

ASSEMBLY, No. 4369

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 29, 2020

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Assemblywoman LINDA S. CARTER

District 22 (Middlesex, Somerset and Union)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

SYNOPSIS

Implements sentencing recommendations of the Criminal Sentencing and Disposition Commission.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning sentencing reform and amending various
2 sections of Title 2C of the New Jersey Statutes.

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

6
7 1. Section 4 of P.L.2013, c.53 (C.2C:20-2.4) is amended to
8 read as follows:

9 4. a. A person is a leader of a cargo theft network if he
10 conspires with others as an organizer, supervisor, financier or
11 manager to engage for profit in a scheme or course of conduct to
12 unlawfully take, dispose of, distribute, bring into, transport, or store
13 in this State property stolen from a cargo carrier, where the amount
14 is at least \$5,000.

15 (1) Except as provided in paragraph (2) of this subsection,
16 leader of a cargo theft network is a crime of the second degree.
17 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3,
18 the court may impose a fine not to exceed \$250,000 or five times
19 the retail value of the property seized at the time of the arrest,
20 whichever is greater.

21 (2) Leader of a cargo theft network is a crime of the first degree
22 if the scheme or course of conduct to unlawfully take, dispose of,
23 distribute, bring into, transport, or store in this State property stolen
24 from a cargo carrier included the use or threatened use of any
25 deadly weapon, as defined in N.J.S.2C:39-1 in the commission of
26 the theft. Nothing in this subsection shall be deemed to limit the
27 authority or discretion of the State to charge or prosecute any
28 person for robbery under N.J.S.2C:15-1 or for any other offense,
29 nor shall a conviction for robbery merge with any conviction under
30 this section. Notwithstanding the provisions of subsection a. of
31 N.J.S.2C:43-3, the court may impose a fine not to exceed \$500,000
32 or five times the retail value of the property seized at the time of the
33 arrest, whichever is greater.

34 b. Notwithstanding the provisions of N.J.S.2C:1-8, a conviction
35 of leader of a cargo theft network shall not merge with the
36 conviction for any offense which is the object of the conspiracy.
37 Nothing contained in this act shall prohibit the court from imposing
38 an extended term pursuant to N.J.S.2C:43-7; nor shall this act be
39 construed in any way to preclude or limit the prosecution or
40 conviction of any person for conspiracy under N.J.S.2C:5-2, or any
41 prosecution or conviction for any other offense.

42 c. It shall not be necessary in any prosecution under this
43 section for the State to prove that any intended profit was actually
44 realized. The trier of fact may infer that a particular scheme or
45 course of conduct was undertaken for profit from all of the

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 attending circumstances, including but not limited to the number of
2 persons involved in the scheme or course of conduct, the actor's net
3 worth and his expenditures in relation to his legitimate sources of
4 income, the amount of property or number of incidents of theft, or
5 the amount of cash or currency involved.

6 d. It shall not be a defense to a prosecution under this section
7 that the stolen property was brought into, transported or stored in
8 this State solely for ultimate distribution in another jurisdiction; nor
9 shall it be a defense that any profit was intended to be made in
10 another jurisdiction.

11 e. A person convicted of a second or subsequent offense under
12 this section shall be sentenced to a term of imprisonment [that shall
13 include a mandatory minimum term of one-third to one-half of the
14 sentence imposed, during which time the defendant shall not be
15 eligible for parole], and may be sentenced to an extended term of
16 imprisonment as set forth in subsection a. of N.J.S.2C:43-7,
17 notwithstanding the provisions of N.J.S.2C:44-3. The court may
18 not suspend or make any other non-custodial disposition of any
19 person sentenced as a second or subsequent offender pursuant to
20 this section. For the purposes of this section an offense is
21 considered a second or subsequent offense if the actor has at any
22 time been convicted pursuant to this section, or under any similar
23 statute of the United States, this State or any other state for an
24 offense that is substantially equivalent to this section.

25 (cf: P.L.2013, c.58, s.4)

26
27 2. Section 6 of P.L.2013, c.53 (C.2C:20-2.6) is amended to
28 read as follows:

29 6. a. A person who knowingly maintains or operates any
30 premises, place or facility used for the storage or resale of any
31 property stolen from a cargo carrier is guilty of a crime. Where the
32 property involved in the offense is valued at \$50,000 or more, the
33 offense is a crime of the second degree. Otherwise, the offense is a
34 crime of the third degree.

35 b. Notwithstanding the provisions of subsection a. of
36 N.J.S.2C:43-3, the court may impose a fine not to exceed \$250,000
37 or five times the retail value of the property stolen from the carrier
38 seized at the time of the arrest, whichever is greater.

39 c. A person convicted of a second or subsequent offense under
40 this section shall be sentenced to a term of imprisonment [that shall
41 include a mandatory minimum term of one-third to one-half of the
42 sentence imposed, during which time the defendant shall not be
43 eligible for parole], and may be sentenced to an extended term of
44 imprisonment as set forth subsection a. of N.J.S.2C:43-7,
45 notwithstanding the provision of N.J.S.2C:44-3. The court may not
46 suspend or make any other non-custodial disposition of any person
47 sentenced as a second or subsequent offender pursuant to this
48 section. For the purposes of this section an offense is considered a

1 second or subsequent offense if the actor has at any time been
2 convicted pursuant to this section, or under any similar statute of
3 the United States, this State or any other state for an offense that is
4 substantially equivalent to this section.

5 (cf: P.L.2013, c.53, s.6)

6
7 3. N.J.S.2C:20-11 is amended to read as follows:

8 2C:20-11. a. Definitions. The following definitions apply to
9 this section:

10 (1) "Shopping cart" means those push carts of the type or types
11 which are commonly provided by grocery stores, drug stores or
12 other retail mercantile establishments for the use of the public in
13 transporting commodities in stores and markets and, incidentally,
14 from the stores to a place outside the store;

15 (2) "Store or other retail mercantile establishment" means a
16 place where merchandise is displayed, held, stored or sold or
17 offered to the public for sale;

18 (3) "Merchandise" means any goods, chattels, foodstuffs or
19 wares of any type and description, regardless of the value thereof;

20 (4) "Merchant" means any owner or operator of any store or
21 other retail mercantile establishment, or any agent, servant,
22 employee, lessee, consignee, officer, director, franchisee or
23 independent contractor of such owner or proprietor;

24 (5) "Person" means any individual or individuals, including an
25 agent, servant or employee of a merchant where the facts of the
26 situation so require;

27 (6) "Conceal" means to conceal merchandise so that, although
28 there may be some notice of its presence, it is not visible through
29 ordinary observation;

30 (7) "Full retail value" means the merchant's stated or advertised
31 price of the merchandise;

32 (8) "Premises of a store or retail mercantile establishment"
33 means and includes but is not limited to, the retail mercantile
34 establishment; any common use areas in shopping centers and all
35 parking areas set aside by a merchant or on behalf of a merchant for
36 the parking of vehicles for the convenience of the patrons of such
37 retail mercantile establishment;

38 (9) "Under-ring" means to cause the cash register or other sale
39 recording device to reflect less than the full retail value of the
40 merchandise;

41 (10) "Antishoplifting or inventory control device
42 countermeasure" means any item or device which is designed,
43 manufactured, modified, or altered to defeat any antishoplifting or
44 inventory control device;

45 (11) "Organized retail theft enterprise" means any association of
46 two or more persons who engage in the conduct of or are associated
47 for the purpose of effectuating the transfer or sale of shoplifted
48 merchandise.

1 b. Shoplifting. Shoplifting shall consist of any one or more of
2 the following acts:

3 (1) For any person purposely to take possession of, carry away,
4 transfer or cause to be carried away or transferred, any merchandise
5 displayed, held, stored or offered for sale by any store or other retail
6 mercantile establishment with the intention of depriving the
7 merchant of the possession, use or benefit of such merchandise or
8 converting the same to the use of such person without paying to the
9 merchant the full retail value thereof.

10 (2) For any person purposely to conceal upon his person or
11 otherwise any merchandise offered for sale by any store or other
12 retail mercantile establishment with the intention of depriving the
13 merchant of the processes, use or benefit of such merchandise or
14 converting the same to the use of such person without paying to the
15 merchant the value thereof.

16 (3) For any person purposely to alter, transfer or remove any
17 label, price tag or marking indicia of value or any other markings
18 which aid in determining value affixed to any merchandise
19 displayed, held, stored or offered for sale by any store or other retail
20 mercantile establishment and to attempt to purchase such
21 merchandise personally or in consort with another at less than the
22 full retail value with the intention of depriving the merchant of all
23 or some part of the value thereof.

24 (4) For any person purposely to transfer any merchandise
25 displayed, held, stored or offered for sale by any store or other retail
26 merchandise establishment from the container in or on which the
27 same shall be displayed to any other container with intent to deprive
28 the merchant of all or some part of the retail value thereof.

29 (5) For any person purposely to under-ring with the intention of
30 depriving the merchant of the full retail value thereof.

31 (6) For any person purposely to remove a shopping cart from the
32 premises of a store or other retail mercantile establishment without
33 the consent of the merchant given at the time of such removal with
34 the intention of permanently depriving the merchant of the
35 possession, use or benefit of such cart.

36 c. Gradation. (1) Shoplifting constitutes a crime of the second
37 degree under subsection b. of this section if the full retail value of
38 the merchandise is \$75,000 or more, or the offense is committed in
39 furtherance of or in conjunction with an organized retail theft
40 enterprise and the full retail value of the merchandise is \$1,000 or
41 more.

42 (2) Shoplifting constitutes a crime of the third degree under
43 subsection b. of this section if the full retail value of the
44 merchandise exceeds \$500 but is less than \$75,000, or the offense
45 is committed in furtherance of or in conjunction with an organized
46 retail theft enterprise and the full retail value of the merchandise is
47 less than \$1,000.

1 (3) Shoplifting constitutes a crime of the fourth degree under
2 subsection b. of this section if the full retail value of the
3 merchandise is at least \$200 but does not exceed \$500.

4 (4) Shoplifting is a disorderly persons offense under subsection
5 b. of this section if the full retail value of the merchandise is less
6 than \$200.

7 The value of the merchandise involved in a violation of this
8 section may be aggregated in determining the grade of the offense
9 where the acts or conduct constituting a violation were committed
10 pursuant to one scheme or course of conduct, whether from the
11 same person or several persons, or were committed in furtherance
12 of or in conjunction with an organized retail theft enterprise.

13 Additionally, notwithstanding the term of imprisonment provided
14 in N.J.S.2C:43-6 or 2C:43-8, any person convicted of a shoplifting
15 offense shall be sentenced to perform community service as
16 follows: for a first offense, at least ten days of community service;
17 for a second offense, at least 15 days of community service; and for
18 a third or subsequent offense, a maximum of 25 days of community
19 service and any person convicted of a third or subsequent
20 shoplifting offense shall **【serve a minimum】** be sentenced to a term
21 of imprisonment 【of not less than 90 days】.

22 d. Presumptions. Any person purposely concealing
23 unpurchased merchandise of any store or other retail mercantile
24 establishment, either on the premises or outside the premises of
25 such store or other retail mercantile establishment, shall be prima
26 facie presumed to have so concealed such merchandise with the
27 intention of depriving the merchant of the possession, use or benefit
28 of such merchandise without paying the full retail value thereof,
29 and the finding of such merchandise concealed upon the person or
30 among the belongings of such person shall be prima facie evidence
31 of purposeful concealment; and if such person conceals, or causes
32 to be concealed, such merchandise upon the person or among the
33 belongings of another, the finding of the same shall also be prima
34 facie evidence of willful concealment on the part of the person so
35 concealing such merchandise.

36 e. A law enforcement officer, or a special officer, or a
37 merchant, who has probable cause for believing that a person has
38 willfully concealed unpurchased merchandise and that he can
39 recover the merchandise by taking the person into custody, may, for
40 the purpose of attempting to effect recovery thereof, take the person
41 into custody and detain him in a reasonable manner for not more
42 than a reasonable time, and the taking into custody by a law
43 enforcement officer or special officer or merchant shall not render
44 such person criminally or civilly liable in any manner or to any
45 extent whatsoever.

46 Any law enforcement officer may arrest without warrant any
47 person he has probable cause for believing has committed the
48 offense of shoplifting as defined in this section.

1 A merchant who causes the arrest of a person for shoplifting, as
2 provided for in this section, shall not be criminally or civilly liable
3 in any manner or to any extent whatsoever where the merchant has
4 probable cause for believing that the person arrested committed the
5 offense of shoplifting.

6 f. Any person who possesses or uses any antishoplifting or
7 inventory control device countermeasure within any store or other
8 retail mercantile establishment is guilty of a disorderly persons
9 offense.

10 (cf: P.L.2006, c.56, s.1)

11

12 4. Section 4 of P.L.1984, c.184 (C.2C:20-25) is amended to
13 read as follows:

14 4. A person is guilty of computer criminal activity if the person
15 purposely or knowingly and without authorization, or in excess of
16 authorization:

17 a. Accesses any data, data base, computer storage medium,
18 computer program, computer software, computer equipment,
19 computer, computer system or computer network;

20 b. Alters, damages or destroys any data, data base, computer,
21 computer storage medium, computer program, computer software,
22 computer system or computer network, or denies, disrupts or
23 impairs computer services, including access to any part of the
24 Internet, that are available to any other user of the computer
25 services;

26 c. Accesses or attempts to access any data, data base,
27 computer, computer storage medium, computer program, computer
28 software, computer equipment, computer system or computer
29 network for the purpose of executing a scheme to defraud, or to
30 obtain services, property, personal identifying information, or
31 money, from the owner of a computer or any third party;

32 d. (Deleted by amendment, P.L.2003, c.39).

33 e. Obtains, takes, copies or uses any data, data base, computer
34 program, computer software, personal identifying information, or
35 other information stored in a computer, computer network,
36 computer system, computer equipment or computer storage
37 medium; or

38 f. Accesses and recklessly alters, damages or destroys any
39 data, data base, computer, computer storage medium, computer
40 program, computer software, computer equipment, computer system
41 or computer network.

42 g. A violation of subsection a. of this section is a crime of the
43 third degree. A violation of subsection b. is a crime of the second
44 degree. A violation of subsection c. is a crime of the third degree,
45 except that it is a crime of the second degree if the value of the
46 services, property, personal identifying information, or money
47 obtained or sought to be obtained exceeds \$5,000. A violation of
48 subsection e. is a crime of the third degree, except that it is a crime

1 of the second degree if the data, data base, computer program,
2 computer software, or information:

3 (1) is or contains personal identifying information, medical
4 diagnoses, treatments or other medical information concerning an
5 identifiable person;

6 (2) is or contains governmental records or other information that
7 is protected from disclosure by law, court order or rule of court; or

8 (3) has a value exceeding \$5,000.

9 A violation of subsection f. is a crime of the fourth degree,
10 except that it is a crime of the third degree if the value of the
11 damage exceeds \$5,000.

12 A violation of any subsection of this section is a crime of the
13 first degree if the offense results in:

14 (1) a substantial interruption or impairment of public
15 communication, transportation, supply of water, gas or power, or
16 other public service. The term "substantial interruption or
17 impairment" shall mean such interruption or impairment that:

18 (a) affects 10 or more structures or habitations;

19 (b) lasts for two or more hours; or

20 (c) creates a risk of death or significant bodily injury to any
21 person;

22 (2) damages or loss in excess of \$250,000; or

23 (3) significant bodily injury to any person.

24 **【Every sentence of imprisonment for a crime of the first degree**
25 **committed in violation of this section shall include a minimum term**
26 **of one-third to one-half of the sentence imposed, during which term**
27 **the defendant shall not be eligible for parole.】**

28 h. Every sentence imposed upon a conviction pursuant to this
29 section shall, if the victim is a government agency, include a period
30 of imprisonment. **【The period of imprisonment shall include a**
31 **minimum term of one-third to one-half of the sentence imposed,**
32 **during which term the defendant shall not be eligible for parole.】**

33 The victim shall be deemed to be a government agency if a
34 computer, computer network, computer storage medium, computer
35 system, computer equipment, computer program, computer
36 software, computer data or data base that is a subject of the crime is
37 owned, operated or maintained by or on behalf of a governmental
38 agency or unit of State or local government or a public authority.
39 The defendant shall be strictly liable under this subsection and it
40 shall not be a defense that the defendant did not know or intend that
41 the victim was a government agency, or that the defendant intended
42 that there be other victims of the crime.

43 A violation of any subsection of this section shall be a distinct
44 offense from a violation of any other subsection of this section, and
45 a conviction for a violation of any subsection of this section shall
46 not merge with a conviction for a violation of any other subsection
47 of this section or section 10 of P.L.1984, c.184 (C.2C:20-31), or for
48 conspiring or attempting to violate any subsection of this section or

1 section 10 of P.L.1984, c.184 (C.2C:20-31), and a separate sentence
2 shall be imposed for each such conviction.

3 When a violation of any subsection of this section involves an
4 offense committed against a person under 18 years of age, the
5 violation shall constitute an aggravating circumstance to be
6 considered by the court when determining the appropriate sentence
7 to be imposed.

8 (cf: P.L.2003, c.39, s.3)

9
10 5. Section 10 of P.L.1984, c.184 (C.2C:20-31) is amended to
11 read as follows:

12 10. a. A person is guilty of a crime of the third degree if the
13 person purposely or knowingly and without authorization, or in
14 excess of authorization, accesses any data, data base, computer,
15 computer storage medium, computer software, computer equipment,
16 computer system and knowingly or recklessly discloses or causes to
17 be disclosed any data, data base, computer software, computer
18 programs or personal identifying information.

19 b. A person is guilty of a crime of the second degree if the
20 person purposely or knowingly and without authorization, or in
21 excess of authorization, accesses any data, data base, computer,
22 computer storage medium, computer software, computer equipment,
23 computer system or computer network and purposely or knowingly
24 discloses or causes to be disclosed any data, data base, computer
25 software, computer program or other information that is protected
26 from disclosure by any law, court order or rule of court. Every
27 sentence imposed upon a conviction pursuant to this subsection
28 shall include a period of imprisonment. **【The period of**
29 **imprisonment shall include a minimum term of one-third to one-**
30 **half of the sentence imposed, during which term the defendant shall**
31 **not be eligible for parole.】**

32 (cf: P.L.2003, c.39, s.4)

33

34 6. N.J.S.2C:35-3 is amended to read as follows:

35 2C:35-3. Leader of Narcotics Trafficking Network.

36 As used in this section:

37 "Financier" means a person who, with the intent to derive a
38 profit, provides money or credit or other thing of value in order to
39 purchase a controlled dangerous substance or an immediate
40 precursor, or otherwise to finance the operations of a drug
41 trafficking network.

42 A person is a leader of a narcotics trafficking network if he
43 conspires with two or more other persons in a scheme or course of
44 conduct to unlawfully manufacture, distribute, dispense, bring into
45 or transport in this State methamphetamine, lysergic acid
46 diethylamide, phencyclidine, gamma hydroxybutyrate,
47 flunitrazepam or any controlled dangerous substance classified in
48 Schedule I or II, or any controlled substance analog thereof as a

1 financier, or as an organizer, supervisor or manager of at least one
2 other person.

3 Leader of narcotics trafficking network is a crime of the first
4 degree and upon conviction thereof, except as may be provided by
5 N.J.S.2C:35-12, a person shall be sentenced to an ordinary term of
6 between twenty-five years and life imprisonment [during which the
7 person must serve 25 years before being eligible for parole].
8 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3,
9 the court may also impose a fine not to exceed \$750,000.00 or five
10 times the street value of the controlled dangerous substance,
11 controlled substance analog, gamma hydroxybutyrate or
12 flunitrazepam involved, whichever is greater.

13 Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of
14 leader of narcotics trafficking network shall not merge with the
15 conviction for any offense which is the object of the conspiracy.
16 Nothing contained in this section shall prohibit the court from
17 imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this
18 section be construed in any way to preclude or limit the prosecution
19 or conviction of any person for conspiracy under N.J.S.2C:5-2, or
20 any prosecution or conviction under N.J.S.2C:35-4 (maintaining or
21 operating a CDS production facility), N.J.S.2C:35-5
22 (manufacturing, distributing or dispensing), N.J.S.2C:35-6
23 (employing a juvenile in a drug distribution scheme), N.J.S.2C:35-9
24 (strict liability for drug induced death), N.J.S.2C:41-2 (racketeering
25 activities) or subsection g. of N.J.S.2C:5-2 (leader of organized
26 crime).

27 It shall not be necessary in any prosecution under this section for
28 the State to prove that any intended profit was actually realized. The
29 trier of fact may infer that a particular scheme or course of conduct
30 was undertaken for profit from all of the attendant circumstances,
31 including but not limited to the number of persons involved in the
32 scheme or course of conduct, the actor's net worth and his
33 expenditures in relation to his legitimate sources of income, the
34 amount or purity of the specified controlled dangerous substance,
35 controlled substance analog, gamma hydroxybutyrate or
36 flunitrazepam involved, or the amount of cash or currency involved.

37 It shall not be a defense to a prosecution under this section that
38 such controlled dangerous substance, controlled substance analog,
39 gamma hydroxybutyrate or flunitrazepam was brought into or
40 transported in this State solely for ultimate distribution or
41 dispensing in another jurisdiction; nor shall it be a defense that any
42 profit was intended to be made in another jurisdiction.

43 It shall not be a defense that the defendant was subject to the
44 supervision or management of another, nor that another person or
45 persons were also leaders of the narcotics trafficking network.

46 (cf: P.L.1999, c.133, s.1)

47

48 7. N.J.S.2C:35-4 is amended to read as follows:

1 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1 et
2 seq.), any person who knowingly maintains or operates any
3 premises, place or facility used for the manufacture of
4 methamphetamine, lysergic acid diethylamide, phencyclidine,
5 gamma hydroxybutyrate, flunitrazepam, marijuana in an amount
6 greater than five pounds or ten plants or any substance listed in
7 Schedule I or II, or the analog of any such substance, or any person
8 who knowingly aids, promotes, finances or otherwise participates in
9 the maintenance or operations of such premises, place or facility, is
10 guilty of a crime of the first degree and shall, except as provided in
11 N.J.S.2C:35-12, be sentenced to a term of imprisonment【which
12 shall include the imposition of a minimum term which shall be
13 fixed at, or between, one-third and one-half of the sentence
14 imposed, during which the defendant shall be ineligible for parole】.
15 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3,
16 the court may also impose a fine not to exceed \$750,000.00 or five
17 times the street value of all controlled dangerous substances,
18 controlled substance analogs, gamma hydroxybutyrate or
19 flunitrazepam at any time manufactured or stored at such premises,
20 place or facility, whichever is greater.
21 (cf: P.L.1999, c.133, s.2)

22

23 8. N.J.S.2C:35-5 is amended to read as follows:

24 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
25 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be
26 unlawful for any person knowingly or purposely:

27 (1) To manufacture, distribute or dispense, or to possess or have
28 under his control with intent to manufacture, distribute or dispense,
29 a controlled dangerous substance or controlled substance analog; or

30 (2) To create, distribute, or possess or have under his control
31 with intent to distribute, a counterfeit controlled dangerous
32 substance.

33 b. Any person who violates subsection a. with respect to:

34 (1) Heroin, or its analog, or coca leaves and any salt, compound,
35 derivative, or preparation of coca leaves, and any salt, compound,
36 derivative, or preparation thereof which is chemically equivalent or
37 identical with any of these substances, or analogs, except that the
38 substances shall not include decocainized coca leaves or extractions
39 which do not contain cocaine or ecogine, or 3,4-
40 methylenedioxymethamphetamine or 3,4-
41 methylenedioxyamphetamine, in a quantity of five ounces or more
42 including any adulterants or dilutants is guilty of a crime of the first
43 degree. The defendant shall, except as provided in N.J.S.2C:35-12,
44 be sentenced to a term of imprisonment by the court. 【The term of
45 imprisonment shall include the imposition of a minimum term
46 which shall be fixed at, or between, one-third and one-half of the
47 sentence imposed, during which the defendant shall be ineligible for

1 parole.】 Notwithstanding the provisions of subsection a. of
2 N.J.S.2C:43-3, a fine of up to \$500,000.00 may be imposed;

3 (2) A substance referred to in paragraph (1) of this subsection,
4 in a quantity of one-half ounce or more but less than five ounces,
5 including any adulterants or dilutants is guilty of a crime of the
6 second degree;

7 (3) A substance referred to in paragraph (1) of this subsection in
8 a quantity less than one-half ounce including any adulterants or
9 dilutants is guilty of a crime of the third degree except that,
10 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
11 fine of up to \$75,000.00 may be imposed;

12 (4) A substance classified as a narcotic drug in Schedule I or II
13 other than those specifically covered in this section, or the analog of
14 any such substance, in a quantity of one ounce or more including
15 any adulterants or dilutants is guilty of a crime of the second
16 degree;

17 (5) A substance classified as a narcotic drug in Schedule I or II
18 other than those specifically covered in this section, or the analog of
19 any such substance, in a quantity of less than one ounce including
20 any adulterants or dilutants is guilty of a crime of the third degree
21 except that, notwithstanding the provisions of subsection b. of
22 N.J.S.2C:43-3, a fine of up to \$75,000.00 may be imposed;

23 (6) Lysergic acid diethylamide, or its analog, in a quantity of
24 100 milligrams or more including any adulterants or dilutants, or
25 phencyclidine, or its analog, in a quantity of 10 grams or more
26 including any adulterants or dilutants, is guilty of a crime of the
27 first degree. Except as provided in N.J.S.2C:35-12, the court shall
28 impose a term of imprisonment 【which shall include the imposition
29 of a minimum term, fixed at, or between, one-third and one-half of
30 the sentence imposed by the court, during which the defendant shall
31 be ineligible for parole】. Notwithstanding the provisions of
32 subsection a. of N.J.S.2C:43-3, a fine of up to \$500,000.00 may be
33 imposed;

34 (7) Lysergic acid diethylamide, or its analog, in a quantity of
35 less than 100 milligrams including any adulterants or dilutants, or
36 where the amount is undetermined, or phencyclidine, or its analog,
37 in a quantity of less than 10 grams including any adulterants or
38 dilutants, or where the amount is undetermined, is guilty of a crime
39 of the second degree;

40 (8) Methamphetamine, or its analog, or phenyl-2-propanone
41 (P2P), in a quantity of five ounces or more including any
42 adulterants or dilutants is guilty of a crime of the first degree.
43 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a
44 fine of up to \$300,000.00 may be imposed;

45 (9) (a) Methamphetamine, or its analog, or phenyl-2-propanone
46 (P2P), in a quantity of one-half ounce or more but less than five
47 ounces including any adulterants or dilutants is guilty of a crime of
48 the second degree;

1 (b) Methamphetamine, or its analog, or phenyl-2-propanone
2 (P2P), in a quantity of less than one-half ounce including any
3 adulterants or dilutants is guilty of a crime of the third degree
4 except that notwithstanding the provisions of subsection b. of
5 N.J.S.2C:43-3, a fine of up to \$75,000.00 may be imposed;

6 (10) (a) Marijuana in a quantity of 25 pounds or more including
7 any adulterants or dilutants, or 50 or more marijuana plants,
8 regardless of weight, or hashish in a quantity of five pounds or
9 more including any adulterants or dilutants, is guilty of a crime of
10 the first degree. Notwithstanding the provisions of subsection a. of
11 N.J.S.2C:43-3, a fine of up to \$300,000.00 may be imposed;

12 (b) Marijuana in a quantity of five pounds or more but less than
13 25 pounds including any adulterants or dilutants, or 10 or more but
14 fewer than 50 marijuana plants, regardless of weight, or hashish in a
15 quantity of one pound or more but less than five pounds, including
16 any adulterants and dilutants, is guilty of a crime of the second
17 degree;

18 (11) Marijuana in a quantity of one ounce or more but less than
19 five pounds including any adulterants or dilutants, or hashish in a
20 quantity of five grams or more but less than one pound including
21 any adulterants or dilutants, is guilty of a crime of the third degree
22 except that, notwithstanding the provisions of subsection b. of
23 N.J.S.2C:43-3, a fine of up to \$25,000.00 may be imposed;

24 (12) Marijuana in a quantity of less than one ounce including
25 any adulterants or dilutants, or hashish in a quantity of less than five
26 grams including any adulterants or dilutants, is guilty of a crime of
27 the fourth degree;

28 (13) Any other controlled dangerous substance classified in
29 Schedule I, II, III or IV, or its analog, is guilty of a crime of the
30 third degree, except that, notwithstanding the provisions of
31 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be
32 imposed; or

33 (14) Any Schedule V substance, or its analog, is guilty of a
34 crime of the fourth degree except that, notwithstanding the
35 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
36 \$25,000.00 may be imposed.

37 c. Where the degree of the offense for violation of this section
38 depends on the quantity of the substance, the quantity involved
39 shall be determined by the trier of fact. Where the indictment or
40 accusation so provides, the quantity involved in individual acts of
41 manufacturing, distribution, dispensing or possessing with intent to
42 distribute may be aggregated in determining the grade of the
43 offense, whether distribution or dispensing is to the same person or
44 several persons, provided that each individual act of manufacturing,
45 distribution, dispensing or possession with intent to distribute was
46 committed within the applicable statute of limitations.

47 (cf: P.L.2000, c.136)

1 9. N.J.S.2C:35-6 is amended to read as follows:

2 2C:35-6. Employing a Juvenile in a Drug Distribution Scheme.

3 Any person being at least 18 years of age who knowingly uses,
4 solicits, directs, hires or employs a person 17 years of age or
5 younger to violate N.J.S.2C:35-4 or subsection a. of N.J.S.2C:35-5,
6 is guilty of a crime of the second degree and shall, except as
7 provided in N.J.S.2C:35-12, be sentenced to a term of imprisonment
8 **【**which shall include the imposition of a minimum term which shall
9 be fixed at, or between, one-third and one-half of the sentence
10 imposed, or five years, whichever is greater, during which the
11 defendant shall be ineligible for parole**】**. Notwithstanding the
12 provisions of subsection a. of N.J.S.2C:43-3, the court may also
13 impose a fine not to exceed \$500,000.00 or five times the street
14 value of the controlled dangerous substance or controlled substance
15 analog involved, whichever is greater.

16 It shall be no defense to a prosecution under this section that the
17 actor mistakenly believed that the person which the actor used,
18 solicited, directed, hired or employed was 18 years of age or older,
19 even if such mistaken belief was reasonable.

20 Nothing in this section shall be construed to preclude or limit a
21 prosecution or conviction for a violation of any offense defined in
22 this chapter pursuant to N.J.S.2C:2-6 or any other provision of law
23 governing an actor's liability for the conduct of another, and,
24 notwithstanding the provisions of N.J.S.2C:1-8 or any other
25 provision of law, a conviction arising under this section shall not
26 merge with a conviction for a violation of N.J.S.2C:35-3 (leader of
27 narcotics trafficking network), N.J.S.2C:35-4 (maintaining or
28 operating a CDS production facility), N.J.S.2C:35-5
29 (manufacturing, distributing or dispensing), or N.J.S.2C:35-9 (strict
30 liability for drug induced death).
31 (cf: P.L.1997, c.181, s.4)

32

33 10. Section 1 of P.L.1987, c.101 (C.2C:35-7) is amended to read
34 as follows:

35 C.2C:35-7. Distribution on or within 1,000 feet of school
36 property.

37 1. a. Any person who violates subsection a. of N.J.S.2C:35-5
38 by distributing, dispensing or possessing with intent to distribute a
39 controlled dangerous substance or controlled substance analog
40 while on any school property used for school purposes which is
41 owned by or leased to any elementary or secondary school or school
42 board, or within 1,000 feet of such school property or a school bus,
43 or while on any school bus, is guilty of a crime of the third degree
44 and shall, except as provided in N.J.S.2C:35-12, be sentenced by
45 the court to a term of imprisonment, notwithstanding the
46 presumption of non-imprisonment for certain offenders set forth in
47 subsection e. of N.J.S. 2C:44-1. **【**Where the violation involves less
48 than one ounce of marijuana, the term of imprisonment shall

1 include the imposition of a minimum term which shall be fixed at,
2 or between, one-third and one-half of the sentence imposed, or one
3 year, whichever is greater, during which the defendant shall be
4 ineligible for parole. In all other cases, the term of imprisonment
5 shall include the imposition of a minimum term which shall be
6 fixed at, or between, one-third and one-half of the sentence
7 imposed, or three years, whichever is greater, during which the
8 defendant shall be ineligible for parole.】 Notwithstanding the
9 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
10 \$150,000 may also be imposed upon any conviction for a violation
11 of this section.

12 b. (1) Notwithstanding the provisions of N.J.S.2C:35-12 or
13 subsection a. of this section, the court may 【waive or reduce the
14 minimum term of parole ineligibility required under subsection a. of
15 this section or】 place the defendant on probation pursuant to
16 paragraph (2) of subsection b. of N.J.S.2C:43-2. In making this
17 determination, the court shall consider:

18 (a) the extent of the defendant's prior criminal record and the
19 seriousness of the offenses for which the defendant has been
20 convicted;

21 (b) the specific location of the present offense in relation to the
22 school property, including distance from the school and the
23 reasonable likelihood of exposing children to drug-related activities
24 at that location;

25 (c) whether school was in session at the time of the offense; and

26 (d) whether children were present at or in the immediate vicinity
27 of the location when the offense took place.

28 (2) The court shall not 【waive or reduce the minimum term of
29 parole ineligibility or】 sentence the defendant to probation if it
30 finds that:

31 (a) the offense took place while on any school property used for
32 school purposes which is owned by or leased to any elementary or
33 secondary school or school board, or while on any school bus; or

34 (b) the defendant in the course of committing the offense used
35 or threatened violence or was in possession of a firearm.

36 If the court at sentencing 【elects not to impose a minimum term
37 of imprisonment and parole ineligibility pursuant to this subsection,
38 imposes a term of parole ineligibility less than the minimum term
39 prescribed in subsection a. of this section, or】 places the defendant
40 on probation for a violation of subsection a. of this section, the
41 sentence shall not become final for 10 days in order to permit the
42 prosecution to appeal the court's finding and the sentence imposed.
43 The Attorney General shall develop guidelines to ensure the
44 uniform exercise of discretion in making determinations regarding
45 whether to appeal a decision to 【waive or reduce the minimum term
46 of parole ineligibility or】 place the defendant on probation.

1 Nothing in this subsection shall be construed to establish a basis
2 for overcoming a presumption of imprisonment authorized or
3 required by subsection d. of N.J.S.2C:44-1, or a basis for not
4 imposing a term of imprisonment or term of parole ineligibility
5 authorized or required to be imposed pursuant to subsection f. of
6 N.J.S.2C:43-6 or upon conviction for a crime other than the offense
7 set forth in this subsection.

8 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
9 provisions of law, a conviction arising under this section shall not
10 merge with a conviction for a violation of subsection a. of
11 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or
12 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).

13 d. It shall be no defense to a prosecution for a violation of this
14 section that the actor was unaware that the prohibited conduct took
15 place while on or within 1,000 feet of any school property. Nor
16 shall it be a defense to a prosecution under this section, or under
17 any other provision of this title, that no juveniles were present on
18 the school property at the time of the offense or that the school was
19 not in session.

20 e. It is an affirmative defense to prosecution for a violation of
21 this section that the prohibited conduct took place entirely within a
22 private residence, that no person 17 years of age or younger was
23 present in such private residence at any time during the commission
24 of the offense, and that the prohibited conduct did not involve
25 distributing, dispensing or possessing with the intent to distribute or
26 dispense any controlled dangerous substance or controlled
27 substance analog for profit. The affirmative defense established in
28 this section shall be proved by the defendant by a preponderance of
29 the evidence. Nothing herein shall be construed to establish an
30 affirmative defense with respect to a prosecution for an offense
31 defined in any other section of this chapter.

32 f. In a prosecution under this section, a map produced or
33 reproduced by any municipal or county engineer for the purpose of
34 depicting the location and boundaries of the area on or within 1,000
35 feet of any property used for school purposes which is owned by or
36 leased to any elementary or secondary school or school board, or a
37 true copy of such a map, shall, upon proper authentication, be
38 admissible and shall constitute prima facie evidence of the location
39 and boundaries of those areas, provided that the governing body of
40 the municipality or county has adopted a resolution or ordinance
41 approving the map as official finding and record of the location and
42 boundaries of the area or areas on or within 1,000 feet of the school
43 property. Any map approved pursuant to this section may be
44 changed from time to time by the governing body of the
45 municipality or county. The original of every map approved or
46 revised pursuant to this section, or a true copy thereof, shall be filed
47 with the clerk of the municipality or county, and shall be
48 maintained as an official record of the municipality or county.

1 Nothing in this section shall be construed to preclude the
2 prosecution from introducing or relying upon any other evidence or
3 testimony to establish any element of this offense; nor shall this
4 section be construed to preclude the use or admissibility of any map
5 or diagram other than one which has been approved by the
6 governing body of a municipality or county, provided that the map
7 or diagram is otherwise admissible pursuant to the Rules of
8 Evidence.

9 (cf: P.L.2009, c.192, s.1)

10
11 11. N.J.S.2C:35-8 is amended to read as follows:

12 2C:35-8. Distribution to Persons Under Age 18; Enhanced
13 Punishment. Upon the application of the prosecuting attorney, any
14 person being at least 18 years of age who has been convicted for
15 violating subsection a. of N.J.S. 2C:35-5 or section 1 of P.L.1987,
16 c.101 (C.2C:35-7) by distributing a controlled dangerous substance
17 or controlled substance analog to a pregnant female or a person 17
18 years of age or younger shall, except as provided in N.J.S. 2C:35-
19 12, be subject to twice the term of imprisonment, fine and penalty~~],~~
20 including twice the term of parole ineligibility, if any,~~]~~ authorized
21 or required to be imposed by subsection b. of N.J.S. 2C:35-5 or
22 section 1 of P.L.1987, c.101 (C.2C:35-7) or any other provision of
23 this title. In addition, the presumption of non-imprisonment for
24 certain offenders set forth in subsection e. of N.J.S. 2C:44-1 shall
25 not apply to any person subject to enhanced punishment pursuant to
26 this section.

27 The court shall not impose more than one enhanced sentence
28 pursuant to this section. If the defendant is convicted of more than
29 one offense which is otherwise subject to enhanced punishment
30 pursuant to this section, the court shall impose enhanced
31 punishment based upon the most serious such offense for which the
32 defendant was convicted~~],~~ or, where applicable, the offense which
33 mandates the imposition of the longest term of parole ineligibility~~]~~.

34 Notwithstanding the provisions of paragraph (2) of subsection a.
35 of 2C:44-5, nothing herein shall prevent the court from also
36 imposing an extended term pursuant to subsection f. of N.J.S.
37 2C:43-6. The court shall not impose an enhanced sentence pursuant
38 to this section unless the prosecutor has established the ground
39 therefor by a preponderance of the evidence at a hearing, which
40 may occur at the time of sentencing. In making its finding, the
41 court shall take judicial notice of any evidence, testimony or
42 information adduced at the trial, plea hearing or other court
43 proceedings, and shall also consider the presentence report and any
44 other relevant information. It shall not be relevant to the imposition
45 of enhanced punishment pursuant to this section that the defendant
46 mistakenly believed that the recipient of the substance was 18 years
47 of age or older, even if the mistaken belief was reasonable. Nor
48 shall it be relevant to the imposition of enhanced punishment

1 pursuant to this section that the defendant did not know that the
2 recipient was pregnant.

3 (cf: P.L.1988, c.44, s.4)

4
5 12. N.J.S.2C:35-12 is amended to read as follows:

6 2C:35-12. Waiver of Mandatory Minimum and Extended Terms.

7 Whenever an offense defined in this chapter specifies a
8 mandatory sentence of imprisonment **【**which includes a minimum
9 term during which the defendant shall be ineligible for parole**】**, a
10 mandatory extended term **【**which includes a period of parole
11 ineligibility**】**, or an anti-drug profiteering penalty pursuant to
12 section 2 of P.L.1997, c.187 (N.J.S.2C:35A-1 et seq.), the court
13 upon conviction shall impose the mandatory sentence of
14 imprisonment or anti-drug profiteering penalty unless the defendant
15 has pleaded guilty pursuant to a negotiated agreement or, in cases
16 resulting in trial, the defendant and the prosecution have entered
17 into a post-conviction agreement, which provides for a lesser
18 sentence**【**, period of parole ineligibility or**】** anti-drug profiteering
19 penalty. The negotiated plea or post-conviction agreement may
20 provide for a specified term of imprisonment within the range of
21 ordinary or extended sentences authorized by law, **【**a specified
22 period of parole ineligibility,**】** a specified fine, a specified anti-drug
23 profiteering penalty, or other disposition. In that event, the court at
24 sentencing shall not impose a lesser term of imprisonment, **【**lesser
25 period of parole ineligibility,**】** lesser fine or lesser anti-drug
26 profiteering penalty than that expressly provided for under the
27 terms of the plea or post-conviction agreement.

28 (cf: P.L.1997, c.187, s.1)

29
30 13. N.J.S.2C:43-6 is amended to read as follows:

31 2C:43-6. a. Except as otherwise provided, a person who has
32 been convicted of a crime may be sentenced to imprisonment, as
33 follows:

34 (1) In the case of a crime of the first degree, for a specific term
35 of years which shall be fixed by the court and shall be between 10
36 years and 20 years;

37 (2) In the case of a crime of the second degree, for a specific
38 term of years which shall be fixed by the court and shall be between
39 five years and 10 years;

40 (3) In the case of a crime of the third degree, for a specific term
41 of years which shall be fixed by the court and shall be between
42 three years and five years;

43 (4) In the case of a crime of the fourth degree, for a specific
44 term which shall be fixed by the court and shall not exceed 18
45 months.

46 b. As part of a sentence for any crime, where the court is
47 clearly convinced that the aggravating factors substantially

1 outweigh the mitigating factors, as set forth in subsections a. and b.
2 of 2C:44-1, or the court finds that the aggravating factor set forth in
3 paragraph (5) of subsection a. of N.J.S.2C:44-1 applies, the court
4 may fix a minimum term not to exceed one-half of the term set
5 pursuant to subsection a., or one-half of the term set pursuant to a
6 maximum period of incarceration for a crime set forth in any statute
7 other than this code, during which the defendant shall not be
8 eligible for parole; provided that no defendant shall be eligible for
9 parole at a date earlier than otherwise provided by the law
10 governing parole.

11 c. A person who has been convicted under subsection b. or d.
12 of N.J.S.2C:39-3, subsection a. of N.J.S.2C:39-4, subsection a. of
13 section 1 of P.L.1998, c.26 (C.2C:39-4.1), subsection a., b., c., or f.
14 of N.J.S.2C:39-5, subsection a. or paragraph (2) or (3) of subsection
15 b. of section 6 of P.L.1979, c.179 (C.2C:39-7), or subsection a., b.,
16 e. or g. of N.J.S.2C:39-9, or of a crime under any of the following
17 sections: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-
18 3a., 2C:15-1, 2C:18-2, 2C:29-5, who, while in the course of
19 committing or attempting to commit the crime, including the
20 immediate flight therefrom, used or was in possession of a firearm
21 as defined in 2C:39-1f., shall be sentenced to a term of
22 imprisonment by the court. The term of imprisonment shall include
23 the imposition of a minimum term. The minimum term shall be
24 fixed at one-half of the sentence imposed by the court or 42 months,
25 whichever is greater, or 18 months in the case of a fourth degree
26 crime, during which the defendant shall be ineligible for parole.

27 The minimum terms established by this section shall not prevent
28 the court from imposing presumptive terms of imprisonment
29 pursuant to 2C:44-1f. (1) except in cases of crimes of the fourth
30 degree.

31 A person who has been convicted of an offense enumerated by
32 this subsection and who used or possessed a firearm during its
33 commission, attempted commission or flight therefrom and who has
34 been previously convicted of an offense involving the use or
35 possession of a firearm as defined in 2C:44-3d., shall be sentenced
36 by the court to an extended term as authorized by 2C:43-7c.,
37 notwithstanding that extended terms are ordinarily discretionary
38 with the court.

39 d. (1) The court shall not impose a mandatory sentence
40 pursuant to subsection c. of this section, 2C:43-7c. or 2C:44-3d.,
41 unless the ground therefor has been established at a hearing. At the
42 hearing, which may occur at the time of sentencing, the prosecutor
43 shall establish by a preponderance of the evidence that the weapon
44 used or possessed was a firearm. In making its finding, the court
45 shall take judicial notice of any evidence, testimony or information
46 adduced at the trial, plea hearing, or other court proceedings and
47 shall also consider the presentence report and any other relevant
48 information.

1 (2) The court shall not impose a mandatory sentence pursuant to
2 subsection c. of this section for a violation of paragraph (2) of
3 subsection b. of N.J.S.2C:39-5; a violation of paragraph (2) of
4 subsection c. of N.J.S.2C:39-5, if that rifle or shotgun is in the
5 nature of an air gun, spring gun or pistol or other weapon of a
6 similar nature in which the propelling force is a spring, elastic band,
7 carbon dioxide, compressed or other gas or vapor, air or compressed
8 air, or is ignited by compressed air, and ejecting a bullet or missile
9 smaller than three-eighths of an inch in diameter, with sufficient
10 force to injure a person; or a violation of paragraph (1) of
11 subsection c. of N.J.S.2C:39-5.

12 e. A person convicted of a third or subsequent offense
13 involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any
14 other provision of this code, or under any of the provisions of Title
15 54 of the Revised Statutes, or Title 54A of the New Jersey Statutes,
16 as amended and supplemented, shall be sentenced to a term of
17 imprisonment by the court. This shall not preclude an application
18 for and imposition of an extended term of imprisonment under
19 N.J.S.2C:44-3 if the provisions of that section are applicable to the
20 offender.

21 f. A person convicted of manufacturing, distributing,
22 dispensing or possessing with intent to distribute any dangerous
23 substance or controlled substance analog under N.J.S.2C:35-5, of
24 maintaining or operating a controlled dangerous substance
25 production facility under N.J.S.2C:35-4, of employing a juvenile in
26 a drug distribution scheme under N.J.S.2C:35-6, leader of a
27 narcotics trafficking network under N.J.S.2C:35-3, or of
28 distributing, dispensing or possessing with intent to distribute on or
29 near school property or buses under section 1 of P.L.1987, c.101
30 (C.2C:35-7), who has been previously convicted of manufacturing,
31 distributing, dispensing or possessing with intent to distribute a
32 controlled dangerous substance or controlled substance analog,
33 shall upon application of the prosecuting attorney be sentenced by
34 the court to an extended term as authorized by subsection c. of
35 N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily
36 discretionary with the court. **【The term of imprisonment shall,**
37 **except as may be provided in N.J.S.2C:35-12, include the**
38 **imposition of a minimum term. The minimum term shall be fixed**
39 **at, or between, one-third and one-half of the sentence imposed by**
40 **the court or three years, whichever is greater, not less than seven**
41 **years if the person is convicted of a violation of N.J.S.2C:35-6, or**
42 **18 months in the case of a fourth degree crime, during which the**
43 **defendant shall be ineligible for parole.】**

44 The court shall not impose an extended term pursuant to this
45 subsection unless the ground therefor has been established at a
46 hearing. At the hearing, which may occur at the time of sentencing,
47 the prosecutor shall establish the ground therefor by a
48 preponderance of the evidence. In making its finding, the court shall

1 take judicial notice of any evidence, testimony or information
2 adduced at the trial, plea hearing, or other court proceedings and
3 shall also consider the presentence report and any other relevant
4 information.

5 For the purpose of this subsection, a previous conviction exists
6 where the actor has at any time been convicted under chapter 35 of
7 this title or Title 24 of the Revised Statutes or under any similar
8 statute of the United States, this State, or any other state for an
9 offense that is substantially equivalent to N.J.S.2C:35-3,
10 N.J.S.2C:35-4, N.J.S.2C:35-5, N.J.S.2C:35-6 or section 1 of
11 P.L.1987, c.101 (C.2C:35-7).

12 g. Any person who has been convicted under subsection a. of
13 N.J.S.2C:39-4 or of a crime under any of the following sections:
14 N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:12-1b., N.J.S.2C:13-1,
15 N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2,
16 N.J.S.2C:29-5, N.J.S.2C:35-5 who, while in the course of
17 committing or attempting to commit the crime, including the
18 immediate flight therefrom, used or was in possession of a machine
19 gun or assault firearm shall be sentenced to a term of imprisonment
20 by the court. The term of imprisonment shall include the
21 imposition of a minimum term. The minimum term shall be fixed at
22 10 years for a crime of the first or second degree, five years for a
23 crime of the third degree, or 18 months in the case of a fourth
24 degree crime, during which the defendant shall be ineligible for
25 parole.

26 The minimum terms established by this section shall not prevent
27 the court from imposing presumptive terms of imprisonment
28 pursuant to paragraph (1) of subsection f. of N.J.S.2C:44-1 for
29 crimes of the first degree.

30 A person who has been convicted of an offense enumerated in
31 this subsection and who used or possessed a machine gun or assault
32 firearm during its commission, attempted commission or flight
33 therefrom and who has been previously convicted of an offense
34 involving the use or possession of any firearm as defined in
35 subsection d. of N.J.S.2C:44-3, shall be sentenced by the court to an
36 extended term as authorized by subsection d. of N.J.S.2C:43-7,
37 notwithstanding that extended terms are ordinarily discretionary
38 with the court.

39 h. The court shall not impose a mandatory sentence pursuant to
40 subsection g. of this section, subsection d. of N.J.S.2C:43-7 or
41 N.J.S.2C:44-3, unless the ground therefor has been established at a
42 hearing. At the hearing, which may occur at the time of sentencing,
43 the prosecutor shall establish by a preponderance of the evidence
44 that the weapon used or possessed was a machine gun or assault
45 firearm. In making its finding, the court shall take judicial notice of
46 any evidence, testimony or information adduced at the trial, plea
47 hearing, or other court proceedings and shall also consider the
48 presentence report and any other relevant information.

1 i. A person who has been convicted under paragraph (6) of
2 subsection b. of 2C:12-1 of causing bodily injury while eluding
3 shall be sentenced to a term of imprisonment by the court. The
4 term of imprisonment shall include the imposition of a minimum
5 term. The minimum term shall be fixed at, or between one-third
6 and one-half of the sentence imposed by the court. The minimum
7 term established by this subsection shall not prevent the court from
8 imposing a presumptive term of imprisonment pursuant to
9 paragraph (1) of subsection f. of 2C:44-1.

10 (cf: P.L.2013, c.113, s.2)

11
12 14. N.J.S.2C:43-7 is amended to read as follows:

13 2C:43-7. Sentence of Imprisonment for Crime; Extended Terms.

14 a. In the cases designated in section 2C:44-3, a person who has
15 been convicted of a crime may be sentenced, and in the cases
16 designated in subsection e. of section 2 of P.L.1994, c.130
17 (C.2C:43-6.4), in subsection b. of section 2 of P.L.1995, c.126
18 (C.2C:43-7.1) and in the cases designated in section 1 of P.L.1997,
19 c.410 (C.2C:44-5.1), a person who has been convicted of a crime
20 shall be sentenced, to an extended term of imprisonment, as
21 follows:

22 (1) In case of aggravated manslaughter sentenced under
23 subsection c. of N.J.S.2C:11-4; or kidnapping when sentenced as a
24 crime of the first degree under paragraph (1) of subsection c. of
25 2C:13-1; or aggravated sexual assault if the person is eligible for an
26 extended term pursuant to the provisions of subsection g. of
27 N.J.S.2C:44-3 for a specific term of years which shall be between
28 30 years and life imprisonment;

29 (2) Except for the crime of murder and except as provided in
30 paragraph (1) of this subsection, in the case of a crime of the first
31 degree, for a specific term of years which shall be fixed by the court
32 and shall be between 20 years and life imprisonment;

33 (3) In the case of a crime of the second degree, for a term which
34 shall be fixed by the court between 10 and 20 years;

35 (4) In the case of a crime of the third degree, for a term which
36 shall be fixed by the court between five and 10 years;

37 (5) In the case of a crime of the fourth degree pursuant to
38 2C:43-6c, 2C:43-6g and 2C:44-3d for a term of five years, and in
39 the case of a crime of the fourth degree pursuant to any other
40 provision of law for a term which shall be fixed by the court
41 between three and five years;

42 (6) In the case of the crime of murder, for a specific term of
43 years which shall be fixed by the court between 35 years and life
44 imprisonment, of which the defendant shall serve 35 years before
45 being eligible for parole;

46 (7) In the case of kidnapping under paragraph (2) of subsection
47 c. of 2C:13-1, for a specific term of years which shall be fixed by

1 the court between 30 years and life imprisonment, of which the
2 defendant shall serve 30 years before being eligible for parole.

3 b. As part of a sentence for an extended term and
4 notwithstanding the provisions of 2C:43-9, the court may fix a
5 minimum term not to exceed one-half of the term set pursuant to
6 subsection a. during which the defendant shall not be eligible for
7 parole or a term of 25 years during which time the defendant shall
8 not be eligible for parole where the sentence imposed was life
9 imprisonment; provided that no defendant shall be eligible for
10 parole at a date earlier than otherwise provided by the law
11 governing parole.

12 c. In the case of a person sentenced to an extended term
13 pursuant to 2C:43-6c, 2C:43-6f and 2C:44-3d, the court shall
14 impose a sentence within the ranges permitted by 2C:43-7a(2), (3),
15 (4) or (5) according to the degree or nature of the crime for which
16 the defendant is being sentenced, which sentence, except for a
17 sentence imposed pursuant to subsection f. of N.J.S.2C:43-6, shall
18 include a minimum term which shall【, except as may be
19 specifically provided by N.J.S.2C:43-6f,】 be fixed at or between
20 one-third and one-half of the sentence imposed by the court or five
21 years, whichever is greater, during which the defendant shall not be
22 eligible for parole. Where the sentence imposed is life
23 imprisonment, the court shall impose a minimum term of 25 years
24 during which the defendant shall not be eligible for parole, except
25 that where the term of life imprisonment is imposed on a person
26 convicted for a violation of N.J.S.2C:35-3, the term of parole
27 ineligibility shall be 30 years.

28 d. In the case of a person sentenced to an extended term
29 pursuant to N.J.S.2C:43-6g, the court shall impose a sentence
30 within the ranges permitted by N.J.S.2C:43-7a(2), (3), (4) or (5)
31 according to the degree or nature of the crime for which the
32 defendant is being sentenced, which sentence shall include a
33 minimum term which shall be fixed at 15 years for a crime of the
34 first or second degree, eight years for a crime of the third degree, or
35 five years for a crime of the fourth degree during which the
36 defendant shall not be eligible for parole. Where the sentence
37 imposed is life imprisonment, the court shall impose a minimum
38 term of 25 years during which the defendant shall not be eligible for
39 parole, except that where the term of life imprisonment is imposed
40 on a person convicted of a violation of N.J.S.2C:35-3, the term of
41 parole eligibility shall be 30 years.

42 (cf: P.L.2003, c.267, s.4)

43
44 15. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to
45 read as follows:

46 2. a. A court imposing a sentence of incarceration for a crime
47 of the first or second degree enumerated in subsection d. of this
48 section, other than second degree robbery or second degree

1 burglary, shall fix a minimum term of 85% of the sentence imposed,
2 during which the defendant shall not be eligible for parole. A court
3 imposing a sentence of incarceration for a crime of second degree
4 robbery or second degree burglary shall fix a minimum term of 50%
5 of the sentence imposed, during which the defendant shall not be
6 eligible for parole.

7 b. The minimum term required by subsection a. of this section
8 shall be fixed as a part of every sentence of incarceration imposed
9 upon every conviction of a crime enumerated in subsection d. of
10 this section, whether the sentence of incarceration is determined
11 pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any
12 other provision of law, and shall be calculated based upon the
13 sentence of incarceration actually imposed. The provisions of
14 subsection a. of this section shall not be construed or applied to
15 reduce the time that must be served before eligibility for parole by
16 an inmate sentenced to a mandatory minimum period of
17 incarceration. Solely for the purpose of calculating the minimum
18 term of parole ineligibility pursuant to subsection a. of this section,
19 a sentence of life imprisonment shall be deemed to be 75 years.

20 c. Notwithstanding any other provision of law to the contrary
21 and in addition to any other sentence imposed, a court imposing a
22 minimum period of parole ineligibility of 85 percent of the sentence
23 pursuant to this section, or 50 percent in the case of second degree
24 robbery or second degree burglary, shall also impose a five-year
25 term of parole supervision if the defendant is being sentenced for a
26 crime of the first degree, or a three-year term of parole supervision
27 if the defendant is being sentenced for a crime of the second degree.
28 The term of parole supervision shall commence upon the
29 completion of the sentence of incarceration imposed by the court
30 pursuant to subsection a. of this section unless the defendant is
31 serving a sentence of incarceration for another crime at the time he
32 completes the sentence of incarceration imposed pursuant to
33 subsection a., in which case the term of parole supervision shall
34 commence immediately upon the defendant's release from
35 incarceration. During the term of parole supervision the defendant
36 shall remain in release status in the community in the legal custody
37 of the Commissioner of the Department of Corrections and shall be
38 supervised by the State Parole Board as if on parole and shall be
39 subject to the provisions and conditions of section 3 of P.L.1997,
40 c.117 (C.30:4-123.51b).

41 d. The court shall impose sentence pursuant to subsection a. of
42 this section upon conviction of the following crimes or an attempt
43 or conspiracy to commit any of these crimes:

- 44 (1) N.J.S.2C:11-3, murder;
- 45 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 46 (3) N.J.S.2C:11-5, vehicular homicide;
- 47 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;

- 1 (5) subsection b. of section 1 of P.L.1996, c.14 (C.2C:12-11),
- 2 disarming a law enforcement officer;
- 3 (6) N.J.S.2C:13-1, kidnapping;
- 4 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 5 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of
- 6 subsection c. of N.J.S.2C:14-2, sexual assault;
- 7 (9) N.J.S.2C:15-1, robbery;
- 8 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
- 9 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
- 10 arson;
- 11 (12) N.J.S.2C:18-2, burglary;
- 12 (13) subsection a. of N.J.S.2C:20-5, extortion;
- 13 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
- 14 booby traps in manufacturing or distribution facilities;
- 15 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;
- 16 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;
- 17 (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or
- 18 possessing chemical weapons, biological agents or nuclear or
- 19 radiological devices;
- 20 (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first
- 21 degree;
- 22 (19) subsection i. of N.J.S.2C:39-9, firearms trafficking; or
- 23 (20) paragraph (3) of subsection b. of N.J.S.2C:24-4, causing or
- 24 permitting a child to engage in a prohibited sexual act, knowing that
- 25 the act may be reproduced or reconstructed in any manner, or be
- 26 part of an exhibition or performance.
- 27 e. (Deleted by amendment, P.L.2001, c.129).
- 28 (cf: P.L.2013, c.136, s.4)

29
30 16. N.J.S.2C:44-1 is amended to read as follows:

31 2C:44-1. a. In determining the appropriate sentence to be
32 imposed on a person who has been convicted of an offense, the
33 court shall consider the following aggravating circumstances:

34 (1) The nature and circumstances of the offense, and the role of
35 the actor therein, including whether or not it was committed in an
36 especially heinous, cruel, or depraved manner;

37 (2) The gravity and seriousness of harm inflicted on the victim,
38 including whether or not the defendant knew or reasonably should
39 have known that the victim of the offense was particularly
40 vulnerable or incapable of resistance due to advanced age, ill-
41 health, or extreme youth, or was for any other reason substantially
42 incapable of exercising normal physical or mental power of
43 resistance;

44 (3) The risk that the defendant will commit another offense;

45 (4) A lesser sentence will depreciate the seriousness of the
46 defendant's offense because it involved a breach of the public trust
47 under chapters 27 and 30, or the defendant took advantage of a
48 position of trust or confidence to commit the offense;

1 (5) There is a substantial likelihood that the defendant is
2 involved in organized criminal activity;

3 (6) The extent of the defendant's prior criminal record and the
4 seriousness of the offenses of which he has been convicted;

5 (7) The defendant committed the offense pursuant to an
6 agreement that he either pay or be paid for the commission of the
7 offense and the pecuniary incentive was beyond that inherent in the
8 offense itself;

9 (8) The defendant committed the offense against a police or
10 other law enforcement officer, correctional employee or fireman,
11 acting in the performance of his duties while in uniform or
12 exhibiting evidence of his authority; the defendant committed the
13 offense because of the status of the victim as a public servant; or the
14 defendant committed the offense against a sports official, athletic
15 coach or manager, acting in or immediately following the
16 performance of his duties or because of the person's status as a
17 sports official, coach or manager;

18 (9) The need for deterring the defendant and others from
19 violating the law;

20 (10) The offense involved fraudulent or deceptive practices
21 committed against any department or division of State government;

22 (11) The imposition of a fine, penalty or order of restitution
23 without also imposing a term of imprisonment would be perceived
24 by the defendant or others merely as part of the cost of doing
25 business, or as an acceptable contingent business or operating
26 expense associated with the initial decision to resort to unlawful
27 practices;

28 (12) The defendant committed the offense against a person who
29 he knew or should have known was 60 years of age or older, or
30 disabled;

31 (13) The defendant, while in the course of committing or
32 attempting to commit the crime, including the immediate flight
33 therefrom, used or was in possession of a stolen motor vehicle;

34 (14) The offense involved an act of domestic violence, as that
35 term is defined in subsection a. of section 3 of P.L.1991, c.261
36 (C.2C:25-19), committed in the presence of a child under 16 years
37 of age; and

38 (15) The offense involved an act of domestic violence, as that
39 term is defined in subsection a. of section 3 of P.L.1991, c.261
40 (C.2C:25-19) and the defendant committed at least one act of
41 domestic violence on more than one occasion.

42 b. In determining the appropriate sentence to be imposed on a
43 person who has been convicted of an offense, the court may
44 properly consider the following mitigating circumstances:

45 (1) The defendant's conduct neither caused nor threatened
46 serious harm;

47 (2) The defendant did not contemplate that his conduct would
48 cause or threaten serious harm;

1 (3) The defendant acted under a strong provocation;

2 (4) There were substantial grounds tending to excuse or justify
3 the defendant's conduct, though failing to establish a defense;

4 (5) The victim of the defendant's conduct induced or facilitated
5 its commission;

6 (6) The defendant has compensated or will compensate the
7 victim of his conduct for the damage or injury that he sustained, or
8 will participate in a program of community service;

9 (7) The defendant has no history of prior delinquency or
10 criminal activity or has led a law-abiding life for a substantial
11 period of time before the commission of the present offense;

12 (8) The defendant's conduct was the result of circumstances
13 unlikely to recur;

14 (9) The character and attitude of the defendant indicate that he is
15 unlikely to commit another offense;

16 (10) The defendant is particularly likely to respond affirmatively
17 to probationary treatment;

18 (11) The imprisonment of the defendant would entail excessive
19 hardship to himself or his dependents;

20 (12) The willingness of the defendant to cooperate with law
21 enforcement authorities;

22 (13) The conduct of a youthful defendant was substantially
23 influenced by another person more mature than the defendant; and

24 (14) The defendant was under 26 at the time of the commission
25 of the offense.

26 c. (1) A plea of guilty by a defendant or failure to so plead
27 shall not be considered in withholding or imposing a sentence of
28 imprisonment.

29 (2) When imposing a sentence of imprisonment the court shall
30 consider the defendant's eligibility for release under the law
31 governing parole, including time credits awarded pursuant to Title
32 30 of the Revised Statutes, in determining the appropriate term of
33 imprisonment.

34 d. Presumption of imprisonment. The court shall deal with a
35 person who has been convicted of a crime of the first or second
36 degree, or a crime of the third degree where the court finds that the
37 aggravating factor in paragraph (5), (14) or (15) of subsection a.
38 applies, by imposing a sentence of imprisonment unless, having
39 regard to the character and condition of the defendant, it is of the
40 opinion that his imprisonment would be a serious injustice which
41 overrides the need to deter such conduct by others.
42 Notwithstanding the provisions of subsection e. of this section, the
43 court shall deal with a person who has been convicted of theft of a
44 motor vehicle or of the unlawful taking of a motor vehicle and who
45 has previously been convicted of either offense by imposing a
46 sentence of imprisonment unless, having regard to the character and
47 condition of the defendant, it is of the opinion that his imprisonment

1 would be a serious injustice which overrides the need to deter such
2 conduct by others.

3 e. The court shall deal with a person convicted of an offense
4 other than a crime of the first or second degree, who has not
5 previously been convicted of an offense, without imposing a
6 sentence of imprisonment unless, having regard to the nature and
7 circumstances of the offense and the history, character and
8 condition of the defendant, it is of the opinion that his imprisonment
9 is necessary for the protection of the public under the criteria set
10 forth in subsection a., except that this subsection shall not apply if
11 the court finds that the aggravating factor in paragraph (5), (14) or
12 (15) of subsection a. applies or if the person is convicted of any of
13 the following crimes of the third degree: theft of a motor vehicle;
14 unlawful taking of a motor vehicle; eluding; strict liability vehicular
15 homicide pursuant to section 1 of P.L.2017, c.165 (C.2C:11-5.3); if
16 the person is convicted of a crime of the third degree constituting
17 use of a false government document in violation of subsection c. of
18 section 1 of P.L.1983, c.565 (C.2C:21-2.1); if the person is
19 convicted of a crime of the third degree constituting distribution,
20 manufacture or possession of an item containing personal
21 identifying information in violation of subsection b. of section 6 of
22 P.L.2003, c.184 (C.2C:21-17.3); if the person is convicted of a
23 crime of the third or fourth degree constituting bias intimidation in
24 violation of N.J.S.2C:16-1; if the person is convicted of a crime of
25 the third degree under paragraph (12) of subsection b. of
26 N.J.S.2C:12-1 or section 2 of P.L.1997, c.111 (C.2C:12-1.1); or if
27 the person is convicted of a crime of the third or fourth degree
28 under the provisions of section 1 or 2 of P.L.2007, c.341 (C.2C:33-
29 29 or C.2C:33-30).

30 f. Presumptive Sentences. (1) Except for the crime of murder,
31 unless the preponderance of aggravating or mitigating factors, as set
32 forth in subsections a. and b., weighs in favor of a higher or lower
33 term within the limits provided in N.J.S.2C:43-6, when a court
34 determines that a sentence of imprisonment is warranted, it shall
35 impose sentence as follows:

36 (a) To a term of 20 years for aggravated manslaughter or
37 kidnapping pursuant to paragraph (1) of subsection c. of
38 N.J.S.2C:13-1 when the offense constitutes a crime of the first
39 degree;

40 (b) Except as provided in subparagraph (a) of this paragraph to a
41 term of 15 years for a crime of the first degree;

42 (c) To a term of seven years for a crime of the second degree;

43 (d) To a term of four years for a crime of the third degree; and

44 (e) To a term of nine months for a crime of the fourth degree.

45 In imposing a minimum term pursuant to subsection b. of
46 N.J.S.2C:43-6, the sentencing court shall specifically place on the
47 record the aggravating factors set forth in this section which justify
48 the imposition of a minimum term.

1 Unless the preponderance of mitigating factors set forth in
2 subsection b. weighs in favor of a lower term within the limits
3 authorized, sentences imposed pursuant to paragraph (1) of
4 subsection a. of N.J.S.2C:43-7 shall have a presumptive term of life
5 imprisonment. Unless the preponderance of aggravating and
6 mitigating factors set forth in subsections a. and b. weighs in favor
7 of a higher or lower term within the limits authorized, sentences
8 imposed pursuant to paragraph (2) of subsection a. of N.J.S.2C:43-7
9 shall have a presumptive term of 50 years' imprisonment; sentences
10 imposed pursuant to paragraph (3) of subsection a. of N.J.S.2C:43-7
11 shall have a presumptive term of 15 years' imprisonment; and
12 sentences imposed pursuant to paragraph (4) of subsection a. of
13 N.J.S.2C:43-7 shall have a presumptive term of seven years'
14 imprisonment.

15 In imposing a minimum term pursuant to subsection b. of
16 N.J.S.2C:43-7, the sentencing court shall specifically place on the
17 record the aggravating factors set forth in this section which justify
18 the imposition of a minimum term.

19 (2) In cases of convictions for crimes of the first or second
20 degree where the court is clearly convinced that the mitigating
21 factors substantially outweigh the aggravating factors and where the
22 interest of justice demands, the court may sentence the defendant to
23 a term appropriate to a crime of one degree lower than that of the
24 crime for which he was convicted. If the court does impose
25 sentence pursuant to this paragraph, or if the court imposes a
26 noncustodial or probationary sentence upon conviction for a crime
27 of the first or second degree, such sentence shall not become final
28 for 10 days in order to permit the appeal of such sentence by the
29 prosecution.

30 g. Imposition of Noncustodial Sentences in Certain Cases. If
31 the court, in considering the aggravating factors set forth in
32 subsection a., finds the aggravating factor in paragraph (2), (5),
33 (10), or (12) of subsection a. and does not impose a custodial
34 sentence, the court shall specifically place on the record the
35 mitigating factors which justify the imposition of a noncustodial
36 sentence.

37 h. Except as provided in section 2 of P.L.1993, c.123 (C.2C:43-
38 11), the presumption of imprisonment as provided in subsection d.
39 of this section shall not preclude the admission of a person to the
40 Intensive Supervision Program, established pursuant to the Rules
41 Governing the Courts of the State of New Jersey.

42 (cf: P.L.2017, c.165, s.6)

43

44 17. This act shall take effect immediately.

STATEMENT

This bill implements several of the recommendations contained in the first annual report of the New Jersey Criminal Sentencing and Disposition Commission (the CSDC). The CSDC is a legislative body charged with conducting a thorough analysis of New Jersey's sentencing laws for consideration of possible recommendations for revisions, and considering issues regarding disparity in the criminal justice process. The first annual report produced a total of nine recommendations. The bill concerns 4 of these recommendations that involve changes to provisions in Title 2C of the New Jersey Statutes.

This bill eliminates mandatory minimum terms of imprisonment for nonviolent property and drug-related crimes. The bill further reduces the mandatory term for second degree robbery and second degree burglary from 85 percent to 50 percent of the sentence imposed.

The bill adds an additional mitigating factor for court consideration when determining the appropriate sentence to be imposed on a person who has been convicted of a crime, to wit, if the defendant was under the age of 26 at the time of the commission of the crime.

The bill provides that eligibility for persons convicted for second degree robbery and second degree burglary would be established at 50% of the sentence imposed instead of the No Early Release Act (NERA) 85%.

Recommendation #1 would eliminate mandatory minimum sentencing for the following non-violent drug offenses:

- | | |
|---------------------|---|
| N.J.S.A. 2C:35-3 | Leader of narcotics trafficking network |
| N.J.S.A. 2C:35-4 | Maintaining or operating a CDS production facility |
| N.J.S.A. 2C:35-5 | Manufacturing, distributing or dispensing CDS |
| N.J.S.A. 2C:35-6 | Employing a Juvenile in a Drug Distribution Scheme |
| N.J.S.A. 2C:35-7 | Distributing, dispensing, or possessing CDS within 1,000 feet of school |
| N.J.S.A. 2C:35-8 | Distribution of CDS to persons underage 18 |
| N.J.S.A. 2C:43-6(f) | Recidivist CDS offense |

These changes are generally found in sections 6 through 14 of the bill.

Recommendation #2 would eliminate mandatory minimum sentencing for the following non-violent property crimes:

- | | |
|-------------------------|--|
| N.J.S.A. 2C:20-2.4(e) | Recidivist leader of cargo theft network |
| N.J.S.A. 2C:20-2.6(c) | Recidivist theft from cargo carrier |
| N.J.S.A. 2C:20-11(c)(4) | Shoplifting (third offense) |

1 N.J.S.A. 2C:20-25(g) First degree computer hacking
2 N.J.S.A. 2C:20-25(h) Hacking of a government computer
3 N.J.S.A. 2C:20-31 Improper computer access and
4 disclosure

5 These changes are generally found in sections 1 through 5 of the
6 bill.

7 Recommendation #3 would reduce mandatory minimum
8 sentencing for the following NERA crimes from 85 percent to 50
9 percent of the sentence imposed:

10 N.J.S.A. 2C:15-1 Robbery, second degree

11 N.J.S.A. 2C:18-1 Burglary, second degree

12 These changes are found in the amendments to N.J.S.A. 2C:43-
13 7.2 which is section 15 of the bill.

14 Pursuant to Recommendation #5, the bill would amend
15 N.J.S.A.2C:44-1, criteria for withholding or imposing sentence of
16 imprisonment, to create a new mitigating factor that allows judges
17 to consider a defendant's youthfulness at the time of the offense.

18 This bill would take effect immediately.