

SENATE, No. 2652
STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED FEBRUARY 12, 2024

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Assemblyman Sampson, Assemblywomen Speight, McCann Stamato,
Lampitt, Ramirez and Sumter

SYNOPSIS
Revises statutory terms pertaining to sexual exploitation or abuse of children.

CURRENT VERSION OF TEXT
As introduced.

AN ACT concerning certain criminal offenses involving sexual exploitation or abuse of children and amending various parts of the statutory law.

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

1. Section 1 of P.L.1992, c.7 (C.2A:30B-1) is amended to read as follows:

1. The Legislature finds and declares that:

a. **[Child]** Trade in child sexual abuse or exploitation material, often referred to as child pornography, is a lucrative business which sexually exploits children and preys on their vulnerability.

b. While criminal laws exist to penalize those who sexually exploit children, these laws are sometimes insufficient to protect and indemnify the victim and prevent the perpetrators from accumulating large profits from the making and distribution of "kiddie porn."

c. This act is designed to give the victims of trade in child [pornography] sexual abuse or exploitation material a civil action against those persons who sexually abuse or exploit them for profit directly or indirectly which can be brought through a parent or guardian or child advocacy organization or by the victim upon reaching the age of majority. Any director, officer, servant, employee or other person authorized to act on behalf of a corporation may be personally liable if found liable individually or jointly with the corporation under the provisions of this act.

d. The act will allow victims to recover three times the financial gains made by those who exploit them and will authorize injunctive relief to halt the making and distribution of films and other materials.

(cf: P.L.1992, c.7, s.1)

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

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

(2) A person who in another jurisdiction is required to register as a sex offender and (a) is enrolled on a full-time or part-time basis in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education or other post-secondary

school, or (b) is employed or carries on a vocation in this State, on either a full-time or a part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year, shall register in this State as provided in subsections c. and d. of this section.

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

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

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

(2) A conviction, adjudication of delinquency, or acquittal by reason of insanity for aggravated sexual assault; sexual assault; aggravated criminal sexual contact; kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.2C:24-4; endangering the welfare of a child pursuant to paragraph (3) or (4), subparagraph (a), or sub-subparagraph (i) or (ii) of subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to section 1 of P.L.1993, c.291 (C.2C:13-6); criminal sexual contact pursuant to N.J.S.2C:14-3b. if the victim is a minor; kidnapping pursuant to N.J.S.2C:13-1, criminal restraint pursuant to N.J.S.2C:13-2, or false imprisonment pursuant to N.J.S.2C:13-3 if the victim is a minor and the offender is not the parent of the victim; knowingly promoting prostitution of a child pursuant to paragraph (3) or paragraph (4) of subsection b. of N.J.S.2C:34-1; leader of a [child pornography] network to share child sexual abuse or exploitation material pursuant to section 8 of P.L.2017, c.141 (C.2C:24-4.1); or an attempt to commit any of these enumerated offenses if the conviction, adjudication of delinquency or acquittal by reason of insanity is entered on or after the effective date of this act or the offender is serving a sentence of incarceration, probation, parole or other form of community supervision as a result of the offense or is confined following acquittal by reason of insanity or as a result of civil commitment on the effective date of this act;

(3) A conviction, adjudication of delinquency, or acquittal by reason of insanity for an offense similar to any offense enumerated in paragraph (2) or a sentence on the basis of criteria

similar to the criteria set forth in paragraph (1) of this subsection entered or imposed under the laws of the United States, this State, or another state.

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

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

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

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

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

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

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

(3) A person moving to or returning to this State from another jurisdiction shall register with the chief law enforcement officer of the municipality in which the person will reside or, if the municipality does not have a local police force, the Superintendent of State Police within 120 days of the effective

date of this act or 10 days of first residing in or returning to a municipality in this State, whichever is later;

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

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

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

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

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

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

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

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

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

g. A person required to register under this section who has been convicted of, adjudicated delinquent, or acquitted by reason of insanity for more than one sex offense as defined in subsection

b. of this section or who has been convicted of, adjudicated delinquent, or acquitted by reason of insanity for aggravated sexual assault pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not eligible under subsection f. of this section to make application to the Superior Court of this State to terminate the registration obligation.

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

3. N.J.S.2C:24-4 is amended to read as follows:

2C:24-4. Endangering Welfare of Children.

a. (1) Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in sexual conduct which would impair or debauch the morals of the child is guilty of a crime of the second degree. Any other person who engages in conduct or who causes harm as described in this paragraph to a child is guilty of a crime of the third degree.

(2) Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who causes the child harm that would make the child an abused or neglected child as defined in R.S.9:6-1, R.S.9:6-3, and section 1 of P.L.1974, c.119 (C.9:6-8.21) is guilty of a crime of the second degree. Any other person who engages in conduct or who causes harm as described in this paragraph to a child is guilty of a crime of the third degree.

b. (1) As used in this subsection:

"Child" means any person under 18 years of age.

"Distribute" means to sell, or to manufacture, give, provide, lend, trade, mail, deliver, publish, circulate, disseminate, present, exhibit, display, share, advertise, offer, or make available via the Internet or by any other means, whether for pecuniary gain or not. The term also includes an agreement or attempt to distribute.

"File-sharing program" means a computer program, application, software or operating system that allows the user of a computer on which such program, application, software or operating system is installed to designate files as available for searching by and copying to one or more other computers, to transmit such designated files directly to one or more other computers, and to request the transmission of such designated files directly from one or more other computers. The term "file-sharing program" includes but is not limited to a computer program, application or software that enables a computer user to participate in a peer-to-peer network.

"Internet" means the international computer network of both federal and non-federal interoperable packet switched data

networks.

"Item depicting the sexual exploitation or abuse of a child" or "child sexual abuse or exploitation material" or "CSAEM" means a photograph, film, video, an electronic, electromagnetic or digital recording, an image stored or maintained in a computer program or file or in a portion of a file, or any other reproduction or reconstruction which :

- (a) depicts a child engaging in a prohibited sexual act or in the simulation of such an act; or
- (b) portrays a child in a sexually suggestive manner.

"Peer-to-peer network" means a connection of computer systems through which files are shared directly between the systems on a network without the need of a central server.

"Portray a child in a sexually suggestive manner" means:

- (a) to depict a child's less than completely and opaquely covered intimate parts, as defined in N.J.S.2C:14-1, in a manner that, by means of the posing, composition, format, or animated sensual details, emits sensuality with sufficient impact to concentrate prurient interest on the child; or
- (b) to depict any form of contact with a child's intimate parts, as defined in N.J.S.2C:14-1, in a manner that, by means of the posing, composition, format, or animated sensual details, emits sensuality with sufficient impact to concentrate prurient interest on the child; or
- (c) to otherwise depict a child for the purpose of sexual stimulation or gratification of any person who may view the depiction where the depiction does not have serious literary, artistic, political, or scientific value.

"Prohibited sexual act" means

- (a) Sexual intercourse; or
- (b) Anal intercourse; or
- (c) Masturbation; or
- (d) Bestiality; or
- (e) Sadism; or
- (f) Masochism; or
- (g) Fellatio; or
- (h) Cunnilingus; or
- (i) Nudity, if depicted for the purpose of sexual stimulation or gratification of any person who may view such depiction; or
- (j) Any act of sexual penetration or sexual contact as defined in N.J.S.2C:14-1.

"Reproduction" means, but is not limited to, computer generated images.

(2) (Deleted by amendment, P.L.2001, c.291).

(3) A person commits a crime of the first degree if [he] the person causes or permits a child to engage in a prohibited sexual

act or in the simulation of such an act or to be portrayed in a sexually suggestive manner if the person knows, has reason to know or intends that the prohibited act or portrayal may be photographed, filmed, reproduced, or reconstructed in any manner, including on the Internet, or may be part of an exhibition or performance.

(4) A person commits a crime of the second degree if **[he] the person** photographs or films a child in a prohibited sexual act or in the simulation of such an act or for portrayal in a sexually suggestive manner or who uses any device, including a computer, to reproduce or reconstruct the image of a child in a prohibited sexual act or in the simulation of such an act or for portrayal in a sexually suggestive manner.

(5) (a) A person commits a crime if, by any means, including but not limited to the Internet, **[he] the person**:

(i) knowingly distributes an item depicting the sexual exploitation or abuse of a child;

(ii) knowingly possesses an item depicting the sexual exploitation or abuse of a child with the intent to distribute that item; or

(iii) knowingly stores or maintains an item depicting the sexual exploitation or abuse of a child using a file-sharing program which is designated as available for searching by or copying to one or more other computers.

In a prosecution under sub-subparagraph (iii) of this subparagraph, the State shall not be required to offer proof that an item depicting the sexual exploitation or abuse of a child had actually been searched, copied, transmitted or viewed by another user of the file-sharing program, or by any other person, and it shall be no defense that the defendant did not intend to distribute the item to another user of the file-sharing program or to any other person. Nor shall the State be required to prove that the defendant was aware that the item depicting the sexual exploitation or abuse of a child was available for searching or copying to one or more other computers, and the defendant shall be strictly liable for failing to designate the item as not available for searching or copying by one or more other computers.

A violation of this subparagraph that involves 1,000 or more items depicting the sexual exploitation or abuse of a child is a crime of the first degree; otherwise it is a crime of the second degree.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person whose offense under this subparagraph involved at least 25 but less than 1,000 items depicting the sexual exploitation or abuse of a child shall be sentenced to a mandatory minimum term of imprisonment, which shall be fixed at, or

between, one-third and one-half of the sentence imposed by the court or five years, whichever is greater, during which the defendant shall be ineligible for parole.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person whose offense under this subparagraph involved 1,000 or more items depicting the sexual exploitation or abuse of a child shall be sentenced to a mandatory minimum term of imprisonment, which shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or 10 years, whichever is greater, during which the defendant shall be ineligible for parole.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person convicted of a second or subsequent offense under this subparagraph shall be sentenced to an extended term of imprisonment as set forth in N.J.S.2C:43-7. For the purposes of this subparagraph, an offense is considered a second or subsequent offense if the actor has at any time been convicted pursuant to paragraph (3), (4), or (5) of this subsection, or under any similar statute of the United States, this State, or any other state for an offense that is substantially equivalent to paragraph (3), (4), or (5) of this subsection.

For purposes of this subparagraph, the term "possess" includes receiving, viewing, or having under one's control, through any means, including the Internet.

(b) (i) A person commits a crime of the first degree if **[he]** the person knowingly possesses, knowingly views, or knowingly has under **[his]** the person's control, through any means, including the Internet, 100,000 or more items depicting the sexual exploitation or abuse of a child.

(ii) A person commits a crime of the second degree if **[he]** the person knowingly possesses, knowingly views, or knowingly has under **[his]** the person's control, through any means, including the Internet, at least 1,000 but less than 100,000 items depicting the sexual exploitation or abuse of a child.

(iii) A person commits a crime of the third degree if **[he]** the person knowingly possesses, knowingly views, or knowingly has under **[his]** the person's control, through any means, including the Internet, less than 1,000 items depicting the sexual exploitation or abuse of a child.

Notwithstanding the provisions of subsection e. of N.J.S.2C:44-1, in any instance where a person was convicted of an offense under this subparagraph that involved 100 or more items depicting the sexual exploitation or abuse of a child, the court shall impose a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the

opinion that imprisonment would be a serious injustice which overrides the need to deter such conduct by others.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person convicted of a second or subsequent offense under this subparagraph shall be sentenced to an extended term of imprisonment as set forth in N.J.S.2C:43-7. For the purposes of this subparagraph, an offense is considered a second or subsequent offense if the actor has at any time been convicted pursuant to paragraph (3), (4), or (5) of this subsection, or under any similar statute of the United States, this State, or any other state for an offense that is substantially equivalent to paragraph (3), (4), or (5) of this subsection.

Nothing in this subparagraph shall be construed to preclude or limit any prosecution or conviction for the offense set forth in subparagraph (a) of this paragraph.

(6) For purposes of this subsection, a person who is depicted as or presents the appearance of being under the age of 18 in any photograph, film, videotape, computer program or file, video game, or any other reproduction or reconstruction shall be rebuttably presumed to be under the age of 18. If the child who is depicted as engaging in, or who is caused to engage in, a prohibited sexual act or simulation of a prohibited sexual act or portrayed in a sexually suggestive manner is under the age of 18, the actor shall be strictly liable and it shall not be a defense that the actor did not know that the child was under the age of 18, nor shall it be a defense that the actor believed that the child was 18 years of age or older, even if such a mistaken belief was reasonable.

(7) For aggregation purposes, each depiction of the sexual exploitation or abuse of a child shall be considered a separate item, provided that each depiction that is in the form of a photograph, picture, image, or visual depiction of a similar nature shall be considered to be one item and each depiction that is in the form of a film, video, video-clip, movie, or visual depiction of a similar nature shall be considered to be 10 separate items, and each individual act of distribution of an item depicting the sexual exploitation or abuse of a child shall be considered a separate item. For purposes of determining the number of items depicting the sexual exploitation or abuse of a child for purposes of sentencing pursuant to subparagraph (a) of paragraph (5) of this subsection, the court shall aggregate all items involved, whether the act or acts constituting the violation occurred at the same time or at different times and, with respect to distribution, whether the act or acts of distribution were to the same person or several persons or occurred at different times, provided that each individual act was committed within the applicable statute of

limitations. For purposes of determining the number of items depicting the sexual exploitation or abuse of a child for purposes of sentencing pursuant to subparagraph (b) of paragraph (5) of this subsection, the court shall aggregate all items involved, whether the possession of such items occurred at the same time or at different times, provided that each individual act was committed within the applicable statute of limitations.

(cf: P.L.2017, c141, s.1)

4. Section 8 of P.L.2017, c.141 (C.2C:24-4.1) is amended to read as follows:

8. a. A person is a leader of a **[child pornography]** network to share child sexual abuse or exploitation material if **[he]** the person knowingly conspires with others as an organizer, moderator, administrator, programmer, recruiter, or facilitator to engage in a scheme or course of conduct to establish or maintain an interconnected network through which files containing one or more items depicting the sexual exploitation or abuse of a child are in any way made available to or accessible among an organized group of users or participants.

b. Leader of a **[child pornography]** network to share child sexual abuse or exploitation material is a crime of the first degree if the offense involves 100,000 or more items depicting the sexual exploitation or abuse of a child; a crime of the second degree if the offense involves at least 1,000 but less than 100,000 items depicting the sexual exploitation or abuse of a child; and a crime of the third degree if the offense involves less than 1,000 items depicting the sexual exploitation or abuse of a child.

c. For aggregation purposes, each item depicting the sexual exploitation or abuse of a child made available or accessible through a distribution network shall be considered a separate item, provided that each item that is in the form of a photograph, picture, image, or visual depiction of a similar nature shall be considered to be one item and each depiction that is in the form of a film, video, video-clip, movie, or visual depiction of a similar nature shall be considered to be 10 separate items.

d. Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of leader of a **[child pornography]** network to share child sexual abuse or exploitation material shall not merge with the conviction for any offense which is the object of the conspiracy, nor shall the other conviction merge with a conviction under this section. Nothing contained in this section shall be construed in any way to preclude or limit the prosecution or conviction of any person for conspiracy under the provisions of N.J.S.2C:5-2, or any prosecution or conviction for endangering

the welfare of children under the provisions of N.J.S.2C:24-4 or any other provision of law.

e. As used in this section:

"Interconnected network" means a set of computer nodes, including but not limited to personal computers, mobile devices, and physical or virtual servers that are linked together to facilitate the transmission of data between users.

"Item depicting the sexual exploitation or abuse of a child" shall have the same meaning as provided in subsection b. of N.J.S.2C:24-4.

(cf. P.L.2017, c.141, s.8)

5. Section 1 of P.L.2009, c.143 (2C:43-3.8) is amended to read as follows:

1. a. In addition to any disposition authorized by this Title, the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), or any other statute indicating the dispositions that can be ordered for an adjudication of delinquency, every person convicted of or adjudicated delinquent for a violation of paragraph (3), (4), or (5) of subsection b. of N.J.S.2C:24-4; section 8 of P.L.2017, c.141 (C.2C:24-4.1); N.J.S.2C:34-3; or an offense involving computer criminal activity in violation of any provision of chapter 20 of this title shall be assessed for each such offense a penalty fixed at:

(a) \$2,000 in the case of a crime of the first degree;

(b) \$1,000 in the case of a crime of the second degree;

(c) \$750 in the case of a crime of the third degree;

(d) \$500 in the case of a crime of the fourth degree;

(e) \$250 in the case of a disorderly persons or petty disorderly persons offense.

b. All penalties provided for in this section shall be collected as provided for collection of fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4), and shall be forwarded to the Department of the Treasury as provided in subsection c. of this section.

c. All moneys collected pursuant to this section shall be forwarded to the Department of the Treasury to be deposited in a nonlapsing revolving fund to be known as the "Computer Crime Prevention Fund." Moneys in the fund shall be appropriated by the Legislature to the Department of Law and Public Safety on an annual basis for the purposes of investigating and prosecuting computer-related crime, and funding continuing educational programs on high technology crimes and the 24-hour toll-free computer crime hotline telephone service established pursuant to section 3 of P.L.1998, c.134 (C.52:17B-193) and publicizing thereof, as well as other programs designed to enhance public

awareness of computer-related crime, including but not limited to use of the Internet to facilitate sexual predatory acts, cyberstalking and cyberbullying, online distribution or possession of child [pornography] sexual abuse or exploitation material, threats of violence in schools or other institutions, Internet fraud, and unauthorized intrusions into computer systems.

d. There is created in the Department of the Treasury a non-lapsing fund entitled the "Computer Crime Prevention Fund." The fund shall be the depository for assessments collected pursuant to subsection a. of this section, to be appropriated and used in accordance with the purposes set forth in subsection c. of this section.

(cf: P.L.2017, c.141, s.4)

6. Section 2 of P.L.1994, c.130 (C.2C:43-6.4) is amended to read as follows:

2. a. Notwithstanding any provision of law to the contrary, a judge imposing sentence on a person who has been convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1, endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.2C:24-4, endangering the welfare of a child pursuant to paragraph (3) or sub-subparagraph (i) or (ii) of subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4, luring, violating a condition of a special sentence of community supervision for life pursuant to subsection d. of this section, or an attempt to commit any of these offenses shall include, in addition to any sentence authorized by this Code, a special sentence of parole supervision for life. Notwithstanding any provision of law to the contrary, a court imposing sentence on a person who has been convicted of endangering the welfare of a child pursuant to paragraph (4) or subparagraph (a) or sub-subparagraph (iii) of subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4, leader of a [child pornography] network to share child sexual abuse or exploitation material pursuant to section 8 of P.L.2017, c.141 (C.2C:24-4.1), or an attempt to commit either of these offenses shall include, upon motion of the prosecutor, a special sentence of parole supervision for life in addition to any sentence authorized by Title 2C of the New Jersey Statutes, unless the court finds on the record that the special sentence is not needed to protect the community or deter the defendant from future criminal activity.

b. The special sentence of parole supervision for life required by this section shall commence immediately upon the defendant's release from incarceration. If the defendant is serving

a sentence of incarceration for another offense at the time [he] the defendant completes the custodial portion of the sentence imposed on the present offense, the special sentence of parole supervision for life shall not commence until the defendant is actually released from incarceration for the other offense. Persons serving a special sentence of parole supervision for life shall remain in the legal custody of the Commissioner of Corrections, shall be supervised by the Division of Parole of the State Parole Board, shall be subject to the provisions and conditions set forth in subsection c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b) and sections 15 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.59 through 30:4-123.63 and 30:4-123.65), and shall be subject to conditions appropriate to protect the public and foster rehabilitation. Such conditions may include the requirement that the person comply with the conditions set forth in subsection f. of this section concerning use of a computer or other device with access to the Internet or the conditions set forth in subsection g. of this section concerning the operation as defined in section 1 of P.L.2017, c.315 (C.2C:40-27) of an unmanned aircraft system as defined in section 1 of P.L.2017, c.315 (C.2C:40-27). If the defendant violates a condition of a special sentence of parole supervision for life, the defendant shall be subject to the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and 30:4-123.65), and for the purpose of calculating the limitation on time served pursuant to section 21 of P.L.1979, c.441 (C.30:4-123.65) the custodial term imposed upon the defendant related to the special sentence of parole supervision for life shall be deemed to be a term of life imprisonment. When the court suspends the imposition of sentence on a defendant who has been convicted of any offense enumerated in subsection a. of this section, the court may not suspend imposition of the special sentence of parole supervision for life, which shall commence immediately, with the Division of Parole of the State Parole Board maintaining supervision over that defendant, including the defendant's compliance with any conditions imposed by the court pursuant to N.J.S.2C:45-1, in accordance with the provisions of this subsection. Nothing contained in this subsection shall prevent the court from at any time proceeding under the provisions of N.J.S.2C:45-1 through N.J.S.2C:45-4 against any such defendant for a violation of any conditions imposed by the court when it suspended imposition of sentence, or prevent the Division of Parole from proceeding under the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) against any such defendant for a violation of any conditions of the special sentence of parole supervision for life,

including the conditions imposed by the court pursuant to N.J.S.2C:45-1. In any such proceeding by the Division of Parole, the provisions of subsection c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b) authorizing revocation and return to prison shall be applicable to such a defendant, notwithstanding that the defendant may not have been sentenced to or served any portion of a custodial term for conviction of an offense enumerated in subsection a. of this section.

c. A person sentenced to a term of parole supervision for life may petition the Superior Court for release from that parole supervision. The judge may grant a petition for release from a special sentence of parole supervision for life only upon proof by clear and convincing evidence that the person has not committed a crime for 15 years since the last conviction or release from incarceration, whichever is later, and that the person is not likely to pose a threat to the safety of others if released from parole supervision. Notwithstanding the provisions of section 22 of P.L.1979, c.441 (C.30:4-123.66), a person sentenced to a term of parole supervision for life may be released from that parole supervision term only by court order as provided in this subsection.

d. A person who violates a condition of a special sentence of community supervision for life or parole supervision for life imposed pursuant to this section without good cause is guilty of a crime of the third degree. Notwithstanding any other law to the contrary, a person sentenced pursuant to this subsection shall be sentenced to a term of imprisonment, unless the court is clearly convinced that the interests of justice so far outweigh the need to deter this conduct and the interest in public safety that a sentence to imprisonment would be a manifest injustice. Nothing in this subsection shall preclude subjecting a person who violates any condition of a special sentence of parole supervision for life to the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) pursuant to the provisions of subsection c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b).

e. A person who, while serving a special sentence of parole supervision for life imposed pursuant to this section, commits a violation of N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:11-5, subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, section 1 of P.L.1993, c.291 (C.2C:13-6), N.J.S.2C:14-2, N.J.S.2C:14-3, N.J.S.2C:24-4, section 8 of P.L.2017, c.141 (C.2C:24-4.1), N.J.S.2C:18-2 when the offense is a crime of the second degree, or subsection a. of N.J.S.2C:39-4 shall be sentenced to an extended term of imprisonment as set forth in N.J.S.2C:43-7, which term shall, notwithstanding the provisions of N.J.S.2C:43-

7 or any other law, be served in its entirety prior to the person's resumption of the term of parole supervision for life.

f. The special sentence of parole supervision for life required by this section may include any of the following Internet access conditions:

(1) Prohibit the person from accessing or using a computer or any other device with Internet capability without the prior written approval of the court except the person may use a computer or any other device with Internet capability in connection with that person's employment or search for employment with the prior approval of the person's parole officer;

(2) Require the person to submit to periodic unannounced examinations of the person's computer or any other device with Internet capability by a parole officer, law enforcement officer or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment or device to conduct a more thorough inspection;

(3) Require the person to submit to the installation on the person's computer or device with Internet capability, at the person's expense, one or more hardware or software systems to monitor the Internet use;

(4) Require the person to submit to any other appropriate restrictions concerning the person's use or access of a computer or any other device with Internet capability; and

(5) Require the person to disclose all passwords used by the person to access any data, information, image, program, signal or file on the person's computer or any other device with Internet capability.

g. The special sentence of parole supervision for life required by this section may include reasonable conditions prohibiting or restricting the person's operation of an unmanned aircraft system in order to reduce the likelihood of a recurrence of criminal or delinquent behavior.

(cf: P.L.2017, c.333, s.1)

7. Section 3 of P.L.2003, c.301 (C.2C:44-6.3) is amended to read as follows:

3. a. In any case in which a person has been convicted of a crime enumerated in subsection b. of this section and:

(1) the victim of the crime was either a person under the age of 18 at the time of the commission of the crime, or a person defined in paragraph (9) of subsection b. of this section; and

(2) the person convicted of the crime resides in a household with other minor children or is a parent of a minor child,

the court, based on an interview with the defendant, shall make a referral to the Division of Child Protection and Permanency in the Department of Children and Families and provide the division with the name and address of the person convicted of the crime, information on the person's criminal history, and the name and address of each child referred to in paragraph (2) of this subsection.

b. For purposes of this section, "crime" includes any of the following:

(1) murder pursuant to N.J.S.2C:11-3 or manslaughter pursuant to N.J.S.2C:11-4;

(2) simple assault or aggravated assault pursuant to N.J.S.2C:12-1;

(3) stalking pursuant to P.L.1992, c.209 (C.2C:12-10);

(4) terrorist threats pursuant to N.J.S.2C:12-3;

(5) kidnapping and related offenses including criminal restraint; false imprisonment; interference with custody; criminal coercion; or enticing a child into a motor vehicle, structure, or isolated area pursuant to N.J.S.2C:13-1 through 2C:13-6;

(6) sexual assault, criminal sexual contact, or lewdness pursuant to N.J.S.2C:14-2 through N.J.S.2C:14-4;

(7) arson pursuant to N.J.S.2C:17-1, or causing or risking widespread injury or damage which would constitute a crime of the second degree pursuant to N.J.S.2C:17-2;

(8) a crime against a child, including endangering the welfare of a child and any crime involving child [pornography] sexual abuse or exploitation material pursuant to N.J.S.2C:24-4; or child abuse, neglect, or abandonment pursuant to R.S.9:6-3;

(9) endangering the welfare of an incompetent person pursuant to N.J.S.2C:24-7 or endangering the welfare of an elderly or disabled person pursuant to N.J.S.2C:24-8;

(10) domestic violence pursuant to P.L.1991, c.261 (C.2C:25-17 et seq.); or

(11) an attempt or conspiracy to commit an offense listed in paragraphs (1) through (10) of this subsection.

(cf. P.L.2012, c.16, s.11)

8. N.J.S.2C:47-1 is amended to read as follows:

2C:47-1. Referral to Adult Diagnostic and Treatment Center; Commitment; Examination.

Whenever a person is convicted of the offense of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1, endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.2C:24-4, endangering the

welfare of a child pursuant to paragraph (4) or (5) of subsection b. of N.J.S.2C:24-4, leader of a **[child pornography]** network to share child sexual abuse or exploitation material pursuant to section 8 of P.L.2017, c.141 (C.2C:24-4.1), or an attempt to commit any such crime, the judge shall order the Department of Corrections to complete a psychological examination of the offender, except the judge shall not require a psychological examination if the offender is to be sentenced to a term of life imprisonment without eligibility for parole. The examination shall include a determination of whether the offender's conduct was characterized by a pattern of repetitive, compulsive behavior and, if it was, a further determination of the offender's amenability to sex offender treatment and willingness to participate in such treatment. The court's order shall contain a determination of the offender's legal settlement in accordance with subdivision D of article 3 of chapter 4 of Title 30 of the Revised Statutes.

(cf: P.L.2017, c.141, s.6)

9. N.J.S.2C:52-2 is amended to read as follows:

2C:52-2. Indictable Offenses.

a. In all cases, except as herein provided, a person may present an expungement application to the Superior Court pursuant to this section if:

the person has been convicted of one crime under the laws of this State, and does not otherwise have any subsequent conviction for another crime, whether within this State or any other jurisdiction. Subject to the provision of subsection e. of N.J.S.2C:52-14 requiring denial of an expungement petition when a person has had a previous criminal conviction expunged, a prior conviction for another crime shall not bar presenting an application seeking expungement relief for the criminal conviction that is the subject of the application; or

the person has been convicted of one crime and no more than three disorderly persons or petty disorderly persons offenses under the laws of this State, and does not otherwise have any subsequent conviction for another crime, or any subsequent conviction for another disorderly persons or petty disorderly persons offense such that the total number of convictions for disorderly persons and petty disorderly persons offenses would exceed three, whether any such crime or offense conviction was within this State or any other jurisdiction. Subject to the provision of subsection e. of N.J.S.2C:52-14 requiring denial of an expungement petition when a person has had a previous criminal conviction expunged, a prior conviction for another crime, disorderly persons offense, or petty disorderly persons

offense shall not bar presenting an application seeking expungement relief for the one criminal conviction and no more than three convictions for disorderly persons or petty disorderly persons offenses that are the subject of the application; or

the person has been convicted of multiple crimes or a combination of one or more crimes and one or more disorderly persons or petty disorderly persons offenses under the laws of this State, all of which are listed in a single judgment of conviction, and does not otherwise have any subsequent conviction for another crime or offense in addition to those convictions included in the expungement application, whether any such conviction was within this State or any other jurisdiction. Subject to the provision of subsection e. of N.J.S.2C:52-14 requiring denial of an expungement petition when a person has had a previous criminal conviction expunged, a prior conviction for another crime, disorderly persons offense, or petty disorderly persons offense that is not listed in a single judgment of conviction shall not bar presenting an application seeking expungement relief for the convictions listed in a single judgment of conviction that are the subject of the application; or

the person has been convicted of multiple crimes or a combination of one or more crimes and one or more disorderly persons or petty disorderly persons offenses under the laws of this State, which crimes or combination of crimes and offenses were interdependent or closely related in circumstances and were committed as part of a sequence of events that took place within a comparatively short period of time, regardless of the date of conviction or sentencing for each individual crime or offense, and the person does not otherwise have any subsequent conviction for another crime or offense in addition to those convictions included in the expungement application, whether any such conviction was within this State or any other jurisdiction. Subject to the provision of subsection e. of N.J.S.2C:52-14 requiring denial of an expungement petition when a person has had a previous criminal conviction expunged, a prior conviction for another crime, disorderly persons offense, or petty disorderly persons offense that was not interdependent or closely related in circumstances and was not committed within a comparatively short period of time as described above shall not bar presenting an application seeking expungement relief for the convictions of crimes or crimes and offenses that were interdependent or closely related and committed within a comparatively short period of time, and that are the subject of the application.

For purposes of determining eligibility to present an expungement application to the Superior Court pursuant to this section, a conviction for unlawful distribution of, or possessing or

having under control with intent to distribute, marijuana or hashish in violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation of paragraph (12) of subsection b. of that section, or a violation of either of those paragraphs and a violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1), for distributing, or possessing or having under control with intent to distribute, on or within 1,000 feet of any school property, or on or within 500 feet of the real property comprising a public housing facility, public park, or public building, or for obtaining or possessing marijuana or hashish in violation of paragraph (3) of subsection a. of N.J.S.2C:35-10, or for an equivalent crime in another jurisdiction, regardless of when the conviction occurred, shall not be considered a conviction of a crime within this State or any other jurisdiction but shall instead be considered a conviction of a disorderly persons offense within this State or an equivalent category of offense within the other jurisdiction, and a conviction for obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of marijuana or hashish in violation of paragraph (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10, or a violation involving marijuana or hashish as described herein and using or possessing with intent to use drug paraphernalia with that marijuana or hashish in violation of N.J.S.2C:36-2, or for an equivalent crime or offense in another jurisdiction, regardless of when the conviction occurred, shall not be considered a conviction within this State or any other jurisdiction.

The person, if eligible, may present the expungement application after the expiration of a period of five years from the date of ~~[his]~~ the person's most recent conviction, payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later. The term "court-ordered financial assessment" as used herein and throughout this section means and includes any fine, fee, penalty, restitution, and other form of financial assessment imposed by the court as part of the sentence for the conviction or convictions that are the subject of the application, for which payment of restitution takes precedence in accordance with chapter 46 of Title 2C of the New Jersey Statutes. The person shall submit the expungement application to the Superior Court in the county in which the most recent conviction for a crime was adjudged, which includes a duly verified petition as provided in N.J.S.2C:52-7 praying that the conviction, or convictions if applicable, and all records and information pertaining thereto be

expunged. The petition appended to an application shall comply with the requirements set forth in N.J.S.2C:52-1 et seq.

Notwithstanding the provisions concerning the five-year time requirement, if, at the time of application, a court-ordered financial assessment subject to collection under the comprehensive enforcement program established pursuant to P.L.1995, c.9 (C.2B:19-1 et al.) is not yet satisfied due to reasons other than willful noncompliance, but the time requirement of five years is otherwise satisfied, the person may submit the expungement application and the court may grant an expungement; provided, however, that if expungement is granted the court shall enter a civil judgment for the unpaid portion of the court-ordered financial assessment in the name of the Treasurer, State of New Jersey and transfer collections and disbursement responsibility to the State Treasurer for the outstanding amount in accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1). The Treasurer may specify, and the Administrative Office of the Courts shall collaborate with, the technical and informational standards required to effectuate the transfer of the collection and disbursement responsibilities. Notwithstanding any provision in this law or any other law to the contrary, the court shall have sole discretion to amend the judgment.

Additionally, an application may be filed and presented, and the court may grant an expungement pursuant to this section, although less than five years have expired in accordance with the time requirements when the court finds:

(1) the court-ordered financial assessment is satisfied but less than five years have expired from the date of satisfaction, and the time requirement of five years is otherwise satisfied, and the court finds that the person substantially complied with any payment plan ordered pursuant to N.J.S.2C:46-1 et seq., or could not do so due to compelling circumstances affecting **[his]** the person's ability to satisfy the assessment; or

(2) at least four but less than five years have expired from the date of the most recent conviction, payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later; and

the person has not been otherwise convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the most recent conviction; and the court finds in its discretion that compelling circumstances exist to grant the expungement. The prosecutor may object pursuant to section 11 of P.L.2019, c.269 (C.2C:52-10.1), N.J.S.2C:52-11, N.J.S.2C:52-14, or N.J.S.2C:52-24.

In determining whether compelling circumstances exist for the purposes of paragraph (1) of this subsection, a court may consider the amount of any court-ordered financial assessment imposed, the person's age at the time of the offense or offenses, the person's financial condition and other relevant circumstances regarding the person's ability to pay.

b. Records of conviction pursuant to statutes repealed by this Code for the crimes of murder, manslaughter, treason, anarchy, kidnapping, rape, forcible sodomy, arson, perjury, false swearing, robbery, embracery, or a conspiracy or any attempt to commit any of the foregoing, or aiding, assisting or concealing persons accused of the foregoing crimes, shall not be expunged.

Records of conviction for the following crimes specified in the New Jersey Code of Criminal Justice shall not be subject to expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except death by auto as specified in N.J.S.2C:11-5 and strict liability vehicular homicide as specified in section 1 of P.L.2017, c.165 (C.2C:11-5.3); N.J.S.2C:13-1 (Kidnapping); section 1 of P.L.1993, c.291 (C.2C:13-6) (Luring or Enticing); section 1 of P.L.2005, c.77 (C.2C:13-8) (Human Trafficking); N.J.S.2C:14-2 (Sexual Assault or Aggravated Sexual Assault); subsection a. of N.J.S.2C:14-3 (Aggravated Criminal Sexual Contact); if the victim is a minor, subsection b. of N.J.S.2C:14-3 (Criminal Sexual Contact); if the victim is a minor and the offender is not the parent of the victim, N.J.S.2C:13-2 (Criminal Restraint) or N.J.S.2C:13-3 (False Imprisonment); N.J.S.2C:15-1 (Robbery); N.J.S.2C:17-1 (Arson and Related Offenses); subsection a. of N.J.S.2C:24-4 (Endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child, or causing the child other harm); paragraph (4) of subsection b. of N.J.S.2C:24-4 (Photographing or filming a child in a prohibited sexual act or for portrayal in a sexually suggestive manner); paragraph (3) of subsection b. of N.J.S.2C:24-4 (Causing or permitting a child to engage in a prohibited sexual act or the simulation of an act, or to be portrayed in a sexually suggestive manner); subparagraph (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4 (Distributing, possessing with intent to distribute or using a file-sharing program to store items depicting the sexual exploitation or abuse of a child); subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4 (Possessing or viewing items depicting the sexual exploitation or abuse of a child); section 8 of P.L.2017, c.141 (C.2C:24-4.1) (Leader of a [child pornography] network to share child sexual abuse or exploitation material); N.J.S.2C:28-1 (Perjury); N.J.S.2C:28-2 (False Swearing); paragraph (4) of subsection b. of N.J.S.2C:34-1 (Knowingly promoting the

prostitution of the actor's child); section 2 of P.L.2002, c.26 (C.2C:38-2) (Terrorism); subsection a. of section 3 of P.L.2002, c.26 (C.2C:38-3) (Producing or Possessing Chemical Weapons, Biological Agents or Nuclear or Radiological Devices); and conspiracies or attempts to commit such crimes.

Records of conviction for any crime committed by a person holding any public office, position or employment, elective or appointive, under the government of this State or any agency or political subdivision thereof and any conspiracy or attempt to commit such a crime shall not be subject to expungement if the crime involved or touched such office, position or employment.

c. In the case of conviction for the sale or distribution of a controlled dangerous substance or possession thereof with intent to sell, expungement shall be denied except where the crimes involve:

(1) Marijuana, where the total quantity sold, distributed or possessed with intent to sell was less than one ounce;

(2) Hashish, where the total quantity sold, distributed or possessed with intent to sell was less than five grams; or

(3) Any controlled dangerous substance provided that the conviction is of the third or fourth degree, where the court finds that compelling circumstances exist to grant the expungement. The prosecutor may object pursuant to section 11 of P.L.2019, c.269 (C.2C:52-10.1), N.J.S.2C:52-11, N.J.S.2C:52-14, or N.J.S.2C:52-24.

d. In the case of a State licensed physician or podiatrist convicted of an offense involving drugs or alcohol or pursuant to section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the petitioner shall notify the State Board of Medical Examiners upon filing an application for expungement and provide the board with a copy thereof. The petitioner shall also provide to the court a certification attesting that the requirements of this subsection were satisfied. Failure to satisfy the requirements of this subsection shall be grounds for denial of the expungement application and, if applicable, administrative discipline by the board.

(cf: P.L.2019, c.269, s.2)

10. Section 4 of P.L.2008, c.114 (C.9:3-40.5) is amended to read as follows;

4. Except as provided in subsection d. of this section, a current staff member, or an applicant for employment, shall be disqualified from employment at an approved agency if the criminal history record background check of the staff member or applicant reveals a record of conviction for any of the following crimes and offenses:

a. In New Jersey, any crime or disorderly persons offense as follows:

(1) a crime against a child, including endangering the welfare of a child and any crime involving child [pornography] sexual abuse or exploitation material pursuant to N.J.S.2C:24-4;

(2) abuse, abandonment or neglect of a child pursuant to R.S.9:6-3;

(3) endangering the welfare of an incompetent person pursuant to N.J.S.2C:24-7;

(4) sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.2C:14-2 through N.J.S.2C:14-4;

(5) murder pursuant to N.J.S.2C:11-3 or manslaughter pursuant to N.J.S.2C:11-4;

(6) stalking pursuant to section 1 of P.L.1992, c.209 (C.2C:12-10);

(7) kidnapping and related offenses including criminal restraint, false imprisonment, interference with custody, criminal coercion, or enticing a child into a motor vehicle, structure or isolated area pursuant to N.J.S.2C:13-1 through N.J.S.2C:13-5 and section 1 of P.L.1993, c.291 (C.2C:13-6);

(8) arson pursuant to N.J.S.2C:17-1, or causing or risking widespread injury or damage, which would constitute a crime of the second degree pursuant to N.J.S.2C:17-2;

(9) aggravated assault, which would constitute a crime of the second or third degree pursuant to subsection b. of N.J.S.2C:12-1;

(10) robbery, which would constitute a crime of the first degree pursuant to N.J.S.2C:15-1;

(11) burglary, which would constitute a crime of the second degree pursuant to N.J.S.2C:18-2;

(12) domestic violence pursuant to P.L.1991, c.261 (C.2C:25-17 et al.);

(13) terroristic threats pursuant to N.J.S.2C:12-3; or

(14) an attempt or conspiracy to commit any of the crimes or offenses listed in paragraphs (1) through (13) of this subsection.

b. In any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in subsection a. of this section.

c. Notwithstanding the provisions of this section to the contrary, a staff member shall not be disqualified from employment at an approved agency under this act on the basis of any conviction disclosed by a criminal history record background check performed pursuant to this act without an opportunity to challenge the accuracy of the disqualifying criminal history

record pursuant to the provisions of section 7 of P.L.2003, c.186 (C.53:1-20.9d).

d. If a staff member is convicted of a crime specified in subsection a. of this section, the staff member shall be terminated from employment at the agency, except that the department may approve the staff member's employment at the agency if all of the following conditions are met:

(1) the department determines that the crime does not relate adversely to the position the staff member is employed in pursuant to the provisions of P.L.1968, c.282 (C.2A:168A-1 et seq.);

(2) the conviction is not related to a crime committed against a child, as specified in subsection a. of this section;

(3) the agency documents that the staff member's employment at the agency does not create a risk to the safety or well-being of children due to the nature and requirements of the position; as necessary, the agency shall identify restrictions regarding the staff member's contact with, care, or supervision of children;

(4) the agency documents that the staff member is uniquely qualified for the position due to specific skills, qualifications, characteristics or prior employment experiences; and

(5) the department determines that the staff member has affirmatively demonstrated rehabilitation, pursuant to the factors specified in subsection b. of section 5 of this act.

(cf: P.L.2008, c.114, s.4.)

11. Section 1 of P.L.2018, c.80 (C.18A:35-4.32) is amended to read as follows:

1. The Legislature finds and declares that:

a. The teenage practice of "sexting," sending a sexually explicit text message, is a nationwide issue for students, parents, school administrators, and law enforcement officials.

b. What many teens do not realize is that, by law, a sexual image of any person under the age of 18 is child **[pornography]** sexual abuse or exploitation material. Prosecutors in several states have charged teenagers who have engaged in this behavior with criminal offenses, including distribution of child **[pornography]** sexual abuse or exploitation material.

c. Pursuant to a law which became effective in April, 2012, the New Jersey Legislature provided for a diversionary program for juveniles who are criminally charged for "sexting" or posting sexual images and permits them to participate in a remedial education or counseling program as an alternative to criminal prosecution.

d. Beyond the legal consequences of this behavior, however, sexting also has significant non-legal consequences including, but not limited to, the effect on relationships, loss of educational and employment opportunities, and being barred or removed from school programs and extracurricular activities.

e. Because of the unique characteristics of cyberspace and the Internet, a single sext has the potential to cause long-term and possibly unforeseen consequences, and result in severe embarrassment, ridicule, cyber-bullying, and lasting mental and emotional trauma.

f. It is imperative that students understand at a young age the severity of sending sexually explicit text messages and the impact that these actions have on the students themselves, their victims, and the community and that they receive instruction on how and why to refrain from this very dangerous behavior.

(cf: P.L.2018, c.80, s.1)

12. Section 1 of P.L.1985, c.396 (C.30:4C-26.8) is amended to read as follows:

1. a. A person, in addition to meeting other requirements as may be established by the Department of Children and Families, shall become a resource family parent or eligible to adopt a child only upon the completion of an investigation to ascertain if there is a State or federal record of criminal history for the prospective adoptive or resource family parent or any other adult residing in the prospective parent's home. The investigation shall be conducted by the Division of State Police in the Department of Law and Public Safety and shall include an examination of its own files and the obtaining of a similar examination by federal authorities.

b. If the prospective resource family parent or any adult residing in the prospective parent's home has a record of criminal history, the Department of Children and Families shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the person to become a resource family parent or the suitability of placing a child in that person's home, as the case may be.

c. For the purposes of this section, a conviction for one of the offenses enumerated in subsection d. or e. of this section has occurred if the person has been convicted under the laws of this State or any other state or jurisdiction for an offense that is substantially equivalent to the offenses enumerated in these subsections.

d. A person shall be disqualified from being a resource family parent or shall not be eligible to adopt a child if that

person or any adult residing in that person's household ever committed a crime which resulted in a conviction for:

(1) a crime against a child, including endangering the welfare of a child and any crime involving child [pornography] sexual abuse or exploitation material pursuant to N.J.S.2C:24-4; or child abuse, neglect, or abandonment pursuant to R.S.9:6-3;

(2) murder pursuant to N.J.S.2C:11-3 or manslaughter pursuant to N.J.S.2C:11-4;

(3) aggravated assault which would constitute a crime of the second or third degree pursuant to subsection b. of N.J.S.2C:12-1;

(4) stalking pursuant to P.L.1992, c.209 (C.2C:12-10);

(5) kidnapping and related offenses including criminal restraint; false imprisonment; interference with custody; criminal coercion; or enticing a child into a motor vehicle, structure, or isolated area pursuant to N.J.S.2C:13-1 through 2C:13-6;

(6) sexual assault, criminal sexual contact, or lewdness pursuant to N.J.S.2C:14-2 through N.J.S.2C:14-4;

(7) robbery which would constitute a crime of the first degree pursuant to N.J.S.2C:15-1;

(8) burglary which would constitute a crime of the second degree pursuant to N.J.S.2C:18-2;

(9) domestic violence pursuant to P.L.1991, c.261 (C.2C:25-17 et seq.);

(10) endangering the welfare of an incompetent person pursuant to N.J.S.2C:24-7 or endangering the welfare of an elderly or disabled person pursuant to N.J.S.2C:24-8;

(11) terrorist threats pursuant to N.J.S.2C:12-3;

(12) arson pursuant to N.J.S.2C:17-1, or causing or risking widespread injury or damage which would constitute a crime of the second degree pursuant to N.J.S.2C:17-2; or

(13) an attempt or conspiracy to commit an offense listed in paragraphs (1) through (12) of this subsection.

e. A person shall be disqualified from being a resource family parent if that person or any adult residing in that person's household was convicted of one of the following crimes and the date of release from confinement occurred during the preceding five years:

(1) simple assault pursuant to subsection a. of N.J.S.2C:12-1;

(2) aggravated assault which would constitute a crime of the fourth degree pursuant to subsection b. of N.J.S.2C:12-1;

(3) a drug-related crime pursuant to P.L.1987, c.106 (C.2C:35-1 et seq.);

(4) robbery which would constitute a crime of the second degree pursuant to N.J.S.2C:15-1;

(5) burglary which would constitute a crime of the third degree pursuant to N.J.S.2C:18-2; or

(6) an attempt or conspiracy to commit an offense listed in paragraphs (1) through (5) of this subsection.

For the purposes of this subsection, the "date of release from confinement" means the date of termination of court-ordered supervision through probation, parole, or residence in a correctional facility, whichever date occurs last.

For purposes of this section, "resource family parent" means any person with whom a child in the care, custody, or guardianship of the Department of Children and Families is placed by the department, or with its approval, for care and shall include any person with whom a child is placed by the Division of Child Protection and Permanency for the purpose of adoption until the adoption is finalized.

(cf: P.L.2012, c.16, s.84)

13. Section 4 of P.L.2003, c.186 (C.30:4C-27.19) is amended to read as follows:

4. Except as provided in subsection d. of this section, a current staff member or an applicant for employment shall be permanently disqualified from employment at or administering a facility if the criminal history record background check of the staff member or applicant reveals a record of conviction for any of the following crimes and offenses:

a. In New Jersey, any crime or disorderly persons offense as follows:

(1) a crime against a child, including endangering the welfare of a child and any crime involving child [pornography] sexual abuse or exploitation material pursuant to N.J.S.2C:24-4; child molestation as set forth in N.J.S.2C:14-1 et seq.;

(2) abuse, abandonment or neglect of a child pursuant to R.S.9:6-3;

(3) endangering the welfare of an incompetent person pursuant to N.J.S.2C:24-7;

(4) sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.2C:14-2 through N.J.S.2C:14-4;

(5) murder pursuant to N.J.S.2C:11-3 or manslaughter pursuant to N.J.S.2C:11-4;

(6) stalking pursuant to section 1 of P.L.1992, c.209 (C.2C:12-10);

(7) kidnaping and related offenses including criminal restraint, false imprisonment, interference with custody, criminal coercion, or enticing a child into a motor vehicle, structure or isolated area pursuant to N.J.S.2C:13-1 through N.J.S.2C:13-5 and section 1 of P.L.1993, c.291 (C.2C:13-6);

(8) arson pursuant to N.J.S.2C:17-1, or causing or risking widespread injury or damage, which would constitute a crime of the second degree pursuant to N.J.S.2C:17-2;

(9) aggravated assault, which would constitute a crime of the second or third degree pursuant to subsection b. of N.J.S.2C:12-1;

(10) robbery, which would constitute a crime of the first degree pursuant to N.J.S.2C:15-1;

(11) burglary, which would constitute a crime of the second degree pursuant to N.J.S.2C:18-2;

(12) domestic violence pursuant to P.L.1991, c.261 (C.2C:25-17 et seq.);

(13) terroristic threats pursuant to N.J.S.2C:12-3; or

(14) an attempt or conspiracy to commit any of the crimes or offenses listed in paragraphs (1) through (13) of this subsection.

b. In any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in subsection a. of this section.

c. Notwithstanding the provisions of this section to the contrary, an individual shall not be disqualified from employment at or administering a facility under this act on the basis of any conviction disclosed by a criminal history record background check performed pursuant to this act without an opportunity to challenge the accuracy of the disqualifying criminal history record pursuant to the provisions of section 7 of this act.

d. If a staff member of a facility is convicted of a crime specified in subsection a. of this section, the staff member shall be terminated from employment at or administering a facility, except that the department may approve the individual's employment at, or administration of, the facility if all of the following conditions are met:

(1) the department determines that the crime does not relate adversely to the position the individual is employed in pursuant to the provisions of P.L.1968, c.282 (C.2A:168A-1 et seq.);

(2) the conviction is not related to a crime committed against a child, as specified in subsection a. of this section;

(3) the facility documents that the individual's employment or administration of the facility does not create a risk to the safety or well-being of children due to the nature and requirements of the position; as necessary, the facility shall identify restrictions regarding the individual's contact with, care or supervision of children;

(4) the facility documents that the individual is uniquely qualified for the position due to specific skills, qualifications, characteristics or prior employment experiences; and

(5) the department determines that the individual has affirmatively demonstrated rehabilitation, pursuant to the factors specified in subsection b. of section 5 of this act.

(cf: P.L.2003, c.186, s.4)

14. Section 5 of P.L.2000, c.77 (C.30:5B-6.14) is amended to read as follows:

5. a. A current staff member and an individual seeking employment shall be permanently disqualified from employment at, or ownership or sponsorship of, a child care center if the staff member or individual:

(1) refuses to consent to, or cooperate in, the securing of a criminal history record background check;

(2) knowingly makes a materially false statement in connection with a criminal history record background check;

(3) is registered, or is required to be registered, on a State sex offender registry or repository, or in the National Sex Offender Registry established under the "Adam Walsh Child Protection and Safety Act of 2006," 42 U.S.C. s.16901 et seq.; or

(4) is found by a criminal history record background check to have a record of conviction for any of the following crimes and offenses:

(a) a crime against a child, including endangering the welfare of a child and any crime involving child [pornography] sexual abuse or exploitation material pursuant to N.J.S.2C:24-4, and child molestation as set forth in N.J.S. 2C:14-1 et seq.;

(b) abuse, abandonment , or neglect of a child pursuant to R.S.9:6-3;

(c) endangering the welfare of an incompetent person pursuant to N.J.S.2C:24-7;

(d) sexual assault, criminal sexual contact , or lewdness pursuant to N.J.S.2C:14-2 through N.J.S.2C:14-4;

(e) murder pursuant to N.J.S.2C:11-3 or manslaughter pursuant to N.J.S.2C:11-4;

(f) stalking pursuant to P.L.1992, c.209 (C.2C:12-10);

(g) kidnapping and related offenses including criminal restraint; false imprisonment; interference with custody; criminal coercion; or enticing a child into a motor vehicle, structure , or isolated area pursuant to N.J.S.2C:13-1 through C.2C:13-6;

(h) arson pursuant to N.J.S.2C:17-1, or causing or risking widespread injury or damage which would constitute a crime of the second degree pursuant to N.J.S.2C:17-2;

(i) terroristic threats pursuant to N.J.S.2C:12-3;

(j) aggravated assault, which would constitute a crime of the second or third degree pursuant to subsection b. of N.J.S.2C:12-1;

(k) robbery, which would constitute a crime of the first degree pursuant to N.J.S.2C:15-1;

(l) burglary, which would constitute a crime of the second degree pursuant to N.J.S.2C:18-2;

(m) domestic violence pursuant to P.L.1991, c.261 (C.2C:25-17 et seq.);

(n) any drug related offense committed within the preceding five-year period; or

(o) an attempt or conspiracy to commit any of the crimes or offenses listed in subparagraphs (a) through (n) of this subsection.

b. For the purposes of this section, a person shall be deemed to have a disqualifying record of conviction if the person has been convicted in New Jersey of any of the crimes listed in subsection a. of this section, or if the person has been convicted in any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in that subsection.

c. Notwithstanding the provisions of this section to the contrary, an individual shall not be disqualified from employment or ownership or sponsorship under P.L.2000, c.77 (C.30:5B-6.10 et al.) on the basis of any conviction disclosed by a criminal history record background check performed pursuant to P.L.2000, c.77 (C.30:5B-6.10 et al.) without an opportunity to challenge the accuracy of the disqualifying criminal history record pursuant to the provisions of section 8 of P.L.2000, c.77 (C.53:1-20.9b).
(cf: P.L.2017, c.89, s.6)

15. Section 3 of P.L.2017, c.89 (C.30:5B-25.7) is amended to read as follows:

3. a. The department shall not issue a certificate or renewal of registration to a prospective or current family day care provider, and shall revoke the existing registration held by a current family day care provider, as the case may be, if the provider, or any other relevant person listed in subsection a. of section 2 of P.L.2017, c.89 (C.30:5B-25.6):

(1) refuses to consent to, or cooperate in, the securing of a criminal history record background check;

(2) knowingly makes a materially false statement in connection with a criminal history record background check;

(3) is registered, or is required to be registered, on a State sex offender registry or repository, or on the National Sex Offender Registry established under the "Adam Walsh Child Protection and Safety Act of 2006," 42 U.S.C. s.16901 et seq.; or

(4) is found by a criminal history record background check to have a record of conviction for any of the following crimes and

offenses:

(a) a crime against a child, including endangering the welfare of a child and any crime involving child [pornography] sexual abuse or exploitation material pursuant to N.J.S.2C:24-4, and child molestation as set forth in N.J.S.2C:14-1 et seq.;

(b) abuse, abandonment or neglect of a child pursuant to R.S.9:6-3;

(c) endangering the welfare of an incompetent person pursuant to N.J.S.2C:24-7;

(d) sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.2C:14-2 through N.J.S.2C:14-4;

(e) murder pursuant to N.J.S.2C:11-3 or manslaughter pursuant to N.J.S.2C:11-4;

(f) stalking pursuant to P.L.1992, c.209 (C.2C:12-10);

(g) kidnapping and related offenses including criminal restraint; false imprisonment; interference with custody; criminal coercion; or enticing a child into a motor vehicle, structure, or isolated area pursuant to N.J.S.2C:13-1 through C.2C:13-6;

(h) arson pursuant to N.J.S.2C:17-1, or causing or risking widespread injury or damage, which would constitute a crime of the second degree pursuant to N.J.S.2C:17-2;

(i) terroristic threats pursuant to N.J.S.2C:12-3;

(j) aggravated assault, which would constitute a crime of the second or third degree pursuant to subsection b. of N.J.S.2C:12-1;

(k) robbery, which would constitute a crime of the first degree pursuant to N.J.S.2C:15-1;

(l) burglary, which would constitute a crime of the second degree pursuant to N.J.S.2C:18-2;

(m) domestic violence pursuant to P.L.1991, c.261 (C.2C:25-17 et seq.);

(n) any drug related offense committed within the preceding five-year period; or

(o) an attempt or conspiracy to commit any of the crimes or offenses listed in paragraphs (a) through (n) of this subsection.

b. For the purposes of this section, a person shall be deemed to have a disqualifying record of conviction if the person has been convicted in New Jersey of any of the crimes listed in subsection a. of this section, or if the person has been convicted in any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in that subsection.

c. Notwithstanding the provisions of this section to the contrary, a prospective or current provider's application for a certificate or renewal of registration shall not be denied under this act on the basis of any conviction disclosed by a criminal

history record background check performed pursuant to this act without an opportunity to challenge the accuracy of the disqualifying criminal history record pursuant to subsection c. of section 5 of P.L.2017, c.89 (C.30:5B-25.9).

(cf: P.L.2017, c.89, s.3)

16. Section 3 of P.L.1998, c.134 (C.52:17B-193) is amended to read as follows:

3. a. The department shall establish and maintain information available through the internet. The information shall include but not be limited to guidelines and recommendations on computer ethics, proper methods for reporting high technology crimes, safe computing practices for children and their families, and methods to filter, screen or block the receipt of objectionable material on interactive computer services.

b. The department shall design a continuing educational program to inform law enforcement, educational, civic and business groups on the emerging issues of high technology crimes including those perpetrated through the use of interactive computer services. This continuing educational program shall be made available by the department through the internet.

c. The department, in conjunction with the Statewide Computer Crime Task Force, shall establish and maintain a 24-hour toll-free hotline telephone service. The department shall take appropriate steps to publicize the hotline. The hotline shall receive and respond to inquiries or complaints from members of the public reporting computer crime, including but not limited to online distribution or possession of child [pornography] sexual abuse or exploitation material; cyber-stalking; threats of violence in schools or other institutions; internet fraud, and unauthorized intrusions into computer systems.

(cf: P.L.2001, c.334, s.1)

17. This act shall take effect immediately.

STATEMENT

This bill updates terminology in statutory law pertaining to the sexual exploitation or abuse of children. Current state law prohibits the creation, manufacture, distribution, sale or viewing of child pornography. Among child protection advocates, however, terms such as “child sexual abuse material” and “child sexual exploitation material” have come into wider use, replacing the general description of “child pornography” because these terms more accurately reflect the suffering of the children who are victims of these crimes. When used in the context of

depictions of children, the term “pornography” may be understood to legitimize or trivialize the sexual abuse or exploitation of those children. In addition, the term “pornography” carries with it the implication that the acts are performed with the consent of the child, and represent legitimate sexual material.

This bill replaces the term child pornography with the term “trade in child sexual abuse or exploitation material” in Title 2A. In Title 2C, the definition of “item depicting the sexual exploitation or abuse of a child” is amended to include “child sexual abuse or exploitation material” and the acronym “CSAEM.”

The bill replaces the term child pornography with “network to share child sexual abuse or exploitation material” in various sections of Title 2C concerning the definition, degrees of crime, examination referrals, registration of sex offenders, and special sentencing for parole supervision for life for a leader of a network distributing depictions of child sexual abuse or exploitation. The bill further clarifies that online distribution or possession of sexual abuse or exploitation material is to be included in the schedule of penalties pertaining to offenses involving computer criminal activity in Title 2C.

In Title 9, the term pornography is replaced with “any crime involving child sexual abuse or exploitation material” concerning disqualification of employment pursuant to N.J.S.9:3-40.5.

In Title 18A, the word pornography is replaced with the term “child sexual abuse or exploitation material” with regard to the practice of “sexting,” or sending sexually explicit messages pursuant to N.J.S.18A:35-4.32.

This bill replaces the term pornography in various parts of Title 30 with “any crime involving child sexual abuse or exploitation material” in the statutes concerning revocation of a day care center’s registration, criteria for permanent disqualification from employment, disqualification from adopting a child or being a resource family parent, and disqualification of employment at, or ownership or sponsorship of, a child day care center.

In Title 52, the term pornography is replaced with “online distribution or possession of child sexual abuse or exploitation material” in the statutes concerning the Department of Law and Public Safety’s efforts to receive and respond to inquiries or complaints from members of the public reporting computer crimes pursuant to N.J.S.52:17B-193.

This bill also updates the terminology used in current law to replace outdated references to certain crimes that involve the sexual exploitation or abuse of children. According to the

sponsor, the changes made in this bill are not intended, nor should they be construed, to have any substantive impact on the applicability of the affected provisions; the changes are intended to render the terminology consistent with the rest of the current statutory scheme and the broader international trend. The bill also corrects technical inconsistencies in the statutes.