

ASSEMBLY, No. 789

STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Assemblyman WILFREDO CARABALLO

District 29 (Essex and Union)

SYNOPSIS

Permits sentencing as repeat sex offender if adult defendant had been previously adjudicated delinquent as a juvenile for a sex offense.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



A789 CARABALLO

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1 AN ACT concerning juvenile sex offenders and amending P.L.1982,
2 c.77 and N.J.S.2C:14-6.

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

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7 1. Section 29 of P.L.1982, c.77 (C.2A:4A-48) is amended to
8 read as follows:

9 29. Effect of disposition. No disposition under this act shall
10 operate to impose any of the civil disabilities ordinarily imposed by
11 virtue of a criminal conviction, nor shall a juvenile be deemed a
12 criminal by reason of such disposition.

13 The disposition of a case under this act shall not be admissible
14 against the juvenile in any criminal or penal case or proceeding in
15 any other court except for consideration in sentencing, including
16 sentencing of a person under the provisions of N.J.S.2C:14-6
17 concerning a second or subsequent conviction of a sexual offense or
18 as otherwise provided by law.

19 (cf: P.L.1982, c.77, s.29)

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21 2. N.J.S.2C:14-6 is amended to read as follows:

22 2C:14-6. Sentencing.

23 a. If a person is convicted of a second or subsequent offense
24 under sections 2C:14-2 or 2C:14-3a., the sentence imposed under
25 those sections for the second or subsequent offense shall, unless the
26 person is sentenced pursuant to the provisions of 2C:43-7, include a
27 fixed minimum sentence of not less than 5 years during which the
28 defendant shall not be eligible for parole. The court may not
29 suspend or make any other non-custodial disposition of any person
30 sentenced as a second or subsequent offender pursuant to this
31 section. For the purpose of this section an offense is considered a
32 second or subsequent offense, if the actor has at any time been
33 convicted under sections 2C:14-2 or 2C:14-3a. or under any similar
34 statute of the United States, this State, or any other state for an
35 offense that is substantially equivalent to sections 2C:14-2 or
36 2C:14-3a.

37 b. If a person has been adjudicated delinquent as a juvenile for
38 an act which, if committed by an adult, would constitute a violation
39 of 2C:14-2 or 2C:14-3a. or of any similar statute of the United
40 States, this State, or any other state for an offense that is
41 substantially equivalent to sections 2C:14-2 or 2C:14-3a. and that
42 person is convicted of a subsequent offense under sections 2C:14-2
43 or 2C:14-3a. as an adult, the sentence imposed under those sections
44 for the subsequent offense shall, if the person is not sentenced
45 pursuant to the provisions of 2C:43-7, include a fixed minimum

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 sentence of not less than 5 years during which the defendant shall
2 not be eligible for parole, unless the court, having regard to the
3 character and condition of the defendant, is of the opinion that the
4 imposition of such a sentence would be a serious injustice which
5 overrides the need to deter such conduct by the defendant and
6 others. If the court does not impose a fixed minimum sentence
7 pursuant to this subsection, the sentence shall not become final for
8 10 days in order to permit the prosecution to appeal the sentence.
9 (cf: P.L.1978, c.95, s.2C:14-6)

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11 3. This act shall take effect immediately.

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STATEMENT

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16 This bill permits the sentencing of an adult sex offender as a
17 repeat offender if the offender, as a juvenile, had been adjudicated
18 delinquent for an act which, if committed by an adult, would have
19 been an aggravated sexual assault, sexual assault, or aggravated
20 criminal sexual contact.

21 Under current law, a person who is convicted a second or
22 subsequent time of aggravated sexual assault, sexual assault, or
23 aggravated criminal sexual contact must serve a five year
24 mandatory minimum term of imprisonment. However, if the
25 person, while a juvenile, was adjudicated delinquent for an act
26 which, if committed by an adult, would have been an aggravated
27 sexual assault, sexual assault, or aggravated criminal sexual contact,
28 then the adjudication is not considered to be a prior conviction and
29 the person is treated as a first offender. The bill would permit any
30 such juvenile adjudication to be considered a prior offense for
31 purposes of sentencing the person as a repeat sex offender and
32 would permit the imposition of a prison sentence of five years
33 without parole.

34 The bill makes mandatory the five-year prison sentence without
35 parole and provides an exception for instances where the court finds
36 that imposing such a sentence would be a serious injustice which
37 overrides the need for deterrence. The bill also permits the
38 prosecution to appeal the sentence if the court does not impose a
39 fixed minimum sentence.