

# ASSEMBLY, No. 3144

## STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JUNE 25, 2012

**Sponsored by:**

**Assemblyman JACK M. CIATTARELLI**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblywoman DONNA M. SIMON**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**SYNOPSIS**

Establishes offense of advertising commercial sexual abuse of minor.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 7/31/2012)**

1 AN ACT establishing the offense of advertising commercial sexual  
2 abuse of a minor, supplementing chapter 13 of Title 2C of the  
3 New Jersey Statutes, and amending P.L.1994, c.133.

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

- 7  
8 1. (New section) The Legislature finds and declares that:  
9 a. There reportedly are more than 12 million victims of human  
10 trafficking and it estimated that this figure could actually be as high  
11 as 27 million;  
12 b. According to the National Center for Missing and Exploited  
13 Children, at least 100,000 human trafficking victims are American  
14 children who are an average age of 13 years old;  
15 c. Advertisements for selling the services of girls as escorts on  
16 Internet websites falsely claim that these girls are 18 years of age or  
17 older, when the girls actually are minors;  
18 d. The advertising of these escort services includes minors who  
19 are being sold for sex, which constitutes sex trafficking and  
20 commercial sexual abuse of minors;  
21 e. Responding to political and public outcry, the Internet  
22 website craigslist.com removed its escort section, but another  
23 website with an escort section, backpage.com, has to date refused to  
24 do so;  
25 f. The state of Washington recently enacted a law to require  
26 Internet websites, such as backpage.com, to maintain  
27 documentation that they have proved the age of the escorts  
28 advertised on their sites;  
29 g. The State of New Jersey criminalized human trafficking in  
30 2005; and  
31 h. Sex trafficking of minors should be eliminated in conformity  
32 with federal laws prohibiting the sexual exploitation of children.  
33  
34 2. (New section) a. A person commits the offense of  
35 advertising commercial sexual abuse of a minor if the person  
36 knowingly publishes, disseminates, or displays, or causes directly  
37 or indirectly, to be published, disseminated, or displayed, any  
38 advertisement for a commercial sex act, which is to take place in  
39 this State and which includes the depiction of a minor.  
40 b. A person who commits the offense of advertising  
41 commercial sexual abuse of a minor as established in subsection a.  
42 of this section is guilty of a crime of the third degree.  
43 c. Nothing in this section shall preclude an indictment and  
44 conviction for any other offense defined by the laws of this State.

**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 d. For the purposes of this section:

2 "Advertisement for a commercial sex act" means any  
3 advertisement or offer in electronic or print media, including the  
4 Internet, which includes either an explicit or implicit offer for a  
5 commercial sex act to occur in this State.

6 "Commercial sex act" means any act of sexual contact or sexual  
7 penetration, as defined in N.J.S.2C:14-1, or any prohibited sexual  
8 act, as defined in N.J.S.2C:24-4, for which something of value is  
9 given or received by any person.

10 "Depiction" means any photograph or visual or printed matter.

11 "Minor" means a person who is under 18 years of age.

12 "Photograph" means a print, negative, slide, digital image,  
13 motion picture, or videotape, and includes anything tangible or  
14 intangible produced by photographing.

15 "Visual or printed matter" means any photograph or other  
16 material that contains a reproduction of a photograph.

17

18 3. (New section) a. It shall not be a defense to a violation of  
19 section 2 of P.L. , c. (C. ) that the defendant did not know  
20 the age of the minor depicted in the advertisement.

21 b. It shall be a defense to a violation of section 2 of  
22 P.L. , c. (C. ) that the defendant made a reasonable, bona  
23 fide attempt to ascertain the true age of the minor depicted in the  
24 advertisement by requiring, prior to publication, dissemination, or  
25 display of the advertisement, production of a driver's license,  
26 marriage license, birth certificate, or other governmental or  
27 educational identification card or paper of the minor depicted in the  
28 advertisement and did not rely solely on oral or written  
29 representations of the minor's age, or the apparent age of the minor  
30 as depicted.

31 c. The defendant shall prove the defense established in  
32 subsection b. of this section by a preponderance of the evidence.

33 d. The defendant shall maintain and, upon request, produce a  
34 record of the identification used to verify the age of the person  
35 depicted in the advertisement.

36

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

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

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

1 full-time or a part-time basis, with or without compensation, for  
2 more than 14 consecutive days or for an aggregate period exceeding  
3 30 days in a calendar year, shall register in this State as provided in  
4 subsections c. and d. of this section.

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

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

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

16 (2) A conviction, adjudication of delinquency, or acquittal by  
17 reason of insanity for aggravated sexual assault; sexual assault;  
18 aggravated criminal sexual contact; kidnapping pursuant to  
19 paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the  
20 welfare of a child by engaging in sexual conduct which would  
21 impair or debauch the morals of the child pursuant to subsection a.  
22 of N.J.S.2C:24-4; endangering the welfare of a child pursuant to  
23 paragraph (3) or (4) or subparagraph (a) of paragraph (5) of  
24 subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to  
25 section 1 of P.L.1993, c.291 (C.2C:13-6); criminal sexual contact  
26 pursuant to N.J.S.2C:14-3b. if the victim is a minor; kidnapping  
27 pursuant to N.J.S.2C:13-1, criminal restraint pursuant to  
28 N.J.S.2C:13-2, or false imprisonment pursuant to N.J.S.2C:13-3  
29 if the victim is a minor and the offender is not the parent of the  
30 victim; knowingly promoting prostitution of a child pursuant to  
31 paragraph (3) or paragraph (4) of subsection b. of N.J.S.2C:34-1;  
32 advertising commercial sexual abuse of a minor pursuant to section  
33 2 of P.L. , c. (C. ) (pending before the Legislature as this  
34 bill); or an attempt to commit any of these enumerated offenses if  
35 the conviction, adjudication of delinquency or acquittal by reason of  
36 insanity is entered on or after the effective date of this act or the  
37 offender is serving a sentence of incarceration, probation, parole or  
38 other form of community supervision as a result of the offense or is  
39 confined following acquittal by reason of insanity or as a result of  
40 civil commitment on the effective date of this act;

41 (3) A conviction, adjudication of delinquency or acquittal by  
42 reason of insanity for an offense similar to any offense enumerated  
43 in paragraph (2) or a sentence on the basis of criteria similar to the  
44 criteria set forth in paragraph (1) of this subsection entered or  
45 imposed under the laws of the United States, this State or another  
46 state.

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

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

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

22 (3) A person moving to or returning to this State from another  
23 jurisdiction shall register with the chief law enforcement officer of  
24 the municipality in which the person will reside or, if the  
25 municipality does not have a local police force, the Superintendent  
26 of State Police within 120 days of the effective date of this act or 10  
27 days of first residing in or returning to a municipality in this State,  
28 whichever is later;

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

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

46 (6) A person who in another jurisdiction is required to register  
47 as a sex offender and who is employed or carries on a vocation in  
48 this State, on either a full-time or a part-time basis, with or without

1 compensation, for more than 14 consecutive days or for an  
2 aggregate period exceeding 30 days in a calendar year, shall, within  
3 ten days after commencing such employment or vocation, register  
4 with the chief law enforcement officer of the municipality in which  
5 the employer is located or where the vocation is carried on, as the  
6 case may be, or, if the municipality does not have a local police  
7 force, the Superintendent of State Police;

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

15 d. (1) Upon a change of address, a person shall notify the law  
16 enforcement agency with which the person is registered and shall  
17 re-register with the appropriate law enforcement agency no less  
18 than 10 days before he intends to first reside at his new address.  
19 Upon a change of employment or school enrollment status, a person  
20 shall notify the appropriate law enforcement agency no later than  
21 five days after any such change. A person who fails to notify the  
22 appropriate law enforcement agency of a change of address or status  
23 in accordance with this subsection is guilty of a crime of the fourth  
24 degree.

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

35 e. A person required to register under paragraph (1) of  
36 subsection b. of this section or under paragraph (3) of subsection b.  
37 due to a sentence imposed on the basis of criteria similar to the  
38 criteria set forth in paragraph (1) of subsection b. shall verify his  
39 address with the appropriate law enforcement agency every 90 days  
40 in a manner prescribed by the Attorney General. A person required  
41 to register under paragraph (2) of subsection b. of this section or  
42 under paragraph (3) of subsection b. on the basis of a conviction for  
43 an offense similar to an offense enumerated in paragraph (2) of  
44 subsection b. shall verify his address annually in a manner  
45 prescribed by the Attorney General. One year after the effective  
46 date of this act, the Attorney General shall review, evaluate and, if  
47 warranted, modify pursuant to the "Administrative Procedure Act,"  
48 P.L.1968, c.410 (C.52:14B-1 et seq.) the verification requirement.

1 Any person who knowingly provides false information concerning  
2 his place of residence or who fails to verify his address with the  
3 appropriate law enforcement agency or other entity, as prescribed  
4 by the Attorney General in accordance with this subsection, is  
5 guilty of a crime of the fourth degree.

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

13 g. A person required to register under this section who has  
14 been convicted of, adjudicated delinquent, or acquitted by reason of  
15 insanity for more than one sex offense as defined in subsection b. of  
16 this section or who has been convicted of, adjudicated delinquent,  
17 or acquitted by reason of insanity for aggravated sexual assault  
18 pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault  
19 pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not  
20 eligible under subsection f. of this section to make application to  
21 the Superior Court of this State to terminate the registration  
22 obligation.

23 (cf: P.L.2007, c.219, s.2)

24

25 5. This act shall take effect immediately.

26

27

28

#### STATEMENT

29

30 This bill would make it a third degree crime to commit the  
31 offense of advertising commercial sexual abuse of a minor. A  
32 person is guilty of this offense if he or she knowingly publishes,  
33 disseminates, or displays, or causes directly or indirectly, to be  
34 published, disseminated, or displayed, any advertisement for a  
35 commercial sex act, which is to take place in this State and which  
36 includes the depiction of a minor. Third degree crimes are  
37 punishable by a term of incarceration of three-to-five years, a fine  
38 of \$10,000, or both.

39 Under the bill, a person convicted of the offense of advertising  
40 commercial sexual abuse of a minor would be required to register as  
41 a sex offender under Megan's Law.

42 The bill defines an "advertisement for a commercial sex act" as  
43 any advertisement or offer in electronic or print media, including  
44 the Internet, which includes either an explicit or implicit offer for a  
45 commercial sex act to occur in this State. A "commercial sex act"  
46 is defined as any act of sexual contact, sexual penetration, or other  
47 prohibited act that can endanger a minor for which something of  
48 value is given or received by any person. A "depiction" is defined

1 as any photograph or visual or printed matter. A "minor" is defined  
2 as a person who is under 18 years of age. A "photograph" is  
3 defined as a print, negative, slide, digital image, motion picture, or  
4 videotape, and includes anything tangible or intangible produced by  
5 photographing, and "visual or printed matter" is defined as any  
6 photograph or other material that contains a reproduction of a  
7 photograph.

8 The bill specifies that it is not a defense to the offense of  
9 advertising commercial sexual abuse of a minor that the defendant  
10 did not know the age of the minor depicted in the advertisement.  
11 But it is a defense that the defendant made a reasonable, bona fide  
12 attempt to ascertain the true age of the minor depicted in the  
13 advertisement by requiring, prior to publication, dissemination, or  
14 display of the advertisement, a production of a driver's license,  
15 marriage license, birth certificate, or other governmental or  
16 educational identification card or paper of the minor depicted in the  
17 advertisement, and that the defendant did not rely solely on oral or  
18 written representations of the minor's age, or the apparent age of the  
19 minor as depicted. The defendant must prove the defense by a  
20 preponderance of the evidence.

21 To invoke the defense under the bill, the defendant is required to  
22 produce for inspection by law enforcement a record of the  
23 identification used to verify the age of the person depicted in the  
24 advertisement.

25 This bill is intended to address the problem of escort services  
26 whose advertisements include minors who are being sold for sex.  
27 This constitutes a form of sex trafficking and commercial abuse of  
28 minors. It is hoped that this bill would assist in eliminating sex  
29 trafficking of minors in a manner in conformity with federal law  
30 prohibiting the sexual exploitation of children. This bill is modeled  
31 after a recently enacted Washington state law that establishes the  
32 offense of advertising commercial sexual abuse of a minor.