

House Copy

OLS Copy  
For Official House Use

Public Copy

<b>BILL NO.</b> _____
<b>Date of Intro.</b> _____
<b>Ref.</b> _____

NOTE TO SPONSOR	Notify OLS if you require changes in this document. A revised copy for introduction will be prepared on the legislative computer system. Handwritten changes will not appear in the printed bill.
-----------------	---

AN ACT concerning body searches and amending N.J.S.2C:14-2.

Makes certain body searches third degree crime of sexual assault under certain circumstances.

PRIME Sponsor \_\_\_\_\_ / \_\_\_\_\_

<u>CO-Sponsor</u>	<u>District</u>	<u>CO-Sponsor</u>	<u>District</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Same as \_\_\_\_\_ 08/09      Same as \_\_\_\_\_ 10/11

Suggested allocation:

D  
R  
A  
F  
T

AN ACT concerning body searches and amending N.J.S.2C:14-2.

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

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

2C:14-2. Sexual assault. 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, mentally defective or mentally incapacitated.

Aggravated sexual assault is a crime of the first degree.

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.

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:

**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.

D

R

A

F

T

(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.

d. An actor is guilty of sexual assault if he contacts another person's genitals or breasts in the course of conducting a body search; provided, however, that such a body search shall not be considered sexual assault if: the person to be searched is under arrest; a search warrant has been issued that specifies the reason for the search and clearly indicates what parts of the person's body are to be searched; or the person is lawfully confined in an county or State correctional facility. No local, State, or federal government employee shall have immunity from prosecution under this subsection even if the violation occurred while acting within the scope of employment.

Sexual assault is a crime of the second degree except that sexual assault as defined by subsection d. of this section is a crime of the third degree.

(cf: P.L.2004, c.130, s.13)

2. This act shall take effect immediately.

#### STATEMENT

This bill adds body searches in which a person contacts another's genitals or breasts to the sexual assault statute. Under the bill, a person is guilty of third degree sexual assault for conducting such a body search unless: the person to be searched is under arrest; a search warrant has been issued specifying the reason and limits of the search; or the person to be searched is lawfully confined to a correctional facility. A third degree crime is punishable by three to five years imprisonment, a fine of up to \$15,000, or both.

The bill clarifies that government employees who conduct these prohibited body searches as part of their employment activities are not immune from prosecution.

Recent changes to the Transportation Security Administration's security procedures require TSA agents to invade the personal space of air travelers without just cause or reasonable suspicion. This bill clarifies that the Legislature intended to extend protection from sexual contact to all people, including those in the State's airports, while at the same time providing law enforcement with sufficient recourse to conduct searches when a real risk to public safety is identified.

This bill is part of a package of three bills designed by the sponsor to protect the privacy of the traveling public.



Makes certain body searches third degree crime of sexual assault under certain circumstances.

D

R

A

F

T