

2C:7-2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 220
NJSA: 2C:7-2 (Selling pornography—Megans law)
BILL NO: A2434 (Substituted for S1547)

SPONSOR(S): Guear and others

DATE INTRODUCED: June 13, 2002

COMMITTEE: **ASSEMBLY:** Judiciary

SENATE: Judiciary

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** February 24, 2003

SENATE: December 11, 2003

DATE OF APPROVAL: January 9, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

A2434

[SPONSOR'S STATEMENT](#): (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

S1547

[SPONSOR'S STATEMENT](#): (Begins on page 4 of original bill) [Yes](#)

Bill and Sponsors Statement identical to A2434

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

Identical to Senate statement for A2434

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 2003, CHAPTER 220, *approved January 9, 2004*
Assembly, No. 2434

1 AN ACT concerning child pornography and amending P.L.1994, c.133.

2

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

5

6 1. Section 2 of P.L.1994, c.133 (C.2C:7-2) is amended to read as
7 follows:

8 2. a. A person who has been convicted, adjudicated delinquent or
9 found not guilty by reason of insanity for commission of a sex offense
10 as defined in subsection b. of this section shall register as provided in
11 subsections c. and d. of this section. A person who fails to register as
12 required under this act shall be guilty of a crime of the fourth degree.

13 b. For the purposes of this act a sex offense shall include the
14 following:

15 (1) Aggravated sexual assault, sexual assault, aggravated criminal
16 sexual contact, kidnapping pursuant to paragraph (2) of subsection c.
17 of N.J.S.2C:13-1 or an attempt to commit any of these crimes if the
18 court found that the offender's conduct was characterized by a pattern
19 of repetitive, compulsive behavior, regardless of the date of the
20 commission of the offense or the date of conviction;

21 (2) A conviction, adjudication of delinquency, or acquittal by
22 reason of insanity for aggravated sexual assault; sexual assault;
23 aggravated criminal sexual contact; kidnapping pursuant to paragraph
24 (2) of subsection c. of N.J.S.2C:13-1; endangering the welfare of a
25 child by engaging in sexual conduct which would impair or debauch
26 the morals of the child pursuant to subsection a. of N.J.S.2C:24-4;
27 endangering the welfare of a child pursuant to paragraph (4) or
28 subparagraph (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4;
29 luring or enticing pursuant to section 1 of P.L.1993, c.291
30 (C.2C:13-6); criminal sexual contact pursuant to N.J.S.2C:14-3b. if
31 the victim is a minor; kidnapping pursuant to N.J.S.2C:13-1, criminal
32 restraint pursuant to N.J.S.2C:13-2, or false imprisonment pursuant to
33 N.J.S.2C:13-3 if the victim is a minor and the offender is not the
34 parent of the victim; knowingly promoting prostitution of a child
35 pursuant to paragraph (3) or paragraph (4) of subsection b. of
36 N.J.S.2C:34-1; or an attempt to commit any of these enumerated
37 offenses if the conviction, adjudication of delinquency or acquittal by
38 reason of insanity is entered on or after the effective date of this act or
39 the offender is serving a sentence of incarceration, probation, parole
40 or other form of community supervision as a result of the offense or
41 is confined following acquittal by reason of insanity or as a result of

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 civil commitment on the effective date of this act;

2 (3) A conviction, adjudication of delinquency or acquittal by
3 reason of insanity for an offense similar to any offense enumerated in
4 paragraph (2) or a sentence on the basis of criteria similar to the
5 criteria set forth in paragraph (1) of this subsection entered or imposed
6 under the laws of the United States, this State or another state.

7 c. A person required to register under the provisions of this act
8 shall do so on forms to be provided by the designated registering
9 agency as follows:

10 (1) A person who is required to register and who is under
11 supervision in the community on probation, parole, furlough, work
12 release, or a similar program, shall register at the time the person is
13 placed under supervision or no later than 120 days after the effective
14 date of this act, whichever is later, in accordance with procedures
15 established by the Department of Corrections, the Department of
16 Human Services, the Juvenile Justice Commission established pursuant
17 to section 2 of P.L.1995, c.284 (C.52:17B-170) or the Administrative
18 Office of the Courts, whichever is responsible for supervision;

19 (2) A person confined in a correctional or juvenile facility or
20 involuntarily committed who is required to register shall register prior
21 to release in accordance with procedures established by the
22 Department of Corrections, the Department of Human Services or the
23 Juvenile Justice Commission;

24 (3) A person moving to or returning to this State from another
25 jurisdiction shall register with the chief law enforcement officer of the
26 municipality in which the person will reside or, if the municipality does
27 not have a local police force, the Superintendent of State Police within
28 120 days of the effective date of this act or 70 days of first residing in
29 or returning to a municipality in this State, whichever is later;

30 (4) A person required to register on the basis of a conviction prior
31 to the effective date who is not confined or under supervision on the
32 effective date of this act shall register within 120 days of the effective
33 date of this act with the chief law enforcement officer of the
34 municipality in which the person will reside or, if the municipality does
35 not have a local police force, the Superintendent of State Police.

36 d. Upon a change of address, a person shall notify the law
37 enforcement agency with which the person is registered and must
38 re-register with the appropriate law enforcement agency no less than
39 10 days before he intends to first reside at his new address.

40 e. A person required to register under paragraph (1) of subsection
41 b. of this section or under paragraph (3) of subsection b. due to a
42 sentence imposed on the basis of criteria similar to the criteria set forth
43 in paragraph (1) of subsection b. shall verify his address with the
44 appropriate law enforcement agency every 90 days in a manner
45 prescribed by the Attorney General. A person required to register
46 under paragraph (2) of subsection b. of this section or under paragraph

1 (3) of subsection b. on the basis of a conviction for an offense similar
2 to an offense enumerated in paragraph (2) of subsection b. shall verify
3 his address annually in a manner prescribed by the Attorney General.
4 One year after the effective date of this act, the Attorney General shall
5 review, evaluate and, if warranted, modify pursuant to the
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
7 the verification requirement.

8 f. Except as provided in subsection g. of this section, a person
9 required to register under this act may make application to the
10 Superior Court of this State to terminate the obligation upon proof
11 that the person has not committed an offense within 15 years following
12 conviction or release from a correctional facility for any term of
13 imprisonment imposed, whichever is later, and is not likely to pose a
14 threat to the safety of others.

15 g. A person required to register under this section who has been
16 convicted of, adjudicated delinquent, or acquitted by reason of insanity
17 for more than one sex offense as defined in subsection b. of this
18 section or who has been convicted of, adjudicated delinquent, or
19 acquitted by reason of insanity for aggravated sexual assault pursuant
20 to subsection a. of N.J.S.2C:14-2 or sexual assault pursuant to
21 paragraph (1) of subsection c. of N.J.S.2C:14-2 is not eligible under
22 subsection f. of this section to make application to the Superior Court
23 of this State to terminate the registration obligation.

24 (cf: P.L.2001, c.392)

25
26 2. This act shall take effect on the 90th day following enactment.
27
28

29 STATEMENT

30
31 Currently, persons convicted of N.J.S.A.2C:24-4b.(4),
32 photographing or filming a child in a prohibited sexual act, must
33 register as sex offenders under Megan's Law.

34 Under the bill, persons would also be required to register under
35 Megan's Law upon conviction of N.J.S.A.2C:24-4b.(5)(a), selling,
36 manufacturing, distributing or advertising photographs, films or other
37 reproductions which depict a child engaging in a prohibited sexual act.
38

39
40
41 _____
42 Requires persons convicted of manufacturing or selling child
pornography to register under Megan's Law.

ASSEMBLY, No. 2434

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 13, 2002

Sponsored by:

Assemblyman GARY L. GUEAR, SR.

District 14 (Mercer and Middlesex)

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Assemblymen Burzichelli, Conaway, Corodemus, Dancer, Eagler, Fisher,

Assemblywoman Heck, Assemblymen S.Kean, Munoz, Assemblywoman

Perez-Cinciarelli, Assemblymen Sarlo, R.Smith, Van Drew, Senators

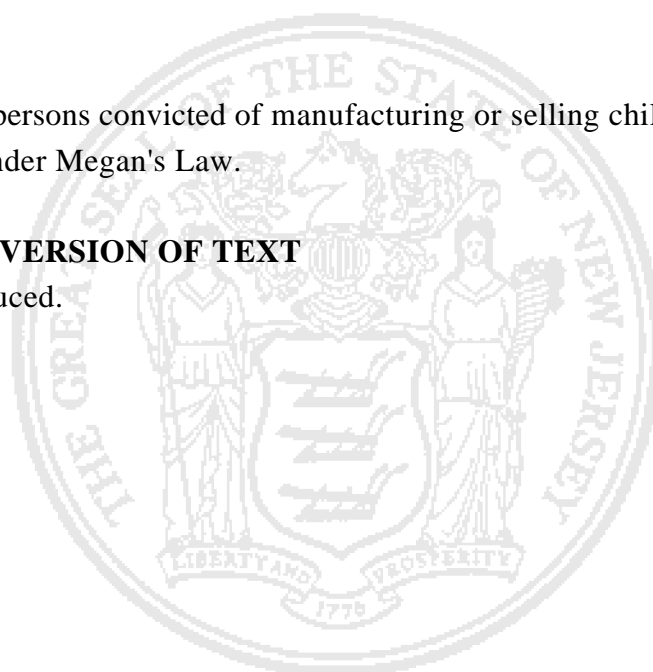
Matheussen, Inverso and Allen

SYNOPSIS

Requires persons convicted of manufacturing or selling child pornography to register under Megan's Law.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/12/2003)

A2434 GUEAR, IMPREVEDUTO

2

1 AN ACT concerning child pornography and amending P.L.1994, c.133.

2

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

5

6 1. Section 2 of P.L.1994, c.133 (C.2C:7-2) is amended to read as
7 follows:

8 2. a. A person who has been convicted, adjudicated delinquent or
9 found not guilty by reason of insanity for commission of a sex offense
10 as defined in subsection b. of this section shall register as provided in
11 subsections c. and d. of this section. A person who fails to register as
12 required under this act shall be guilty of a crime of the fourth degree.

13 b. For the purposes of this act a sex offense shall include the
14 following:

15 (1) Aggravated sexual assault, sexual assault, aggravated criminal
16 sexual contact, kidnapping pursuant to paragraph (2) of subsection c.
17 of N.J.S.2C:13-1 or an attempt to commit any of these crimes if the
18 court found that the offender's conduct was characterized by a pattern
19 of repetitive, compulsive behavior, regardless of the date of the
20 commission of the offense or the date of conviction;

21 (2) A conviction, adjudication of delinquency, or acquittal by
22 reason of insanity for aggravated sexual assault; sexual assault;
23 aggravated criminal sexual contact; kidnapping pursuant to paragraph
24 (2) of subsection c. of N.J.S.2C:13-1; endangering the welfare of a
25 child by engaging in sexual conduct which would impair or debauch
26 the morals of the child pursuant to subsection a. of N.J.S.2C:24-4;
27 endangering the welfare of a child pursuant to paragraph (4) or
28 subparagraph (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4;
29 luring or enticing pursuant to section 1 of P.L.1993, c.291
30 (C.2C:13-6); criminal sexual contact pursuant to N.J.S.2C:14-3b. if
31 the victim is a minor; kidnapping pursuant to N.J.S.2C:13-1, criminal
32 restraint pursuant to N.J.S.2C:13-2, or false imprisonment pursuant to
33 N.J.S.2C:13-3 if the victim is a minor and the offender is not the
34 parent of the victim; knowingly promoting prostitution of a child
35 pursuant to paragraph (3) or paragraph (4) of subsection b. of
36 N.J.S.2C:34-1; or an attempt to commit any of these enumerated
37 offenses if the conviction, adjudication of delinquency or acquittal by
38 reason of insanity is entered on or after the effective date of this act or
39 the offender is serving a sentence of incarceration, probation, parole
40 or other form of community supervision as a result of the offense or
41 is confined following acquittal by reason of insanity or as a result of
42 civil commitment on the effective date of this act;

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 (3) A conviction, adjudication of delinquency or acquittal by
2 reason of insanity for an offense similar to any offense enumerated in
3 paragraph (2) or a sentence on the basis of criteria similar to the
4 criteria set forth in paragraph (1) of this subsection entered or imposed
5 under the laws of the United States, this State or another state.

6 c. A person required to register under the provisions of this act
7 shall do so on forms to be provided by the designated registering
8 agency as follows:

9 (1) A person who is required to register and who is under
10 supervision in the community on probation, parole, furlough, work
11 release, or a similar program, shall register at the time the person is
12 placed under supervision or no later than 120 days after the effective
13 date of this act, whichever is later, in accordance with procedures
14 established by the Department of Corrections, the Department of
15 Human Services, the Juvenile Justice Commission established pursuant
16 to section 2 of P.L.1995, c.284 (C.52:17B-170) or the Administrative
17 Office of the Courts, whichever is responsible for supervision;

18 (2) A person confined in a correctional or juvenile facility or
19 involuntarily committed who is required to register shall register prior
20 to release in accordance with procedures established by the
21 Department of Corrections, the Department of Human Services or the
22 Juvenile Justice Commission;

23 (3) A person moving to or returning to this State from another
24 jurisdiction shall register with the chief law enforcement officer of the
25 municipality in which the person will reside or, if the municipality does
26 not have a local police force, the Superintendent of State Police within
27 120 days of the effective date of this act or 70 days of first residing in
28 or returning to a municipality in this State, whichever is later;

29 (4) A person required to register on the basis of a conviction prior
30 to the effective date who is not confined or under supervision on the
31 effective date of this act shall register within 120 days of the effective
32 date of this act with the chief law enforcement officer of the
33 municipality in which the person will reside or, if the municipality does
34 not have a local police force, the Superintendent of State Police.

35 d. Upon a change of address, a person shall notify the law
36 enforcement agency with which the person is registered and must
37 re-register with the appropriate law enforcement agency no less than
38 10 days before he intends to first reside at his new address.

39 e. A person required to register under paragraph (1) of subsection
40 b. of this section or under paragraph (3) of subsection b. due to a
41 sentence imposed on the basis of criteria similar to the criteria set forth
42 in paragraph (1) of subsection b. shall verify his address with the
43 appropriate law enforcement agency every 90 days in a manner
44 prescribed by the Attorney General. A person required to register
45 under paragraph (2) of subsection b. of this section or under paragraph
46 (3) of subsection b. on the basis of a conviction for an offense similar

A2434 GUEAR, IMPREVEDUTO

1 to an offense enumerated in paragraph (2) of subsection b. shall verify
2 his address annually in a manner prescribed by the Attorney General.
3 One year after the effective date of this act, the Attorney General shall
4 review, evaluate and, if warranted, modify pursuant to the
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
6 the verification requirement.

7 f. Except as provided in subsection g. of this section, a person
8 required to register under this act may make application to the
9 Superior Court of this State to terminate the obligation upon proof
10 that the person has not committed an offense within 15 years following
11 conviction or release from a correctional facility for any term of
12 imprisonment imposed, whichever is later, and is not likely to pose a
13 threat to the safety of others.

14 g. A person required to register under this section who has been
15 convicted of, adjudicated delinquent, or acquitted by reason of insanity
16 for more than one sex offense as defined in subsection b. of this
17 section or who has been convicted of, adjudicated delinquent, or
18 acquitted by reason of insanity for aggravated sexual assault pursuant
19 to subsection a. of N.J.S.2C:14-2 or sexual assault pursuant to
20 paragraph (1) of subsection c. of N.J.S.2C:14-2 is not eligible under
21 subsection f. of this section to make application to the Superior Court
22 of this State to terminate the registration obligation.
23 (cf: P.L.2001, c.392)

24

25 2. This act shall take effect on the 90th day following enactment.

26

27

28

STATEMENT

29

30 Currently, persons convicted of N.J.S.A.2C:24-4b.(4),
31 photographing or filming a child in a prohibited sexual act, must
32 register as sex offenders under Megan's Law.

33 Under the bill, persons would also be required to register under
34 Megan's Law upon conviction of N.J.S.A.2C:24-4b.(5)(a), selling,
35 manufacturing, distributing or advertising photographs, films or other
36 reproductions which depict a child engaging in a prohibited sexual act.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2434

STATE OF NEW JERSEY

DATED: FEBRUARY 13, 2003

The Assembly Judiciary Committee reports favorably Assembly Bill No. 2434.

Currently, persons convicted of N.J.S.A.2C:24-4b.(4), photographing or filming a child in a prohibited sexual act or simulation of such an act, must register as sex offenders under Megan's Law, N.J.S.A.2C:7-1 et seq..

This bill would amend N.J.S.A.2C:7-2 to require persons who receive, sell, manufacture, distribute or advertise photographs, films or other reproductions which depict a child engaging in a prohibited sexual act, in violation of N.J.S.A.2C:24-4b. (5)(a), to register under Megan's Law.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2434

STATE OF NEW JERSEY

DATED: NOVEMBER 24, 2003

The Senate Judiciary Committee reports favorably Assembly Bill No. 2434

The bill amends “Megan’s Law” to require persons convicted, adjudicated delinquent or acquitted by reason of insanity of endangering the welfare of a child by selling, procuring, manufacturing or distributing any photograph, film, video tape or other reproduction which depicts a child engaging in a prohibited sexual act in violation of subparagraph (a) of paragraph (5) of subsection b. of N.J.S. 2C:24-4 to comply with the State’s sex offender registration requirements.

In the context of Megan’s Law, as the Legislature has previously declared and the courts have acknowledged, the utility of providing law enforcement with registration information has been recognized as serving the remedial purpose helping prevent and resolve incidents of criminal misconduct. Application of the registration requirements of Megan’s Law to those responsible for the sale and distribution of child pornography will enable law enforcement to track and remain aware of those participants in an industry that exploits children, and the notification requirements may enable members of the public to take appropriate precautions to protect their children and those in their care avoid exposure to pornographic materials which feature and exploit children, which exposure could disturb, harass or even psychologically traumatize, those so exposed.

In adding this crime to the State’s sex offender registration statute, the bill brings the law into accord with recent amendments to the federal “Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act” which were instituted by the “Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today (PROTECT) Act of 2003.” Generally, the Wetterling Act sets minimum standards for state sex offender registration and community notification programs, and directs the United States Attorney General to issue guidelines for such programs. States that fail to comply with the Wetterling Act’s requirements, as implemented in the Attorney General's guidelines, are subject to a mandatory 10% reduction of the formula grant funding available under the “Edward Byrne Memorial State and Local Law Enforcement Assistance Program,” (42 U.S.C. Section 3756). On April 30, 2003, the President signed the PROTECT Act into law, which among other

things amended the Wetterling Act to induce states to include convictions for producing or distributing child pornography among the enumerated criminal offenses for which the state requires sex offender registration. Thus, in order to maintain full Byrne grant funding eligibility, the addition of subparagraph (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4 to the list of crimes for which a sex offender must register pursuant to “Megan’s Law” is warranted.

This bill is identical to Senate, No. 1547.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 2434
STATE OF NEW JERSEY
210th LEGISLATURE

DATED: JANUARY 6, 2004

SUMMARY

Synopsis: Requires persons convicted of manufacturing or selling child pornography to register under Megan's Law

Type of Impact: General Fund expenditure

Agencies Affected: State Police, Local law enforcement agencies

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Minimal	Minimal	Minimal
Local Cost	Minimal	Minimal	Minimal

- * The Office of Legislative Services (OLS) notes that under Megan's Law, individuals are required to register with the local law enforcement agency in the community within which they reside. If no local law enforcement agency exists in their community, these individuals must register with the State Police. The OLS further notes that because the number of individuals convicted under this statute would be minimal, and because the sexual registry is currently operating Statewide, the addition of the small number of offenders to the registry would incur a very small cost to the participating agencies.
- * The bill requires that offenders convicted of N.J.S.A.2C:24-4b.(5)(a), selling, manufacturing, distributing or advertising photographs, films or other reproductions which depict a child engaging in a prohibited sexual act, must register as sex offenders under Megan's Law.

BILL DESCRIPTION

Assembly Bill No. 2434 of 2002 requires that offenders convicted of N.J.S.A.2C:24-4b.(5)(a), selling, manufacturing, distributing or advertising photographs, films or other reproductions which depict a child engaging in a prohibited sexual act, must register as sex offenders under Megan's Law. Current law requires that individuals convicted under N.J.S.A.2C:24-4b.(4), photographing or filming a child in a prohibited sexual act, must register as sex offenders under Megan's Law.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Information obtained from the Department of Corrections indicates that very few individuals are convicted and incarcerated for the offense listed in the bill. Therefore, the fiscal impact would be minimal.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) notes that under Megan's Law, individuals are required to register with the local law enforcement agency in the community within which they reside. If no local law enforcement agency exists in their community, these individuals must register with the State Police. The OLS further notes that because the number of individuals convicted under this statute would be minimal, and because the sexual registry is currently operating Statewide, the addition of the small number of offenders to the registry would incur a very small cost to the participating agencies.

Section: *Judiciary*

Analyst: *Anne C. Raughley*
Lead Fiscal Analyst

Approved: *Frank W. Haines III*
Assistant Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

SENATE, No. 1547

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED MAY 30, 2002

Sponsored by:

Senator JOHN J. MATHEUSSEN
District 4 (Camden and Gloucester)
Senator PETER A. INVERSO
District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senator Allen

SYNOPSIS

Requires persons convicted of manufacturing or selling child pornography to register under Megan's Law.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/12/2003)

1 AN ACT concerning child pornography and amending P.L.1994, c.133.

2

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

5

6 1. Section 2 of P.L.1994, c.133 (C.2C:7-2) is amended to read as
7 follows:

8 2. a. A person who has been convicted, adjudicated delinquent or
9 found not guilty by reason of insanity for commission of a sex offense
10 as defined in subsection b. of this section shall register as provided in
11 subsections c. and d. of this section. A person who fails to register as
12 required under this act shall be guilty of a crime of the fourth degree.

13 b. For the purposes of this act a sex offense shall include the
14 following:

15 (1) Aggravated sexual assault, sexual assault, aggravated criminal
16 sexual contact, kidnapping pursuant to paragraph (2) of subsection c.
17 of N.J.S.2C:13-1 or an attempt to commit any of these crimes if the
18 court found that the offender's conduct was characterized by a pattern
19 of repetitive, compulsive behavior, regardless of the date of the
20 commission of the offense or the date of conviction;

21 (2) A conviction, adjudication of delinquency, or acquittal by
22 reason of insanity for aggravated sexual assault; sexual assault;
23 aggravated criminal sexual contact; kidnapping pursuant to paragraph
24 (2) of subsection c. of N.J.S.2C:13-1; endangering the welfare of a
25 child by engaging in sexual conduct which would impair or debauch
26 the morals of the child pursuant to subsection a. of N.J.S.2C:24-4;
27 endangering the welfare of a child pursuant to paragraph (4) or
28 subparagraph (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4;
29 luring or enticing pursuant to section 1 of P.L.1993, c.291
30 (C.2C:13-6); criminal sexual contact pursuant to N.J.S.2C:14-3b. if
31 the victim is a minor; kidnapping pursuant to N.J.S.2C:13-1, criminal
32 restraint pursuant to N.J.S.2C:13-2, or false imprisonment pursuant to
33 N.J.S.2C:13-3 if the victim is a minor and the offender is not the
34 parent of the victim; knowingly promoting prostitution of a child
35 pursuant to paragraph (3) or paragraph (4) of subsection b. of
36 N.J.S.2C:34-1; or an attempt to commit any of these enumerated
37 offenses if the conviction, adjudication of delinquency or acquittal by
38 reason of insanity is entered on or after the effective date of this act or
39 the offender is serving a sentence of incarceration, probation, parole
40 or other form of community supervision as a result of the offense or
41 is confined following acquittal by reason of insanity or as a result of
42 civil commitment on the effective date of this act;

43 (3) A conviction, adjudication of delinquency or acquittal by

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 reason of insanity for an offense similar to any offense enumerated in
2 paragraph (2) or a sentence on the basis of criteria similar to the
3 criteria set forth in paragraph (1) of this subsection entered or imposed
4 under the laws of the United States, this State or another state.

5 c. A person required to register under the provisions of this act
6 shall do so on forms to be provided by the designated registering
7 agency as follows:

8 (1) A person who is required to register and who is under
9 supervision in the community on probation, parole, furlough, work
10 release, or a similar program, shall register at the time the person is
11 placed under supervision or no later than 120 days after the effective
12 date of this act, whichever is later, in accordance with procedures
13 established by the Department of Corrections, the Department of
14 Human Services, the Juvenile Justice Commission established pursuant
15 to section 2 of P.L.1995, c.284 (C.52:17B-170) or the Administrative
16 Office of the Courts, whichever is responsible for supervision;

17 (2) A person confined in a correctional or juvenile facility or
18 involuntarily committed who is required to register shall register prior
19 to release in accordance with procedures established by the
20 Department of Corrections, the Department of Human Services or the
21 Juvenile Justice Commission;

22 (3) A person moving to or returning to this State from another
23 jurisdiction shall register with the chief law enforcement officer of the
24 municipality in which the person will reside or, if the municipality does
25 not have a local police force, the Superintendent of State Police within
26 120 days of the effective date of this act or 70 days of first residing in
27 or returning to a municipality in this State, whichever is later;

28 (4) A person required to register on the basis of a conviction prior
29 to the effective date who is not confined or under supervision on the
30 effective date of this act shall register within 120 days of the effective
31 date of this act with the chief law enforcement officer of the
32 municipality in which the person will reside or, if the municipality does
33 not have a local police force, the Superintendent of State Police.

34 d. Upon a change of address, a person shall notify the law
35 enforcement agency with which the person is registered and must
36 re-register with the appropriate law enforcement agency no less than
37 10 days before he intends to first reside at his new address.

38 e. A person required to register under paragraph (1) of subsection
39 b. of this section or under paragraph (3) of subsection b. due to a
40 sentence imposed on the basis of criteria similar to the criteria set forth
41 in paragraph (1) of subsection b. shall verify his address with the
42 appropriate law enforcement agency every 90 days in a manner
43 prescribed by the Attorney General. A person required to register
44 under paragraph (2) of subsection b. of this section or under paragraph
45 (3) of subsection b. on the basis of a conviction for an offense similar
46 to an offense enumerated in paragraph (2) of subsection b. shall verify

1 his address annually in a manner prescribed by the Attorney General.
2 One year after the effective date of this act, the Attorney General shall
3 review, evaluate and, if warranted, modify pursuant to the
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
5 the verification requirement.

6 f. Except as provided in subsection g. of this section, a person
7 required to register under this act may make application to the
8 Superior Court of this State to terminate the obligation upon proof
9 that the person has not committed an offense within 15 years following
10 conviction or release from a correctional facility for any term of
11 imprisonment imposed, whichever is later, and is not likely to pose a
12 threat to the safety of others.

13 g. A person required to register under this section who has been
14 convicted of, adjudicated delinquent, or acquitted by reason of insanity
15 for more than one sex offense as defined in subsection b. of this
16 section or who has been convicted of, adjudicated delinquent, or
17 acquitted by reason of insanity for aggravated sexual assault pursuant
18 to subsection a. of N.J.S.2C:14-2 or sexual assault pursuant to
19 paragraph (1) of subsection c. of N.J.S.2C:14-2 is not eligible under
20 subsection f. of this section to make application to the Superior Court
21 of this State to terminate the registration obligation.

22 (cf: P.L.2001, c.392)

23

24 2. This act shall take effect on the 90th day following enactment.

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26

27

STATEMENT

28

29 Currently, persons convicted of N.J.S.A.2C:24-4b.(4),
30 photographing or filming a child in a prohibited sexual act, must
31 register as sex offenders under Megan's Law.

32 Under the bill, persons would also be required to register under
33 Megan's Law upon conviction of N.J.S.A.2C:24-4b.(5)(a), selling,
34 manufacturing, distributing or advertising photographs, films or other
35 reproductions which depict a child engaging in a prohibited sexual act.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1547

STATE OF NEW JERSEY

DATED: NOVEMBER 24, 2003

The Senate Judiciary Committee reports favorably Senate Bill No. 1547.

The bill amends “Megan’s Law” to require persons convicted, adjudicated delinquent or acquitted by reason of insanity of endangering the welfare of a child by selling, procuring, manufacturing or distributing any photograph, film, video tape or other reproduction which depicts a child engaging in a prohibited sexual act in violation of subparagraph (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4 to comply with the State’s sex offender registration requirements.

In the context of Megan’s Law, as the Legislature has previously declared and the courts have acknowledged, the utility of providing law enforcement with registration information has been recognized as serving the remedial purpose helping prevent and resolve incidents of criminal misconduct. Application of the registration requirements of Megan’s Law to those responsible for the sale and distribution of child pornography will enable law enforcement to track and remain aware of those participants in an industry that exploits children, and the notification requirements may enable members of the public to take appropriate precautions to protect their children and those in their care avoid exposure to pornographic materials which feature and exploit children, which exposure could disturb, harass or even psychologically traumatize, those so exposed.

In adding this crime to the State’s sex offender registration statute, the bill brings the law into accord with recent amendments to the federal “Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act” which were instituted by the “Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today (PROTECT) Act of 2003.” Generally, the Wetterling Act sets minimum standards for state sex offender registration and community notification programs, and directs the United States Attorney General to issue guidelines for such programs. States that fail to comply with the Wetterling Act’s requirements, as implemented in the Attorney General's guidelines, are subject to a mandatory 10% reduction of the formula grant funding available under the “Edward Byrne Memorial State and Local Law Enforcement Assistance Program,” (42 U.S.C. Section 3756). On April 30, 2003, the President signed the PROTECT Act into law, which among other

things amended the Wetterling Act to induce states to include convictions for producing or distributing child pornography among the enumerated criminal offenses for which the state requires sex offender registration. Thus, in order to maintain full Byrne grant funding eligibility, the addition of subparagraph (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4 to the list of crimes for which a sex offender must register pursuant to “Megan’s Law” is warranted.

This bill is identical to Assembly, No. 2434.