

[First Reprint]

ASSEMBLY, No. 3867

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MAY 9, 2022

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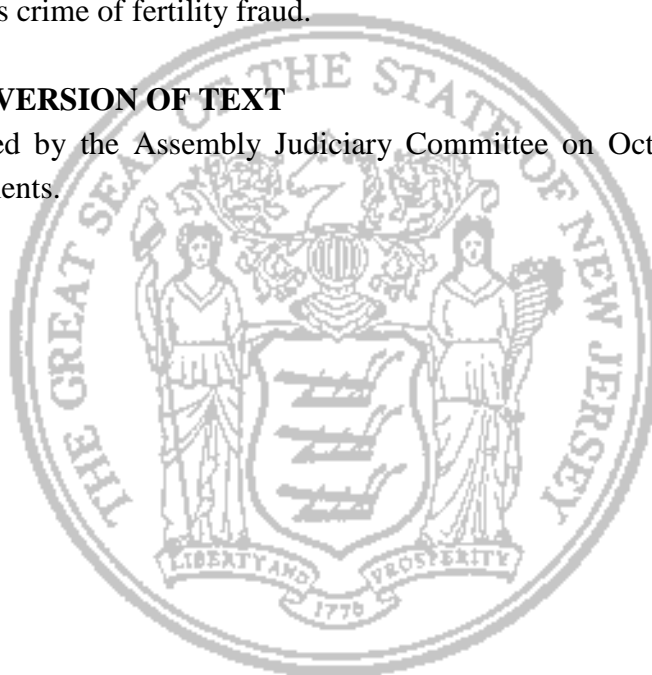
Assemblywomen Jasey, Park, Assemblyman Mejia, Assemblywoman Swain, Assemblyman Stanley, Assemblywomen Lampitt, Pintor Marin and Mosquera

SYNOPSIS

Establishes crime of fertility fraud.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on October 17, 2022, with amendments.



(Sponsorship Updated As Of: 1/26/2023)

1 AN ACT concerning ¹**sex offenses** fertility fraud¹, amending
 2 N.J.S.2C:1-6 ¹**and P.L.1994, c.133,**¹ and supplementing Title
 3 2C of the New Jersey Statutes.

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

7
 8 1. (New section) a. As used in this section:

9 “Assisted reproduction” means medical procedures to facilitate
 10 human reproduction that involve human gametes or pre-embryos
 11 including, but not limited to, artificial insemination, in vitro
 12 fertilization, embryo transfers, and similar procedures.

13 “Gamete” means sperm or egg.

14 “Health care practitioner” means any individual who is licensed
 15 or certified to provide health care services pursuant to Title 45 of
 16 the Revised Statutes.

17 “Human reproductive material” means human gametes or pre-
 18 embryos.

19 b. A person commits the crime of fertility fraud if the person is
 20 a health care practitioner and knowingly performs an assisted
 21 reproduction treatment on a patient that results in a pregnancy
 22 using:

23 (1) the person’s own human reproductive material without the
 24 written informed consent of the patient; or

25 (2) the human reproductive material of another person without
 26 the written informed consent of the patient.

27 c. Fertility fraud is a crime of the third degree. In addition to
 28 any other penalty imposed for a violation of this section, the court
 29 shall order the permanent revocation of any license or certification
 30 related to the provision of health care services held by the health
 31 care practitioner.

32
 33 2. N.J.S.2C:1-6 is amended to read as follows:

34 2C:1-6. Time Limitations. a. (1) A prosecution for any offense
 35 set forth in N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:14-2 or sections
 36 1 through 5 of P.L.2002, c.26 (C.2C:38-1 through C.2C:38-5) may
 37 be commenced at any time.

38 (2) A prosecution for any offense set forth in N.J.S.2C:17-2,
 39 section 9 of P.L.1970, c.39 (C.13:1E-9), section 20 of P.L.1989,
 40 c.34 (C.13:1E-48.20), section 19 of P.L.1954, c.212 (C.26:2C-19),
 41 section 10 of P.L.1984, c.173 (C.34:5A-41), or section 10 of
 42 P.L.1977, c.74 (C.58:10A-10) may be commenced at any time.

43 b. Except as otherwise provided in this section, prosecutions
 44 for other offenses are subject to the following periods of
 45 limitations:

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:

¹Assembly AJU committee amendments adopted October 17, 2022.

- 1 (1) A prosecution for a crime **【must】** shall be commenced
2 within five years after it is committed;
- 3 (2) A prosecution for a disorderly persons offense or petty
4 disorderly persons offense **【must】** shall be commenced within one
5 year after it is committed;
- 6 (3) A prosecution for any offense set forth in N.J.S.2C:27-2,
7 N.J.S.2C:27-4, N.J.S.2C:27-6, N.J.S.2C:27-7, N.J.S.2C:29-4,
8 N.J.S.2C:30-2, N.J.S.2C:30-3, or any attempt or conspiracy to
9 commit such an offense, **【must】** shall be commenced within seven
10 years after the commission of the offense;
- 11 (4) A prosecution for an offense set forth in N.J.S.2C:14-3 or
12 N.J.S.2C:24-4, when the victim at the time of the offense is below
13 the age of 18 years, **【must】** shall be commenced within five years
14 of the victim's attaining the age of 18 or within two years of the
15 discovery of the offense by the victim, whichever is later;
- 16 (5) (Deleted by amendment, P.L.2007, c.131); and
- 17 (6) A prosecution for an offense set forth in section 1 of
18 P.L. , c. (C.) (pending before the Legislature as this bill)
19 shall be commenced within 20 years of the commission of the
20 offense or within 10 years of the discovery of the offense by the
21 victim.
- 22 c. An offense is committed either when every element occurs
23 or, if a legislative purpose to prohibit a continuing course of
24 conduct plainly appears, at the time when the course of conduct or
25 the defendant's complicity therein is terminated. Time starts to run
26 on the day after the offense is committed, except that when the
27 prosecution is supported by physical evidence that identifies the
28 actor by means of DNA testing or fingerprint analysis, time does
29 not start to run until the State is in possession of both the physical
30 evidence and the DNA or fingerprint evidence necessary to
31 establish the identification of the actor by means of comparison to
32 the physical evidence.
- 33 d. A prosecution is commenced for a crime when an indictment
34 is found and for a nonindictable offense when a warrant or other
35 process is issued, provided that such warrant or process is executed
36 without unreasonable delay. Nothing contained in this section,
37 however, shall be deemed to prohibit the downgrading of an offense
38 at any time if the prosecution of the greater offense was commenced
39 within the statute of limitations applicable to the greater offense.
- 40 e. The period of limitation does not run during any time when a
41 prosecution against the accused for the same conduct is pending in
42 this State.
- 43 f. The limitations in this section shall not apply to any person
44 fleeing from justice.
- 45 g. Except as otherwise provided in this code, no civil action
46 shall be brought pursuant to this code more than five years after
47 such action accrues.
- 48 (cf: P.L.2007, c.131, s.1)

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

3 2. a. (1) A person who has been convicted, adjudicated
4 delinquent or found not guilty by reason of insanity for commission
5 of a sex offense as defined in subsection b. of this section shall
6 register as provided in subsections c. and d. of this section.

7 (2) A person who in another jurisdiction is required to register
8 as a sex offender and (a) is enrolled on a full-time or part-time basis
9 in any public or private educational institution in this State,
10 including any secondary school, trade or professional institution,
11 institution of higher education or other post-secondary school, or
12 (b) is employed or carries on a vocation in this State, on either a
13 full-time or a part-time basis, with or without compensation, for
14 more than 14 consecutive days or for an aggregate period exceeding
15 30 days in a calendar year, shall register in this State as provided in
16 subsections c. and d. of this section.

17 (3) A person who fails to register as required under this act shall
18 be guilty of a crime of the third degree.

19 b. For the purposes of this act a sex offense shall include the
20 following:

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

28 (2) A conviction, adjudication of delinquency, or acquittal by
29 reason of insanity for aggravated sexual assault; sexual assault;
30 aggravated criminal sexual contact; kidnapping pursuant to
31 paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the
32 welfare of a child by engaging in sexual conduct which would
33 impair or debauch the morals of the child pursuant to subsection a.
34 of N.J.S.2C:24-4; endangering the welfare of a child pursuant to
35 paragraph (3) or (4), subparagraph (a), or sub-subparagraph (i) or
36 (ii) of subparagraph (b) of paragraph (5) of subsection b. of
37 N.J.S.2C:24-4; luring or enticing pursuant to section 1 of P.L.1993,
38 c.291 (C.2C:13-6); criminal sexual contact pursuant to N.J.S.2C:14-
39 3b. if the victim is a minor; kidnapping pursuant to N.J.S.2C:13-1,
40 criminal restraint pursuant to N.J.S.2C:13-2, or false imprisonment
41 pursuant to N.J.S.2C:13-3 if the victim is a minor and the offender
42 is not the parent of the victim; knowingly promoting prostitution of
43 a child pursuant to paragraph (3) or paragraph (4) of subsection b.
44 of N.J.S.2C:34-1; leader of a child pornography network pursuant to
45 section 8 of P.L.2017, c.141 (C.2C:24-4.1); fertility fraud pursuant
46 to section 1 of P.L. _____, c. _____ (C. _____) (pending before the
47 Legislature as this bill); or an attempt to commit any of these
48 enumerated offenses if the conviction, adjudication of delinquency

1 or acquittal by reason of insanity is entered on or after the effective
2 date of this act or the offender is serving a sentence of
3 incarceration, probation, parole or other form of community
4 supervision as a result of the offense or is confined following
5 acquittal by reason of insanity or as a result of civil commitment on
6 the effective date of this act;

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

13 (4) Notwithstanding the provisions of paragraph (1), (2), or (3)
14 of this subsection, a sex offense shall not include an adjudication of
15 delinquency for endangering the welfare of a child pursuant to
16 paragraph (4) or (5) of subsection b. of N.J.S.2C:24-4, provided that
17 the actor demonstrates that:

18 (a) the facts of the case are limited to the creation, exhibition or
19 distribution of a photograph depicting nudity or portraying a child
20 in a sexually suggestive manner, as defined in N.J.S.2C:24-4,
21 through the use of an electronic communications device, an
22 interactive wireless communications device, or a computer;

23 (b) the creator and subject of the photograph are juveniles or
24 were juveniles at the time of its making; and

25 (c) the subject of the photograph whose nudity is depicted or
26 who is portrayed in a sexually suggestive manner, as the case may
27 be, knowingly consented to the making of the photograph.

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

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

41 (2) A person confined in a correctional or juvenile facility or
42 involuntarily committed who is required to register shall register
43 prior to release in accordance with procedures established by the
44 Department of Corrections, the Department of Human Services or
45 the Juvenile Justice Commission and, within 48 hours of release,
46 shall also register with the chief law enforcement officer of the
47 municipality in which the person resides or, if the municipality does
48 not have a local police force, the Superintendent of State Police;

1 (3) A person moving to or returning to this State from another
2 jurisdiction shall register with the chief law enforcement officer of
3 the municipality in which the person will reside or, if the
4 municipality does not have a local police force, the Superintendent
5 of State Police within 120 days of the effective date of this act or 10
6 days of first residing in or returning to a municipality in this State,
7 whichever is later;

8 (4) A person required to register on the basis of a conviction
9 prior to the effective date who is not confined or under supervision
10 on the effective date of this act shall register within 120 days of the
11 effective date of this act with the chief law enforcement officer of
12 the municipality in which the person will reside or, if the
13 municipality does not have a local police force, the Superintendent
14 of State Police;

15 (5) A person who in another jurisdiction is required to register
16 as a sex offender and who is enrolled on a full-time or part-time
17 basis in any public or private educational institution in this State,
18 including any secondary school, trade or professional institution,
19 institution of higher education or other post-secondary school shall,
20 within ten days of commencing attendance at such educational
21 institution, register with the chief law enforcement officer of the
22 municipality in which the educational institution is located or, if the
23 municipality does not have a local police force, the Superintendent
24 of State Police;

25 (6) A person who in another jurisdiction is required to register
26 as a sex offender and who is employed or carries on a vocation in
27 this State, on either a full-time or a part-time basis, with or without
28 compensation, for more than 14 consecutive days or for an
29 aggregate period exceeding 30 days in a calendar year, shall, within
30 ten days after commencing such employment or vocation, register
31 with the chief law enforcement officer of the municipality in which
32 the employer is located or where the vocation is carried on, as the
33 case may be, or, if the municipality does not have a local police
34 force, the Superintendent of State Police;

35 (7) In addition to any other registration requirements set forth in
36 this section, a person required to register under this act who is
37 enrolled at, employed by or carries on a vocation at an institution of
38 higher education or other post-secondary school in this State shall,
39 within 10 days after commencing such attendance, employment or
40 vocation, register with the law enforcement unit of the educational
41 institution, if the institution has such a unit.

42 d. (1) Upon a change of address, a person shall notify the law
43 enforcement agency with which the person is registered and shall
44 re-register with the appropriate law enforcement agency no less
45 than 10 days before he intends to first reside at his new address.
46 Upon a change of employment or school enrollment status, a person
47 shall notify the appropriate law enforcement agency no later than
48 five days after any such change. A person who fails to notify the

1 appropriate law enforcement agency of a change of address or status
2 in accordance with this subsection is guilty of a crime of the third
3 degree.

4 (2) A person required to register under this act shall provide the
5 appropriate law enforcement agency with information as to whether
6 the person has routine access to or use of a computer or any other
7 device with Internet capability. A person who fails to notify the
8 appropriate law enforcement agency of such information or of a
9 change in the person's access to or use of a computer or other
10 device with Internet capability or who provides false information
11 concerning the person's access to or use of a computer or any other
12 device with Internet capability is guilty of a crime of the third
13 degree.

14 e. A person required to register under paragraph (1) of
15 subsection b. of this section or under paragraph (3) of subsection b.
16 due to a sentence imposed on the basis of criteria similar to the
17 criteria set forth in paragraph (1) of subsection b. shall verify his
18 address with the appropriate law enforcement agency every 90 days
19 in a manner prescribed by the Attorney General. A person required
20 to register under paragraph (2) of subsection b. of this section or
21 under paragraph (3) of subsection b. on the basis of a conviction for
22 an offense similar to an offense enumerated in paragraph (2) of
23 subsection b. shall verify his address annually in a manner
24 prescribed by the Attorney General. In addition to address
25 information, the person shall provide as part of the verification
26 process any additional information the Attorney General may
27 require. One year after the effective date of this act, the Attorney
28 General shall review, evaluate and, if warranted, modify pursuant to
29 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
30 seq.) the verification requirement. Any person who knowingly
31 provides false information concerning his place of residence or who
32 fails to verify his address with the appropriate law enforcement
33 agency or other entity, as prescribed by the Attorney General in
34 accordance with this subsection, is guilty of a crime of the third
35 degree.

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

43 g. A person required to register under this section who has
44 been convicted of, adjudicated delinquent, or acquitted by reason of
45 insanity for more than one sex offense as defined in subsection b. of
46 this section or who has been convicted of, adjudicated delinquent,
47 or acquitted by reason of insanity for aggravated sexual assault
48 pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault

1 pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not
2 eligible under subsection f. of this section to make application to
3 the Superior Court of this State to terminate the registration
4 obligation.

5 (cf: P.L.2017, c.141, s.3) **1**

6

7 **¹[4.] 3.¹** This act shall take effect immediately.