

20:34-1

**LEGISLATIVE HISTORY CHECKLIST**  
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**NJSA:** 2C:34-1

(Prostitution--  
upgrade offenses)

**LAWS OF:** 1991

**CHAPTER:** 211

**Bill No:** S2706

**Sponsor(s):** Lipman and DiFrancesco

**Date Introduced:** May 21, 1990

**Committee: Assembly:** Judiciary

**Senate:** Judiciary

**Amended during passage:** Yes      Amendments during passage  
denoted by asterisks.

**Date of Passage: Assembly:** June 10, 1991  
**Senate:** December 13, 1990

**Date of Approval:** July 23, 1991

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee Statement: Assembly:** Yes

**Senate:** Yes

**Fiscal Note:** No

**Veto Message:** No

**Message on signing:** No

**Following were printed:**

**Reports:** No

**Hearings:** No

(over)

Report, by Commission on Sex Discrimination in the States not issued as of 9-1-91.

See:

J32.2 U.S. Attorney Advisory Board on Missing Children,  
C4312 America's missing and exploited children: their safety and their  
future. Washington, D.C. March, 1986.  
see Recommendation 9--p.22

J32.2 U.S. Attorney General's Advisory Board on Missing Children.  
C4314 Missing and exploited children: the  
challenge continues. Washington, D.C. December 1988  
see p.29

See newspaper clipping--attached:

[THIRD REPRINT]  
SENATE, No. 2706

STATE OF NEW JERSEY

INTRODUCED MAY 21, 1990

By Senators LIPMAN and DiFRANCESCO

1 AN ACT concerning prostitution and amending N.J.S.2C:34-1.

2

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

5 1. N.J.S.2C:34-1 is amended to read as follows:

6 2C:34-1. Prostitution and Related Offenses.

7 [a. Prostitution. A person is guilty of prostitution, a petty  
8 disorderly persons offense, if he or she:

9 (1) Is an inmate of a house of prostitution or otherwise engages  
10 in sexual activity as a business; or

11 (2) Solicits another person in or within view of any public place  
12 for the purpose of being hired to engage in sexual activity.  
13 "Sexual activity" includes homosexual and other deviate sexual  
14 relations. A "house of prostitution" is any place where  
15 prostitution or promotion of prostitution is regularly carried on  
16 by one person under the control, management or supervision of  
17 another. An "inmate" is a person who engages in prostitution in  
18 or through the agency of a house of prostitution. "Public place"  
19 means any place to which the public or any substantial group  
20 thereof has access.

21 b. Promoting prostitution. A person who knowingly promotes  
22 prostitution of another commits an offense. The following acts  
23 shall, without limitation of the foregoing, constitute promoting  
24 prostitution:

25 (1) Owning, controlling, managing, supervising or otherwise  
26 keeping, alone or in association with others, a house of  
27 prostitution or a prostitution business;

28 (2) Procuring an inmate for a house of prostitution or a place  
29 in a house of prostitution for one who would be an inmate;

30 (3) Encouraging, inducing, or otherwise purposely causing  
31 another to become or remain a prostitute;

32 (4) Soliciting a person to patronize a prostitute;

33 (5) Procuring a prostitute for a patron;

34 (6) Transporting a person into or within this State with purpose  
35 to promote that person's engaging in prostitution, or procuring or  
36 paying for transportation with that purpose;

37 (7) Leasing or otherwise permitting a place controlled by the  
38 actor, alone or in association with others, to be regularly used for

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:

<sup>1</sup> Senate SJU committee amendments adopted October 15, 1990.

<sup>2</sup> Senate floor amendments adopted November 19, 1990.

<sup>3</sup> Assembly AJL committee amendments adopted March 7, 1991.

1 prostitution or the promotion of prostitution, or failure to make  
 2 reasonable effort to abate such use by ejecting the tenant,  
 3 notifying law enforcement authorities, or other legally available  
 4 means; or

5 (8) Soliciting, receiving, or agreeing to receive any benefit for  
 6 doing or agreeing to do anything forbidden by this subsection.]

7 a. As used in this section:

8 (1) "Prostitution" is sexual activity with another person in  
 9 exchange for something of economic value, or the offer or  
 10 acceptance of an offer made in or within view of a public place  
 11 to engage in sexual activity in exchange for something of  
 12 economic value.

13 (2) "Sexual activity" includes <sup>1</sup>, but is not limited to, <sup>1</sup> sexual  
 14 intercourse, including genital-genital, oral-genital, anal-genital,  
 15 and oral-anal contact, whether between persons of the same or  
 16 opposite sex; masturbation; touching of the genitals, buttocks, or  
 17 female breasts; sadistic or masochistic abuse and other deviate  
 18 sexual relations.

19 (3) "House of prostitution" is any place where prostitution or  
 20 promotion of prostitution is regularly carried on by one person  
 21 under the control, management or supervision of another.

22 (4) "Promoting prostitution" is:

23 (a) Owning, controlling, managing, supervising or otherwise  
 24 keeping, alone or in association with <sup>1</sup>[other] another<sup>1</sup>, a house of  
 25 prostitution or a prostitution business;

26 (b) Procuring an inmate for a house of prostitution or place in  
 27 a house of prostitution for one who would be an inmate;

28 (c) Encouraging, inducing, or otherwise purposely causing  
 29 another to become or remain a prostitute;

30 (d) Soliciting a person to patronize a prostitute;

31 (e) Procuring a prostitute for a patron;

32 (f) Transporting a person into or within this State with purpose  
 33 to promote that person's engaging in prostitution, or procuring or  
 34 paying for transportation with <sup>1</sup>[the] that<sup>1</sup> purpose; or

35 (g) Leasing or otherwise permitting a place controlled by the  
 36 actor, alone or in association with others, to be regularly used for  
 37 prostitution or promotion <sup>1</sup>[or] of<sup>1</sup> prostitution, or failure to  
 38 make <sup>1a</sup> reasonable effort to abate such use by ejecting the  
 39 tenant, notifying law enforcement authorities, or other legally  
 40 available means.

41 <sup>1</sup>(5) "Public place" means any place to which the public or any  
 42 substantial group thereof has access.<sup>1</sup>

43 b. A person commits an offense if:

44 (1) The actor engages in prostitution;

45 <sup>1</sup>(2) The actor promotes prostitution;<sup>1</sup>

46 <sup>1</sup>[(2)] (3)<sup>1</sup> The actor knowingly promotes prostitution of a child  
 47 under 18 <sup>2</sup>whether or not the actor mistakenly believed that the  
 48 child was 18 years of age <sup>3</sup>[of] or<sup>3</sup> older, even if such mistaken  
 49 belief was reasonable<sup>2</sup>;

1 <sup>1</sup>[(3)] (4)<sup>1</sup> The actor knowingly promotes prostitution of the  
 2 actor's child, ward, or any other person for whose care the actor  
 3 is responsible;

4 <sup>1</sup>[(4)] (5)<sup>1</sup> The actor compels another to engage in or promote  
 5 prostitution;

6 <sup>1</sup>[(5)] (6)<sup>1</sup> The actor promotes prostitution of the actor's  
 7 spouse; or

8 <sup>1</sup>[(6)] (7)<sup>1</sup> The actor knowingly engages in prostitution with a  
 9 person under the age of 18, or if the actor enters into or remains  
 10 in a house of prostitution for the purpose of engaging in sexual  
 11 activity with a child under the age of 18, or if the actor solicits  
 12 or requests a child under the age of 18 to engage in sexual  
 13 activity. <sup>1</sup>It shall be no defense to a prosecution under this  
 14 paragraph that the actor mistakenly believed that the child was  
 15 18 years of age <sup>3</sup>[of] or<sup>3</sup> older, even if such mistaken belief was  
 16 reasonable.<sup>1</sup>

17 c. Grading of offenses under subsection b. [An offense under  
 18 subsection b. constitutes a crime of the third degree if:

19 (1) The offense falls within paragraph (1), (2) or (3) of that  
 20 subsection;

21 (2) The actor compels another to engage in or promote  
 22 prostitution;

23 (3) The actor promotes prostitution of a child under 16,  
 24 whether or not he is aware of the child's age; or

25 (4) The actor promotes prostitution of the actor's spouse,  
 26 child, ward or any person for whose care he is responsible.

27 Otherwise, the offense is a crime of the fourth degree.]

28 (1) An offense under subsection b. constitutes a crime of the  
 29 second degree if the offense falls within paragraph <sup>1</sup>[(2) or (3)] (3)  
 30 or (4)<sup>1</sup> of that subsection.

31 (2) An offense under subsection b. constitutes a crime of the  
 32 third degree if the offense falls within paragraph <sup>1</sup>[(4), (5) or (6)]  
 33 (5), (6) or (7)<sup>1</sup> of that subsection.

34 <sup>1</sup>(3) An offense under paragraph (2) of subsection b.  
 35 constitutes a crime of the third degree if the conduct falls within  
 36 subparagraph (a), (b), or (c) of paragraph (4) of subsection a.  
 37 Otherwise the offense is a crime of the fourth degree.<sup>1</sup>

38 <sup>1</sup>[(3) Otherwise, the offense is a petty disorderly persons  
 39 offense.] (4) An offense under subsection b. constitutes a  
 40 <sup>3</sup>[petty]<sup>3</sup> disorderly persons offense if the offense falls within  
 41 paragraph (1) of that subsection.<sup>1</sup>

42 d. Presumption from living off prostitutes. A person, other  
 43 than the prostitute or the prostitute's minor child or other legal  
 44 dependent incapable of self-support who is supported in whole or  
 45 substantial part by the proceeds of prostitution is presumed to be  
 46 knowingly promoting prostitution [in violation of subsection b].

47 [e. Patronizing prostitutes. A person commits a petty  
 48 disorderly persons offense if he hires a prostitute to engage in

1 sexual activity with him, or if he enters or remains in a house of  
2 prostitution for the purpose of engaging in sexual activity or if he  
3 solicits or requests another person to engage in sexual activity  
4 with him for hire.]

5 (cf: N.J.S.2C:34-1)

6 2. This act shall take effect on the 60th day after enactment.

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9 CRIMINAL JUSTICE

10

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12 Revises the law governing prostitution and upgrades offenses  
involving prostitution in certain cases.

1 under the age of 18, or if the actor enters into or remains in a  
2 house of prostitution for the purpose of engaging in sexual  
3 activity with a child under the age of 18, or if the actor solicits  
4 or requests a child under the age of 18 to engage in sexual  
5 activity.

6 c. Grading of offenses under subsection b. [An offense under  
7 subsection b. constitutes a crime of the third degree if:

8 (1) The offense falls within paragraph (1), (2) or (3) of that  
9 subsection;

10 (2) The actor compels another to engage in or promote  
11 prostitution;

12 (3) The actor promotes prostitution of a child under 16,  
13 whether or not he is aware of the child's age; or

14 (4) The actor promotes prostitution of the actor's spouse,  
15 child, ward or any person for whose care he is responsible.

16 Otherwise, the offense is a crime of the fourth degree.]

17 (1) An offense under subsection b. constitutes a crime of the  
18 second degree if the offense falls within paragraph (2) or (3) of  
19 that subsection.

20 (2) An offense under subsection b. constitutes a crime of the  
21 third degree if the offense falls within paragraph (4), (5) or (6) of  
22 that subsection.

23 (3) Otherwise, the offense is a petty disorderly persons offense.

24 d. Presumption from living off prostitutes. A person, other  
25 than the prostitute or the prostitute's minor child or other legal  
26 dependent incapable of self-support, who is supported in whole or  
27 substantial part by the proceeds of prostitution is presumed to be  
28 knowingly promoting prostitution [in violation of subsection b].

29 [e. Patronizing prostitutes. A person commits a petty  
30 disorderly persons offense if he hires a prostitute to engage in  
31 sexual activity with him, or if he enters or remains in a house of  
32 prostitution for the purpose of engaging in sexual activity or if he  
33 solicits or requests another person to engage in sexual activity  
34 with him for hire.]

35 (cf: N.J.S.2C:34-1)

36 2. This act shall take effect on the 60th day after enactment.

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SPONSOR STATEMENT

41 This bill modifies the definition of sexual activity within the  
42 meaning of the prostitution statutes in accordance with  
43 recommendations of the Center for Missing and Exploited  
44 Children. Activity that may be inoffensive when practiced  
45 between adults becomes offensive when a child is involved,  
46 particularly when that child is being hired for sexual  
47 gratification.

48 The bill amends the statute to increase the degree of crime for  
49 procurers and persons who patronize child prostitutes. It also

1 increases the degree of crime for a parent or guardian who  
2 encourages or permits his or her child or ward to be used in  
3 prostitution.

4 In addition, the bill changes the meaning of payment to include  
5 anything of economic value. Often, child prostitutes exchange a  
6 place to stay and a meal for their sexual exploitation, not just  
7 money.

8 This bill is based on recommendations of the Commission on  
9 Sex Discrimination in the Statutes. In its study of the criminal  
10 justice system in New Jersey, the Commission discovered  
11 research pointing to the sexual exploitation of children by both  
12 their parents and by strangers. While the majority of these  
13 children are young girls, many boys are also caught in a web that  
14 the State can no longer afford to treat in the same fashion as  
15 adult prostitution. One of the first steps toward changing these  
16 children's predicaments is to make the adults involved in juvenile  
17 prostitution more accountable for their actions.

18 The Commission also found that the penalties for prostitution  
19 were disparately applied; prostitutes are often arrested, but their  
20 patrons and pimps rarely are caught or prosecuted. The arrest of  
21 prostitutes has been virtually useless in stopping the practice of  
22 prostitution and is very costly to the criminal justice system.

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#### CRIMINAL JUSTICE

26

27 Revises the law governing prostitution and upgrades offenses  
28 involving prostitution in certain cases.



ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY  
COMMITTEE

STATEMENT TO

[SECOND REPRINT]

**SENATE, No. 2706**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MARCH 7, 1991

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 2706(2R).

This bill revises the provisions of N.J.S.2C:34-1 which presently covers prostitution-related offenses. This bill sets forth definitions in subsection a. of section 1 of the substitute. In subsection b. seven prostitution-related offenses are set forth in paragraphs (1) through (7). Subsection c. provides the gradation of the offenses. The offenses range from a disorderly persons offense for engaging in prostitution (an offense under paragraph (1) of subsection b.) to a crime of the second degree for offenses related to knowingly promoting prostitution of a child or a ward or other person in the actor's care (offenses under paragraphs (3) or (4) of subsection b.).

Some penalties are being enhanced by the bill. For example, depending on the circumstances of the offense, promoting prostitution is graded currently as either a crime of the third degree punishable by between 3 and 5 years imprisonment, a fine of up to \$7,500 or both, or as a crime of the fourth degree punishable by up to 18 months imprisonment, a fine of up to \$7,500 or both. The bill would classify promoting prostitution, if the offense involved a child under 18 or ward or other dependent as mentioned above, as a crime of the second degree which is punishable by between 5 and 10 years imprisonment, a fine of up to \$100,000 or both. Promoting prostitution may be classified as a crime of the third or fourth degree under other circumstances.

The bill provides that offenses related to compelling another to engage in prostitution, promoting prostitution of a spouse or knowingly engaging in prostitution with a child are crimes of the third degree. These offenses are set forth in paragraphs (5), (6) and (7) of subsection b.

Presently, acting as a prostitute or engaging a prostitute is graded as a petty disorderly persons offense. The committee amended the bill to upgrade engaging in prostitution as either a prostitute or patron to a disorderly persons offense. The committee noted that the potential of increased penalties may help deter some persons from engaging in prostitution and may provide a municipal

judge with more latitude when dealing with a repeat offender since a petty disorderly persons offense carries a potential term of imprisonment for 30 days while a disorderly persons offense carries a potential term not to exceed six months.

The bill provides that the exchange of anything of economic value (not only money) for sex constitutes prostitution.

The bill provides that a mistake with regard to the age of a child would not constitute a defense to a charge of engaging in prostitution with a child under 18 even if that mistake was reasonable. The term "public place" as used in connection with prostitution is defined.

The bill is identical to the Assembly Committee Substitute for Assembly Bills Nos. 3530, 1339 and 1196.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

**SENATE, No. 2706**

with committee amendments

**STATE OF NEW JERSEY**

DATED: OCTOBER 15, 1990

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2706.

This bill, which is based on recommendations of the Commission on Sex Discrimination in the Statutes, would revise the provisions of N.J.S.2C:34-1 which presently covers prostitution-related offenses.

Much of the language of the bill is a restatement of existing law. The bill does, however, upgrade the penalties for certain prostitution-related offenses. Currently, depending on the circumstances of the offense, promoting prostitution is graded as either a crime of the third degree (between 3 and 5 years imprisonment, a fine of up to \$7,500 or both) or as a crime of the fourth degree (up to 18 months imprisonment, a fine of up to \$7,500 or both). The bill would classify promoting prostitution as a crime of the second degree (between 5 and 10 years imprisonment, a fine of up to \$100,000 or both) if the offense involved a child under 18 or if a person promotes the prostitution of their own child or other dependent.

The bill would also upgrade engaging in prostitution with a child under 18 to a crime of the third degree. Presently acting as a prostitute or engaging a prostitute is graded as a petty disorderly persons offense (up to 60 days imprisonment, a fine of up to \$500.00 or both.)

Additionally the bill clarifies that the exchange of anything of economic value (not only money) for sex constitutes prostitution.

The committee amended the bill to provide that a mistake with regard to the age of a child would not constitute a defense to a charge of engaging in prostitution with a child under 18 even if that mistake was reasonable. The amendments adopted by the committee also defined the term "public place" as used in connection with prostitution and clarify the penalties for promoting prostitution not involving juveniles.