

[Second Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2730

STATE OF NEW JERSEY
211th LEGISLATURE

ADOPTED SEPTEMBER 13, 2004

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Senators Gill, Inverso, Lance, Kyrillos, T.Kean, Connors, Allen and
Turner

SYNOPSIS

Establishes crime of human trafficking; adds to racketeering; authorizes victim compensation and services; provides certain affirmative defenses.

CURRENT VERSION OF TEXT

As amended by the Senate on February 14, 2005.

(Sponsorship Updated As Of: 3/15/2005)

1 AN ACT concerning ¹[victims of]¹ human trafficking ¹[.]¹ and
2 amending and supplementing various parts of the statutory law.

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

6
7 ¹[1. N.J.S.2C:13-1 is amended to read as follows:

8 2C:13-1. Kidnapping. a. Holding for ransom, reward or as a
9 hostage. A person is guilty of kidnapping if he unlawfully removes
10 another from the place where he is found or if he unlawfully confines
11 another with the purpose of holding that person for ransom or reward
12 or as a shield or hostage.

13 b. Holding for other purposes. A person is guilty of kidnapping if
14 he unlawfully removes another from his place of residence or business,
15 or a substantial distance from the vicinity where he is found, or if he
16 unlawfully confines another for a substantial period, with any of the
17 following purposes:

18 (1) To facilitate commission of any crime or flight thereafter;

19 (2) To inflict bodily injury on or to terrorize the victim or another;

20 (3) To interfere with the performance of any governmental or
21 political function; or

22 (4) To permanently deprive a parent, guardian or other lawful
23 custodian of custody of the victim.

24 c. Grading of kidnapping. (1) Except as provided in paragraph (2)
25 of this subsection, kidnapping is a crime of the first degree and upon
26 conviction thereof, a person may, notwithstanding the provisions of
27 paragraph (1) of subsection a. of N.J.S.2C:43-6, be sentenced to an
28 ordinary term of imprisonment between 15 and 30 years. If the actor
29 releases the victim unharmed and in a safe place prior to apprehension,
30 it is a crime of the second degree.

31 (2) Kidnapping is a crime of the first degree and upon conviction
32 thereof, an actor shall be sentenced to a term of imprisonment by the
33 court, if the victim of the kidnapping is less than 16 years of age and
34 if during the kidnapping:

35 (a) A crime under N.J.S.2C:14-2 **[or]** ¹ subsection a. of
36 N.J.S.2C:14-3 , N.J.S.2C:34-1 or section 3 of P.L. , c. (C.)(now
37 pending before the Legislature as section 3 of this bill) is committed
38 against the victim;

39 (b) A crime under subsection b. of N.J.S.2C:24-4 is committed
40 against the victim; or

41 (c) The actor sells or delivers the victim to another person for

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SJU committee amendments adopted February 3, 2005.

² Senate floor amendments adopted February 14, 2005.

1 pecuniary gain other than in circumstances which lead to the return of
2 the victim to a parent, guardian or other person responsible for the
3 general supervision of the victim.

4 Notwithstanding the provisions of paragraph (1) of subsection a.
5 of N.J.S.2C:43-6, the term of imprisonment imposed under this
6 paragraph shall be either a term of 25 years during which the actor
7 shall not be eligible for parole, or a specific term between 25 years and
8 life imprisonment, of which the actor shall serve 25 years before being
9 eligible for parole; provided, however, that the crime of kidnapping
10 under this paragraph and underlying aggravating crimes listed in
11 subparagraph (a), (b) or (c) of this paragraph shall merge for purposes
12 of sentencing. If the actor is convicted of the criminal homicide of a
13 victim of a kidnapping under the provisions of chapter 11, any
14 sentence imposed under provisions of this paragraph shall be served
15 consecutively to any sentence imposed pursuant to the provisions of
16 chapter 11.

17 d. "Unlawful" removal or confinement. A removal or confinement
18 is unlawful within the meaning of this section and of sections 2C:13-2
19 and 2C:13-3, if it is accomplished by force, threat or deception, or, in
20 the case of a person who is under the age of 14 or is incompetent, if
21 it is accomplished without the consent of a parent, guardian or other
22 person responsible for general supervision of his welfare.

23 e. It is an affirmative defense to a prosecution under paragraph (4)
24 of subsection b. of this section, which must be proved by clear and
25 convincing evidence, that:

26 (1) The actor reasonably believed that the action was necessary to
27 preserve the victim from imminent danger to his welfare. However, no
28 defense shall be available pursuant to this subsection if the actor does
29 not, as soon as reasonably practicable but in no event more than 24
30 hours after taking a victim under his protection, give notice of the
31 victim's location to the police department of the municipality where the
32 victim resided, the office of the county prosecutor in the county where
33 the victim resided, or the Division of Youth and Family Services in the
34 Department of Human Services;

35 (2) The actor reasonably believed that the taking or detaining of
36 the victim was consented to by a parent, or by an authorized State
37 agency; or

38 (3) The victim, being at the time of the taking or concealment not
39 less than 14 years old, was taken away at his own volition by his
40 parent and without purpose to commit a criminal offense with or
41 against the victim.

42 f. It is an affirmative defense to a prosecution under paragraph (4)
43 of subsection b. of this section that a parent having the right of
44 custody reasonably believed he was fleeing from imminent physical
45 danger from the other parent, provided that the parent having custody,
46 as soon as reasonably practicable:

1 (1) Gives notice of the victim's location to the police department
2 of the municipality where the victim resided, the office of the county
3 prosecutor in the county where the victim resided, or the Division of
4 Youth and Family Services in the Department of Human Services; or

5 (2) Commences an action affecting custody in an appropriate
6 court.

7 g. As used in subsections e. and f. of this section, "parent" means
8 a parent, guardian or other lawful custodian of a victim.

9 (cf: P.L.1999, c.190, s.1)]¹

10

11 ¹[2. N.J.S.2C:13-2 is amended to read as follows:

12 2C:13-2. A person commits a crime of the third degree if he
13 knowingly:

14 a. Restrains another unlawfully in circumstances exposing the
15 other to risk of serious bodily injury[; or].

16 b. [Holds another in a condition of involuntary servitude.

17 The creation by the actor of circumstances resulting in a belief by
18 another that he must remain in a particular location shall for purposes
19 of this section be deemed to be a holding in a condition of involuntary
20 servitude.

21 In any prosecution under subsection b., it is an affirmative defense
22 that the person held was a child less than 18 years old and the actor
23 was a relative or legal guardian of such child and his sole purpose was
24 to assume control of such child.] (Deleted by amendment, P.L. ,
25 c. (C.)(now pending before the Legislature as this bill).

26 (cf: N.J.S.2C:13-2)]¹

27

28 ¹[3. (New section) Involuntary servitude. a. A person commits
29 a crime of the first degree if he knowingly holds another in a condition
30 of involuntary servitude by knowingly providing or obtaining the labor
31 or services of another:

32 (1) by causing or threatening to cause serious bodily harm or
33 physical restraint against the person or any other person;

34 (2) by means of any scheme, plan or pattern intended to cause the
35 person to believe that the person or any other person would suffer
36 serious bodily harm or physical restraint;

37 (3) by committing a violation of N.J.S.2C:13-5 against the person;

38 (4) by destroying, concealing, removing, confiscating, or
39 possessing any passport, immigration-related document as defined in
40 section 1 of P.L.1997, c.1 (C.2C:21-31), or other document issued by
41 a governmental agency to any person which could be used as a means
42 of verifying the person's identity or age or any other personal
43 identifying information; or

44 (5) by means of the abuse or threatened abuse of the law or legal
45 process.

46

b. The creation by the actor of circumstances resulting in a belief

1 by another that he must remain in a particular location shall for the
2 purposes of this section be deemed to be a holding in a condition of
3 involuntary servitude.

4 c. In addition to any other disposition authorized by law, any
5 person who violates the provisions of this section shall be sentenced
6 to make restitution to the victim. The court shall award to the victim
7 restitution which is the greater of:

8 (1) the gross income or value to the defendant of the victim's labor
9 or services; or

10 (2) the value of the victim's labor or services as determined by the
11 "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25
12 et seq.), the "New Jersey State Wage and Hour Law," P.L.1966, c.113
13 (C.34:11-56a et seq.), the Seasonal Farm Labor Act, P.L.1945, c.71
14 (C.34:9A-1 et seq.), the laws concerning the regulation of child labor
15 in chapter 2 of Title 34 of the Revised Statutes, or any other applicable
16 State law, and the "Fair Labor Standards Act of 1938," 29 U.S.C.
17 s.201 et seq. or any other applicable federal law.

18 In any prosecution under this section it is an affirmative defense
19 that the person held was a child less than 18 years old and the actor
20 was a relative or legal guardian of such child and his sole purpose was
21 to assume control of such child.]¹

22

23 ¹[4.]¹ (New section). Human trafficking. a. ¹A ¹person
24 commits the crime of human trafficking if he ¹:

25 (1)¹ knowingly holds,¹ recruits, lures, entices,
26 harbors,transports,¹ provides or obtains ¹[the labor or services of
27 another which involves involuntary servitude in violation of section 3
28 of P.L. , c. (C.)(now pending before the Legislature as section 3 of
29 this bill), promotes prostitution in violation of N.J.S.2C:34-1 or
30 benefits financially or otherwise by receiving] , by any means, another,
31 to engage in sexual activity as defined in paragraph (2) of subsection
32 a. of N.J.S.2C:34-1 or to provide labor or services:

33 (a) by threats of serious bodily harm or physical restraint against
34 the person or any other person;

35 (b) by means of any scheme, plan or pattern intended to cause the
36 person to believe that the person or any other person would suffer
37 serious bodily harm or physical restraint;

38 (c) by committing a violation of N.J.S.2C:13-5 against the person;
39 or

40 (d) by destroying, concealing, removing, confiscating, or
41 possessing any passport, immigration-related document as defined in
42 section 1 of P.L.1997, c.1 (C.2C:21-31), or other document issued by
43 a governmental agency to any person which could be used as a means
44 of verifying the person's identity or age or any other personal
45 identifying information; or

46 (e) by means of the abuse or threatened abuse of the law or legal

1 process; or

2 (2) receives¹ anything of value from participation as an organizer,
3 supervisor, financier or manager in a scheme or course of conduct
4 which ¹[involves involuntary servitude in violation of the provisions
5 of section 3 of P.L. , c. (C.)(now pending before the Legislature as
6 section 3 of this bill) or N.J.S.2C:34-1. Human trafficking is a crime
7 of the first degree] violates paragraph (1) of this subsection¹.

8 ¹b. An offense under this section constitutes a crime of the first
9 degree¹

10 ¹[A victim of human trafficking may not be prosecuted for the
11 crimes of involuntary servitude or human trafficking in violation of
12 sections 3 or 4 of P.L. ,c. (C.)(now pending before this Legislature
13 as sections 3 or 4 of this bill) or prostitution under N.J.S.2C:34-1.]

14 c. It is an affirmative defense to prosecution for a violation of this
15 section that, during the time of the alleged commission of the offense
16 of human trafficking created by this section, the defendant was a
17 victim of human trafficking.

18 d.¹ Notwithstanding the provisions of ¹[paragraph (1) of
19 subsection a. of]¹ N.J.S.2C:43-6, the term of imprisonment imposed
20 ¹[under this paragraph] for a crime of the first degree under
21 paragraph (2) of subsection a.¹ shall be either a term of ¹[30] 20¹
22 years during which the actor shall not be eligible for parole, or a
23 specific term between ¹[30] 20¹ years and life imprisonment, of which
24 the actor shall serve ¹[30] 20¹ years before being eligible for parole.

25 ¹e.¹ In addition to any other disposition authorized by law, any
26 person who violates the provisions of this section shall be sentenced
27 to make restitution to any victim ¹[in violation of this section. Such
28 restitution shall be in accordance with the terms set forth in subsection
29 c. of paragraph 3 of P.L. , c. (C.) (now pending before the
30 Legislature as section 3 of this bill.)]. The court shall award to the
31 victim restitution which is the greater of:

32 (1) the gross income or value to the defendant of the victim's labor
33 or services; or

34 (2) the value of the victim's labor or services as determined by the
35 "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25
36 et seq.), the "New Jersey State Wage and Hour Law," P.L.1966, c.113
37 (C.34:11-56a et seq.), the Seasonal Farm Labor Act, P.L.1945, c.71
38 (C.34:9A-1 et seq.), the laws concerning the regulation of child labor
39 in chapter 2 of Title 34 of the Revised Statutes, or any other applicable
40 State law, and the "Fair Labor Standards Act of 1938," 29 U.S.C.
41 s.201 et seq. or any other applicable federal law. ¹

42

43 ¹[5. N.J.S.2C:34-1 is amended to read as follows:

44 2C:34-1. Prostitution and Related Offenses.

45 a. As used in this section:

1 (1) "Prostitution" is sexual activity with another person in
2 exchange with any person for something of economic value, or the
3 offer or acceptance of an offer to engage in sexual activity in exchange
4 with any person for something of economic value.

5 (2) "Sexual activity" includes, but is not limited to, sexual
6 intercourse, including genital-genital, oral-genital, anal-genital, and
7 oral-anal contact, whether between persons of the same or opposite
8 sex; masturbation; touching of the genitals, buttocks, or female
9 breasts; sadistic or masochistic abuse and other deviate sexual
10 relations.

11 (3) "House of prostitution" is any place where prostitution or
12 promotion of prostitution is regularly carried on by one person under
13 the control, management or supervision of another.

14 (4) "Promoting prostitution" is:

15 (a) Owning, controlling, managing, supervising or otherwise
16 keeping, alone or in association with another, a house of prostitution
17 or a prostitution business;

18 (b) Procuring an inmate for a house of prostitution or place in a
19 house of prostitution for one who would be an inmate;

20 (c) Encouraging, inducing, recruiting, luring, enticing, harboring,
21 providing, or obtaining, or otherwise purposely causing another to
22 become or remain a prostitute, including destroying, concealing,
23 removing, confiscating, or possessing any passport, immigration-
24 related document as defined in section 1 of P.L.1997, c.1 (C.2C:21-
25 31), or other document issued by a governmental agency to any person
26 which could be used as a means of verifying the person's identity or
27 age or any other personal identifying information;

28 (d) Soliciting a person to patronize a prostitute;

29 (e) Procuring a prostitute for a patron;

30 (f) Transporting a person into or within this State with purpose to
31 promote that person's engaging in prostitution, or procuring or paying
32 for transportation with that purpose; or

33 (g) Leasing or otherwise permitting a place controlled by the actor,
34 alone or in association with others, to be regularly used for
35 prostitution or promotion of prostitution, or failure to make a
36 reasonable effort to abate such use by ejecting the tenant, notifying
37 law enforcement authorities, or other legally available means.

38 b. A person commits an offense if:

39 (1) The actor engages in prostitution;

40 (2) The actor promotes prostitution;

41 (3) The actor knowingly promotes prostitution of a child under 18
42 whether or not the actor mistakenly believed that the child was 18
43 years of age or older, even if such mistaken belief was reasonable;

44 (4) The actor knowingly promotes prostitution of the actor's child,
45 ward, or any other person for whose care the actor is responsible;

46 (5) The actor compels another to engage in or promote

1 prostitution;

2 (6) The actor promotes prostitution of the actor's spouse; or

3 (7) The actor knowingly engages in prostitution with a person
4 under the age of 18, or if the actor enters into or remains in a house of
5 prostitution for the purpose of engaging in sexual activity with a child
6 under the age of 18, or if the actor solicits or requests a child under
7 the age of 18 to engage in sexual activity. It shall be no defense to a
8 prosecution under this paragraph that the actor mistakenly believed
9 that the child was 18 years of age or older, even if such mistaken belief
10 was reasonable.

11 c. Grading of offenses under subsection b.

12 (1) An offense under subsection b. constitutes a crime of the
13 ~~[second]~~ first degree if the offense falls within paragraph (3) or (4)
14 of that subsection. An offense under subsection b. constitutes a crime
15 of the second degree if the offense falls within paragraph (5) of that
16 subsection.

17 (2) An offense under subsection b. constitutes a crime of the third
18 degree if the offense falls within paragraph ~~[(5),]~~(6) or (7) of that
19 subsection.

20 (3) An offense under paragraph (2) of subsection b. constitutes a
21 crime of the ~~[third]~~ first degree if the conduct falls within the
22 definition of promoting prostitution as set forth in subparagraph (a),
23 (b), ~~[or]~~ (c), (f) or (g) of paragraph (4) of subsection a. ~~[Otherwise~~
24 ~~the offense is]~~ An offense under paragraph (2) of subsection b.
25 constitutes a crime of the fourth degree if the conduct falls within the
26 definition of promoting prostitution as set forth in subparagraph (d) or
27 (e) of paragraph (4) of subsection a of this section.

28 (4) An offense under subsection b. constitutes a disorderly persons
29 offense if the offense falls within paragraph (1) of that subsection
30 except that a second or subsequent conviction for such an offense
31 constitutes a crime of the fourth degree. In addition, where a motor
32 vehicle was used in the commission of any offense under paragraph (1)
33 of subsection b. the court shall suspend for six months the driving
34 privilege of any such offender who has a valid driver's license issued
35 by this State. Upon conviction, the court shall immediately collect the
36 offender's driver's license and shall forward it, along with a report
37 stating the first and last day of the suspension imposed pursuant to this
38 paragraph, to the Division of Motor Vehicles.

39 d. Presumption from living off prostitutes. A person, other than
40 the prostitute or the prostitute's minor child or other legal dependent
41 incapable of self-support, who is supported in whole or substantial
42 part by the proceeds of prostitution is presumed to be knowingly
43 promoting prostitution.

44 e. In addition to any other disposition authorized by law, any
45 person who promotes prostitution in violation of paragraph (2) of
46 subsection b., if the violation is based upon subparagraph (a), (b), (c),

1 (f) or (g) of paragraph (4) of subsection a., or paragraph (3) or (4) of
2 subsection b., shall be sentenced to make restitution to any victim
3 encouraged, induced, recruited, lured, enticed, harbored, caused, or
4 transported into or within this State, to engage in prostitution. Such
5 restitution shall be in accordance with the terms set forth in subsection
6 c. of paragraph 3 of P.L. , c. (C.) (now pending before the
7 Legislature as section 3 of this bill.)
8 (cf: P.L.1999, c.9, s.1)]¹

9

10 ¹2. N.J.S.2C:34-1 is amended to read as follows:

11 2C:34-1. Prostitution and Related Offenses.

12 a. As used in this section:

13 (1) "Prostitution" is sexual activity with another person in
14 exchange for something of economic value, or the offer or acceptance
15 of an offer to engage in sexual activity in exchange for something of
16 economic value.

17 (2) "Sexual activity" includes, but is not limited to, sexual
18 intercourse, including genital-genital, oral-genital, anal-genital, and
19 oral-anal contact, whether between persons of the same or opposite
20 sex; masturbation; touching of the genitals, buttocks, or female
21 breasts; sadistic or masochistic abuse and other deviate sexual
22 relations.

23 (3) "House of prostitution" is any place where prostitution or
24 promotion of prostitution is regularly carried on by one person under
25 the control, management or supervision of another.

26 (4) "Promoting prostitution" is:

27 (a) Owning, controlling, managing, supervising or otherwise
28 keeping, alone or in association with another, a house of prostitution
29 or a prostitution business;

30 (b) Procuring an inmate for a house of prostitution or place in a
31 house of prostitution for one who would be an inmate;

32 (c) Encouraging, inducing, or otherwise purposely causing another
33 to become or remain a prostitute;

34 (d) Soliciting a person to patronize a prostitute;

35 (e) Procuring a prostitute for a patron;

36 (f) Transporting a person into or within this State with purpose to
37 promote that person's engaging in prostitution, or procuring or paying
38 for transportation with that purpose; or

39 (g) ~~Leasing~~ Knowingly leasing or otherwise permitting a place
40 controlled by the actor, alone or in association with others, to be
41 regularly used for prostitution or promotion of prostitution, or failure
42 to make a reasonable effort to abate such use by ejecting the tenant,
43 notifying law enforcement authorities, or other legally available means.

44 b. A person commits an offense if:

45 (1) The actor engages in prostitution;

46 (2) The actor promotes prostitution;

1 (3) The actor knowingly promotes prostitution of a child under 18
2 whether or not the actor mistakenly believed that the child was 18
3 years of age or older, even if such mistaken belief was reasonable;

4 (4) The actor knowingly promotes prostitution of the actor's child,
5 ward, or any other person for whose care the actor is responsible;

6 (5) The actor compels another to engage in or promote
7 prostitution;

8 (6) The actor promotes prostitution of the actor's spouse; or

9 (7) The actor knowingly engages in prostitution with a person
10 under the age of 18, or if the actor enters into or remains in a house of
11 prostitution for the purpose of engaging in sexual activity with a child
12 under the age of 18, or if the actor solicits or requests a child under
13 the age of 18 to engage in sexual activity. It shall be no defense to a
14 prosecution under this paragraph that the actor mistakenly believed
15 that the child was 18 years of age or older, even if such mistaken belief
16 was reasonable.

17 c. Grading of offenses under subsection b.

18 (1) An offense under subsection b. constitutes a crime of the
19 second degree if the offense falls within paragraph (3) or (4) of that
20 subsection.

21 (2) An offense under subsection b. constitutes a crime of the third
22 degree if the offense falls within paragraph (5), (6) or (7) of that
23 subsection.

24 (3) An offense under paragraph (2) of subsection b. constitutes a
25 crime of the third degree if the conduct falls within subparagraph (a),
26 (b), or (c) of paragraph (4) of subsection a. Otherwise the offense is
27 a crime of the fourth degree.

28 (4) An offense under subsection b. constitutes a disorderly persons
29 offense if the offense falls within paragraph (1) of that subsection
30 except that a second or subsequent conviction for such an offense
31 constitutes a crime of the fourth degree. In addition, where a motor
32 vehicle was used in the commission of any offense under paragraph (1)
33 of subsection b. the court shall suspend for six months the driving
34 privilege of any such offender who has a valid driver's license issued
35 by this State. Upon conviction, the court shall immediately collect the
36 offender's driver's license and shall forward it, along with a report
37 stating the first and last day of the suspension imposed pursuant to this
38 paragraph, to the Division of Motor Vehicles.

39 d. Presumption from living off prostitutes. A person, other than
40 the prostitute or the prostitute's minor child or other legal dependent
41 incapable of self-support, who is supported in whole or substantial
42 part by the proceeds of prostitution is presumed to be knowingly
43 promoting prostitution.

44 e. It is an affirmative defense to prosecution for a violation of this
45 section that, during the time of the alleged commission of the offense,
46 the defendant was a victim of human trafficking pursuant to section

1 1 of P.L. c. , (C.) (now pending before the Legislature as
2 section 1 of this bill).¹

3 (cf: P.L.1999, c.9, s.1).

4

5 ¹[6.]^{3.}¹ N.J.S.2C:41-1 is amended to read as follows:

6 2C:41-1. Definitions.

7 For purposes of this section and N.J.S.2C:41-2 through
8 N.J.S.2C:41-6:

9 a. "Racketeering activity" means (1) any of the following crimes
10 which are crimes under the laws of New Jersey or are equivalent
11 crimes under the laws of any other jurisdiction:

12 (a) murder

13 (b) kidnapping

14 (c) gambling

15 (d) promoting prostitution

16 (e) obscenity

17 (f) robbery

18 (g) bribery

19 (h) extortion

20 (i) criminal usury

21 (j) violations of Title 33 of the Revised Statutes

22 (k) violations of Title 54A of the New Jersey Statutes and Title 54
23 of the Revised Statutes

24 (l) arson

25 (m) burglary

26 (n) theft and all crimes defined in chapter 20 of Title 2C of the
27 New Jersey Statutes

28 (o) forgery and fraudulent practices and all crimes defined in
29 chapter 21 of Title 2C of the New Jersey Statutes

30 (p) fraud in the offering, sale or purchase of securities

31 (q) alteration of motor vehicle identification numbers

32 (r) unlawful manufacture, purchase, use or transfer of firearms

33 (s) unlawful possession or use of destructive devices or explosives

34 (t) violation of sections 112 through 116 inclusive of the "Casino
35 Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116)

36 (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6
37 and all crimes involving illegal distribution of a controlled dangerous
38 substance or controlled substance analog, except possession of less
39 than one ounce of marijuana

40 (v) violation of subsection b. of N.J.S.2C:24-4 except for
41 subparagraph (b) of paragraph (5) of subsection b.

42 (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16), leader
43 of firearms trafficking network

44 (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14),
45 weapons training for illegal activities

46 (y) violation of section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism.

1 (z) violation of ¹[sections 3 and 4] section 1¹ of P.L. .c.
2 (C.)(now pending before the Legislature as ¹[sections 3 and 4]
3 section 1¹ of this bill) ¹,human trafficking¹.

4 (2) any conduct defined as "racketeering activity" under Title 18,
5 U.S.C.s.1961(1)(A), (B) and (D).

6 b. "Person" includes any individual or entity or enterprise as
7 defined herein holding or capable of holding a legal or beneficial
8 interest in property.

9 c. "Enterprise" includes any individual, sole proprietorship,
10 partnership, corporation, business or charitable trust, association, or
11 other legal entity, any union or group of individuals associated in fact
12 although not a legal entity, and it includes illicit as well as licit
13 enterprises and governmental as well as other entities.

14 d. "Pattern of racketeering activity" requires

15 (1) Engaging in at least two incidents of racketeering conduct one
16 of which shall have occurred after the effective date of this act and the
17 last of which shall have occurred within 10 years (excluding any period
18 of imprisonment) after a prior incident of racketeering activity; and

19 (2) A showing that the incidents of racketeering activity embrace
20 criminal conduct that has either the same or similar purposes, results,
21 participants or victims or methods of commission or are otherwise
22 interrelated by distinguishing characteristics and are not isolated
23 incidents.

24 e. "Unlawful debt" means a debt

25 (1) Which was incurred or contracted in gambling activity which
26 was in violation of the law of the United States, a state or political
27 subdivision thereof; or

28 (2) Which is unenforceable under state or federal law in whole or
29 in part as to principal or interest because of the laws relating to usury.

30 f. "Documentary material" includes any book, paper, document,
31 writing, drawing, graph, chart, photograph, phonorecord, magnetic or
32 recording or video tape, computer printout, other data compilation
33 from which information can be obtained or from which information can
34 be translated into useable form or other tangible item.

35 g. "Attorney General" includes the Attorney General of New
36 Jersey, his assistants and deputies. The term shall also include a
37 county prosecutor or his designated assistant prosecutor if a county
38 prosecutor is expressly authorized in writing by the Attorney General
39 to carry out the powers conferred on the Attorney General by this
40 chapter.

41 h. "Trade or commerce" shall include all economic activity
42 involving or relating to any commodity or service.

43 (cf: P.L.2002, c.26, s.18).

44

45 ¹[7. N.J.S.2C:64-1 is amended to read as follows:

46 2C:64-1. Property Subject to Forfeiture.

1 a. Any interest in the following shall be subject to forfeiture and no
2 property right shall exist in them:

3 (1) Controlled dangerous substances, firearms which are unlawfully
4 possessed, carried, acquired or used, illegally possessed gambling
5 devices, untaxed cigarettes and untaxed special fuel. These shall be
6 designated prima facie contraband.

7 (2) All property which has been, or is intended to be, utilized in
8 furtherance of an unlawful activity, including, but not limited to,
9 conveyances intended to facilitate the perpetration of illegal acts, or
10 buildings or premises maintained for the purpose of committing
11 offenses against the State.

12 (3) Property which has become or is intended to become an
13 integral part of illegal activity, including, but not limited to, money
14 which is earmarked for use as financing for an illegal gambling
15 enterprise.

16 (4) Proceeds of illegal activities, including, but not limited to,
17 property or money obtained as a result of the sale of prima facie
18 contraband as defined by subsection a. (1), proceeds of illegal
19 gambling, prostitution, bribery and extortion.

20 (5) All property which has been, or is intended to be, utilized in
21 furtherance of unlawful activities as set forth in P.L. , c. (C.) (now
22 pending before the Legislature as this bill), as well as all proceeds of
23 unlawful activities related to human trafficking as set forth in P.L. ,
24 c. (C.) (now pending before the Legislature as this bill).

25 b. Any article subject to forfeiture under this chapter may be
26 seized by the State or any law enforcement officer as evidence pending
27 a criminal prosecution pursuant to section 2C:64-4 or, when no
28 criminal proceeding is instituted, upon process issued by any court of
29 competent jurisdiction over the property, except that seizure without
30 such process may be made when not inconsistent with the Constitution
31 of this State or the United States, and when

32 (1) The article is prima facie contraband; or

33 (2) The property subject to seizure poses an immediate threat to
34 the public health, safety or welfare.

35 c. For the purposes of this section:

36 "Untaxed special fuel" means diesel fuel, No. 2 fuel oil and
37 kerosene on which the motor fuel tax imposed pursuant to
38 R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or
39 transferred in this State in a manner not authorized pursuant to
40 R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).

41 (cf: P.L.1992, c.23, s.70)]¹

42

43 ¹[8.] 4.¹ Section 11 of P.L.1971, c.317 (C.52:4B-11) is amended
44 to read as follows:

45 11. The board may order the payment of compensation in
46 accordance with the provisions of this act for personal injury or death

1 which resulted from:

2 a. an attempt to prevent the commission of crime or to arrest a
3 suspected criminal or in aiding or attempting to aid a police officer so
4 to do, or

5 b. the commission or attempt to commit any of the following
6 offenses:

7 (1) aggravated assault;

8 (2) (Deleted by amendment, P.L.1995, c.135).

9 (3) threats to do bodily harm;

10 (4) lewd, indecent, or obscene acts;

11 (5) indecent acts with children;

12 (6) kidnapping;

13 (7) murder;

14 (8) manslaughter;

15 (9) aggravated sexual assault, sexual assault, aggravated criminal
16 sexual contact, criminal sexual contact;

17 (10) any other crime involving violence including domestic
18 violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or
19 section 3 of P.L.1991, c.261 (C.2C:25-19);

20 (11) burglary;

21 (12) tampering with a cosmetic, drug or food product;

22 (13) a violation of ¹[sections 3 or 4] human trafficking, section
23 ¹ of P.L. , c. (C.) (now pending before the Legislature as
24 ¹[sections 3 or 4] section 1¹ of this bill); or

25 c. the commission of a violation of R.S.39:4-50, section 5 of
26 P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236
27 (C.12:7-34.19) or section 3 of P.L.1952, c.157 (C.12:7-46); or

28 d. theft of an automobile pursuant to N.J.S.2C:20-2, eluding a law
29 enforcement officer pursuant to subsection b. of N.J.S.2C:29-2 or
30 unlawful taking of a motor vehicle pursuant to subsection b., c. or d.
31 of N.J.S.2C:20-10 where injuries to the victim occur in the course of
32 operating an automobile in furtherance of the offense.

33 (cf: P.L.1995,c.135,s.4).

34

35 ²5. Section 6 of P.L.1985, c.404 (C.52:4B-44) is amended to read
36 as follows:

37 6. a. The Attorney General shall, through the Office of
38 Victim-Witness Advocacy in the Division of Criminal Justice in the
39 Department of Law and Public Safety and in consultation with the
40 county prosecutors, promulgate standards for law enforcement
41 agencies to ensure that the rights of crime victims are enforced.

42 b. The standards shall require that the Office of Victim-Witness
43 Advocacy in the Division of Criminal Justice and each county
44 prosecutor's office provide the following services upon request for
45 victims and witnesses involved in the prosecution of a case:

46 (1) Orientation information about the criminal justice system and

- 1 the victim's and witness's role in the criminal justice process;
- 2 (2) Notification of any change in the case status and of final
- 3 disposition;
- 4 (3) Information on crime prevention and on available responses to
- 5 witness intimidation;
- 6 (4) Information about available services to meet needs resulting
- 7 from the crime and referrals to service agencies, where appropriate;
- 8 (5) Advance notice of the date, time and place of the defendant's
- 9 initial appearance before a judicial officer, submission to the court of
- 10 any plea agreement, the trial and sentencing;
- 11 (6) Advance notice of when presence in court is not needed;
- 12 (7) Advice about available compensation, restitution and other
- 13 forms of recovery and assistance in applying for government
- 14 compensation;
- 15 (8) A waiting or reception area separate from the defendant for
- 16 use during court proceedings;
- 17 (9) An escort or accompaniment for intimidated victims or
- 18 witnesses during court appearances;
- 19 (10) Information about directions, parking, courthouse and
- 20 courtroom locations, transportation services and witness fees, in
- 21 advance of court appearances;
- 22 (11) Assistance for victims and witnesses in meeting special needs
- 23 when required to make court appearances, such as transportation and
- 24 child care arrangements;
- 25 (12) Assistance in making travel and lodging arrangements for
- 26 out-of-State witnesses;
- 27 (13) Notification to employers of victims and witnesses, if
- 28 cooperation in the investigation or prosecution causes absence from
- 29 work;
- 30 (14) Notification of the case disposition, including the trial and
- 31 sentencing;
- 32 (15) Assistance to victims in submitting a written statement to a
- 33 representative of the county prosecutor's office about the impact of the
- 34 crime prior to the prosecutor's final decision concerning whether
- 35 formal charges will be filed;
- 36 (16) Advice to victims about their right to make a statement about
- 37 the impact of the crime for inclusion in the presentence report or at
- 38 time of parole consideration, if applicable;
- 39 (17) Notification to victims of the right to make an in-person
- 40 statement, prior to sentencing, directly to the sentencing court
- 41 concerning the impact of the crime;
- 42 (18) Expediting the return of property when no longer needed as
- 43 evidence;
- 44 (19) Advise and counsel, or refer for advice or counseling, victims
- 45 of sexual assault, or other criminal acts involving a risk of transmission
- 46 of disease, concerning available medical testing and assist such victims,

1 or refer such victims for assistance, in obtaining appropriate testing,
2 counseling and medical care and in making application to the Victims
3 of Crime Compensation Board for compensation for the costs of such
4 testing, counseling and care;

5 (20) Assistance to victims in submitting a written impact statement
6 to a representative of the county prosecutor's office concerning the
7 impact of the crime which shall be considered prior to the prosecutor's
8 accepting a negotiated plea agreement containing recommendations as
9 to sentence and assistance to victims in securing an explanation of the
10 terms of any such agreement and the reasons for the agreement;

11 (21) Notification to the victim of the defendant's release from
12 custody which shall include:

13 (a) notice of the defendant's escape from custody and return to
14 custody following escape;

15 (b) notice of any other release from custody, including placement
16 in an Intensive Supervision Program or other alternative disposition,
17 and any associated conditions of release;

18 (c) notice of the filing by an inmate of an application for
19 commutation of sentence pursuant to N.J.S.2A:167-4 and its
20 disposition;

21 (d) notice of parole consideration pursuant to provisions of
22 P.L.1979, c.441 (C.30:4-123.45 et seq.); and

23 (e) notice of the pending release of an inmate due to expiration of
24 sentence; and

25 (22) Interpreting services for victims and witnesses when necessary
26 to assist a victim or witness who is hearing impaired or
27 developmentally disabled as defined in section 3 of P.L.1977, c.82
28 (C.30:6D-3) to understand questions and frame answers.

29 c. In a case involving a victim of aggravated sexual assault or
30 sexual assault as defined in subsection a. or c. of N.J.S.2C:14-2, the
31 Office of Victim-Witness Advocacy or the county prosecutor's office
32 involved in the case shall:

33 (1) Notify the victim of the victim's right to obtain an approved
34 serological test for acquired immune deficiency syndrome (AIDS) or
35 infection with the human immunodeficiency virus (HIV) or any other
36 related virus identified as a probable causative agent of AIDS, and
37 assist the victim, or refer the victim for assistance, in obtaining a test
38 and appropriate counseling and medical care;

39 (2) Notify the victim of the victim's right to obtain a court order
40 pursuant to subsection a. of section 4 of P.L.1993, c.364
41 (C.2C:43-2.2) requiring the offender to submit to an approved
42 serological test for acquired immune deficiency syndrome (AIDS) or
43 infection with the human immunodeficiency virus (HIV) or any other
44 related virus identified as a probable causative agent of AIDS in the
45 event that the offender is indicted, formally charged, convicted or
46 adjudicated delinquent;

1 (3) Communicate the request of a victim who agrees to seek an
2 order pursuant to subsection a. of section 4 of P.L.1993, c.364
3 (C.2C:43-2.2) to the prosecutor handling the case and notify the
4 victim or arrange for the victim to be notified of the test result; and

5 (4) Assist the victim in applying to the Victims of Crime
6 Compensation Board for compensation for the costs of testing,
7 counseling and medical care.

8 d. The Attorney General shall, through the Office of
9 Victim-Witness Advocacy and in consultation with the Commissioner
10 of the Department of Health and Senior Services, the [Director of the
11 Division] Superintendent of State Police and representatives of
12 providers of sexual assault services, to be designated by the Director
13 of the Office of Victim-Witness Advocacy, coordinate the
14 establishment of standard protocols for the provision of information
15 and services to victims of sexual assault, and shall make such
16 protocols available to victims upon request.

17 e. In a case involving a victim of human trafficking as defined in
18 section 1 of P.L. c. , (C.) (now pending before the Legislature as
19 section 1 of this bill) the Office of Victim-Witness Advocacy or the
20 county prosecutor's office involved in the case shall ensure that the
21 victim of human trafficking obtains assistance in receiving any
22 available benefits or services, including assistance in receiving any
23 necessary certifications or endorsements needed to be recognized as
24 having federal T non-immigrant status for the purpose of receiving any
25 federal benefits or services available pursuant to the "Trafficking
26 Victims Protection Reauthorization Act of 2003," 22 U.S.C. section
27 7101 et seq.

28 f. The Attorney General shall, through the Office of
29 Victim-Witness Advocacy and in consultation with the Commissioner
30 of the Department of Health and Senior Services, the Superintendent
31 of State Police and representatives of providers of services to victims
32 of human trafficking, to be designated by the Director of the Office of
33 Victim-Witness Advocacy, coordinate the establishment of standard
34 protocols for the provision of information and services to victims of
35 human trafficking, including coordination of efforts with the
36 appropriate federal authorities pursuant to the "Trafficking Victims
37 Protection Reauthorization Act of 2003," 22 U.S.C. section 7101 et
38 seq. and shall make such protocols available to victims upon request.²
39 (cf: P.L.1996, c.114, s.1)

40
41 ¹[9.] ²[5.1] 6.² This act shall take effect immediately.