

# SENATE, No. 607

## STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Senator DAWN MARIE ADDIEGO**

**District 8 (Atlantic, Burlington and Camden)**

**Senator ANTHONY R. BUCCO**

**District 25 (Morris and Somerset)**

**Co-Sponsored by:**

**Senators Cardinale, Oroho and Bateman**

**SYNOPSIS**

Requires life imprisonment without parole for persons convicted of the murder of a minor under the age of 18 in the course of the commission of a sex crime.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 3/15/2017)**

1 AN ACT concerning certain murders and amending N.J.S.2C:11-3.

2

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

5

6 1. N.J.S.2C:11-3 is amended to read as follows:

7 2C:11-3. Murder.

8 a. Except as provided in N.J.S.2C:11-4, criminal homicide  
9 constitutes murder when:

10 (1) The actor purposely causes death or serious bodily injury  
11 resulting in death; or

12 (2) The actor knowingly causes death or serious bodily injury  
13 resulting in death; or

14 (3) It is committed when the actor, acting either alone or with  
15 one or more other persons, is engaged in the commission of, or an  
16 attempt to commit, or flight after committing or attempting to  
17 commit robbery, sexual assault, arson, burglary, kidnapping,  
18 carjacking, criminal escape or terrorism pursuant to section 2 of  
19 P.L.2002, c.26 (C.2C:38-2), and in the course of such crime or of  
20 immediate flight therefrom, any person causes the death of a person  
21 other than one of the participants; except that in any prosecution  
22 under this subsection, in which the defendant was not the only  
23 participant in the underlying crime, it is an affirmative defense that  
24 the defendant:

25 (a) Did not commit the homicidal act or in any way solicit,  
26 request, command, importune, cause or aid the commission thereof;  
27 and

28 (b) Was not armed with a deadly weapon, or any instrument,  
29 article or substance readily capable of causing death or serious  
30 physical injury and of a sort not ordinarily carried in public places  
31 by law-abiding persons; and

32 (c) Had no reasonable ground to believe that any other  
33 participant was armed with such a weapon, instrument, article or  
34 substance; and

35 (d) Had no reasonable ground to believe that any other  
36 participant intended to engage in conduct likely to result in death or  
37 serious physical injury.

38 b. (1) Murder is a crime of the first degree but a person  
39 convicted of murder shall be sentenced, except as provided in  
40 paragraphs (2), (3) and (4) of this subsection, by the court to a term  
41 of 30 years, during which the person shall not be eligible for parole,  
42 or be sentenced to a specific term of years which shall be between  
43 30 years and life imprisonment of which the person shall serve 30  
44 years before being eligible for parole.

**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 (2) If the victim was a law enforcement officer and was  
2 murdered while performing his official duties or was murdered  
3 because of his status as a law enforcement officer, the person  
4 convicted of that murder shall be sentenced by the court to a term of  
5 life imprisonment, during which the person shall not be eligible for  
6 parole.

7 (3) A person convicted of murder shall be sentenced to a term of  
8 life imprisonment without eligibility for parole if the murder was  
9 committed under all of the following circumstances:

10 (a) The victim is less than ~~14~~ 18 years old; and

11 (b) The act is committed in the course of the commission,  
12 whether alone or with one or more persons, of a violation of  
13 N.J.S.2C:14-2 or N.J.S.2C:14-3.

14 (4) Any person convicted under subsection a.(1) or (2) who  
15 committed the homicidal act by his own conduct; or who as an  
16 accomplice procured the commission of the offense by payment or  
17 promise of payment of anything of pecuniary value; or who, as a  
18 leader of a narcotics trafficking network as defined in N.J.S.2C:35-  
19 3 and in furtherance of a conspiracy enumerated in N.J.S.2C:35-3,  
20 commanded or by threat or promise solicited the commission of the  
21 offense, or, if the murder occurred during the commission of the  
22 crime of terrorism, any person who committed the crime of  
23 terrorism, shall be sentenced by the court to life imprisonment  
24 without eligibility for parole, which sentence shall be served in a  
25 maximum security prison, if a jury finds beyond a reasonable doubt  
26 that any of the following aggravating factors exist:

27 (a) The defendant has been convicted, at any time, of another  
28 murder. For purposes of this section, a conviction shall be deemed  
29 final when sentence is imposed and may be used as an aggravating  
30 factor regardless of whether it is on appeal;

31 (b) In the commission of the murder, the defendant purposely or  
32 knowingly created a grave risk of death to another person in  
33 addition to the victim;

34 (c) The murder was outrageously or wantonly vile, horrible or  
35 inhuman in that it involved torture, depravity of mind, or an  
36 aggravated assault to the victim;

37 (d) The defendant committed the murder as consideration for the  
38 receipt, or in expectation of the receipt of anything of pecuniary  
39 value;

40 (e) The defendant procured the commission of the murder by  
41 payment or promise of payment of anything of pecuniary value;

42 (f) The murder was committed for the purpose of escaping  
43 detection, apprehension, trial, punishment or confinement for  
44 another offense committed by the defendant or another;

45 (g) The murder was committed while the defendant was engaged  
46 in the commission of, or an attempt to commit, or flight after  
47 committing or attempting to commit murder, robbery, sexual

1 assault, arson, burglary, kidnapping, carjacking or the crime of  
2 contempt in violation of subsection b. of N.J.S.2C:29-9;

3 (h) The defendant murdered a public servant, as defined in  
4 N.J.S.2C:27-1, while the victim was engaged in the performance of  
5 his official duties, or because of the victim's status as a public  
6 servant;

7 (i) The defendant: (i) as a leader of a narcotics trafficking  
8 network as defined in N.J.S.2C:35-3 and in furtherance of a  
9 conspiracy enumerated in N.J.S.2C:35-3, committed, commanded  
10 or by threat or promise solicited the commission of the murder or  
11 (ii) committed the murder at the direction of a leader of a narcotics  
12 trafficking network as defined in N.J.S.2C:35-3 in furtherance of a  
13 conspiracy enumerated in N.J.S.2C:35-3;

14 (j) The homicidal act that the defendant committed or procured  
15 was in violation of paragraph (1) of subsection a. of N.J.S.2C:17-2;

16 (k) The victim was less than 14 years old; or

17 (l) The murder was committed during the commission of, or an  
18 attempt to commit, or flight after committing or attempting to  
19 commit, terrorism pursuant to section 2 of P.L.2002, c.26 (C.2C:38-  
20 2).

21 (5) A juvenile who has been tried as an adult and convicted of  
22 murder shall be sentenced pursuant to paragraph (1), (2) or (3) of  
23 this subsection.

24 c. (Deleted by amendment, P.L.2007, c.204).

25 d. (Deleted by amendment, P.L.2007, c.204).

26 e. (Deleted by amendment, P.L.2007, c.204).

27 f. (Deleted by amendment, P.L.2007, c.204).

28 g. (Deleted by amendment, P.L.2007, c.204).

29 h. (Deleted by amendment, P.L.2007, c.204).

30 i. For purposes of this section the term "homicidal act" shall  
31 mean conduct that causes death or serious bodily injury resulting in  
32 death.

33 j. In a sentencing proceeding conducted pursuant to this  
34 section, the display of a photograph of the victim taken before the  
35 homicide shall be permitted.

36 (cf: P.L.2007, c.204, s.1)

37

38 2. This act shall take effect immediately.

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#### STATEMENT

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43 P.L.1997, c.60, known as "Joan's Law," provides that a person  
44 convicted of the murder of a child under the age of 14 must be  
45 sentenced to life imprisonment without eligibility for parole if the  
46 murder was committed in the course of the commission of a sex  
47 crime. This bill would raise the age limitation for "Joan's Law,"  
48 encompassing murders under these situations where the victim was

1 less than 18 years old. Thus, under the bill, a person convicted of  
2 the murder of a minor under the age of 18 must be sentenced to life  
3 imprisonment without eligibility for parole if the murder was  
4 committed in the course of the commission of a sex crime.

5 Murder is a crime of the first degree and is generally punishable  
6 by a term of imprisonment of 30 years, during which the defendant  
7 is not eligible for parole, or by a specific term between 30 years and  
8 life imprisonment of which the defendant must serve 30 years  
9 before being eligible for parole. However, there are exceptions to  
10 this statutory scheme for certain murders. Defendants convicted of  
11 these particular murders must be sentenced to a term of life  
12 imprisonment without eligibility for parole. This bill's change to  
13 "Joan's Law," which is set out in paragraph (3) of subsection b. of  
14 N.J.S.2C:11-3, would not affect the mandatory life sentences  
15 imposed on persons convicted of these other murders, as set out in  
16 paragraphs (2) and (4) of that subsection.

17 "Joan's Law" was prompted by the 1973 killing of Joan  
18 D'Alessandro, a 7-year-old in Hillsdale who had been selling Girl  
19 Scout cookies when her neighbor, Joseph McGowan, raped and  
20 murdered her.