

P.L.2017, CHAPTER 150, *approved July 21, 2017*
Assembly, No. 373 (*First Reprint*)

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

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:
¹Assembly AJU committee amendments adopted March 7, 2016.

1 or be sentenced to a specific term of years which shall be between
2 30 years and life imprisonment of which the person shall serve 30
3 years before being eligible for parole.

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

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

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

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

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

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

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

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

40 (d) The defendant committed the murder as consideration for the
41 receipt, or in expectation of the receipt of anything of pecuniary
42 value;

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

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

1 (g) The murder was committed while the defendant was engaged
2 in the commission of, or an attempt to commit, or flight after
3 committing or attempting to commit murder, robbery, sexual
4 assault, arson, burglary, kidnapping, carjacking or the crime of
5 contempt in violation of subsection b. of N.J.S.2C:29-9;

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

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

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

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

20 (l) The murder was committed during the commission of, or an
21 attempt to commit, or flight after committing or attempting to
22 commit, terrorism pursuant to section 2 of P.L.2002, c.26 (C.2C:38-
23 2).

24 (5) A juvenile who has been tried as an adult and convicted of
25 murder shall be sentenced pursuant to paragraph (1) ¹[(2) or (3)]¹
26 of this subsection.

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

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

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

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

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

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

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

36 j. In a sentencing proceeding conducted pursuant to this
37 section, the display of a photograph of the victim taken before the
38 homicide shall be permitted.

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

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41 2. This act shall take effect immediately.

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