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RWH/JA

P.L.2016, CHAPTER 93, *approved January 9, 2017*
Senate, No. 2601 (*First Reprint*)

1 AN ACT concerning the scope and enforcement of the “Sexual
2 Assault Survivor Protection Act of 2015,” amending ¹[and
3 supplementing]¹ P.L.2015, c.147, and amending N.J.S.2C:29-9.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. Section 2 of P.L.2015, c.147 (C.2C:14-14) is amended to
9 read as follows:

10 2. Application for Temporary Protective Order.

11 a. (1) Any person alleging to be a victim of nonconsensual
12 sexual contact, sexual penetration, or lewdness, or any attempt at
13 such conduct, and who is not eligible for a restraining order as a
14 “victim of domestic violence” as defined by the provisions of
15 subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19), may,
16 except as provided in subsection **[c.] b.** of this section, file an
17 application with the Superior Court pursuant to the Rules of Court
18 alleging the commission of such conduct or attempted conduct and
19 seeking a temporary protective order.

20 As used in this section and in sections 3, 4, and 8 of P.L.2015,
21 c.147 (C.2C:14-15, C.2C:14-16, and C.2C:14-20):

22 “Sexual contact” means an intentional touching by the victim or
23 actor, either directly or through clothing, of the victim's or actor's
24 intimate parts for the purpose of degrading or humiliating the victim
25 or sexually arousing or sexually gratifying the actor.

26 “Sexual penetration” means vaginal intercourse, cunnilingus,
27 fellatio or anal intercourse between persons or insertion of the hand,
28 finger or object into the anus or vagina either by the actor or upon
29 the actor's instruction.

30 “Lewdness” means the exposing of the genitals for the purpose
31 of arousing or gratifying the sexual desire of the actor or of any
32 other person.

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

36 (2) **[An]** Except as provided in subsection b. of this section, an
37 application for relief under P.L.2015, c.147 (C.2C:14-13 et al.) may
38 be filed by the alleged victim's parent or guardian on behalf of the
39 alleged victim in any case in which the alleged victim:

40 (a) is less than 18 years of age; 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SJU committee amendments adopted November 10, 2016.

1 (b) has a developmental disability as defined in section 3 of
2 P.L.1977, c.200 (C.5:5-44.4) or a mental disease or defect that
3 renders the alleged victim temporarily or permanently incapable of
4 understanding the nature of the alleged victim's conduct, including,
5 but not limited to, being incapable of providing consent.

6 b. (1) When it is alleged that nonconsensual sexual contact,
7 sexual penetration, or lewdness, or any attempt at such conduct, has
8 been committed by an unemancipated minor, an applicant seeking a
9 protective order shall not proceed under the provisions of P.L.2015,
10 c.147 (C.2C:14-13 et al.), but may seek a protective order and other
11 relief under the New Jersey Code of Juvenile Justice, P.L.1982, c.77
12 (C.2A:4A-20 et seq.) by filing a complaint pursuant to the
13 provisions of section 11 of P.L.1982, c.77 (C.2A:4A-30).

14 (2) When it is alleged that nonconsensual sexual contact, sexual
15 penetration, or lewdness, or any attempt at such conduct, has been
16 committed against an unemancipated minor by a parent, guardian,
17 or other person having care, custody and control of that child as
18 defined in N.J.S.9:6-2, an applicant seeking a protective order shall
19 not proceed under the provisions of P.L.2015, c.147 (C.2C:14-13 et
20 al.), but shall report the incident to the Division of Child Protection
21 and Permanency in the Department of Children and Families for
22 investigation and possible legal action by the division pursuant to
23 R.S.9:6-1 et seq. or other applicable law, including, when
24 appropriate, petitioning the Superior Court pursuant to P.L.1974,
25 c.119 (C.9:6-8.21 et seq.) for a protective order and other relief on
26 behalf of the applicant and the unemancipated minor.

27 c. (1) An applicant may seek a protective order pursuant to
28 P.L.2015, c.147 (C.2C:14-13 et al.) and the court may issue such an
29 order regardless of whether criminal charges based on the incident
30 were filed and regardless of the disposition of any such charges.

31 (2) The filing of an application pursuant to this section shall not
32 prevent the filing of a criminal complaint, or the institution or
33 maintenance of a criminal prosecution based on the same act.

34 d. The court shall waive any requirement that the applicant's or
35 alleged victim's place of residence appear on the application.

36 e. An applicant may seek a protective order pursuant to
37 P.L.2015, c.147 (C.2C:14-13 et al.) in a court having jurisdiction
38 over the place where the alleged conduct or attempted conduct
39 occurred, where the respondent resides, or where the alleged victim
40 resides or is sheltered.

41 f. No fees or other costs shall be assessed against an applicant
42 for seeking a protective order pursuant to P.L.2015, c.147
43 (C.2C:14-13 et al.).

44 (cf: P.L.2015, c.147, s.2)

45
46 2. Section 6 of P.L.2015, c.147 (C.2C:14-18) is amended to
47 read as follows:

1 6. a. A respondent's violation of any protective order issued
2 pursuant to P.L.2015, c.147 (C.2C:14-13 et al.) shall constitute an
3 offense under subsection d. of N.J.S.2C:29-9 and each order shall
4 so state. All contempt proceedings brought pursuant to subsection d.
5 of N.J.S.2C:29-9 shall be subject to any rules or guidelines
6 established by the Supreme Court to promote the prompt disposition
7 of criminal matters.

8 b. Where a victim alleges that a respondent has committed
9 contempt of a protective order entered pursuant to the provisions of
10 P.L.2015, c.147 (C.2C:14-13 et al.), but a law enforcement officer
11 has found that the facts are insufficient to establish probable cause
12 to arrest the respondent, the law enforcement officer shall advise
13 the victim of the procedure for completing and signing a criminal
14 complaint alleging a violation of subsection **[c.] d.** of N.J.S.2C:29-
15 9 through the municipal court. Nothing in this section shall be
16 construed to prevent the court from granting any other emergency
17 relief it deems necessary.

18 c. If a respondent is charged with a non-indictable offense
19 pursuant to paragraph (2) of subsection d. of N.J.S.2C:29-9 as a
20 result of a violation of a protective order entered pursuant to
21 P.L.2015, c.147 (C.2C:14-13 et al.), the contempt proceedings for
22 the non-indictable offense shall be heard in the Superior Court.

23 (cf: P.L.2015, c.147, s.6)

24
25 3. N.J.S.2C:29-9 is amended as follows:

26 2C:29-9. Contempt. a. A person is guilty of a crime of the
27 fourth degree if he purposely or knowingly disobeys a judicial order
28 or protective order, pursuant to section 1 of P.L.1985, c.250
29 (C.2C:28-5.1), or hinders, obstructs or impedes the effectuation of a
30 judicial order or the exercise of jurisdiction over any person, thing
31 or controversy by a court, administrative body or investigative
32 entity.

33 b. (1) Except as provided in paragraph (2) of this subsection, a
34 person is guilty of a crime of the fourth degree if that person
35 purposely or knowingly violates any provision in an order entered
36 under the provisions of the "Prevention of Domestic Violence Act
37 of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an order entered
38 under the provisions of a substantially similar statute under the laws
39 of another state or the United States when the conduct which
40 constitutes the violation could also constitute a crime or a
41 disorderly persons offense.

42 Orders entered pursuant to paragraphs (3), (4), (5), (8) and (9) of
43 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or
44 substantially similar orders entered under the laws of another state
45 or the United States shall be excluded from the provisions of this
46 paragraph.

47 (2) In all other cases a person is guilty of a disorderly persons
48 offense if that person purposely or knowingly violates an order

1 entered under the provisions of the "Prevention of Domestic
2 Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an
3 order entered under the provisions of a substantially similar statute
4 under the laws of another state or the United States.

5 Orders entered pursuant to paragraphs (3), (4), (5), (8) and (9) of
6 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or
7 substantially similar orders entered under the laws of another state
8 or the United States shall be excluded from the provisions of this
9 paragraph.

10 c. A person is guilty of a crime of the third degree if that
11 person purposely or knowingly violates any provision in an order
12 entered under the provisions of section 3 of P.L.1996, c.39
13 (C.2C:12-10.1) or section 2 of P.L.1999, c.47 (C.2C:12-10.2) or an
14 order entered under the provisions of a substantially similar statute
15 under the laws of another state or the United States when the
16 conduct which constitutes the violation could also constitute a
17 crime or a disorderly persons offense.

18 d. **[A]** (1) Except as provided in paragraph (2) of this
19 subsection, a person is guilty of a crime of the fourth degree if that
20 person purposely or knowingly violates any provision in an order
21 entered under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.)
22 or an order entered under the provisions of a substantially similar
23 statute under the laws of another state or the United States when the
24 conduct which constitutes the violation could also constitute a
25 crime or a disorderly persons offense.

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27 offense if that person purposely or knowingly violates an order
28 entered under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.)
29 or an order entered under the provisions of a substantially similar
30 statute under the laws of another state or the United States.

31 As used in this section, "state" means a state of the United States,
32 the District of Columbia, Puerto Rico, the United States Virgin
33 Islands, or any territory or insular possession subject to the
34 jurisdiction of the United States. The term includes an Indian tribe
35 or band, or Alaskan native village, which is recognized by a federal
36 law or formally acknowledged by a state.

37 (cf: P.L.2015, c.147, s.10)

38
39 ¹**[4.** (New Section) The provisions of P.L.2015, c.147 (C.2C:14-
40 13 et al.) shall apply to any act of nonconsensual sexual contact,
41 sexual penetration, or lewdness, or any attempt at such conduct, as
42 defined in section 2 of P.L.2015, c.147 (C.2C:14-14), committed
43 prior to, on, or after the effective date of P.L.2015, c.147 (C.2C:14-
44 13 et al.).¹

45
46 ¹**[5.] 4.**¹ This act shall take effect immediately.

S2601 [1R]

5

1

2

3

4

Modifies scope of “Sexual Assault Survivor Protection Act of
2015” and enforcement of protective orders under that act.

SENATE, No. 2601

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED SEPTEMBER 29, 2016

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator JENNIFER BECK

District 11 (Monmouth)

SYNOPSIS

Modifies scope of “Sexual Assault Survivor Protection Act of 2015” and enforcement of protective orders under that act.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the scope and enforcement of the “Sexual
2 Assault Survivor Protection Act of 2015,” amending and
3 supplementing P.L.2015, c.147, and amending N.J.S.2C:29-9.

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6 of New Jersey:

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8 1. Section 2 of P.L.2015, c.147 (C.2C:14-14) is amended to
9 read as follows:

10 2. Application for Temporary Protective Order.

11 a. (1) Any person alleging to be a victim of nonconsensual
12 sexual contact, sexual penetration, or lewdness, or any attempt at
13 such conduct, and who is not eligible for a restraining order as a
14 “victim of domestic violence” as defined by the provisions of
15 subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19), may,
16 except as provided in subsection **[c.] b.** of this section, file an
17 application with the Superior Court pursuant to the Rules of Court
18 alleging the commission of such conduct or attempted conduct and
19 seeking a temporary protective order.

20 As used in this section and in sections 3, 4, and 8 of P.L.2015,
21 c.147 (C.2C:14-15, C.2C:14-16, and C.2C:14-20):

22 “Sexual contact” means an intentional touching by the victim or
23 actor, either directly or through clothing, of the victim's or actor's
24 intimate parts for the purpose of degrading or humiliating the victim
25 or sexually arousing or sexually gratifying the actor.

26 “Sexual penetration” means vaginal intercourse, cunnilingus,
27 fellatio or anal intercourse between persons or insertion of the hand,
28 finger or object into the anus or vagina either by the actor or upon
29 the actor's instruction.

30 “Lewdness” means the exposing of the genitals for the purpose
31 of arousing or gratifying the sexual desire of the actor or of any
32 other person.

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

36 (2) **[An]** Except as provided in subsection b. of this section, an
37 application for relief under P.L.2015, c.147 (C.2C:14-13 et al.) may
38 be filed by the alleged victim's parent or guardian on behalf of the
39 alleged victim in any case in which the alleged victim:

40 (a) is less than 18 years of age; or

41 (b) has a developmental disability as defined in section 3 of
42 P.L.1977, c.200 (C.5:5-44.4) or a mental disease or defect that
43 renders the alleged victim temporarily or permanently incapable of
44 understanding the nature of the alleged victim’s conduct, including,
45 but not limited to, being incapable of providing consent.

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. (1) When it is alleged that nonconsensual sexual contact,
2 sexual penetration, or lewdness, or any attempt at such conduct, has
3 been committed by an unemancipated minor, an applicant seeking a
4 protective order shall not proceed under the provisions of P.L.2015,
5 c.147 (C.2C:14-13 et al.), but may seek a protective order and other
6 relief under the New Jersey Code of Juvenile Justice, P.L.1982, c.77
7 (C.2A:4A-20 et seq.) by filing a complaint pursuant to the
8 provisions of section 11 of P.L.1982, c.77 (C.2A:4A-30).

9 (2) When it is alleged that nonconsensual sexual contact, sexual
10 penetration, or lewdness, or any attempt at such conduct, has been
11 committed against an unemancipated minor by a parent, guardian,
12 or other person having care, custody and control of that child as
13 defined in N.J.S.9:6-2, an applicant seeking a protective order shall
14 not proceed under the provisions of P.L.2015, c.147 (C.2C:14-13 et
15 al.), but shall report the incident to the Division of Child Protection
16 and Permanency in the Department of Children and Families for
17 investigation and possible legal action by the division pursuant to
18 R.S.9:6-1 et seq. or other applicable law, including, when
19 appropriate, petitioning the Superior Court pursuant to P.L.1974,
20 c.119 (C.9:6-8.21 et seq.) for a protective order and other relief on
21 behalf of the applicant and the unemancipated minor.

22 c. (1) An applicant may seek a protective order pursuant to
23 P.L.2015, c.147 (C.2C:14-13 et al.) and the court may issue such an
24 order regardless of whether criminal charges based on the incident
25 were filed and regardless of the disposition of any such charges.

26 (2) The filing of an application pursuant to this section shall not
27 prevent the filing of a criminal complaint, or the institution or
28 maintenance of a criminal prosecution based on the same act.

29 d. The court shall waive any requirement that the applicant's or
30 alleged victim's place of residence appear on the application.

31 e. An applicant may seek a protective order pursuant to
32 P.L.2015, c.147 (C.2C:14-13 et al.) in a court having jurisdiction
33 over the place where the alleged conduct or attempted conduct
34 occurred, where the respondent resides, or where the alleged victim
35 resides or is sheltered.

36 f. No fees or other costs shall be assessed against an applicant
37 for seeking a protective order pursuant to P.L.2015, c.147
38 (C.2C:14-13 et al.).

39 (cf: P.L.2015, c.147, s.2)

40
41 2. Section 6 of P.L.2015, c.147 (C.2C:14-18) is amended to
42 read as follows:

43 6. a. A respondent's violation of any protective order issued
44 pursuant to P.L.2015, c.147 (C.2C:14-13 et al.) shall constitute an
45 offense under subsection d. of N.J.S.2C:29-9 and each order shall
46 so state. All contempt proceedings brought pursuant to subsection d.
47 of N.J.S.2C:29-9 shall be subject to any rules or guidelines

1 established by the Supreme Court to promote the prompt disposition
2 of criminal matters.

3 b. Where a victim alleges that a respondent has committed
4 contempt of a protective order entered pursuant to the provisions of
5 P.L.2015, c.147 (C.2C:14-13 et al.), but a law enforcement officer
6 has found that the facts are insufficient to establish probable cause
7 to arrest the respondent, the law enforcement officer shall advise
8 the victim of the procedure for completing and signing a criminal
9 complaint alleging a violation of subsection **[c.] d.** of N.J.S.2C:29-
10 9 through the municipal court. Nothing in this section shall be
11 construed to prevent the court from granting any other emergency
12 relief it deems necessary.

13 c. If a respondent is charged with a non-indictable offense
14 pursuant to paragraph (2) of subsection d. of N.J.S.2C:29-9 as a
15 result of a violation of a protective order entered pursuant to
16 P.L.2015, c.147 (C.2C:14-13 et al.), the contempt proceedings for
17 the non-indictable offense shall be heard in the Superior Court.
18 (cf: P.L.2015, c.147, s.6)

19

20 3. N.J.S.2C:29-9 is amended as follows:

21 2C:29-9. Contempt. a. A person is guilty of a crime of the
22 fourth degree if he purposely or knowingly disobeys a judicial order
23 or protective order, pursuant to section 1 of P.L.1985, c.250
24 (C.2C:28-5.1), or hinders, obstructs or impedes the effectuation of a
25 judicial order or the exercise of jurisdiction over any person, thing
26 or controversy by a court, administrative body or investigative
27 entity.

28 b. (1) Except as provided in paragraph (2) of this subsection, a
29 person is guilty of a crime of the fourth degree if that person
30 purposely or knowingly violates any provision in an order entered
31 under the provisions of the "Prevention of Domestic Violence Act
32 of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an order entered
33 under the provisions of a substantially similar statute under the laws
34 of another state or the United States when the conduct which
35 constitutes the violation could also constitute a crime or a
36 disorderly persons offense.

37 Orders entered pursuant to paragraphs (3), (4), (5), (8) and (9) of
38 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or
39 substantially similar orders entered under the laws of another state
40 or the United States shall be excluded from the provisions of this
41 paragraph.

42 (2) In all other cases a person is guilty of a disorderly persons
43 offense if that person purposely or knowingly violates an order
44 entered under the provisions of the "Prevention of Domestic
45 Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an
46 order entered under the provisions of a substantially similar statute
47 under the laws of another state or the United States.

1 Orders entered pursuant to paragraphs (3), (4), (5), (8) and (9) of
2 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or
3 substantially similar orders entered under the laws of another state
4 or the United States shall be excluded from the provisions of this
5 paragraph.

6 c. A person is guilty of a crime of the third degree if that
7 person purposely or knowingly violates any provision in an order
8 entered under the provisions of section 3 of P.L.1996, c.39
9 (C.2C:12-10.1) or section 2 of P.L.1999, c.47 (C.2C:12-10.2) or an
10 order entered under the provisions of a substantially similar statute
11 under the laws of another state or the United States when the
12 conduct which constitutes the violation could also constitute a
13 crime or a disorderly persons offense.

14 d. **[A]** (1) Except as provided in paragraph (2) of this
15 subsection, a person is guilty of a crime of the fourth degree if that
16 person purposely or knowingly violates any provision in an order
17 entered under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.)
18 or an order entered under the provisions of a substantially similar
19 statute under the laws of another state or the United States when the
20 conduct which constitutes the violation could also constitute a
21 crime or a disorderly persons offense.

22 (2) In all other cases a person is guilty of a disorderly persons
23 offense if that person purposely or knowingly violates an order
24 entered under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.)
25 or an order entered under the provisions of a substantially similar
26 statute under the laws of another state or the United States.

27 As used in this section, "state" means a state of the United States,
28 the District of Columbia, Puerto Rico, the United States Virgin
29 Islands, or any territory or insular possession subject to the
30 jurisdiction of the United States. The term includes an Indian tribe
31 or band, or Alaskan native village, which is recognized by a federal
32 law or formally acknowledged by a state.
33 (cf: P.L.2015, c.147, s.10)

34
35 4. (New Section) The provisions of P.L.2015, c.147 (C.2C:14-
36 13 et al.) shall apply to any act of nonconsensual sexual contact,
37 sexual penetration, or lewdness, or any attempt at such conduct, as
38 defined in section 2 of P.L.2015, c.147 (C.2C:14-14), committed
39 prior to, on, or after the effective date of P.L.2015, c.147 (C.2C:14-
40 13 et al.).

41
42 5. This act shall take effect immediately.

43
44 STATEMENT

45
46 This bill modifies the scope of the "Sexual Assault Survivor
47 Protection Act of 2015," P.L.2015, c.147 (C.2C:14-13 et al.), as
48 well as the enforcement of protective orders under the provisions of

1 that act that help protect victims from offenders who committed
2 actual or attempted nonconsensual sexual contact, sexual
3 penetration, or lewdness. Specifically, the provisions of the bill:
4 - remove the availability of protective orders for situations
5 involving allegations of misconduct against an unemancipated
6 minor by a parent, guardian, or other person having care, custody
7 and control of that minor child, when such misconduct is being
8 alleged by another parent or guardian. Such incidents are instead to
9 be reported to the Division of Child Protection and Permanency in
10 the Department of Children and Families for investigation and
11 possible legal action under applicable existing law, including, when
12 appropriate, petitioning the Superior Court pursuant to P.L.1974,
13 c.119 (C.9:6-8.21 et seq.) for a protective order and other relief on
14 behalf of the reporting parent or guardian and the unemancipated
15 minor;
16 - recognize and provide for the enforcement of protective orders
17 entered under the provisions of a substantially similar sexual assault
18 protection statute under the laws of another state or the United
19 States;
20 - distinguish between indictable and non-indictable violations of
21 protective orders – a violation that constitutes a crime or disorderly
22 persons offense would remain indictable (the violation is currently
23 considered a crime of the fourth degree); a violation that does not
24 amount to such illegal activity would be non-indictable (this
25 violation would be newly considered to be a disorderly persons
26 offense). Any such violation of a protective order, whether
27 representing an indictable or non-indictable offense, would be
28 adjudicated in the Superior Court; and
29 - establish that the provisions of the “Sexual Assault Survivor
30 Protection Act of 2015” apply to any act or attempted act of
31 nonconsensual sexual contact, sexual penetration, or lewdness
32 committed prior to, on, or after the act’s effective date (May 7,
33 2016).

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2601

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 10, 2016

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2601.

This bill, as amended, modifies the scope of the “Sexual Assault Survivor Protection Act of 2015,” P.L.2015, c.147 (C.2C:14-13 et al.), as well as the enforcement of protective orders under the provisions of that act that help protect victims from offenders who committed actual or attempted nonconsensual sexual contact, sexual penetration, or lewdness. Specifically, the provisions of the bill:

- remove the availability of protective orders for situations involving allegations of misconduct against an unemancipated minor by a parent, guardian, or other person having care, custody and control of that minor child, when such misconduct is being alleged by another parent or guardian. Such incidents are instead to be reported to the Division of Child Protection and Permanency in the Department of Children and Families for investigation and possible legal action under applicable existing law, including, when appropriate, petitioning the Superior Court pursuant to P.L.1974, c.119 (C.9:6-8.21 et seq.) for a protective order and other relief on behalf of the reporting parent or guardian and the unemancipated minor;

- recognize and provide for the enforcement of protective orders entered under the provisions of a substantially similar sexual assault protection statute pursuant to the laws of another state or the United States; and

- distinguish between indictable and non-indictable violations of protective orders – a violation that constitutes a crime or disorderly persons offense would remain indictable (the violation is currently considered a crime of the fourth degree); a violation that does not amount to such illegal activity would be non-indictable (this violation would be newly considered to be a disorderly persons offense). Any such violation of a protective order, whether representing an indictable or non-indictable offense, would be adjudicated in the Superior Court.

The committee amendments to the bill:

- eliminate section 4 of the bill, which included provisions to apply the “Sexual Assault Survivor Protection Act of 2015” to any act or attempted act of nonconsensual sexual contact, sexual penetration, or

lewdness committed prior to, on, or after the act's effective date (May 7, 2016). By eliminating that section, the bill no longer expressly provides for the 2015 act's unlimited retroactivity.

ASSEMBLY, No. 4207

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED OCTOBER 6, 2016

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

SYNOPSIS

Modifies scope of “Sexual Assault Survivor Protection Act of 2015” and enforcement of protective orders under that act.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/15/2016)

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3 supplementing P.L.2015, c.147, and amending N.J.S.2C:29-9.

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7
8 1. Section 2 of P.L.2015, c.147 (C.2C:14-14) is amended to
9 read as follows:

10 2. Application for Temporary Protective Order.

11 a. (1) Any person alleging to be a victim of nonconsensual
12 sexual contact, sexual penetration, or lewdness, or any attempt at
13 such conduct, and who is not eligible for a restraining order as a
14 “victim of domestic violence” as defined by the provisions of
15 subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19), may,
16 except as provided in subsection **[c.] b.** of this section, file an
17 application with the Superior Court pursuant to the Rules of Court
18 alleging the commission of such conduct or attempted conduct and
19 seeking a temporary protective order.

20 As used in this section and in sections 3, 4, and 8 of P.L.2015,
21 c.147 (C.2C:14-15, C.2C:14-16, and C.2C:14-20):

22 “Sexual contact” means an intentional touching by the victim or
23 actor, either directly or through clothing, of the victim's or actor's
24 intimate parts for the purpose of degrading or humiliating the victim
25 or sexually arousing or sexually gratifying the actor.

26 “Sexual penetration” means vaginal intercourse, cunnilingus,
27 fellatio or anal intercourse between persons or insertion of the hand,
28 finger or object into the anus or vagina either by the actor or upon
29 the actor's instruction.

30 “Lewdness” means the exposing of the genitals for the purpose
31 of arousing or gratifying the sexual desire of the actor or of any
32 other person.

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

36 (2) **[An]** Except as provided in subsection b. of this section, an
37 application for relief under P.L.2015, c.147 (C.2C:14-13 et al.) may
38 be filed by the alleged victim's parent or guardian on behalf of the
39 alleged victim in any case in which the alleged victim:

40 (a) is less than 18 years of age; or

41 (b) has a developmental disability as defined in section 3 of
42 P.L.1977, c.200 (C.5:5-44.4) or a mental disease or defect that
43 renders the alleged victim temporarily or permanently incapable of
44 understanding the nature of the alleged victim’s conduct, including,
45 but not limited to, being incapable of providing consent.

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. (1) When it is alleged that nonconsensual sexual contact,
2 sexual penetration, or lewdness, or any attempt at such conduct, has
3 been committed by an unemancipated minor, an applicant seeking a
4 protective order shall not proceed under the provisions of P.L.2015,
5 c.147 (C.2C:14-13 et al.), but may seek a protective order and other
6 relief under the New Jersey Code of Juvenile Justice, P.L.1982, c.77
7 (C.2A:4A-20 et seq.) by filing a complaint pursuant to the
8 provisions of section 11 of P.L.1982, c.77 (C.2A:4A-30).

9 (2) When it is alleged that nonconsensual sexual contact, sexual
10 penetration, or lewdness, or any attempt at such conduct, has been
11 committed against an unemancipated minor by a parent, guardian,
12 or other person having care, custody and control of that child as
13 defined in N.J.S.9:6-2, an applicant seeking a protective order shall
14 not proceed under the provisions of P.L.2015, c.147 (C.2C:14-13 et
15 al.), but shall report the incident to the Division of Child Protection
16 and Permanency in the Department of Children and Families for
17 investigation and possible legal action by the division pursuant to
18 R.S.9:6-1 et seq. or other applicable law, including, when
19 appropriate, petitioning the Superior Court pursuant to P.L.1974,
20 c.119 (C.9:6-8.21 et seq.) for a protective order and other relief on
21 behalf of the applicant and the unemancipated minor.

22 c. (1) An applicant may seek a protective order pursuant to
23 P.L.2015, c.147 (C.2C:14-13 et al.) and the court may issue such an
24 order regardless of whether criminal charges based on the incident
25 were filed and regardless of the disposition of any such charges.

26 (2) The filing of an application pursuant to this section shall not
27 prevent the filing of a criminal complaint, or the institution or
28 maintenance of a criminal prosecution based on the same act.

29 d. The court shall waive any requirement that the applicant's or
30 alleged victim's place of residence appear on the application.

31 e. An applicant may seek a protective order pursuant to
32 P.L.2015, c.147 (C.2C:14-13 et al.) in a court having jurisdiction
33 over the place where the alleged conduct or attempted conduct
34 occurred, where the respondent resides, or where the alleged victim
35 resides or is sheltered.

36 f. No fees or other costs shall be assessed against an applicant
37 for seeking a protective order pursuant to P.L.2015, c.147
38 (C.2C:14-13 et al.).

39 (cf: P.L.2015, c.147, s.2)

40
41 2. Section 6 of P.L.2015, c.147 (C.2C:14-18) is amended to
42 read as follows:

43 6. a. A respondent's violation of any protective order issued
44 pursuant to P.L.2015, c.147 (C.2C:14-13 et al.) shall constitute an
45 offense under subsection d. of N.J.S.2C:29-9 and each order shall
46 so state. All contempt proceedings brought pursuant to subsection d.
47 of N.J.S.2C:29-9 shall be subject to any rules or guidelines

1 established by the Supreme Court to promote the prompt disposition
2 of criminal matters.

3 b. Where a victim alleges that a respondent has committed
4 contempt of a protective order entered pursuant to the provisions of
5 P.L.2015, c.147 (C.2C:14-13 et al.), but a law enforcement officer
6 has found that the facts are insufficient to establish probable cause
7 to arrest the respondent, the law enforcement officer shall advise
8 the victim of the procedure for completing and signing a criminal
9 complaint alleging a violation of subsection **[c.] d.** of N.J.S.2C:29-
10 9 through the municipal court. Nothing in this section shall be
11 construed to prevent the court from granting any other emergency
12 relief it deems necessary.

13 c. If a respondent is charged with a non-indictable offense
14 pursuant to paragraph (2) of subsection d. of N.J.S.2C:29-9 as a
15 result of a violation of a protective order entered pursuant to
16 P.L.2015, c.147 (C.2C:14-13 et al.), the contempt proceedings for
17 the non-indictable offense shall be heard in the Superior Court.
18 (cf: P.L.2015, c.147, s.6)

19

20 3. N.J.S.2C:29-9 is amended as follows:

21 2C:29-9. Contempt. a. A person is guilty of a crime of the
22 fourth degree if he purposely or knowingly disobeys a judicial order
23 or protective order, pursuant to section 1 of P.L.1985, c.250
24 (C.2C:28-5.1), or hinders, obstructs or impedes the effectuation of a
25 judicial order or the exercise of jurisdiction over any person, thing
26 or controversy by a court, administrative body or investigative
27 entity.

28 b. (1) Except as provided in paragraph (2) of this subsection, a
29 person is guilty of a crime of the fourth degree if that person
30 purposely or knowingly violates any provision in an order entered
31 under the provisions of the "Prevention of Domestic Violence Act
32 of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an order entered
33 under the provisions of a substantially similar statute under the laws
34 of another state or the United States when the conduct which
35 constitutes the violation could also constitute a crime or a
36 disorderly persons offense.

37 Orders entered pursuant to paragraphs (3), (4), (5), (8) and (9) of
38 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or
39 substantially similar orders entered under the laws of another state
40 or the United States shall be excluded from the provisions of this
41 paragraph.

42 (2) In all other cases a person is guilty of a disorderly persons
43 offense if that person purposely or knowingly violates an order
44 entered under the provisions of the "Prevention of Domestic
45 Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an
46 order entered under the provisions of a substantially similar statute
47 under the laws of another state or the United States.

1 Orders entered pursuant to paragraphs (3), (4), (5), (8) and (9) of
2 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or
3 substantially similar orders entered under the laws of another state
4 or the United States shall be excluded from the provisions of this
5 paragraph.

6 c. A person is guilty of a crime of the third degree if that
7 person purposely or knowingly violates any provision in an order
8 entered under the provisions of section 3 of P.L.1996, c.39
9 (C.2C:12-10.1) or section 2 of P.L.1999, c.47 (C.2C:12-10.2) or an
10 order entered under the provisions of a substantially similar statute
11 under the laws of another state or the United States when the
12 conduct which constitutes the violation could also constitute a
13 crime or a disorderly persons offense.

14 d. **[A]** (1) Except as provided in paragraph (2) of this
15 subsection, a person is guilty of a crime of the fourth degree if that
16 person purposely or knowingly violates any provision in an order
17 entered under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.)
18 or an order entered under the provisions of a substantially similar
19 statute under the laws of another state or the United States when the
20 conduct which constitutes the violation could also constitute a
21 crime or a disorderly persons offense.

22 (2) In all other cases a person is guilty of a disorderly persons
23 offense if that person purposely or knowingly violates an order
24 entered under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.)
25 or an order entered under the provisions of a substantially similar
26 statute under the laws of another state or the United States.

27 As used in this section, "state" means a state of the United States,
28 the District of Columbia, Puerto Rico, the United States Virgin
29 Islands, or any territory or insular possession subject to the
30 jurisdiction of the United States. The term includes an Indian tribe
31 or band, or Alaskan native village, which is recognized by a federal
32 law or formally acknowledged by a state.
33 (cf: P.L.2015, c.147, s.10)

34
35 4. (New Section) The provisions of P.L.2015, c.147 (C.2C:14-
36 13 et al.) shall apply to any act of nonconsensual sexual contact,
37 sexual penetration, or lewdness, or any attempt at such conduct, as
38 defined in section 2 of P.L.2015, c.147 (C.2C:14-14), committed
39 prior to, on, or after the effective date of P.L.2015, c.147 (C.2C:14-
40 13 et al.).

41
42 5. This act shall take effect immediately.

43
44 STATEMENT

45
46 This bill modifies the scope of the "Sexual Assault Survivor
47 Protection Act of 2015," P.L.2015, c.147 (C.2C:14-13 et al.), as
48 well as the enforcement of protective orders under the provisions of

1 that act that help protect victims from offenders who committed
2 actual or attempted nonconsensual sexual contact, sexual
3 penetration, or lewdness. Specifically, the provisions of the bill:
4 - remove the availability of protective orders for situations
5 involving allegations of misconduct against an unemancipated
6 minor by a parent, guardian, or other person having care, custody
7 and control of that minor child, when such misconduct is being
8 alleged by another parent or guardian. Such incidents are instead to
9 be reported to the Division of Child Protection and Permanency in
10 the Department of Children and Families for investigation and
11 possible legal action under applicable existing law, including, when
12 appropriate, petitioning the Superior Court pursuant to P.L.1974,
13 c.119 (C.9:6-8.21 et seq.) for a protective order and other relief on
14 behalf of the reporting parent or guardian and the unemancipated
15 minor;
16 - recognize and provide for the enforcement of protective orders
17 entered under the provisions of a substantially similar sexual assault
18 protection statute under the laws of another state or the United
19 States;
20 - distinguish between indictable and non-indictable violations of
21 protective orders – a violation that constitutes a crime or disorderly
22 persons offense would remain indictable (the violation is currently
23 considered a crime of the fourth degree); a violation that does not
24 amount to such illegal activity would be non-indictable (this
25 violation would be newly considered to be a disorderly persons
26 offense). Any such violation of a protective order, whether
27 representing an indictable or non-indictable offense, would be
28 adjudicated in the Superior Court; and
29 - establish that the provisions of the “Sexual Assault Survivor
30 Protection Act of 2015” apply to any act or attempted act of
31 nonconsensual sexual contact, sexual penetration, or lewdness
32 committed prior to, on, or after the act’s effective date (May 7,
33 2016).

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4207

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 14, 2016

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 4207.

This bill, as amended, modifies the scope of the “Sexual Assault Survivor Protection Act of 2015,” P.L.2015, c.147 (C.2C:14-13 et al.), as well as the enforcement of protective orders under the provisions of that act that help protect victims from offenders who committed or attempted to commit nonconsensual sexual contact, sexual penetration, or lewdness. Specifically, the provisions of the bill:

- remove the availability of protective orders for situations involving allegations of misconduct against an unemancipated minor by a parent, guardian, or other person having care, custody and control of that minor child, when such misconduct is being alleged by another parent or guardian. Such incidents are instead to be reported to the Division of Child Protection and Permanency in the Department of Children and Families for investigation and possible legal action under applicable existing law, including, when appropriate, petitioning the Superior Court pursuant to P.L.1974, c.119 (C.9:6-8.21 et seq.) for a protective order and other relief on behalf of the reporting parent or guardian and the unemancipated minor;

- recognize and provide for the enforcement of protective orders entered under the provisions of a substantially similar sexual assault protection statute pursuant to the laws of another state or the United States; and

- distinguish between indictable and non-indictable violations of protective orders – a violation that constitutes a crime or disorderly persons offense would remain indictable (the violation is currently considered a crime of the fourth degree); a violation that does not amount to such illegal activity would be non-indictable (this violation would be newly considered to be a disorderly persons offense). Any such violation of a protective order, whether representing an indictable or non-indictable offense, would be adjudicated in the Superior Court.

As reported by the committee, Assembly Bill No. A4207(1R) is identical to Senate Bill No. 2601(1R).

COMMITTEE AMENDMENTS:

Eliminate section 4 of the bill, which included provisions to apply the “Sexual Assault Survivor Protection Act of 2015” to any act or attempted act of nonconsensual sexual contact, sexual penetration, or lewdness committed prior to, on, or after the act’s effective date (May 7, 2016). By eliminating that section, the bill no longer expressly provides for the 2015 act’s unlimited retroactivity.

Governor Chris Christie Signs Legislation Enhancing Protections For Domestic Violence Survivors

Monday, January 9, 2017 Tags: [Bill Action](#)



Trenton, NJ - Governor Chris Christie today signed legislation to enhance protections for survivors of domestic violence.

This new law will deter domestic violence, partly by increasing criminal penalties for offences including maximums for repeat offenders, as urged in Governor Christie's conditional vetoes of earlier versions of this legislation.

"This new law will help prevent domestic violence in New Jersey by enhancing criminal penalties and ensuring immediate compliance with stronger protective orders," Governor Christie said. "Survivors of domestic violence will be safer than ever before. I am proud we came together to enact this model legislation that is much more than just symbolic and is real reform that fulfills our primary responsibility of improving public safety in New Jersey."

This new law reinforces existing laws by creating a more in-depth process to ensure domestic violence offenders' firearms, identification cards and permits are confiscated as required while they are subject to restraining orders. It forces offenders to immediately upon sentencing – rather than after several days – arrange for the surrender of their firearms, identification cards and permits to a law enforcement officer. It also requires an order for a temporary or final restraining order to include notice to the defendant of the penalties for a violation of any provision of the order, including but not limited to the penalties for contempt of court and unlawful possession of a firearm or other weapon.

In addition to signing S-2483/A-4126 (Weinberg, Beck/Mosquera, Greenwald, Downey, Houghtaling, Munoz, Sumter, Benson, Lampitt, Wimberly) into law, the Governor also took action today on the following legislation:

BILL SIGNINGS:

S-909/A-2688 (Rice/Spencer, Pintor Marin) - Exempts person who remediates property in environmental opportunity zone from remediation funding source requirement

S-976/A-2332 (Gordon, Beck/Benson, Downey, Eustace) - Requires Public Health Council to promulgate rules and regulations for use of quality control programs in bio-analytical and clinical laboratories

S-981/A-2375 (Smith, Bateman, Greenstein/McKeon, Gusciora, Spencer) - Revises "Electronic Waste Management Act"

S-1489/A-1465 (Cruz-Perez, Cunningham/Lampitt, Mosquera, Wimberly, Downey, McKnight) - Ensures equal rights and opportunities for pregnant students in institutions of higher education

S-2098/A-3549 (Sacco, Pennacchio/Johnson, Zwicker, Wisniewski, Benson) - Exempts hydrogen fuel cell-powered vehicles from certain labeling requirements

S-2463/A-3892 (Vitale, Rice, Allen/Vainieri Huttie, Lampitt, Mukherji) - Changes the time when child placement review hearings are initiated from 45 days to 60 days

S-2526/A-4105 (Diegnan, Thompson/Dancer, DeCroce, Clifton, Pinkin, Mukherji) - Designates portion of Interstate Highway Route 195 in Upper Freehold Township as "State Trooper Anthony A. Raspa Memorial Highway"

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[SENATE BILL NO. 790](#)

[ASSEMBLY BILL NO. 312](#)

S-2601/A-4207 (Pou, Beck/Vainieri Huttie, Holley, Downey, Mukherji, Muoio, Jasey) - Modifies scope of "Sexual Assault Survivor Protection Act of 2015" and enforcement of protective orders under that act

S-2708/A-4064 (Codey/Jasey, McKeon, Mukherji) - Authorizes State Treasurer to convey surplus real property known as Millburn Regional Day School in Millburn Township, Essex County, to Millburn Township Board of Education or to Millburn Township for \$3,550,000

SJR-29/AJR-58 (Weinberg/Vainieri Huttie, Jasey, Jones, McKnight, Phoebus, Wimberly) - Designates one night in November of each year as a "Night of Conversation" about drug and alcohol addiction

A-793/S-316 (Andrzejczak, Land, Taliaferro/Van Drew, Connors) - Requires Dept. of Agriculture and DEP to work with US Army Corps of Engineers to establish joint permit application process for aquaculture projects

A-794/S-317 (Andrzejczak, Land, Taliaferro, Van Drew, Connors) - Requires Dept. of Agriculture and DEP to adopt coordinated permit application and review program for aquaculture projects

A-1424/S-1050 (Johnson, Wimberly, Sumter/Weinberg, Stack) - Authorizes Victims of Crime Compensation Office to make payment for relocation expenses of certain witnesses of crimes

A-2106/S-2351 (Mukherji, Chaparro, Holley, Jimenez, Pintor Marin, Sumter, Wimberly/Ruiz, Madden) - Permits homeless to receive certified copy of birth certificate without fee

A-2107/S-2350 (Mukherji, Holley, Gusciora, Pintor Marin, Wimberly/Ruiz, Madden) - Exempts homeless from fee for non-driver identification cards

A-2158/S-2241 (Coughlin, Wolfe, Holley, McKnight/Diegnan) - Authorizes use of emergency reserve fund or proceeds from bonds issued by EDA to finance school security improvements

A-2763/S-1933 (Mazzeo, Mosquera, Mukherji, Andrzejczak, Land, Houghtaling/Sweeney, Stack) - Enters NJ in Interstate Wildlife Violator Compact

A-3534/S-2086 (A.M. Bucco, Singleton, Webber, Benson, Moriarty/A.R. Bucco, Van Drew) - Permits authorities and local units operating water supply or sewerage facilities to waive, reduce, or defer sewerage and water service fees for deployed military personnel

BILLS VETOED:

S-790/A-3256 (Sarlo, O'Toole/Lagana, Benson, Sumter) – CONDITIONAL - Requires Police Training Commission to develop accelerated training course for certain county corrections officers

A-312/S-2557 (Singleton, Lampitt, Quijano, Pintor Marin, Wimberly, Downey/Cruz-Perez, Stack) – CONDITIONAL - Requires Division of Local Government Services to include certain property tax information on division's web page

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