SENATE, No. 1801

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:
Senator ANGELA V. MCKNIGHT
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SYNOPSIS

Imposes mandatory fine and education requirement for certain prostitution offenses committed within 500 feet of a school, registered day care or licensed child care facility property; creates fund.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning prostitution and amending P.L.1997, c.93.

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

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

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

a. As used in this section:

(1) "Prostitution" is sexual activity with another person in exchange for something of economic value, or the offer or acceptance of an offer to engage in sexual activity in exchange for something of economic value.

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

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

(4) "Promoting prostitution" is:

(a) Owning, controlling, managing, supervising or otherwise keeping, alone or in association with another, a house of prostitution or a prostitution business;

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

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

(d) Soliciting a person to patronize a prostitute;

(e) Procuring a prostitute for a patron;

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

(g) Knowingly leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or promotion of prostitution, or failure to make a reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities, or other legally available means.

b. A person commits an offense if:

(1) The actor engages in prostitution as a patron;

(2) The actor promotes prostitution;

(3) The actor knowingly promotes prostitution of a child under 18 whether or not the actor mistakenly believed that the child was

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 <u>thus</u> is new matter.

18 years of age or older, even if such mistaken belief was reasonable;

(4) The actor knowingly promotes prostitution of the actor's child, ward, or any other person for whose care the actor is responsible;

(5) The actor compels another to engage in or promote prostitution;

(6) The actor promotes prostitution of the actor's spouse;

(7) The actor knowingly engages in prostitution with a person under the age of 18, or if the actor enters into or remains in a house of prostitution for the purpose of engaging in sexual activity with a child under the age of 18, or if the actor solicits or requests a child under the age of 18 to engage in sexual activity. It shall be no defense to a prosecution under this paragraph that the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable; or

(8) The actor engages in prostitution by personally offering sexual activity in exchange for something of economic value.

c. Grading of offenses under subsection b.

(1) An offense under subsection b. constitutes a crime of the first degree if the offense falls within paragraph (3) or (4) of that subsection.

(2) An offense under subsection b. constitutes a crime of the second degree if the offense falls within paragraph (7) of that subsection.

(3) An offense under subsection b. constitutes a crime of the third degree if the offense falls within paragraph (5) or (6) of that subsection.

(4) An offense under paragraph (2) of subsection b. constitutes a crime of the third degree if the conduct falls within subparagraph (a), (b), (c), (f), or (g) of paragraph (4) of subsection a. Otherwise the offense is a crime of the fourth degree.

(5) An offense under subsection b. constitutes a disorderly persons offense if the offense falls within paragraph (1) of that subsection except that a second or third conviction for such an offense constitutes a crime of the fourth degree, and a fourth or subsequent conviction for such an offense constitutes a crime of the third degree. In addition, where a motor vehicle was used in the commission of any offense under paragraph (1) of subsection b. the court shall suspend for six months the driving privilege of any such offender who has a valid driver's license issued by this State. Upon conviction, the court shall immediately collect the offender's driver's license and shall forward it, along with a report stating the first and last day of the suspension imposed pursuant to this paragraph, to the New Jersey Motor Vehicle Commission.

(6) An offense under subsection b. constitutes a disorderly persons offense if the offense falls within paragraph (8) of that

subsection, except that a second or subsequent conviction for such an offense constitutes a crime of the fourth degree.

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

e. It is an affirmative defense to prosecution for a violation of this section that, during the time of the alleged commission of the offense, the defendant was a victim of human trafficking pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8) or compelled by another to engage in sexual activity, regardless of the defendant's age.

f. (1) Any fine set forth in N.J.S.2C:43-3 that is imposed upon a person by a municipal court for a conviction of a disorderly persons offense under this section shall be collected, notwithstanding the procedures for the collection of fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4), by the municipal court administrator and paid into the municipal treasury of the municipality in which the offense was committed.

(2) In addition to any fine, fee, assessment, or penalty authorized under the provisions of Title 2C of the New Jersey Statutes, a person convicted of an offense of prostitution or related offense under paragraph (2), (3), (4), (5), (6), or (7) of subsection b. shall be assessed a penalty of at least $10,000 but not more than $50,000, except if the offense involved promotion of the prostitution of a child under the age of 18, the penalty shall be at least $25,000. All penalties provided for in this subsection, collected as provided for the collection of fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4), shall be forwarded to the Department of the Treasury to be deposited in the "Human Trafficking Survivor's Assistance Fund" established by section 2 of P.L.2013, c.51 (C.52:17B-238).

<u>g. In addition to any other disposition authorized by law, the court shall order any person who violates paragraphs (1) and (8) of subsection b. of this section while on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 500 feet of such school property or a school bus, or while on any school bus, or while on any property used as a registered family day care provider or as a licensed child care provider to participate in the “Prostitution Offender Education Program,” established pursuant to section 5 of P.L. , c. (C.) (pending before the Legislature as this bill), and to pay a fine as set out in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).</u>

<u>A map or true copy of a map depicting the location and boundaries of the area on or within 500 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1</u>

of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under this section.

It shall be no defense to a prosecution for a violation of this section that the actor was unaware that the prohibited conduct took place while on or within 500 feet of any school property. Nor shall it be a defense to a prosecution under this section, or under any other provision of this title, that no juveniles were present on the school property at the time of the offense or that the school was not in session.

(cf: P.L.2013, c.51, s.9)

2. (New section) In a prosecution under subsection g. of N.J.S.2C:34-1, a map produced or reproduced by any municipal or county engineer for the purpose of depicting the location and boundaries of the area on or within 500 feet of any property used as a registered family day care provider or as a licensed child care provider or a true copy of such a map, shall, upon proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas, provided that the governing body of the municipality or county has adopted a resolution or ordinance approving the map as official finding and record of the location and boundaries of the area or areas on or within 500 feet of the property used as a registered family day care provider or as a licensed child care provider. Any map approved pursuant to this section may be changed from time to time by the governing body of the municipality or county. The original of every map approved or revised pursuant to this section, or a true copy thereof, shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. Nothing in this section shall be construed to preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense; nor shall this section be construed to preclude the use or admissibility of any map or diagram other than one which has been approved by the governing body of a municipality or county, provided that the map or diagram is otherwise admissible pursuant to the Rules of Evidence.

It shall be no defense to a prosecution for a violation of subsection g. of N.J.S.2C:34-1 that the actor was unaware that the prohibited conduct took place while on or within 500 feet of any property used as a registered family day care provider or as a licensed child care provider. Nor shall it be a defense to a prosecution under subsection g. of N.J.S.2C:34-1, or under any other provision of this title, that no juveniles were present on the property used as a registered family day care provider or as a licensed child care provider at the time of the offense or that the school was not in session.

3. (New section) In addition to any fine, fee, assessment or penalty authorized by law, a person convicted of engaging in a prostitution offense set forth in subsection g. of N.J.S.2C:34-1 shall be assessed a penalty of $250 for the first offense; $500 for the second offense; $1,000 for the third offense; and $2,000 for the fourth or subsequent offense.

All penalties provided for in this section, collected as provided for the collection of fines and restitution in section 3 of P.L.1979, c.396 (C.2C:46-4) shall be forwarded to the Department of the Treasury to be deposited in the “Prostitution Offender Education Fund” established pursuant to section 4 P.L. , c. (C.) (pending before the Legislature as section 4 of this bill).

4. (New section) There is hereby established a separate, non-lapsing, dedicated fund in the General Fund to be known as the "Prostitution Offender Education Program Fund." This fund shall be administered by the Administrative Office of the Courts and dedicated to the development, establishment, operation and maintenance of the "Prostitution Offender Education Program" created pursuant to section 5 of P.L. , c. (C.) (pending before the Legislature as section 5 of this bill).

5. (New section) a. There is hereby established an education program to be known as the "Prostitution Offender Education Program."

b. The program shall be administered by the Administrative Office of the Courts.

c. The program shall educate defendants convicted of engaging in prostitution while on school property or property used as a registered family day care provider or as a licensed child care provider pursuant to subsection g. of N.J.S.2C:34-1 about the risks to young, impressionable persons caused by exposure to conduct amounting to prostitution, including the risks associated with recruitment into prostitution and the correlation between prostitution and human trafficking, especially trafficking of young persons, as well as the long term legal and financial ramifications for families of persons involved in this unlawful activity.

6. This act shall take effect immediately.

STATEMENT

This bill would impose mandatory fines on persons who violate paragraphs (1) and (8) of subsection b. of N.J.S.2C:34-1 (engaging in prostitution as a patron, and engaging in prostitution by personally offering sexual activity in exchange for something of economic value, respectively) within 500 feet of a school, day care

facility or child care facility. Further, the bill would require a person who is convicted under these paragraphs of engaging in prostitution to participate in a new "Prostitution Offender Education Program."

Under N.J.S.2C:34-1, violations of the prostitution laws range from disorderly persons offenses to crimes of the second degree, depending on the activity. For example, engaging in prostitution is a disorderly persons offense, with a second or subsequent offense constituting a crime of the fourth degree; promoting prostitution by owning or controlling a house of prostitution or a prostitution business is a crime of the third degree; and knowingly promoting the prostitution of a child under the age of 18 is a crime of the second degree.

Under this bill, a person who violates paragraphs (1) and (8) of subsection b. of N.J.S.2C:34-1 while on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 500 feet of such school property or a school bus, or while on any school bus, or property used as a registered family day care provider or as a licensed child care provider would be assessed a penalty of $250 for the first offense; $500 for the second offense; $1,000 for the third offense; and $2,000 for the fourth or subsequent offense. This money would be forwarded to the Department of the Treasury to be deposited in the "Prostitution Offender Education Program Fund," created by this bill. The monies in the fund would be dedicated to the development, establishment, operation and maintenance of the "Prostitution Offender Education Program." This program would be administered by the Administrative Office of the Courts. These penalties are in addition to any current fines, fees, assessments or penalties already imposed.