

R.S. 2A:164-5,6

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August 22, 1972

LEGISLATIVE HISTORY OF R.S. 2A:164-5,6
(Specialized treatment; disposition of sex offenders)

L. 1950, Chapter 207 - S193

March 6 - Introduced by Cafiero.

March 13 - Passed Senate.

April 10 - Passed Assembly, amended.

April 14 - Assembly amendment passed in Senate.

June 8 - Approved, Chapter 207.

Amended during passage but the two sections here in question were not amended.

The statement reads:

This bill is prepared by the Commission on the Habitual Sex Offender and incorporates recommendations of the Commission made following exhaustive study of the problem of the sex offender in New Jersey.

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Amended by:

L. 1956, Chapter 37 - A130

January 23 - Introduced by Vervaet.

April 9 - Passed Assembly.

May 14 - Passed Senate.

May 16 - Approved, Chapter 37.

Not amended during passage.

Statement (copy enclosed).

L. 1958, Chapter 161 - A290

March 3 - Introduced by Vervaet and Franklin.

June 9 - Passed Assembly.

December 8 - Passed Seante.

January 12 - Approved, Chapter 161

Not amended during passage.

Statement (copy enclosed).

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L. 1967, Chapter 274 - A362
January 23 - Introduced by Tanzman & others.
May 1 - Passed Assembly.
May 8 - Passed Senate.
January 11 - Approved, Chapter 274.
Not amended during passage.
Statement (copy enclosed).

Hearings and reports:

974.90 N.J. Commission on the Habitual Sex Offender.
S518 The habitual sex offender ...
1950

974.90 N.J. Commission on the Habitual Sex Offender.
S518 The habitual sex offender ...
1950b

974.90 N.J. Dept. of Institutions and Agencies. Division
S518 of Statistics and Research.
1950c Psychiatric characteristics of sex offenders...

974.90 Vuocolo, Alfred B
S518 The repetitive sex offender ...
1969a

J364.6 Vuocolo, Alfred B
V994 The administration of the New Jersey sex
offender program.

CHAPTER 37 LAWS OF N. J. 1956

APPROVED 5/16/56

ASSEMBLY, No. 130

(Revised Statutes, section 2A:164-5.)

STATE OF NEW JERSEY

INTRODUCED JANUARY 23, 1956

By Mr. VERVAET

Referred to Committee on Revision and Amendment of Laws

AN ACT concerning persons convicted of certain sex offenses, and amending
section 2A:164-5 of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 2A:164-5 of the New Jersey Statutes is amended to read as
2 follows:

3 2A:164-5. If it shall appear from said report that it has been determined
4 through clinical findings that the offender's conduct was characterized by
5 a. A pattern of repetitive, compulsive behavior; and, *except in convic-*
6 *tions for open lewdness or indecent exposure.*

7 b. Either violence; or

8 c. An age disparity from which it shall appear that the victim was
9 under the age of 15 years and the offender is an adult aggressor; it shall be
10 the duty of the court, upon recommendation of the Diagnostic Center, to
11 submit the offender to a program of specialized treatment for his mental
12 and physical aberrations.

1 2. This act shall take effect immediately.

1956, A-130

STATEMENT

Experience at the Diagnostic Center indicates that a great number of cases on conviction for open lewdness or indecent exposure involve victims over the age of 15 years, having reference to subsection (c), N. J. S. 2A:164-5. It further appears that many of these offenders display a type of mental illness which appears to be in the category of cases that might improve on treatment but because of the limitation as to the age of the victim in N. J. S. 2A:164-5 (c), it is impossible to confine these offenders for treatment and they must be sent to penal institutions on strictly punitive sentences. The requirement that "violence" be present would also prevent treatment of these cases for only on very rare occasions are these situations attended with "violence."

It is believed that the age limitation and requirement of "violence" in the present law was inserted to deal in the main with the other sex offenses enumerated in N. J. S. 2A:164-3, such as rape, carnal abuse, sodomy, et cetera.

Many of these persons now confined on penal sentences for open lewdness and indecent exposure who demonstrate potential possibility of recovery and rehabilitation could be treated under this amendment designed to remove the age limitation and violence on the victim.

STATE OF NEW JERSEY

INTRODUCED MARCH 3, 1958

By Assemblyman VERVAET

Referred to Committee on Judiciary

AN ACT concerning persons convicted of certain sex offenses, and amending section 2A:164-5 of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 2A:164-5 of the New Jersey Statutes is amended to read as
2 follows:

3 2A:164-5. If it shall appear from said report that it has been deter-
4 mined through clinical findings that the offender's conduct was character-
5 ized by *a pattern of repetitive, compulsive behavior; and, except in convic-*
6 *tions for open lewdness or indecent exposure, if either violence was utilized*
7 *in the commission of the offense; or the victim was under the age of 15*
8 *years;*

9 [a. A pattern of repetitive, compulsive behavior; and, except in con-
10 victions for open lewdness or indecent exposure.

11 b. Either violence; or

12 c. An age disparity from which it shall appear that the victim was
13 under the age of 15 years and the offender is an adult aggressor;] it shall
14 be the duty of the court, upon recommendation of the Diagnostic Center, to
15 submit the offender to a program of specialized treatment for his mental
16 and physical aberrations.

1 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.

STATEMENT

The Supreme Court of New Jersey in a recent decision in State vs. Wingler, 25 N. J. 161, had occasion to examine N. J. S. 2A:164-5, the subject of this amendment, and reached the conclusion that the term "adult aggressor" means an individual who has attained the age of 21 years. Since juvenile offenders under the age of 16 must be handled in juvenile court for all offenses and are deemed incapable of committing crime the Sex Offender Law does not apply to them. The decision thus finds that the Sex Offender Law as presently written does not apply to the category of offenders [other than juveniles] between the age of 16 and 21 unless "violence" attends the crime.

Experience indicates that there are a considerable number of offenders beyond the age of 16 and who have not yet reached 21 who commit crimes without "violence" that demonstrate mental abnormality requiring special treatment under the Sex Offender Law. This amendment is designed to include this age group of 16 to 21 within the statute, because no logical reason exists for their exclusion. If enacted this bill would make the Sex Offender Law applicable to all age groups in New Jersey.

CHAPTER 274 LAWS OF N. J. 1967

APPROVED 1-11-68

ASSEMBLY, No. 362

STATE OF NEW JERSEY

INTRODUCED JANUARY 23, 1967

By Assemblymen TANZMAN, BRIGIANI and DOREN

Referred to Committee on Revision and Amendment of Laws

AN ACT concerning the disposition of persons convicted of certain enumerated sex crimes and providing for sentence, incarceration and treatment, and amending sections 2A:164-3 and 2A:164-5 of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 2A:164-3 of the New Jersey Statutes is amended to read as
2 follows:

3 2A:164-3. Whenever a person is convicted of the offense of rape, carnal
4 abuse, sodomy, *incest*, *private lewdness*, open lewdness, indecent exposure or
5 impairing the morals of a minor, or of an attempt to commit any of the afore-
6 mentioned offenses, or assault with intent to commit rape, carnal abuse or
7 sodomy, the judge shall order the commitment of such person to the Diag-
8 nostic Center for a period not to exceed 60 days. While confined in the said
9 Diagnostic Center, such person shall be given a complete physical and mental
10 examination. The order of commitment shall contain a determination of the
11 person's legal settlement in accordance with subdivision D of article 3 of
12 chapter 4 of Title 30 of the Revised Statutes.

1 2. Section 2A:164-5 of the New Jersey Statutes is amended to read as
2 follows:

3 2A:164-5. If it shall appear from said report that it has been deter-
4 mined through clinical findings that the offender's conduct was character-
5 ized by a pattern of repetitive, compulsive behavior; and, except in convic-
6 tions for *private lewdness*, open lewdness or indecent exposure, if either
7 violence was utilized in the commission of the offense; or the victim was
8 under the age of 15 years; it shall be the duty of the court, upon recommen-
9 dation of the Diagnostic Center, to submit the offender to a program of spe-
10 cialized treatment for his mental and physical aberrations.

1 3. This act shall take effect 30 days after date of enactment.

STATEMENT

The purpose of this bill is to include the sex crimes of "incest" and "private lewdness" within the category of those offenses which shall require examination of the individual at the Diagnostic Center, after conviction, and may further require specialized handling if it appears that the offender's conduct was characterized by a pattern of repetitive, compulsive behavior, or either violence or age disparity in certain situations.

The amendment is requested because experience at the Diagnostic Center indicates that many convictions of "incest" and "private lewdness" are accompanied by clinical findings that the offender is motivated by compulsive behavior and it is desirable in these situations that a thorough examination be made of such offender to determine whether he should be classified as a person requiring specialized treatment for a mental condition.

The State Board of Control of Institutions and Agencies approves the bill.