

CHAPTER 133

AN ACT concerning victims of crime and designated as Nicole's Law, supplementing chapter 14 of Title 2C of the New Jersey Statutes, and amending N.J.S.2C:45-1 and N.J.S.2C:45-2.

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

C.2C:14-11 Definitions relative to victims of sex offenses.

1. As used in this act:

"Sex offense" means a sex offense as defined in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2).

"Victim" means a "victim" as defined in N.J.S.2C:14-1.

C.2C:14-12 Conditions placed upon release of certain defendants.

2. a. When a defendant charged with a sex offense is released from custody before trial on bail or personal recognizance, the court authorizing the release may, as a condition of release, issue an order prohibiting the defendant from having any contact with the victim including, but not limited to, restraining the defendant from entering the victim's residence, place of employment or business, or school, and from harassing or stalking the victim or the victim's relatives in any way.

b. The written court order releasing the defendant shall contain the court's directives specifically restricting the defendant's ability to have contact with the victim or the victim's friends, co-workers or relatives. The clerk of the court or other person designated by the court shall provide a copy of this order to the victim forthwith.

c. The victim's location shall remain confidential and shall not appear on any documents or records to which the defendant has access.

C.2C:44-8 Convicted defendants, prior restrictions continued.

3. When a defendant is found guilty of a sex offense, the court may, at the time of sentencing and in addition to any other disposition authorized by law, order the continuation of a prior order or condition of bail that restricts the defendant's contact with the victim, or enter an order imposing such restrictions at the time of sentencing.

In addition to restricting a defendant's contact with the victim, the court may enter an order:

a. restraining the defendant from entering the residence, property, school, or place of employment of the victim or of other family or household members of the victim and requiring the defendant to stay away from any specified place that is named in the order and is frequented regularly by the victim or other family or household members;

b. restraining the defendant from making contact with the plaintiff or others, including an order forbidding the defendant from personally or through an agent initiating any communication likely to cause annoyance or alarm including, but not limited to, personal, written, or telephone contact with the victim or other family members, or their employers, employees, or fellow workers, or others with whom communication would be likely to cause annoyance or alarm to the victim;

c. prohibiting the defendant from stalking or following, or threatening to harm, to stalk or to follow, the complainant or any other person named in the order in a manner that, taken in the context of past actions of the defendant, would put the complainant in reasonable fear that the defendant would cause the death or injury of the complainant or any other person.

Behavior prohibited under this act includes, but is not limited to, behavior prohibited under the provisions of P.L.1992, c.209 (C.2C:12-10);

d. providing for any other appropriate restraints necessary to protect the victim.

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

Conditions of suspension or probation.

2C:45-1. Conditions of Suspension or Probation.

a. When the court suspends the imposition of sentence on a person who has been convicted of an offense or sentences him to be placed on probation, it shall attach such reasonable conditions, authorized by this section, as it deems necessary to insure that he will lead a law-abiding life or is likely to assist him to do so. These conditions may be set forth in a set of standardized conditions promulgated by the county probation department and approved by the court.

b. The court, as a condition of its order, may require the defendant:

- (1) To support his dependents and meet his family responsibilities;
- (2) To find and continue in gainful employment;
- (3) To undergo available medical or psychiatric treatment and to enter and remain in a specified institution, when required for that purpose;
- (4) To pursue a prescribed secular course of study or vocational training;
- (5) To attend or reside in a facility established for the instruction, recreation or residence of persons on probation;
- (6) To refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;
- (7) Not to have in his possession any firearm or other dangerous weapon unless granted written permission;
- (8) (Deleted by amendment, P.L.1991, c.329);
- (9) To remain within the jurisdiction of the court and to notify the court or the probation officer of any change in his address or his employment;
- (10) To report as directed to the court or the probation officer, to permit the officer to visit his home, and to answer all reasonable inquiries by the probation officer;
- (11) To pay a fine;
- (12) To satisfy any other conditions reasonably related to the rehabilitation of the defendant and not unduly restrictive of his liberty or incompatible with his freedom of conscience;
- (13) To require the performance of community-related service.

In addition to any condition of probation, the court may enter an order prohibiting a defendant who is convicted of a sex offense from having any contact with the victim including, but not limited to, entering the victim's residence, place of employment or business, or school, and from harassing or stalking the victim or victim's relatives in any way, and may order other protective relief as provided in section 2 of P.L.2007, c.133 (C.2C:14-12).

c. The court, as a condition of its order, shall require the defendant to pay any assessments required by section 2 of P.L.1979, c.396 (C.2C:43-3.1) and shall, consistent with the applicable provisions of N.J.S.2C:43-3, N.J.S.2C:43-4 and N.J.S.2C:44-2 or section 1 of P.L. 1983, c.411 (C.2C:43-2.1) require the defendant to make restitution.

d. In addition to any condition imposed pursuant to subsection b. or c., the court shall order a person placed on probation to pay a fee, not exceeding \$25.00 per month for the probationary term, to probation services for use by the State, except as provided in subsection g. of this section. This fee may be waived in cases of indigency upon application by the chief probation officer to the sentencing court.

e. When the court sentences a person who has been convicted of a crime to be placed on probation, it may require him to serve a term of imprisonment not exceeding 364 days as an additional condition of its order. When the court sentences a person convicted of a disorderly persons offense to be placed on probation, it may require him to serve a term of imprisonment not exceeding 90 days as an additional condition of its order. In imposing a term of imprisonment pursuant to this subsection, the sentencing court shall specifically place on the record the reasons which justify the sentence imposed. The term of imprisonment imposed hereunder shall be treated as part of the sentence, and in the event of a sentence of imprisonment upon the revocation of probation, the term of imprisonment served hereunder shall be credited toward service of such subsequent sentence. A term of imprisonment imposed under this section shall be governed by the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et al.).

Whenever a person is serving a term of parole as a result of a sentence of incarceration imposed as a condition of probation, supervision over that person shall be maintained pursuant to the provisions of the law governing parole. Upon termination of the period of parole supervision provided by law, the county probation department shall assume responsibility for supervision of the person under sentence of probation. Nothing contained in this section shall prevent the sentencing court from at any time proceeding under the provisions of this chapter against any person for a violation of probation.

f. The defendant shall be given a copy of the terms of his probation or suspension of sentence and any requirements imposed pursuant to this section, stated with sufficient specificity to enable him to guide himself accordingly. The defendant shall acknowledge, in writing, his receipt of these documents and his consent to their terms.

g. Of the moneys collected under the provisions of subsection d. of this section, \$15.00 of each monthly fee collected before January 1, 1995 shall be deposited in the temporary reserve fund created by section 25 of P.L.1993, c.275, and \$10.00 of each shall be deposited into a "Community Service Supervision Fund" which shall be established by each county. The moneys in the "Community Service Supervision Fund" shall be expended only in accordance with the provisions of State law as shall be enacted to provide for expenditures from this fund for the purpose of supervising and monitoring probationers performing community service to ensure, by whatever means necessary and appropriate, that probationers are performing the community service ordered by the court and that the performance is in the manner and under the terms ordered by the court.

5. N.J.S.2C:45-2 is amended to read as follows:

Period of suspension or probation; modification of conditions; discharge of defendant.

2C:45-2. Period of Suspension or Probation; Modification of Conditions; Discharge of Defendant

a. When the court has suspended imposition of sentence or has sentenced a defendant to be placed on probation, the period of the suspension shall be fixed by the court at not to exceed the maximum term which could have been imposed or more than 5 years whichever is

lesser. The period of probation shall be fixed by the court at not less than 1 year nor more than 5 years. The court, on application of a probation officer or of the defendant, or on its own motion, may discharge the defendant at any time.

b. During the period of the suspension or probation, the court, on application of a probation officer or of the defendant, or on its own motion, may (1) modify the requirements imposed on the defendants; or (2) add further requirements authorized by N.J.S.2C:45-1. The court shall eliminate any requirement that imposes an unreasonable burden on the defendant.

c. Upon the termination of the period of suspension or probation or the earlier discharge of the defendant, the defendant shall be relieved of any obligations imposed by the order of the court and shall have satisfied his sentence for the offense unless the defendant has failed:

(1) to fulfill conditions imposed pursuant to paragraph b. (11) of N.J.S.2C:45-1, in which event the court may order that the probationary period be extended for an additional period not to exceed that authorized by subsection a. of this section; or

(2) to fulfill the conditions imposed pursuant to subsection c. of N.J.S.2C:45-1, in which event the court shall order that the probationary period be extended for an additional period not to exceed that authorized by subsection a. of this section.

The extension may be entered by the court without the defendant's personal appearance if the defendant agrees to the extension.

Notwithstanding any provision in this section to the contrary, any order of the court prohibiting contact with a victim imposed on a defendant convicted of a sex offense shall continue in effect following the termination of probation supervision until further order of the court.

6. This act shall take effect immediately, but sections 3, 4, and 5 shall only apply to persons who commit sex offenses after the effective date of this act.

Approved August 6, 2007.