

ASSEMBLY, No. 5708

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 22, 2026

Sponsored by:

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

SYNOPSIS

Provides that act of sexual penetration committed without victim's consent constitutes sexual assault; defines term "consent."

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning sexual assault and amending N.J.S.2C:14-1 and
2 N.J.S.2C:14-2.

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

6
7 1. N.J.S.2C:14-1 is amended to read as follows:
8 2C:14-1. Definitions. The following definitions apply to this
9 chapter:

10 a. "Actor" means a person accused of an offense proscribed
11 under this act;

12 b. "Victim" means a person alleging to have been subjected to
13 offenses proscribed by this act;

14 c. "Sexual penetration" means vaginal intercourse, cunnilingus,
15 fellatio or anal intercourse between persons or insertion of the hand,
16 finger or object into the anus or vagina either by the actor or upon
17 the actor's instruction. The depth of insertion shall not be relevant
18 as to the question of commission of the crime;

19 d. "Sexual contact" means an intentional touching by the victim
20 or actor, either directly or through clothing, of the victim's or actor's
21 intimate parts for the purpose of degrading or humiliating the victim
22 or sexually arousing or sexually gratifying the actor. Sexual contact
23 of the actor with himself must be in view of the victim whom the
24 actor knows to be present;

25 e. "Intimate parts" means the following body parts: sexual
26 organs, genital area, anal area, inner thigh, groin, buttock or breast
27 of a person;

28 f. "Severe personal injury" means severe bodily injury,
29 disfigurement, disease, incapacitating mental anguish or chronic
30 pain;

31 g. "Physically helpless" means that condition in which a person
32 is unconscious or is physically unable to flee or is physically unable
33 to communicate unwillingness to act;

34 h. (Deleted by amendment, P.L.2011, c.232)

35 i. "Mentally incapacitated" means that condition in which a
36 person is rendered temporarily incapable of understanding or
37 controlling his conduct due to the influence of a narcotic,
38 anesthetic, intoxicant, or other substance administered to that
39 person without his prior knowledge or consent, or due to any other
40 act committed upon that person which rendered that person
41 incapable of appraising or controlling his conduct;

42 j. "Coercion" as used in this chapter shall refer to those acts
43 which are defined as criminal coercion in section 2C:13-5(1), (2),
44 (3), (4), (6) and (7).

45 k. "Consent" means a freely given, knowledgeable, and
46 informed agreement.

47 (cf: P.L.2011, c.232, s.3)

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.

1 2. N.J.S.2C:14-2 is amended to read as follows:

2 2C:14-2. Sexual assault. a. An actor is guilty of aggravated
3 sexual assault if the actor commits an act of sexual penetration with
4 another person under any one of the following circumstances:

5 (1) The victim is less than 13 years old;

6 (2) The victim is at least 13 but less than 16 years old; and

7 (a) The actor is related to the victim by blood or affinity to the
8 third degree, or

9 (b) The actor has supervisory or disciplinary power over the
10 victim by virtue of the actor's legal, professional, or occupational
11 status, or

12 (c) The actor is a resource family parent, a guardian, or stands
13 in loco parentis within the household;

14 (3) The act is committed during the commission, or attempted
15 commission, whether alone or with one or more other persons, of
16 robbery, carjacking, kidnapping, homicide, aggravated assault on
17 the victim or a person other than the victim, burglary, arson, or
18 criminal escape;

19 (4) The actor is armed with a weapon or any object fashioned in
20 such a manner as to lead the victim to reasonably believe it to be a
21 weapon and threatens by word or gesture to use the weapon or
22 object;

23 (5) The actor is aided or abetted by one or more other persons
24 and the actor commits the act using coercion **[or]**; without the
25 victim's affirmative and freely-given permission; or without the
26 victim's consent;

27 (6) The actor commits the act using coercion **[or]**; without the
28 victim's affirmative and freely-given permission; or without the
29 victim's consent and severe personal injury is sustained by the
30 victim;

31 (7) The victim, at the time of sexual penetration, is one whom
32 the actor knew or should have known was:

33 (a) physically helpless or incapacitated ;

34 (b) intellectually or mentally incapacitated ; or

35 (c) had a mental disease or defect which rendered the victim
36 temporarily or permanently incapable of understanding the
37 distinctively sexual nature of the conduct, including, but not limited
38 to, being incapable of providing consent, or incapable of
39 understanding or exercising the right to refuse to engage in the
40 conduct.

41 Aggravated sexual assault is a crime of the first degree.

42 Except as otherwise provided in subsection d. of this section, a
43 person convicted under paragraph (1) of this subsection shall be
44 sentenced to a specific term of years which shall be fixed by the
45 court and shall be between 25 years and life imprisonment of which
46 the person shall serve 25 years before being eligible for parole,
47 unless a longer term of parole ineligibility is otherwise provided
48 pursuant to this Title.

1 b. An actor is guilty of sexual assault if the actor commits an
2 act of sexual contact with a victim who is less than 13 years old and
3 the actor is at least four years older than the victim.

4 c. An actor is guilty of sexual assault if the actor commits an
5 act of sexual penetration with another person under any one of the
6 following circumstances:

7 (1) The actor commits the act using coercion **[or]**; without the
8 victim's affirmative and freely-given permission; or without the
9 victim's consent, but the victim does not sustain severe personal
10 injury;

11 (2) The victim is on probation or parole, or is detained in a
12 hospital, prison or other institution and the actor has supervisory or
13 disciplinary power over the victim by virtue of the actor's legal,
14 professional or occupational status;

15 (3) The victim is at least 16 but less than 18 years old and:

16 (a) The actor is related to the victim by blood or affinity to the
17 third degree; or

18 (b) The actor has supervisory or disciplinary power of any
19 nature or in any capacity over the victim; or

20 (c) The actor is a resource family parent, a guardian, or stands
21 in loco parentis within the household;

22 (4) The victim is at least 13 but less than 16 years old and the
23 actor is at least four years older than the victim;

24 (5) The victim is a pupil at least 18 but less than 22 years old
25 and has not received a high school diploma and the actor is a
26 teaching staff member or substitute teacher, school bus driver, other
27 school employee, contracted service provider, or volunteer and the
28 actor has supervisory or disciplinary power of any nature or in any
29 capacity over the victim. As used in this paragraph, "teaching staff
30 member" has the meaning set forth in N.J.S.18A:1-1.

31 Sexual assault is a crime of the second degree.

32 d. Notwithstanding the provisions of subsection a. of this
33 section, where a defendant is charged with a violation under
34 paragraph (1) of subsection a. of this section, the prosecutor, in
35 consideration of the interests of the victim, may offer a negotiated
36 plea agreement in which the defendant would be sentenced to a
37 specific term of imprisonment of not less than 15 years, during
38 which the defendant shall not be eligible for parole. In such event,
39 the court may accept the negotiated plea agreement and upon such
40 conviction shall impose the term of imprisonment and period of
41 parole ineligibility as provided for in the plea agreement, and may
42 not impose a lesser term of imprisonment or parole or a lesser
43 period of parole ineligibility than that expressly provided in the plea
44 agreement. The Attorney General shall develop guidelines to ensure
45 the uniform exercise of discretion in making determinations
46 regarding a negotiated reduction in the term of imprisonment and

1 period of parole ineligibility set forth in subsection a. of this
2 section.

3 (cf: P.L.2019, c.474, s.1)

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5 3. This act shall take effect on the 90th day following
6 enactment.

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STATEMENT

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11 This bill specifies that an act of sexual penetration committed
12 without the victim's consent would constitute sexual assault or,
13 depending on the circumstances, aggravated sexual assault.

14 Under current law, an act of sexual penetration constitutes sexual
15 assault if the act is committed without the victim's affirmative and
16 freely-given permission. The bill provides that an act of sexual
17 penetration would also constitute sexual assault if the act is
18 committed without the victim's consent. Sexual assault is a crime
19 of the second degree. A crime of the second degree is generally
20 punishable by a term of imprisonment of five to 10 years or a fine
21 of up to \$150,000, or both.

22 Current law provides that an act of sexual penetration constitutes
23 aggravated sexual assault if the actor is aided or abetted by one or
24 more other persons and the act is committed without the victim's
25 affirmative and freely-given permission, or if the act is committed
26 without the victim's affirmative and freely-given permission and
27 severe personal injury is sustained by the victim. The bill provides
28 that an act of sexual penetration under either of these circumstances
29 would also constitute aggravated sexual assault if the act is
30 committed without the victim's consent. Aggravated sexual assault
31 is a crime of the first degree. A crime of the first degree is generally
32 punishable by a term of imprisonment of 10 to 20 years or a fine of
33 up to \$200,000, or both.

34 The bill defines "consent" as "a freely given, knowledgeable,
35 and informed agreement."