

NEW JERSEY CRIME DEFINITIONS

Sexual Assault

N.J.S.A. 2C:14-2(a): An actor is guilty of aggravated sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances: (1) The victim is less than 13 years old; (2) The victim is at least 13 but less than 16 years old; and (a) The actor is related to the victim by blood or affinity to the third degree, or (b) The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or (c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household; (3) The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, kidnapping, homicide, aggravated assault on another, burglary, arson or criminal escape; (4) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object; (5) The actor is aided or abetted by one or more other persons and the actor uses physical force or coercion; (6) The actor uses physical force or coercion and severe personal injury is sustained by the victim; (7) The victim is one whom the actor knew or should have known was physically helpless or incapacitated, intellectually or mentally incapacitated, or had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent. Aggravated sexual assault is a crime of the first degree. Except as otherwise provided in subsection d. of this section, a person convicted under paragraph (1) of this subsection shall be sentenced to a specific term of years which shall be fixed by the court and shall be between 25 years and life imprisonment of which the person shall serve 25 years before being eligible for parole, unless a longer term of parole ineligibility is otherwise provided pursuant to this Title.

N.J.S.A. 2C:14-2(b): An actor is guilty of sexual assault if he commits an act of sexual contact with a victim who is less than 13 years old and the actor is at least four years older than the victim.

N.J.S.A. 2C:14-2(c): An actor is guilty of sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances: (1) The actor uses physical force or coercion, but the victim does not sustain severe personal injury; (2) The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status; (3) The victim is at least 16 but less than 18 years old and: (a) The actor is related to the victim by blood or affinity to the third degree; or (b) The actor has supervisory or disciplinary power of any nature or in any capacity over the victim; or (c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household; (4) The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim. Sexual assault is a crime of the second degree.

N.J.S.A. 2C:14-2(d): Notwithstanding the provisions of subsection a. of this section, where a defendant is charged with a violation under paragraph (1) of subsection a. of this section, the prosecutor, in consideration of the interests of the victim, may offer a negotiated plea agreement in which the defendant would be sentenced to a specific term of imprisonment of not less than 15 years, during which the defendant shall not be eligible for parole. In such event, the court may accept the negotiated plea agreement and upon such conviction shall impose the term of imprisonment and period of parole ineligibility as provided for in the plea agreement, and may not impose a lesser term of imprisonment or parole or a lesser period of parole ineligibility than that expressly provided in the plea agreement. The Attorney General shall develop guidelines to ensure the uniform exercise of discretion in making determinations regarding a negotiated reduction in the term of imprisonment and period of parole ineligibility set forth in subsection a. of this section.

Consent

In order to establish effective consent by the putative victim of a sexual assault, a defendant must demonstrate the presence of “affirmative and freely-given permission...” State v. Cuni, 159 N.J. 584, 603, 733 A.2d 414 (1999) (citing State in the Interest of M.T.S., 129 N.J. 422, 448, 609 A.2d 1266 (1992)).

N.J.S.A. 2C:2-10(a): In general. The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense if such consent negates an element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law defining the offense.

N.J.S.A. 2C:2-10(b): Consent to bodily harm. When conduct is charged to constitute an offense because it causes or threatens bodily harm, consent to such conduct or to the infliction of such harm is a defense if: (1) The bodily harm consented to or threatened by the conduct consented to is not serious; or (2) The conduct and the harm are reasonably foreseeable hazards of joint participation in a concerted activity of a kind not forbidden by law; or (3) The consent establishes a justification for the conduct under chapter 3 of the code.

N.J.S.A. 2C:2-10(c): Ineffective consent. Unless otherwise provided by the code or by the law defining the offense, assent does not constitute consent if: (1) It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense; or (2) It is given by a person who by reason of youth, mental disease or defect or intoxication is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature of harmfulness of the conduct charged to constitute an offense; or (3) It is induced by force, duress or deception of a kind sought to be prevented by the law defining the offense.

Domestic Violence

N.J.S.A. 2C:25-19(a): As used in this act: “Domestic violence” means the occurrence of one or more of the following acts inflicted upon a person protected under this act by an adult or an emancipated minor: (1) Homicide N.J.S. 2C:11-1 et seq.; (2) Assault N.J.S. 2C:12-1; (3) Terroristic threats N.J.S. 2C:12-3; (4) Kidnapping N.J.S. 2C:13-1; (5) Criminal restraint N.J.S. 2C:13-2; (6) False imprisonment N.J.S. 2C:13-3; (7) Sexual assault N.J.S. 2C:14-2; (8) Criminal sexual contact N.J.S. 2C:14-3; (9) Lewdness N.J.S. 2C:14-4; (10) Criminal mischief N.J.S. 2C:17-3; (11) Burglary N.J.S. 2C:18-2; (12) Criminal trespass N.J.S. 2C:18-3; (13) Harassment N.J.S. 2C:33-4; (14) Stalking P.L.1992, c. 209 (C. 2C:12-10). When one or more of these acts is inflicted by an unemancipated minor upon a person protected under this act, the occurrence shall not constitute “domestic violence,” but may be the basis for the filing of a petition or complaint pursuant to the provisions of section 11 of P.L.1982, c. 77 (C. 2A:4A-30).

N.J.S.A. 2C:25-19(d): “Victim of domestic violence” means a person protected under this act and shall include any person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a present or former household member. “Victim of domestic violence” also includes any person, regardless of age, who has been subjected to domestic violence by a person with whom the victim has a child in common, or with whom the victim anticipates having a child in common, if one of the parties is pregnant. “Victim of domestic violence” also includes any person who has been subjected to domestic violence by a person with whom the victim has had a dating relationship.

Stalking

N.J.S.A. 2C:12-10(a): As used in this act: (1) “Course of conduct” means repeatedly maintaining a visual or physical proximity to a person; directly, indirectly, or through third parties, by any action, method, device, or means, following, monitoring, observing, surveilling, threatening, or communicating to or about, a person, or interfering with a person's property; repeatedly committing harassment against a person; or

repeatedly conveying, or causing to be conveyed, verbal or written threats or threats conveyed by any other means of communication or threats implied by conduct or a combination thereof directed at or toward a person. (2) "Repeatedly" means on two or more occasions. (3) "Emotional distress" means significant mental suffering or distress. (4) "Cause a reasonable person to fear" means to cause fear which a reasonable victim, similarly situated, would have under the circumstances

N.J.S.A. 2C:12-10(b): A person is guilty of stalking, a crime of the fourth degree, if he purposefully or knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for his safety or the safety of a third person or suffer other emotional distress.

N.J.S.A. 2C:12-10(c): A person is guilty of a crime of the third degree if he commits the crime of stalking in violation of an existing court order prohibiting the behavior.

N.J.S.A. 2C:12-10(d): A person who commits a second or subsequent offense of stalking against the same victim is guilty of a crime of the third degree.

N.J.S.A. 2C:12-10(e): A person is guilty of a crime of the third degree if he commits the crime of stalking while serving a term of imprisonment or while on parole or probation as the result of a conviction for any indictable offense under the laws of this State, any other state or the United States.

N.J.S.A. 2C:12-10(f): This act shall not apply to conduct which occurs during organized group picketing.