

2 C:14-4

LEGISLATIVE HISTORY CHECKLIST
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(Lewdness-acts performed in
front of a child)

NJSA: 2C:14-4

LAWS OF: 1992 CHAPTER: 8

BILL NO: A850

SPONSOR(S): Derman and others

DATE INTRODUCED: January 29, 1992

COMMITTEE: ASSEMBLY: Judiciary, Law Public Safety
SENATE: Judiciary

AMENDED DURING PASSAGE: Yes Amendments during passage
denoted by asterisks

DATE OF PASSAGE: ASSEMBLY: February 10, 1992
SENATE: April 2, 1992

DATE OF APPROVAL: May 13, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

For newspaper clippings see legislative history of L.1992 c.7

KBG:pp

[FIRST REPRINT]
ASSEMBLY, No. 850

STATE OF NEW JERSEY

INTRODUCED JANUARY 28, 1992

By Assemblywoman DERMAN, Assemblymen CATANIA,
DiGaetano, Geist, Assemblywoman Heck, Assemblymen
Kelly and Warsh

1 AN ACT upgrading the offense of lewdness in certain cases and
2 amending N.J.S.2C:14-4.

3

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

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

7 2C:14-4. Lewdness.

8 ¹a.¹ A person commits [a disorderly persons] ¹[an] a disorderly
9 persons¹ offense if he does any flagrantly lewd and offensive act
10 which he knows or reasonably expects is likely to be observed by
11 other nonconsenting persons who would be affronted or alarmed.

12 ¹[The offense is a crime of the fourth degree:

13 a. If the act is committed under circumstances where the
14 actor knows or reasonably expects he is likely to be observed by a
15 child, who is less than 13 years of age where the actor is at least
16 four years older than the child; or

17 b. If the act is committed under circumstances where the
18 actor knows or reasonably expects he is likely to be observed by a
19 person who because of mental disease or defect is unable to care
20 for himself.

21 In all other cases, the offense is a disorderly persons offense.]

22 b. A person commits a crime of the fourth degree if:

23 (1) He exposes his intimate parts for the purpose of arousing or
24 gratifying the sexual desire of the actor or of any other person
25 under circumstances where the actor knows or reasonably expects
26 he is likely to be observed by a child who is less than 13 years of
27 age where the actor is at least four years older than the child.

28 (2) He exposes his intimate parts for the purpose of arousing or
29 gratifying the sexual desire of the actor or of any other person
30 under circumstances where the actor knows or reasonably expects
31 he is likely to be observed by a person who because of mental
32 disease or defect is unable to understand the sexual nature of the
33 actor's conduct.

34 c. As used in this section:¹

35 ¹["Lewd] "lewd¹ acts" shall include the exposing of the
36 genitals for the purpose of arousing or gratifying the sexual
37 desire of the actor or of any other person.

38 (cf: N.J.S.2C:14-4)

39 2. This act shall take effect immediately.

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:

¹ Senate SJU committee amendments adopted March 23, 1992.

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Establishes a crime of the fourth degree for lewd acts committed
in the presence of child or mentally disabled person.

ASSEMBLY, No. 850
STATE OF NEW JERSEY

INTRODUCED JANUARY 28, 1992

By Assemblywoman DERMAN

1 AN ACT upgrading the offense of lewdness in certain cases and
2 amending N.J.S.2C:14-4.

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

6 1. N.J.S.2C:14-4 is amended to read as follows:
7 2C:14-4. Lewdness.

8 A person commits [a disorderly persons] an offense if he does
9 any flagrantly lewd and offensive act which he knows or
10 reasonably expects is likely to be observed by other
11 nonconsenting persons who would be affronted or alarmed. The
12 offense is a crime of the fourth degree:

13 a. If the act is committed under circumstances where the
14 actor knows or reasonably expects he is likely to be observed by a
15 child, who is less than 13 years of age where the actor is at least
16 four years older than the child; or

17 b. If the act is committed under circumstances where the
18 actor knows or reasonably expects he is likely to be observed by a
19 person who because of mental disease or defect is unable to care
20 for himself.

21 In all other cases, the offense is a disorderly persons offense.

22 "Lewd acts" shall include the exposing of the genitals for the
23 purpose of arousing or gratifying the sexual desire of the actor or
24 of any other person.

25 (cf: N.J.S.2C:14-4)

26 2. This act shall take effect immediately.

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STATEMENT

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31 This bill increases the penalty for lewd acts committed in the
32 presence of a child less than 13 years of age where the person
33 committing the act is at least four years older than the child, and
34 for lewd acts committed in the presence of mentally disabled
35 persons. Under these circumstances, the offense of lewdness is
36 upgraded from a disorderly persons offense to a crime of the
37 fourth degree.

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42 Establishes a crime of the fourth degree for lewd acts committed
43 in the presence of child or mentally disabled person.

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.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 850

STATE OF NEW JERSEY

DATED: JANUARY 30, 1992

The Assembly Judiciary, Law and Public Safety Committee reports favorably Assembly Bill No. 850.

This bill increases the penalty for lewd acts committed in the presence of a child less than 13 years of age where the person committing the act is at least four years older than the child, and for lewd acts committed in the presence of mentally disabled persons. Under these circumstances, the offense of lewdness is upgraded from a disorderly persons offense to a crime of the fourth degree. A crime of the fourth degree is punishable by a fine not to exceed \$7500.00, a term of imprisonment not to exceed 18 months or both.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 850

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 23, 1992

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 850.

Presently, lewdness is graded as a disorderly persons offense. This bill would upgrade lewdness to a crime of the fourth degree if the lewd act was committed in the presence of a child less than 13 of age and the person committing the act is at least four years older than the child. This bill would also upgrade lewdness to a crime of the fourth degree if the lewd act was committed under circumstances where the person knows he is likely to be observed by a mentally disabled person.

The committee adopted amendments to the bill which are intended to remove the issue of consent in lewdness prosecutions involving children or mentally disabled persons.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001**Contact:**

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TRENTON, N.J. 08625**Release:** Wednesday
May 13, 1992

GOVERNOR FLORIO SIGNS LAWS TOUGHENING PENALTIES AND BOOSTING CHILD PROTECTION EFFORTS

EDISON -- Because children are the most vulnerable members of our society, Governor Jim Florio today signed a trio of bills toughening laws and increasing penalties for persons who exploit and abuse children.

"Today we sign child protection legislation in the form of three bills that reflect our commitment to the cherished place children hold in our hearts. The well-being of our children demands that we provide increased deterrence for heinous crimes. Too often, their cries and needs go unheard," said Governor Florio. "After all, children are our most important, but the most vulnerable members of our society. And our children are not represented by lobbyists or political action committees."

"It is our responsibility to protect our children from the moral vultures that prey upon them. In government, we must use the full measure of the law to protect the rights of the innocent. Today, we're taking a major step toward fulfilling that mandate," he said.

The bills would:

- ***Establish tougher penalties against persons who sexually exploit children for profit.*** The bill would establish a civil action against persons who sexually exploit children for profit through the distribution of child pornography or through other means. The bill allows a child, either personally upon reaching the age of 18 or through a parent or child advocacy group, to seek an injunction or damages against a person or company who sexually exploits the child. If successful, the child would be entitled to damages equal to three times the defendant's financial gain from the exploitation. A 381/S 541 was sponsored by Assemblypersons Rose Marie Heck and Marion Crecco, and Senator Jack Sinagra.
- ***Increases penalties for lewdness committed in the presence of a child under 13 or a mentally disabled person.*** The law upgrades the crime from a disorderly persons offense (six months in jail) to a fourth degree crime with a standard penalty of 18 months imprisonment and a maximum fine of \$7,500. A 850 was sponsored by Assemblypersons Harriet Derman and Frank Catania.

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- **Increase penalties for endangering the welfare of a child.** This offense is defined as either engaging in sexual conduct that would impair or debauch the morals of the child or causing the child harm that would make the child abused and neglected. Included are conducts such as willful failure to provide food to a child and creation of a substantial risk of physical injury by other than accidental means.

The bill increases the crime from third degree to a second-degree crime when committed by a parent or other adult with a legal duty to care for the child and authorizes a longer prison term of up to five to ten years, from the previous five year maximum. Making it a second degree crime carries a presumption of incarceration, so even in the case of first-time offenders, a jail term is nearly guaranteed. A 307/S 563 was sponsored by Assemblypersons Marion Crecco and Gary Stuhltrager, and Senator John Matheussen.

New Jersey law already prohibits the sale and production of child pornography. And in April, Governor Florio signed a law giving law enforcement officials another tool in efforts to crack down on the exploitive child pornography business by making it a crime in the state to possess pornographic materials using children.

The law makes it a fourth degree crime to possess child pornography materials, with a prison term of up to 18 months and fines up to \$7,500. In 1990, the U.S. Supreme Court ruled that states could ban possession of child pornography materials without violating the federal Constitution. The Court based its ruling on its finding that a state was justified in protecting children by banning possession as a way to cut off the market

"Our new laws will make sure that criminals pay with hard time and significant fines and these laws should further our efforts to destroy any and all markets that exploit children," said Governor Florio. "Child pornography and sexual abuse leave our children with scars that may be invisible. But they are deep and crippling and sometimes, they are permanent. There is no place for such behavior in a civilized society and we will not tolerate it in New Jersey."

"On behalf of all the brave survivors of childhood sexual abuse and especially on behalf of the children, it is my pleasure to sign into laws these bills that will help make their world safer," he said.

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