

2C 13-6

LEGISLATIVE HISTORY CHECKLIST
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(Children--luring or enticing--
penalties)

NJSA: 2C:13-6

LAWS OF: 1993 **CHAPTER:** 291

BILL NO: S1524

SPONSOR(S) Cafiero and others

DATE INTRODUCED: February 1, 1993

COMMITTEE: **ASSEMBLY:** Judiciary
SENATE: Judiciary

AMENDED DURING PASSAGE: Yes Amendments denoted by
Third reprint enacted numbers

DATE OF PASSAGE: **ASSEMBLY:** June 17, 1993 Re-enacted 12-16-93
SENATE: May 15, 1993 Re-enacted 12-13-93

DATE OF APPROVAL: December 21, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clippings--attached.

PUBLIC

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 1, 1993

By Senators CAFIERO, BROWN, Matheussen, Dimon
Kosco, Bennett, Lipman, Cowan,
Assemblymen Garrett and Geist

1 **AN ACT** concerning the offense of attempting to lure a child into
2 a motor vehicle and supplementing chapter 13 of Title 2C of
3 the New Jersey Statutes.

4

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

7 1. A person commits a crime of the ³[fourth] third³ degree if
8 he attempts to lure or entice a child into a motor vehicle with a
9 purpose to commit a criminal offense with or against the child.

10 "Child" as used in this act means a person less than 18 years
11 old.

12 ¹[It is an affirmative defense to a prosecution under this act,
13 which must be proved by clear and convincing evidence, that:

14 a. the person who attempted to lure or entice the child was a
15 relative or legal guardian of the child and his sole purpose was to
16 assume legal control of the child;

17 b. the person reasonably believed that the action was
18 necessary to preserve the child from imminent danger to his
19 welfare.]¹

20 ³[²There shall be a rebuttable presumption that a person had a
21 purpose to commit a criminal offense with or against the child
22 unless the person is the parent or guardian of the child or has
23 legal authority or responsibility for the child, except in cases of
24 emergency.]²³

25 Nothing herein shall be deemed to preclude, if the evidence so
26 warrants, an indictment and conviction for attempted kidnapping
27 under the provisions of N.J.S.2C:13-1.

28 2. This act shall take effect immediately.

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33 **Creates** crime of attempting to lure or entice a child into a
34 motor vehicle.

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 February 18, 1993.

² Assembly AJL committee amendments adopted June 3, 1993.

³ Senate amendments adopted in accordance with Governor's
recommendation December 2, 1993.

SENATE, No. 1524

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 1, 1993

By Senators CAFIERO, BROWN, Matheussen, Dimon
Kosco, Bennett and Lipman

1 AN ACT concerning the offense of attempting to lure a child into
2 a motor vehicle and supplementing chapter 13 of Title 2C of
3 the New Jersey Statutes.

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

7 1. A person commits a crime of the fourth degree if he
8 attempts to lure or entice a child into a motor vehicle with a
9 purpose to commit a criminal offense with or against the child.

10 "Child" as used in this act means a person less than 18 years
11 old.

12 It is an affirmative defense to a prosecution under this act,
13 which must be proved by clear and convincing evidence, that:

14 a. the person who attempted to lure or entice the child was a
15 relative or legal guardian of the child and his sole purpose was to
16 assume legal control of the child;

17 b. the person reasonably believed that the action was
18 necessary to preserve the child from imminent danger to his
19 welfare.

20 Nothing herein shall be deemed to preclude, if the evidence so
21 warrants, an indictment and conviction for attempted kidnapping
22 under the provisions of N.J.S.2C:13-1.

23 2. This act shall take effect immediately.

24

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STATEMENT

26

27 This bill creates the fourth degree crime of attempting to lure
28 or entice a child into a motor vehicle with a purpose to commit a
29 criminal offense with or against the child. It is an affirmative
30 defense to this charge that the person who attempted to lure or
31 entice the child was a relative or legal guardian of the child and
32 his sole purpose was to assume legal control of the child or that
33 the person reasonably believed that the action was necessary to
34 preserve the child from imminent danger to his welfare. The
35 sponsor does not intend to interfere with prosecutions for
36 attempted kidnapping if the evidence so warrants such a charge.
37 The sponsor believes that this fourth degree crime may close a
38 gap between criminal charges of attempted kidnapping and the
39 lesser offense of harassment for those instances in which a person
40 unsuccessfully tries to lure a child into a motor vehicle with a
41 criminal purpose.

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45 Creates crime of attempting to lure or entice a child into a
46 motor vehicle.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 1524

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 3, 1993

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 1524 (1R).

This bill would create the offense of attempting to lure or entice a child into a motor vehicle with a purpose to commit a criminal offense with or against the child. This offense would be graded as a crime of the fourth degree. Crimes of the fourth degree are punishable by up to 18 months imprisonment, a fine of up to \$7,500 or both.

As introduced, the bill contained language which would have created any affirmative defense to the offense created by the bill. As it was felt that this provision might be interpreted as improperly shifting the burden of proof to the defendant with regard to elements of the offense, this language was deleted by Senate committee amendment.

This committee added language creating a rebuttable presumption that a person who is not the parent or guardian or who does not have legal authority with respect to the child had a criminal purpose, except in cases of emergency.

As amended, this bill is identical to Assembly Bill No. 2152 (1R).

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1524

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 18, 1993

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1524.

This bill would create the offense of attempting to lure or entice a child into a motor vehicle with a purpose to commit a criminal offense with or against the child. This offense would be graded as a crime of the fourth degree. Crimes of the fourth degree are punishable by up to 18 months imprisonment, a fine of up to \$7,500 or both.

As introduced, the bill contained language which would have created any affirmative defense to the offense created by the bill. As it was felt that this provision might be interpreted as improperly shifting the burden of proof to the defendant with regard to elements of the offense, this language was deleted by committee amendment.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001
Contact:

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Release:

Monday
August 16, 1993

TOUGHER PENALTIES NEEDED IN CHILD LURING CRIMES

Gov. Jim Florio today asked the Legislature to impose stricter penalties on criminals who attempt to lure a child into their car with the intent of committing a crime against that child.

The Governor made the request in conditionally vetoing legislation, S-1254, which creates the criminal offense of attempting to lure a child into a motor vehicle.

"I want to commend the sponsors of this bill for proposing legislation that will fill a significant gap in our current law," Gov. Florio said in his veto message. "What our police officers need are stronger laws to prosecute criminals for even attempting to commit these heinous acts. That's what this bill does."

"I'm happy to express my complete support for this bill. I believe it can be strengthened, however, by increasing the classification of the crime from a fourth degree crime to a third degree crime," the Governor said. "These tougher sentences are appropriate for anyone who commits a crime against a child that is tantamount to attempted kidnapping."

The proposed change in crime classification would raise the maximum penalty for attempting to lure a child into a motor vehicle to five years imprisonment from the 18-month maximum for a crime of the fourth degree. The modification also would impose a minimum penalty of three years imprisonment.

The conditional veto also deletes "presumption language" from the legislation to protect the measure from attack on constitutional grounds.

The legislation was sponsored by Sen. Cafiero, Sen. Bennett, Sen. Cowan, Sen. Dimon, Sen. Kosco, Sen. Lipman and Sen. Matheussen:

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STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

August 16, 1993

SENATE BILL NO. 1524
(Second Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14, of the New Jersey Constitution, I herewith return Senate Bill No. 1524 (Second Reprint) with my objections for reconsideration.

This bill creates the criminal offense of attempting to lure a child into a motor vehicle with the purpose of committing a crime with or against the child. The purpose of the bill is to punish -- and hence to deter -- individuals who even attempt to entice children into an automobile for the purpose of harming them.

I want to commend the sponsors of this bill for proposing legislation that will fill a significant gap in our current law. Under current law, it is nearly impossible to prosecute individuals who attempt to abduct children into their cars until after it is too late -- that is, until the criminal has succeeded in taking control of the child, and thereby inflicting serious psychological, and sometimes even physical harm on the victim.

What our police officers need is stronger laws that will empower them to prosecute these criminals for even attempting to commit these heinous acts. That is what this bill does. For the first time, the mere attempt to abduct a child with the intent to commit a crime will be punishable as a criminal offense. As a result, those who try, but fail to entice children into their cars, will be regarded rightfully as criminals, and will be punished.

I am happy, therefore, to express my complete support for this bill. I believe the bill can be strengthened, however, by increasing the classification of the crime from a fourth degree crime to a third degree crime. This modification would raise the maximum penalty from eighteen months to five years imprisonment, and would impose a minimum penalty of three years imprisonment. These tougher sentences are certainly appropriate for anyone who commits a crime against a child that is tantamount to attempted kidnapping. I

am also suggesting an amendment to the bill that will protect this important legislation from constitutional attack, to ensure lasting enforcement of these critically important standards.

Therefore, I herewith return Senate Bill No. 1524 (Second Reprint) and recommend that it be amended as follows:

Page 1, Section 1, Line 7: Delete "fourth" insert "third"

Page 1, Section 1, Lines 20-24: Delete in its entirety.

Respectfully

/s/ Jim Florio

GOVERNOR

[seal]

Attest:

/s/ Scott A. Weiner

Chief Counsel to the Governor