancy Munoz, Mary Pat Angelini, and Allison McHose.

In addition to signing the Jessica Lunsford Act, Assembly Bill 892/Senate Bill 215, Governor Christie took the following additional action on pending legislation today:

BILL SIGNING

A-126/S-361 (McHose, Space, Tucker, DiMalo, Johnson, A.M. Bucco/Oroho, Sarlo) - Provides for voluntary contributions by taxpayers on gross income tax returns for development of Northern New Jersey Veterans Memorial Cemetery

A-347/S-288 (Caputo, Prieto, Tucker, Wimberly, Eustace/Rice, Stack) - Authorizes municipalities to impose penalties on creditors that fail to timely remedy code violations of certain properties in foreclosure

A-869/S-926 (Sumter, Pinkin, Chivukula, Wilson/A.R. Bucco) - Requires Division on Civil Rights and DCA to post information regarding disability accommodation rights for owners and occupants of condominiums, cooperatives, and other common interest communities

A-2456/S-1255 (Prieto, Rible/Whelan) - Exempts certain persons from HVACR licensing requirement; clarifies definition of heating, ventilating, air conditioning, and refrigeration

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