

New Jersey Lewdness Law

1. What is New Jersey's law on lewdness?

In New Jersey, lewdness is codified under N.J.S.A. 2C:14-4 and it provides as follows;

a. A person commits a disorderly persons offense if he does any flagrantly lewd and offensive act which he knows or reasonably expects is likely to be observed by other non-consenting persons who would be affronted or alarmed.

b. A person commits a crime of the fourth degree if;

1. He exposes his intimate parts for the purpose of arousing or gratifying the sexual desire of the actor or of any other person under circumstances where the actor knows or reasonably expects he is likely to be observed by a child who is less than 13 years of age where the actor is at least four years older than the child.

2. He exposes his intimate parts for the purpose of arousing or gratifying the sexual desire of the actor or of any other person under circumstances where the actor knows or reasonably expects he is likely to be observed by a person who because of mental disease or defect is unable to understand the sexual nature of the actor's conduct.

c. As used in this section, "lewd acts" shall include the exposing of the genitals for the purpose of arousing or gratifying the sexual desire of the actor or of any other person.

The strengths of a lewdness case always depend on the facts and circumstances. It is important to emphasize that more than nudity is required to prove a case of lewdness. The standard of proof for a lewdness case is that the prosecutor must prove; a) a lewd or offense act; b) that the defendant knows or reasonably anticipates; c) is likely to be observed by a person who would be affronted or alarmed by the conduct.

2. Could you please explain how New Jersey's lewdness law works?

Most lewdness charges are disorderly persons offense and they are handled in the Municipal Court. However, in some scenarios lewdness can be prosecuted as a third or fourth degree crime. A person will be charged for a fourth degree lewdness charge if the observer suffers from a mental disease or disability. Meanwhile, lewdness will be charged as a third degree offense wherein the observer is less than thirteen years of age. If a lewdness charge is filed as an indictable offense then the case will be prosecuted in the New Jersey Superior Court. A third degree lewdness charges carries a prison term of 18 months to 5

years, and a fourth degree lewdness charges carries a prison term of 0 to 18 months?

3. Why are lewdness charges prosecuted so vigorously?

Lewdness charges are almost always prosecuted very vigorously. Most prosecutors often believe that they have to make a statement and prosecute a lewdness charge to the fullest extent of the law. Most local police departments want to brag that they won't tolerate perverts in their towns. Lewdness prosecutions are among the most difficult and troublesome cases that are handled in the Municipal Court. They are difficult because the victims often feel embarrassed and distressed if they have to testify. Therefore, if you are charged with a lewdness offense, don't expect that the case will be dropped. You should expect a battle, and be prepared to take the case to trial. You should know the case law, and you should inform the prosecutor of any perceived weaknesses that you see in the States's case. If you express this demeanor to the prosecutor, then in the majority of the cases he will be more inclined to downgrade the charge to a municipal ordinance offense.

4. What are the elements of a lewdness charge?

Lewdness is defined under New Jersey law to include exposing genitals for purposes of arousal or sexual gratification. The State must therefore prove three elements to obtain a lewdness conviction and they are as follows; (a) A flagrantly lewd and offensive act must be committed (i.e. exposing penis or masturbating); (b) The lewd act was witnessed by a non-consenting individual; and (c) The non-consenting individual was alarmed or affronted by the lewd act.

5. What type of behavior can constitute lewdness?

There are many ways wherein a person can be charged with lewdness. A lewdness offense is charged more often than you would believe. People often get drunk at the shore and they take a wiz in public. People often get horny and fool around in the park, the beach, or in their car. This type of behavior can be charged for lewdness. Lewdness is most commonly charged when a man touches his genitals in public, or if he masturbates. In scenarios such as the above, if you encounter a zealous police officer, then you certainly could be charged with lewdness.

6. How can a person be found guilty of lewdness?

There are three major ways that a person can be convicted of lewdness. A person is guilty of lewdness if he commits any of the following three actions;

A. Any flagrantly lewd and offensive act which he knows or

reasonably expects is likely to be observed by other non-consenting persons who would be affronted or alarmed.

B. He exposes his intimate parts for the purpose of arousing or gratifying the sexual desire of the actor or of any other person under circumstances where the actor knows or reasonably expects he is likely to be observed by a child who is less than 13 years of age where the actor is at least four years older than the child.

C. He exposes his intimate parts for the purpose of arousing or gratifying the sexual desire of the actor or of any other person under circumstances where the actor knows or reasonably expects he is likely to be observed by a person who because of mental disease or defect is unable to understand the sexual nature of the actor's conduct.

7. What are the penalties if a person is convicted of lewdness in Municipal Court?

If you are convicted of a disorderly persons offense then you can face up to 6 months in jail and \$1,000 in fines. Additionally, you have to wait five years before you can expunge a lewdness conviction. In summary the penalties for lewdness are as follows:

- a. Fine range 0 to \$100
- b. VCCB Assessment \$50
- c. Safe Neighborhood Assessment \$75
- d. Court costs \$33
- e. Jail term 0 to six months.
- f. Probation
- g. Loss of driving privileges

8. Why is important to zealously fight a lewdness charge?

Lewdness is considered to be a sex offense. To be blunt a lewdness conviction can ruin your life. You could be labeled as a sex offender merely because you acted like a dope or because you were horny. If a person has a lewdness conviction on his record then it may be impossible for him person to find a job. Try explaining a lewdness conviction to a potential employer. Most companies conduct a comprehensive criminal background search before they hire you. If a lewdness conviction shows up then your chances of being hired are close to zero.

9. What is the best strategy to fight a lewdness charge?

The best strategy is to try to convince the prosecutor to reduce the lewdness charge to a municipal ordinance violation. A municipal ordinance charge will not go on a person's criminal record. In most lewdness cases the evidence focuses on the alleged victim's testimony, and on establishing a lack of consent. Therefore, a lawyer should always demand that the prosecutor verify that any victim's statements are trustworthy and/or credible. In most lewdness cases the ultimate goal is to do whatever is necessary so that the defendant will not get a criminal record.