

**ASSEMBLY, No. 5385**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED FEBRUARY 23, 2021

**Sponsored by:**

**Assemblyman NICHOLAS CHIARAVALLOTI**

**District 31 (Hudson)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Assemblywoman LINDA S. CARTER**

**District 22 (Middlesex, Somerset and Union)**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex)**

**Co-Sponsored by:**

**Assemblywomen Jimenez, Reynolds-Jackson, Assemblyman Mejia,**

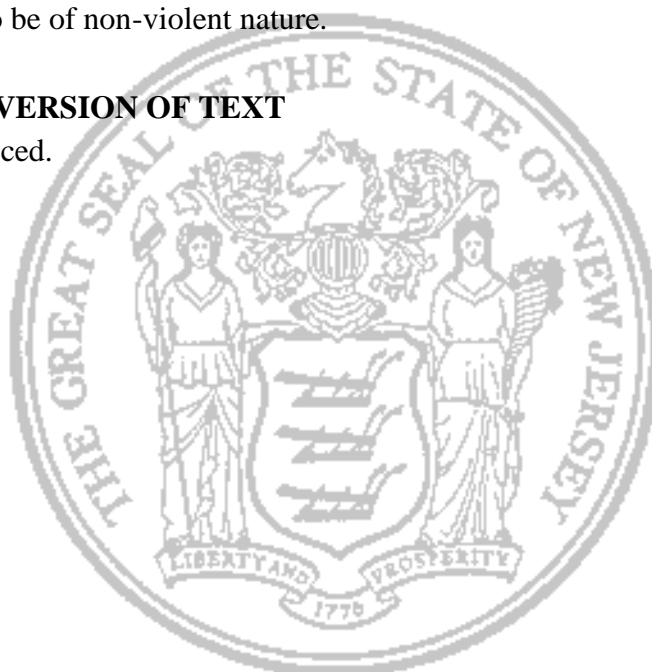
**Assemblywomen Vainieri Huttie and Downey**

**SYNOPSIS**

Eliminates mandatory minimum terms of imprisonment determined by Legislature to be of non-violent nature.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/1/2021)**

1   **AN ACT** concerning the elimination of mandatory minimum terms  
 2       of imprisonment for crimes determined to be of a non-violent  
 3       nature, supplementing chapter 1 of Title 2C of the New Jersey  
 4       Statutes, and amending various parts of the statutory law.

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

8  
 9       1. (New section) The Legislature finds and declares:

10      a. New Jersey’s criminal justice system will benefit from  
 11       sentencing reforms aimed at reviewing and eliminating mandatory  
 12       minimum sentences for crimes of a non-violent nature as  
 13       determined by the Legislature.

14      b. The Legislature has an excellent blueprint in the first report  
 15       of the New Jersey Criminal Sentencing and Disposition  
 16       Commission which was passed unanimously by its members in  
 17       November 2019.

18      c. That Commission had the benefit of a broad membership  
 19       that included judges, defense attorneys, prosecutors, law  
 20       enforcement, corrections officials and victim advocates, among  
 21       others, which encouraged a view of the State’s criminal justice  
 22       system from varied vantage points.

23      d. The Commission’s report included recommendations for  
 24       eliminating mandatory minimum terms of imprisonment for non-  
 25       violent drug and property crimes, as these types of sentences, noted  
 26       in the introduction to the report, contributed to “exponentially”  
 27       increasing the State’s prison population and “substantially curtailed  
 28       judicial discretion” in the issue of determining the appropriate level  
 29       of punishment to match offender accountability.

30      e. This act, applying the same reasoning of the Commission,  
 31       broadly addresses a bigger array of non-violent criminal activity to  
 32       return decision making to the courts for matching an individual’s  
 33       punishment to account for the nature and circumstances of the crime  
 34       committed, and to strive for reductions in the State’s prison  
 35       population of non-violent offenders who do not pose a danger to  
 36       their surrounding communities on the basis of the crimes they  
 37       committed.

38      f. The Legislature understands that eliminating certain  
 39       mandatory minimum terms of imprisonment does not mean  
 40       eliminating imprisonment as a punishment in all those cases but  
 41       does mean eliminating rigid terms of parole ineligibility for a crime  
 42       considered to be non-violent, for which the ordinary sentencing  
 43       options appear sufficient when coupled with judicial discretion.

44      g. The Legislature values the recommendations of the  
 45       Commission on eliminating mandatory minimum terms of

**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 imprisonment, which are incorporated in this act, and seeks to  
2 expand upon that foundation to help realize that justice for non-  
3 violent crimes is better served when an individual's punishment is  
4 tailored to the specific circumstances of the crime committed, as  
5 determined by the sentencing court, which will also foster broader  
6 public confidence in the criminal justice system for not being overly  
7 punitive in its treatment of non-violent criminal offenders.

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

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

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

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

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

44 c. It shall not be necessary in any prosecution under this  
45 section for the State to prove that any intended profit was actually  
46 realized. The trier of fact may infer that a particular scheme or  
47 course of conduct was undertaken for profit from all of the  
48 attending circumstances, including but not limited to the number of

1 persons involved in the scheme or course of conduct, the actor's net  
2 worth and his expenditures in relation to his legitimate sources of  
3 income, the amount of property or number of incidents of theft, or  
4 the amount of cash or currency involved.

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

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

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

25  
26 3. Section 6 of P.L.2013, c.53 (C.2C:20-2.6) is amended to  
27 read as follows:

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

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

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

1 convicted pursuant to this section, or under any similar statute of  
2 the United States, this State or any other state for an offense that is  
3 substantially equivalent to this section.

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

5  
6 4. N.J.S.2C:20-11 is amended to read as follows:

7 2C:20-11. a. Definitions. The following definitions apply to  
8 this section:

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

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

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

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

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

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

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

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

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

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

44 (11) "Organized retail theft enterprise" means any association  
45 of two or more persons who engage in the conduct of or are  
46 associated for the purpose of effectuating the transfer or sale of  
47 shoplifted 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 5. 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 6. 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 7. Section 5 of P.L.1994, c.121, (2C:21-27) is amended to read  
35 as follows:

36 5. a. The offense defined in subsections a. b. and c. of section  
37 3 of P.L.1994, c.121 (C.2C:21-25) constitutes a crime of the first  
38 degree if the amount involved is \$500,000.00 or more. If the  
39 amount involved is at least \$75,000.00 but less than \$500,000.00  
40 the offense constitutes a crime of the second degree; otherwise, the  
41 offense constitutes a crime of the third degree. The offense defined  
42 in subsection e. of section 3 of P.L.1994, c.121 (C.2C:21-25)  
43 constitutes a crime of the third degree. Notwithstanding the  
44 provisions of N.J.S.2C:43-3, the court may also impose a fine up to  
45 \$500,000.00. The amount involved in a prosecution for violation of  
46 this section shall be determined by the trier of fact. Amounts  
47 involved in transactions conducted pursuant to one scheme or  
48 course of conduct may be aggregated in determining the degree of

1 the offense. **【**Notwithstanding the provisions of paragraph (1) of  
2 subsection a. of N.J.S.2C:43-6, a person convicted of a crime of the  
3 first degree pursuant to the provisions of this subsection shall be  
4 sentenced to a term of imprisonment that shall include the  
5 imposition of a minimum term which shall be fixed at, or between,  
6 one-third and one-half of the sentence imposed, during which time  
7 the defendant shall not be eligible for parole.**】**

8 b. In addition to any other dispositions authorized by this Title,  
9 upon conviction of a violation of this section, the court may  
10 sentence the defendant to pay an amount as calculated pursuant to  
11 subsection a. of section 6 of P.L.1994, c.121 (C.2C:21-28).

12 c. Notwithstanding N.J.S.2C:1-8 or any other provision of law,  
13 a conviction of an offense defined in this section shall not merge  
14 with the conviction of any other offense constituting the criminal  
15 activity involved or from which the property was derived, and a  
16 conviction of any offense constituting the criminal activity involved  
17 or from which the property was derived shall not merge with a  
18 conviction of an offense defined in section 3 of P.L.1994, c.121  
19 (C.2C:21-25), and the sentence imposed upon a conviction of any  
20 offense defined in section 3 of P.L.1994, c.121 (C.2C:21-25) shall  
21 be ordered to be served consecutively to that imposed for a  
22 conviction of any offense constituting the criminal activity involved  
23 or from which the property was derived. Nothing in P.L.1994, c.121  
24 (C.2C:21-23 et seq.) shall be construed in any way to preclude or  
25 limit a prosecution or conviction for any other offense defined in  
26 this Title or any other criminal law of this State.

27 (cf: P.L.2002, c.26, s.15)

28  
29 8. N.J.S.2C:29-3 is amended to read as follows:

30 2C:29-3. Hindering Apprehension or Prosecution. a. A person  
31 commits an offense if, with purpose to hinder the detention,  
32 apprehension, investigation, prosecution, conviction or punishment  
33 of another for an offense or violation of Title 39 of the Revised  
34 Statutes or a violation of chapter 33A of Title 17 of the Revised  
35 Statutes he:

36 (1) Harbors or conceals the other;

37 (2) Provides or aids in providing a weapon, money,  
38 transportation, disguise or other means of avoiding discovery or  
39 apprehension or effecting escape;

40 (3) Suppresses, by way of concealment or destruction, any  
41 evidence of the crime, or tampers with a witness, informant,  
42 document or other source of information, regardless of its  
43 admissibility in evidence, which might aid in the discovery or  
44 apprehension of such person or in the lodging of a charge against  
45 him;

46 (4) Warns the other of impending discovery or apprehension,  
47 except that this paragraph does not apply to a warning given in

1 connection with an effort to bring another into compliance with  
2 law;

3 (5) Prevents or obstructs, by means of force, intimidation or  
4 deception, anyone from performing an act which might aid in the  
5 discovery or apprehension of such person or in the lodging of a  
6 charge against him;

7 (6) Aids such person to protect or expeditiously profit from an  
8 advantage derived from such crime; or

9 (7) Gives false information to a law enforcement officer or a  
10 civil State investigator assigned to the Office of the Insurance Fraud  
11 Prosecutor established by section 32 of P.L.1998, c.21 (C.17:33A-  
12 16).

13 An offense under paragraph (5) of subsection a. of this section is  
14 a crime of the second degree, unless the actor is a spouse, domestic  
15 partner, partner in a civil union, parent or child to the person aided  
16 who is the victim of the offense, in which case the offense is a  
17 crime of the fourth degree. An offense under paragraph (3) or (7) of  
18 subsection a. of this section is a crime of the third degree if the  
19 conduct which the actor knows has been charged or is liable to be  
20 charged against another person would constitute leaving the scene  
21 of a motor vehicle accident that results in the death of another  
22 person in violation of section 1 of P.L.1997, c.111 (C.2C:11-5.1).  
23 Notwithstanding the presumption of non-imprisonment for certain  
24 offenders set forth in subsection e. of N.J.S.2C:44-1, the actor shall  
25 serve a term of imprisonment], which shall be fixed at not less than  
26 one year, during which the actor shall not be eligible for parole].  
27 Otherwise, the offense under subsection a. of this section is a crime  
28 of the third degree if the conduct which the actor knows has been  
29 charged or is liable to be charged against the person aided would  
30 constitute a crime of the second degree or greater, unless the actor  
31 is a spouse, domestic partner, partner in a civil union, parent or  
32 child of the person aided, in which case the offense is a crime of the  
33 fourth degree. The offense is a crime of the fourth degree if such  
34 conduct would constitute a crime of the third degree. Otherwise it is  
35 a disorderly persons offense.

36 b. A person commits an offense if, with purpose to hinder his  
37 own detention, apprehension, investigation, prosecution, conviction  
38 or punishment for an offense or violation of Title 39 of the Revised  
39 Statutes or a violation of chapter 33A of Title 17 of the Revised  
40 Statutes, he:

41 (1) Suppresses, by way of concealment or destruction, any  
42 evidence of the crime or tampers with a document or other source of  
43 information, regardless of its admissibility in evidence, which might  
44 aid in his discovery or apprehension or in the lodging of a charge  
45 against him; or

46 (2) Prevents or obstructs by means of force or intimidation  
47 anyone from performing an act which might aid in his discovery or  
48 apprehension or in the lodging of a charge against him; or

(3) Prevents or obstructs by means of force, intimidation or deception any witness or informant from providing testimony or information, regardless of its admissibility, which might aid in his discovery or apprehension or in the lodging of a charge against him; or

(4) Gives false information to a law enforcement officer or a civil State investigator assigned to the Office of the Insurance Fraud Prosecutor established by section 32 of P.L.1998, c.21 (C.17:33A-16).

An offense under paragraph (3) of subsection b. of this section is a crime of the second degree. An offense under paragraph (1) or (4) of subsection b. of this section is a crime of the third degree if the conduct which the actor knows has been charged or is liable to be charged against him would constitute leaving the scene of a motor vehicle accident that results in the death of another person in violation of section 1 of P.L.1997, c.111 (C.2C:11-5.1). Notwithstanding the presumption of non-imprisonment for certain offenders set forth in subsection e. of N.J.S.2C:44-1, the actor shall serve a term of imprisonment [which shall be fixed at not less than one year, during which the actor shall not be eligible for parole].

Otherwise, the offense under subsection b. of this section is a crime of the third degree if the conduct which the actor knows has been charged or is liable to be charged against him would constitute a crime of the second degree or greater. The offense is a crime of the fourth degree if such conduct would constitute a crime of the third degree. Otherwise it is a disorderly persons offense.

(cf: P.L.2015, c.265)

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

a. Escape implements. (1) A person commits an offense if he knowingly and unlawfully introduces within an institution for commitment of persons under N.J.S. 2C:4-8 or a detention facility, or knowingly and unlawfully provides an inmate with any weapon, tool, instrument, document or other thing which may be useful for escape. The offense is a crime of the second degree and shall be punished by a minimum term of imprisonment, which shall be fixed at no less than three years if the item is a weapon as defined by N.J.S. 2C:39-1(r) and any person suffers bodily injury or death as a result. Otherwise it is a crime of the third degree.

(2) An inmate of an institution or facility defined by paragraph (1) of subsection a. of this section commits an offense if he knowingly and unlawfully procures, makes, or otherwise provides himself with, or has in his possession, any such implement of escape. The offense is a crime of the second degree and shall be punished by a minimum term of imprisonment, which shall be fixed at no less than three years if the item is a weapon as defined by N.J.S. 2C:39-1(r) and any person suffers bodily injury or death as a result. Otherwise it is a crime of the third degree.

1 "Unlawfully" means surreptitiously or contrary to law, regulation  
2 or order of the detaining authority.

3 b. Other contraband. A person commits a petty disorderly  
4 persons offense if he provides an inmate with any other thing which  
5 the actor knows or should know it is unlawful for the inmate to  
6 possess.  
7 (cf: P.L.1983, c. 87)

8

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

10 2C:35-3. Leader of Narcotics Trafficking Network.

11 As used in this section:

12 "Financier" means a person who, with the intent to derive a  
13 profit, provides money or credit or other thing of value in order to  
14 purchase a controlled dangerous substance or an immediate  
15 precursor, or otherwise to finance the operations of a drug  
16 trafficking network.

17 A person is a leader of a narcotics trafficking network if he  
18 conspires with two or more other persons in a scheme or course of  
19 conduct to unlawfully manufacture, distribute, dispense, bring into  
20 or transport in this State methamphetamine, lysergic acid  
21 diethylamide, phencyclidine, gamma hydroxybutyrate,  
22 flunitrazepam or any controlled dangerous substance classified in  
23 Schedule I or II, or any controlled substance analog thereof as a  
24 financier, or as an organizer, supervisor or manager of at least one  
25 other person.

26 Leader of narcotics trafficking network is a crime of the first  
27 degree and upon conviction thereof, except as may be provided by  
28 N.J.S.2C:35-12, a person shall be sentenced to an ordinary term of  
29 between twenty-five years and life imprisonment **【**during which the  
30 person must serve 25 years before being eligible for parole**】**.  
31 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3,  
32 the court may also impose a fine not to exceed \$750,000.00 or five  
33 times the street value of the controlled dangerous substance,  
34 controlled substance analog, gamma hydroxybutyrate or  
35 flunitrazepam involved, whichever is greater.

36 Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of  
37 leader of narcotics trafficking network shall not merge with the  
38 conviction for any offense which is the object of the conspiracy.  
39 Nothing contained in this section shall prohibit the court from  
40 imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this  
41 section be construed in any way to preclude or limit the prosecution  
42 or conviction of any person for conspiracy under N.J.S.2C:5-2, or  
43 any prosecution or conviction under N.J.S.2C:35-4 (maintaining or  
44 operating a CDS production facility), N.J.S.2C:35-5  
45 (manufacturing, distributing or dispensing), N.J.S.2C:35-6  
46 (employing a juvenile in a drug distribution scheme), N.J.S.2C:35-9  
47 (strict liability for drug induced death), N.J.S.2C:41-2 (racketeering

1 activities) or subsection g. of N.J.S.2C:5-2 (leader of organized  
2 crime).

3 It shall not be necessary in any prosecution under this section for  
4 the State to prove that any intended profit was actually realized. The  
5 trier of fact may infer that a particular scheme or course of conduct  
6 was undertaken for profit from all of the attendant circumstances,  
7 including but not limited to the number of persons involved in the  
8 scheme or course of conduct, the actor's net worth and his  
9 expenditures in relation to his legitimate sources of income, the  
10 amount or purity of the specified controlled dangerous substance,  
11 controlled substance analog, gamma hydroxybutyrate or  
12 flunitrazepam involved, or the amount of cash or currency involved.

13 It shall not be a defense to a prosecution under this section that  
14 such controlled dangerous substance, controlled substance analog,  
15 gamma hydroxybutyrate or flunitrazepam was brought into or  
16 transported in this State solely for ultimate distribution or  
17 dispensing in another jurisdiction; nor shall it be a defense that any  
18 profit was intended to be made in another jurisdiction.

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

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

23

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

25 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-  
26 1 et seq.), any person who knowingly maintains or operates any  
27 premises, place or facility used for the manufacture of  
28 methamphetamine, lysergic acid diethylamide, phencyclidine,  
29 gamma hydroxybutyrate, flunitrazepam, marijuana in an amount  
30 greater than five pounds or ten plants or any substance listed in  
31 Schedule I or II, or the analog of any such substance, or any person  
32 who knowingly aids, promotes, finances or otherwise participates in  
33 the maintenance or operations of such premises, place or facility, is  
34 guilty of a crime of the first degree and shall, except as provided in  
35 N.J.S.2C:35-12, be sentenced to a term of imprisonment [which  
36 shall include the imposition of a minimum term which shall be  
37 fixed at, or between, one-third and one-half of the sentence  
38 imposed, during which the defendant shall be ineligible for parole].  
39 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3,  
40 the court may also impose a fine not to exceed \$750,000.00 or five  
41 times the street value of all controlled dangerous substances,  
42 controlled substance analogs, gamma hydroxybutyrate or  
43 flunitrazepam at any time manufactured or stored at such premises,  
44 place or facility, whichever is greater.

45 (cf: P.L.1999, c.133, s.2)

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

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

5       (1) To manufacture, distribute or dispense, or to possess or have  
6 under his control with intent to manufacture, distribute or dispense,  
7 a controlled dangerous substance or controlled substance analog; or

8       (2) To create, distribute, or possess or have under his control  
9 with intent to distribute, a counterfeit controlled dangerous  
10 substance.

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

12       (1) Heroin, or its analog, or coca leaves and any salt, compound,  
13 derivative, or preparation of coca leaves, and any salt, compound,  
14 derivative, or preparation thereof which is chemically equivalent or  
15 identical with any of these substances, or analogs, except that the  
16 substances shall not include decocainized coca leaves or extractions  
17 which do not contain cocaine or ecogine, or 3,4-  
18 methylenedioxymethamphetamine or 3,4-  
19 methylenedioxyamphetamine, in a quantity of five ounces or more  
20 including any adulterants or dilutants is guilty of a crime of the first  
21 degree. The defendant shall, except as provided in N.J.S.2C:35-12,  
22 be sentenced to a term of imprisonment by the court. 【The term of  
23 imprisonment shall include the imposition of a minimum term  
24 which shall be fixed at, or between, one-third and one-half of the  
25 sentence imposed, during which the defendant shall be ineligible for  
26 parole.】 Notwithstanding the provisions of subsection a. of  
27 N.J.S.2C:43-3, a fine of up to \$500,000.00 may be imposed;

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

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

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

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



1 (6) Lysergic acid diethylamide, or its analog, in a quantity of  
2 100 milligrams or more including any adulterants or dilutants, or  
3 phencyclidine, or its analog, in a quantity of 10 grams or more  
4 including any adulterants or dilutants, is guilty of a crime of the  
5 first degree. Except as provided in N.J.S.2C:35-12, the court shall  
6 impose a term of imprisonment [which shall include the imposition  
7 of a minimum term, fixed at, or between, one-third and one-half of  
8 the sentence imposed by the court, during which the defendant shall  
9 be ineligible for parole]. Notwithstanding the provisions of  
10 subsection a. of N.J.S.2C:43-3, a fine of up to \$500,000.00 may be  
11 imposed;

12 (7) Lysergic acid diethylamide, or its analog, in a quantity of  
13 less than 100 milligrams including any adulterants or dilutants, or  
14 where the amount is undetermined, or phencyclidine, or its analog,  
15 in a quantity of less than 10 grams including any adulterants or  
16 dilutants, or where the amount is undetermined, is guilty of a crime  
17 of the second degree;

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

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

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

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

38 (b) Marijuana in a quantity of five pounds or more but less than  
39 25 pounds including any adulterants or dilutants, or 10 or more but  
40 fewer than 50 marijuana plants, regardless of weight, or hashish in a  
41 quantity of one pound or more but less than five pounds, including  
42 any adulterants and dilutants, is guilty of a crime of the second  
43 degree;

44 (11) Marijuana in a quantity of one ounce or more but less than  
45 five pounds including any adulterants or dilutants, or hashish in a  
46 quantity of five grams or more but less than one pound including  
47 any adulterants or dilutants, is guilty of a crime of the third degree

1 except that, notwithstanding the provisions of subsection b. of  
2 N.J.S.2C:43-3, a fine of up to \$25,000.00 may be imposed;

3 (12) Marijuana in a quantity of less than one ounce including  
4 any adulterants or dilutants, or hashish in a quantity of less than five  
5 grams including any adulterants or dilutants, is guilty of a crime of  
6 the fourth degree;

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

12 (14) Any Schedule V substance, or its analog, is guilty of a  
13 crime of the fourth degree except that, notwithstanding the  
14 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to  
15 \$25,000.00 may be imposed.

16 c. Where the degree of the offense for violation of this section  
17 depends on the quantity of the substance, the quantity involved  
18 shall be determined by the trier of fact. Where the indictment or  
19 accusation so provides, the quantity involved in individual acts of  
20 manufacturing, distribution, dispensing or possessing with intent to  
21 distribute may be aggregated in determining the grade of the  
22 offense, whether distribution or dispensing is to the same person or  
23 several persons, provided that each individual act of manufacturing,  
24 distribution, dispensing or possession with intent to distribute was  
25 committed within the applicable statute of limitations.

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

27  
28 13. N.J.S.2C:35-6 is amended to read as follows:

29 2C:35-6. Employing a Juvenile in a Drug Distribution Scheme.

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

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

47 Nothing in this section shall be construed to preclude or limit a  
48 prosecution or conviction for a violation of any offense defined in

1 this chapter pursuant to N.J.S.2C:2-6 or any other provision of law  
2 governing an actor's liability for the conduct of another, and,  
3 notwithstanding the provisions of N.J.S.2C:1-8 or any other  
4 provision of law, a conviction arising under this section shall not  
5 merge with a conviction for a violation of N.J.S.2C:35-3 (leader of  
6 narcotics trafficking network), N.J.S.2C:35-4 (maintaining or  
7 operating a CDS production facility), N.J.S.2C:35-5  
8 (manufacturing, distributing or dispensing), or N.J.S.2C:35-9 (strict  
9 liability for drug induced death).

10 (cf: P.L.1997, c.181, s.4)

11  
12 14. Section 1 of P.L.1987, c.101 (C.2C:35-7) is amended to read  
13 as follows:

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

16 1. a. Any person who violates subsection a. of N.J.S.2C:35-5  
17 by distributing, dispensing or possessing with intent to distribute a  
18 controlled dangerous substance or controlled substance analog  
19 while on any school property used for school purposes which is  
20 owned by or leased to any elementary or secondary school or school  
21 board, or within 1,000 feet of such school property or a school bus,  
22 or while on any school bus, is guilty of a crime of the third degree  
23 and shall, except as provided in N.J.S.2C:35-12, be sentenced by  
24 the court to a term of imprisonment, notwithstanding the  
25 presumption of non-imprisonment for certain offenders set forth in  
26 subsection e. of N.J.S. 2C:44-1. **【**Where the violation involves less  
27 than one ounce of marijuana, the term of imprisonment shall  
28 include the imposition of a minimum term which shall be fixed at,  
29 or between, one-third and one-half of the sentence imposed, or one  
30 year, whichever is greater, during which the defendant shall be  
31 ineligible for parole. In all other cases, the term of imprisonment  
32 shall include the imposition of a minimum term which shall be  
33 fixed at, or between, one-third and one-half of the sentence  
34 imposed, or three years, whichever is greater, during which the  
35 defendant shall be ineligible for parole.**】** Notwithstanding the  
36 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to  
37 \$150,000 may also be imposed upon any conviction for a violation  
38 of this section.

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

45 (a) the extent of the defendant's prior criminal record and the  
46 seriousness of the offenses for which the defendant has been  
47 convicted;

1 (b) the specific location of the present offense in relation to the  
2 school property, including distance from the school and the  
3 reasonable likelihood of exposing children to drug-related activities  
4 at that location;

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

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

8 (2) The court shall not **waive or reduce the minimum term of**  
9 **parole ineligibility or** sentence the defendant to probation if it  
10 finds that:

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

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

16 If the court at sentencing **elects not to impose a minimum term**  
17 **of imprisonment and parole ineligibility pursuant to this subsection,**  
18 **imposes a term of parole ineligibility less than the minimum term**  
19 **prescribed in subsection a. of this section, or** places the defendant  
20 on probation for a violation of subsection a. of this section, the  
21 sentence shall not become final for 10 days in order to permit the  
22 prosecution to appeal the court's finding and the sentence imposed.  
23 The Attorney General shall develop guidelines to ensure the  
24 uniform exercise of discretion in making determinations regarding  
25 whether to appeal a decision to **waive or reduce the minimum term**  
26 **of parole ineligibility or** place the defendant on probation.

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

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

39 d. It shall be no defense to a prosecution for a violation of this  
40 section that the actor was unaware that the prohibited conduct took  
41 place while on or within 1,000 feet of any school property. Nor  
42 shall it be a defense to a prosecution under this section, or under  
43 any other provision of this title, that no juveniles were present on  
44 the school property at the time of the offense or that the school was  
45 not in session.

46 e. It is an affirmative defense to prosecution for a violation of  
47 this section that the prohibited conduct took place entirely within a

1 private residence, that no person 17 years of age or younger was  
2 present in such private residence at any time during the commission  
3 of the offense, and that the prohibited conduct did not involve  
4 distributing, dispensing or possessing with the intent to distribute or  
5 dispense any controlled dangerous substance or controlled  
6 substance analog for profit. The affirmative defense established in  
7 this section shall be proved by the defendant by a preponderance of  
8 the evidence. Nothing herein shall be construed to establish an  
9 affirmative defense with respect to a prosecution for an offense  
10 defined in any other section of this chapter.

11 f. In a prosecution under this section, a map produced or  
12 reproduced by any municipal or county engineer for the purpose of  
13 depicting the location and boundaries of the area on or within 1,000  
14 feet of any property used for school purposes which is owned by or  
15 leased to any elementary or secondary school or school board, or a  
16 true copy of such a map, shall, upon proper authentication, be  
17 admissible and shall constitute prima facie evidence of the location  
18 and boundaries of those areas, provided that the governing body of  
19 the municipality or county has adopted a resolution or ordinance  
20 approving the map as official finding and record of the location and  
21 boundaries of the area or areas on or within 1,000 feet of the school  
22 property. Any map approved pursuant to this section may be  
23 changed from time to time by the governing body of the  
24 municipality or county. The original of every map approved or  
25 revised pursuant to this section, or a true copy thereof, shall be filed  
26 with the clerk of the municipality or county, and shall be  
27 maintained as an official record of the municipality or county.  
28 Nothing in this section shall be construed to preclude the  
29 prosecution from introducing or relying upon any other evidence or  
30 testimony to establish any element of this offense; nor shall this  
31 section be construed to preclude the use or admissibility of any map  
32 or diagram other than one which has been approved by the  
33 governing body of a municipality or county, provided that the map  
34 or diagram is otherwise admissible pursuant to the Rules of  
35 Evidence.

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

37

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

39 2C:35-8. Distribution to Persons Under Age 18; Enhanced  
40 Punishment. Upon the application of the prosecuting attorney, any  
41 person being at least 18 years of age who has been convicted for  
42 violating subsection a. of N.J.S. 2C:35-5 or section 1 of P.L.1987,  
43 c.101 (C.2C:35-7) by distributing a controlled dangerous substance  
44 or controlled substance analog to a pregnant female or a person 17  
45 years of age or younger shall, except as provided in N.J.S. 2C:35-  
46 12, be subject to twice the term of imprisonment, fine and penalty  
47 **【, including twice the term of parole ineligibility, if any,】**  
48 authorized or required to be imposed by subsection b. of N.J.S.

1 2C:35-5 or section 1 of P.L.1987, c.101 (C.2C:35-7) or any other  
2 provision of this title. In addition, the presumption of non-  
3 imprisonment for certain offenders set forth in subsection e. of  
4 N.J.S. 2C:44-1 shall not apply to any person subject to enhanced  
5 punishment pursuant to this section.

6 The court shall not impose more than one enhanced sentence  
7 pursuant to this section. If the defendant is convicted of more than  
8 one offense which is otherwise subject to enhanced punishment  
9 pursuant to this section, the court shall impose enhanced  
10 punishment based upon the most serious such offense for which the  
11 defendant was convicted **【**, or, where applicable, the offense which  
12 mandates the imposition of the longest term of parole ineligibility**】**.

13 Notwithstanding the provisions of paragraph (2) of subsection a.  
14 of 2C:44-5, nothing herein shall prevent the court from also  
15 imposing an extended term pursuant to subsection f. of N.J.S.  
16 2C:43-6. The court shall not impose an enhanced sentence pursuant  
17 to this section unless the prosecutor has established the ground  
18 therefor by a preponderance of the evidence at a hearing, which  
19 may occur at the time of sentencing. In making its finding, the  
20 court shall take judicial notice of any evidence, testimony or  
21 information adduced at the trial, plea hearing or other court  
22 proceedings, and shall also consider the presentence report and any  
23 other relevant information. It shall not be relevant to the imposition  
24 of enhanced punishment pursuant to this section that the defendant  
25 mistakenly believed that the recipient of the substance was 18 years  
26 of age or older, even if the mistaken belief was reasonable. Nor  
27 shall it be relevant to the imposition of enhanced punishment  
28 pursuant to this section that the defendant did not know that the  
29 recipient was pregnant.

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

31

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

33 2C:35-12. Waiver of Mandatory Minimum and Extended Terms.

34 Whenever an offense defined in this chapter specifies a  
35 mandatory sentence of imprisonment **【**which includes a minimum  
36 term during which the defendant shall be ineligible for parole**】**, a  
37 mandatory extended term **【**which includes a period of parole  
38 ineligibility**】**, or an anti-drug profiteering penalty pursuant to  
39 section 2 of P.L.1997, c.187 (N.J.S.2C:35A-1 et seq.), the court  
40 upon conviction shall impose the mandatory sentence of  
41 imprisonment or anti-drug profiteering penalty unless the defendant  
42 has pleaded guilty pursuant to a negotiated agreement or, in cases  
43 resulting in trial, the defendant and the prosecution have entered  
44 into a post-conviction agreement, which provides for a lesser  
45 sentence **【**, period of parole ineligibility**】** or anti-drug profiteering  
46 penalty. The negotiated plea or post-conviction agreement may  
47 provide for a specified term of imprisonment within the range of

1 ordinary or extended sentences authorized by law, [a specified  
2 period of parole ineligibility,] a specified fine, a specified anti-drug  
3 profiteering penalty, or other disposition. In that event, the court at  
4 sentencing shall not impose a lesser term of imprisonment, [lesser  
5 period of parole ineligibility,] lesser fine or lesser anti-drug  
6 profiteering penalty than that expressly provided for under the  
7 terms of the plea or post-conviction agreement.  
8 (cf: P.L.1997, c.187, s.1)

9  
10 17. N.J.S.2C:43-6 is amended to read as follows:

11 2C:43-6. a. Except as otherwise provided, a person who has  
12 been convicted of a crime may be sentenced to imprisonment, as  
13 follows:

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

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

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

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

26 b. As part of a sentence for any crime, where the court is  
27 clearly convinced that the aggravating factors substantially  
28 outweigh the mitigating factors, as set forth in subsections a. and b.  
29 of 2C:44-1, or the court finds that the aggravating factor set forth in  
30 paragraph (5) of subsection a. of N.J.S.2C:44-1 applies, the court  
31 may fix a minimum term not to exceed one-half of the term set  
32 pursuant to subsection a., or one-half of the term set pursuant to a  
33 maximum period of incarceration for a crime set forth in any statute  
34 other than this code, during which the defendant shall not be  
35 eligible for parole; provided that no defendant shall be eligible for  
36 parole at a date earlier than otherwise provided by the law  
37 governing parole.

38 c. A person who has been convicted under subsection b. or d.  
39 of N.J.S.2C:39-3, subsection a. of N.J.S.2C:39-4, subsection a. of  
40 section 1 of P.L.1998, c.26 (C.2C:39-4.1), subsection a., b., c., or f.  
41 of N.J.S.2C:39-5, subsection a. or paragraph (2) or (3) of subsection  
42 b. of section 6 of P.L.1979, c.179 (C.2C:39-7), or subsection a., b.,  
43 e. or g. of N.J.S.2C:39-9, or of a crime under any of the following  
44 sections: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-  
45 3a., 2C:15-1, 2C:18-2, 2C:29-5, who, while in the course of  
46 committing or attempting to commit the crime, including the  
47 immediate flight therefrom, used or was in possession of a firearm  
48 as defined in 2C:39-1f., shall be sentenced to a term of

1 imprisonment by the court. The term of imprisonment shall include  
2 the imposition of a minimum term. The minimum term shall be  
3 fixed at one-half of the sentence imposed by the court or 42 months,  
4 whichever is greater, or 18 months in the case of a fourth degree  
5 crime, during which the defendant shall be ineligible for parole.

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

10 A person who has been convicted of an offense enumerated by  
11 this subsection and who used or possessed a firearm during its  
12 commission, attempted commission or flight therefrom and who has  
13 been previously convicted of an offense involving the use or  
14 possession of a firearm as defined in 2C:44-3d., shall be sentenced  
15 by the court to an extended term as authorized by 2C:43-7c.,  
16 notwithstanding that extended terms are ordinarily discretionary  
17 with the court.

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

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

39 e. A person convicted of a third or subsequent offense  
40 involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any  
41 other provision of this code, or under any of the provisions of Title  
42 54 of the Revised Statutes, or Title 54A of the New Jersey Statutes,  
43 as amended and supplemented, shall be sentenced to a term of  
44 imprisonment by the court. This shall not preclude an application  
45 for and imposition of an extended term of imprisonment under  
46 N.J.S.2C:44-3 if the provisions of that section are applicable to the  
47 offender.



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

24 The court shall not impose an extended term pursuant to this  
25 subsection unless the ground therefor has been established at a  
26 hearing. At the hearing, which may occur at the time of sentencing,  
27 the prosecutor shall establish the ground therefor by a  
28 preponderance of the evidence. In making its finding, the court shall  
29 take judicial notice of any evidence, testimony or information  
30 adduced at the trial, plea hearing, or other court proceedings and  
31 shall also consider the presentence report and any other relevant  
32 information.

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

40 g. Any person who has been convicted under subsection a. of  
41 N.J.S.2C:39-4 or of a crime under any of the following sections:  
42 N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:12-1b., N.J.S.2C:13-1,  
43 N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2,  
44 N.J.S.2C:29-5, N.J.S.2C:35-5 who, while in the course of  
45 committing or attempting to commit the crime, including the  
46 immediate flight therefrom, used or was in possession of a machine  
47 gun or assault firearm shall be sentenced to a term of imprisonment  
48 by the court. The term of imprisonment shall include the

1 imposition of a minimum term. The minimum term shall be fixed at  
2 10 years for a crime of the first or second degree, five years for a  
3 crime of the third degree, or 18 months in the case of a fourth  
4 degree crime, during which the defendant shall be ineligible for  
5 parole.

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

10 A person who has been convicted of an offense enumerated in  
11 this subsection and who used or possessed a machine gun or assault  
12 firearm during its commission, attempted commission or flight  
13 therefrom and who has been previously convicted of an offense  
14 involving the use or possession of any firearm as defined in  
15 subsection d. of N.J.S.2C:44-3, shall be sentenced by the court to an  
16 extended term as authorized by subsection d. of N.J.S.2C:43-7,  
17 notwithstanding that extended terms are ordinarily discretionary  
18 with the court.

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

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

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

39

40 18. Section 6 of P.L.2007, c.49 (C.2C:43-6.5) is amended to  
41 read as follows:

42 6. a. Notwithstanding the provisions of subsection a. of  
43 N.J.S.2C:43-6 and except as otherwise provided in subsection c. of  
44 this section, a person who serves or has served as a public officer or  
45 employee under the government of this State, or any political  
46 subdivision thereof, who is convicted of a crime that involves or  
47 touches such office or employment as set forth in subsection b. of  
48 this section, shall be sentenced to a mandatory minimum term of

1 imprisonment without eligibility for parole as follows: for a crime  
2 of the fourth degree, the mandatory minimum term shall be one  
3 year; for a crime of the third degree, two years; for a crime of the  
4 second degree, five years; and for a crime of the first degree, 10  
5 years; unless the provisions of any other law provide for a higher  
6 mandatory minimum term. As used in this subsection, "a crime that  
7 involves or touches such office or employment" means that the  
8 crime was related directly to the person's performance in, or  
9 circumstances flowing from, the specific public office or  
10 employment held by the person.

11 b. Subsection a. of this section applies to a conviction of any of  
12 the following crimes:

13 (1) Paragraph (4) of subsection a. of N.J.S.2C:13-5, criminal  
14 coercion;

15 (2) **[N.J.S.2C:20-4, theft by deception, if the amount involved**  
16 **exceeds \$10,000;]** (Deleted by amendment, P.L. , c. ) (pending  
17 before the Legislature as this bill)

18 (3) Subsection d. of N.J.S.2C:20-5, theft by extortion;

19 (4) **[N.J.S.2C:20-9, theft by failure to make required disposition**  
20 **of property received, if the amount involved exceeds \$10,000;]**  
21 (Deleted by amendment, P.L. , c. ) (pending before the  
22 Legislature as this bill)

23 (5) **[N.J.S.2C:21-10, commercial bribery;]** (Deleted by  
24 amendment, P.L. , c. ) (pending before the Legislature as this  
25 bill)

26 (6) **[Section 3 of P.L.1994, c.121 (C.2C:21-25), money**  
27 **laundering;]** (Deleted by amendment, P.L. , c. ) (pending before  
28 the Legislature as this bill)

29 (7) **[Section 97 of P.L.1999, c.440 (C.2C:21-34), false contract**  
30 **payment claims;]** (Deleted by amendment, P.L. , c. ) (pending  
31 before the Legislature as this bill)

32 (8) **[N.J.S.2C:27-2, bribery in official matters;]** (Deleted by  
33 amendment, P.L. , c. ) (pending before the Legislature as this  
34 bill)

35 (9) N.J.S.2C:27-3, threats and other improper influence in  
36 official and political matters; or

37 (10) **[Section 100 of P.L.1999, c.440 (C.2C:27-9), unlawful**  
38 **official business transaction where interest is involved;]** (Deleted  
39 by amendment, P.L. , c. ) (pending before the Legislature as this  
40 bill)

41 (11) **[Section 5 of P.L.2003, c.255 (C.2C:27-10), acceptance or**  
42 **receipt of unlawful benefit by public servant for official behavior;]**  
43 (Deleted by amendment, P.L. , c. ) (pending before the  
44 Legislature as this bill)

45 (12) **[Section 6 of P.L.2003, c.255 (C.2C:27-11), offer of**  
46 **unlawful benefit to public servant for official behavior;]** (Deleted

- 1 by amendment, P.L. , c. ) (pending before the Legislature as this  
2 bill)
- 3 (13) **【N.J.S.2C:28-1, perjury;】** (Deleted by amendment,  
4 P.L. , c. ) (pending before the Legislature as this bill)
- 5 (14) N.J.S.2C:28-5, tampering with witnesses;
- 6 (15) **【N.J.S.2C:28-7, tampering with public records or**  
7 **information;】** (Deleted by amendment, P.L. , c. ) (pending  
8 before the Legislature as this bill)
- 9 (16) **【N.J.S.2C:29-4, compounding;】** (Deleted by amendment,  
10 P.L. , c. ) (pending before the Legislature as this bill)
- 11 (17) **【N.J.S.2C:30-2, official misconduct;】** (Deleted by  
12 amendment, P.L. , c. ) (pending before the Legislature as this  
13 bill)
- 14 (18) **【N.J.S.2C:30-3, speculating or wagering on official action**  
15 **or information; or】** (Deleted by amendment, P.L. , c. ) (pending  
16 before the Legislature as this bill)
- 17 (19) **【Section 3 of P.L.2003, c.31 (C.2C:30-7), pattern of**  
18 **official misconduct.】** (Deleted by amendment, P.L. , c. )  
19 (pending before the Legislature as this bill)
- 20 c. (1) On motion by the prosecutor stating that the defendant  
21 has provided substantial assistance in a criminal investigation or  
22 prosecution of another person, the court may waive or reduce the  
23 mandatory minimum term of imprisonment required by subsection  
24 a. of this section. The appropriate waiver or reduction shall be  
25 determined by the court for reasons stated that may include, but are  
26 not limited to, consideration of the following:
- 27 (i) the court's evaluation of the significance and usefulness of  
28 the defendant's assistance, giving substantial weight to the  
29 prosecutor's evaluation of the assistance rendered;
- 30 (ii) the truthfulness, completeness, and reliability of any  
31 information or testimony provided by the defendant;
- 32 (iii) the nature and extent of the defendant's assistance;
- 33 (iv) any injury suffered, or any danger or risk of injury to the  
34 defendant or his family resulting from his assistance;
- 35 (v) the timeliness of the defendant's assistance.
- 36 In making such a determination, the court shall give substantial  
37 weight to the prosecutor's evaluation of the extent of the defendant's  
38 assistance, particularly where the extent and value of the assistance  
39 are difficult to ascertain.
- 40 (2) If the court finds by clear and convincing evidence that  
41 extraordinary circumstances exist such that imposition of a  
42 mandatory minimum term would be a serious injustice which  
43 overrides the need to deter such conduct in others, the court may  
44 waive or reduce the mandatory minimum term of imprisonment  
45 required by subsection a. of this section. In making any such  
46 finding, the court must state with specificity its reasons for waiving

1 or reducing the mandatory minimum sentence that would otherwise  
2 apply.

3 (3) If, pursuant to paragraph (1) or (2) of this subsection, the  
4 court waives or reduces the mandatory minimum term required by  
5 subsection a. of this section, such sentence shall not become final  
6 for 10 days in order to permit the appeal of the sentence by the  
7 prosecution.

8 d. (1) A prosecutor shall not recommend the admission into or  
9 consent to the referral to a pretrial intervention program of a person  
10 who serves or has served as a public officer or employee under the  
11 government of this State, or any political subdivision thereof, who  
12 is charged with a crime that involves or touches such office or  
13 employment as set forth in subsection b. of this section, without the  
14 prior approval of the Attorney General.

15 (2) A person who serves or has served as a public officer or  
16 employee under the government of this State, or any political  
17 subdivision thereof, who is convicted of a crime that involves or  
18 touches such office or employment as set forth in subsection b. of  
19 this section shall be ineligible for participation in any program of  
20 intensive supervision during any period of parole ineligibility.

21 e. The Attorney General shall develop guidelines to ensure the  
22 uniform exercise of discretion in making determinations regarding  
23 the waiver or reduction of a mandatory minimum term of  
24 imprisonment pursuant to paragraph (1) of subsection c. of this  
25 section and participation in a pretrial intervention program pursuant  
26 to paragraph (1) of subsection d. of this section.

27 (cf: P.L.2007, c.49, s.6)

28

29 19. N.J.S.2C:43-7 is amended to read as follows:

30 2C:43-7. Sentence of Imprisonment for Crime; Extended Terms.

31 a. In the cases designated in section 2C:44-3, a person who has  
32 been convicted of a crime may be sentenced, and in the cases  
33 designated in subsection e. of section 2 of P.L.1994, c.130  
34 (C.2C:43-6.4), in subsection b. of section 2 of P.L.1995, c.126  
35 (C.2C:43-7.1) and in the cases designated in section 1 of P.L.1997,  
36 c.410 (C.2C:44-5.1), a person who has been convicted of a crime  
37 shall be sentenced, to an extended term of imprisonment, as  
38 follows:

39 (1) In case of aggravated manslaughter sentenced under  
40 subsection c. of N.J.S.2C:11-4; or kidnapping when sentenced as a  
41 crime of the first degree under paragraph (1) of subsection c. of  
42 2C:13-1; or aggravated sexual assault if the person is eligible for an  
43 extended term pursuant to the provisions of subsection g. of  
44 N.J.S.2C:44-3 for a specific term of years which shall be between  
45 30 years and life imprisonment;

46 (2) Except for the crime of murder and except as provided in  
47 paragraph (1) of this subsection, in the case of a crime of the first

1 degree, for a specific term of years which shall be fixed by the court  
2 and shall be between 20 years and life imprisonment;

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

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

7 (5) In the case of a crime of the fourth degree pursuant to  
8 2C:43-6c, 2C:43-6g and 2C:44-3d for a term of five years, and in  
9 the case of a crime of the fourth degree pursuant to any other  
10 provision of law for a term which shall be fixed by the court  
11 between three and five years;

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

16 (7) In the case of kidnapping under paragraph (2) of subsection  
17 c. of 2C:13-1, for a specific term of years which shall be fixed by  
18 the court between 30 years and life imprisonment, of which the  
19 defendant shall serve 30 years before being eligible for parole.

20 b. As part of a sentence for an extended term and  
21 notwithstanding the provisions of 2C:43-9, the court may fix a  
22 minimum term not to exceed one-half of the term set pursuant to  
23 subsection a. during which the defendant shall not be eligible for  
24 parole or a term of 25 years during which time the defendant shall  
25 not be eligible for parole where the sentence imposed was life  
26 imprisonment; provided that no defendant shall be eligible for  
27 parole at a date earlier than otherwise provided by the law  
28 governing parole.

29 c. In the case of a person sentenced to an extended term  
30 pursuant to 2C:43-6c, 2C:43-6f and 2C:44-3d, the court shall  
31 impose a sentence within the ranges permitted by 2C:43-7a(2), (3),  
32 (4) or (5) according to the degree or nature of the crime for which  
33 the defendant is being sentenced, which sentence, except for a  
34 sentence imposed pursuant to subsection f. of N.J.S.2C:43-6, shall  
35 include a minimum term which shall **■**, except as may be  
36 specifically provided by N.J.S.2C:43-6f, **■** be fixed at or between  
37 one-third and one-half of the sentence imposed by the court or five  
38 years, whichever is greater, during which the defendant shall not be  
39 eligible for parole. Where the sentence imposed is life  
40 imprisonment, the court shall impose a minimum term of 25 years  
41 during which the defendant shall not be eligible for parole, except  
42 that where the term of life imprisonment is imposed on a person  
43 convicted for a violation of N.J.S.2C:35-3, the term of parole  
44 ineligibility shall be 30 years.

45 d. In the case of a person sentenced to an extended term  
46 pursuant to N.J.S.2C:43-6g, the court shall impose a sentence  
47 within the ranges permitted by N.J.S.2C:43-7a(2), (3), (4) or (5)  
48 according to the degree or nature of the crime for which the

1 defendant is being sentenced, which sentence shall include a  
2 minimum term which shall be fixed at 15 years for a crime of the  
3 first or second degree, eight years for a crime of the third degree, or  
4 five years for a crime of the fourth degree during which the  
5 defendant shall not be eligible for parole. Where the sentence  
6 imposed is life imprisonment, the court shall impose a minimum  
7 term of 25 years during which the defendant shall not be eligible for  
8 parole, except that where the term of life imprisonment is imposed  
9 on a person convicted of a violation of N.J.S.2C:35-3, the term of  
10 parole eligibility shall be 30 years.

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

12

13 20. This act shall take effect immediately.

14

15

16

#### STATEMENT

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18 This bill would eliminate mandatory minimum terms of  
19 imprisonment determined by the Legislature to be of a non-violent  
20 nature. The bill incorporates all of the drug and non-violent crimes  
21 that the New Jersey Criminal Sentencing and Disposition  
22 Commission recommended in a November 2019 report to have  
23 mandatory minimum terms eliminated, as these types of sentences,  
24 noted in the introduction to that report, contributed to  
25 “exponentially” increasing the State’s prison population and  
26 “substantially curtailed judicial discretion” in the issue of  
27 determining the appropriate level of punishment to match offender  
28 accountability. Applying the same reasoning, this bill would  
29 include a broader array of non-violent crimes not addressed in the  
30 report, which would return decision making to the courts for  
31 matching an individual’s punishment to account for the nature and  
32 circumstances of the crime committed, and to strive for a reduction  
33 in the State’s prison populations of non-violent offenders who do  
34 not pose a danger to their surrounding communities on the basis of  
35 the crimes they committed.

36 The crimes for which mandatory minimum terms of  
37 imprisonment would be eliminated are:

38 -N.J.S.2C:35-3, leader of a narcotics trafficking network;

39 -N.J.S.2C:35-4, maintaining, operating, aiding, or financing a  
40 controlled dangerous substance production facility used to  
41 manufacture methamphetamine, lysergic acid diethylamide (LSD),  
42 phencyclidine, gamma, flunitrazepam, marijuana in an amount  
43 greater than five pounds or ten plants or any substance listed in  
44 Schedule I or II;

45 -N.J.S.2C:35-5, manufacturing, distributing, or dispensing, or  
46 possessing with intent to manufacture, distribute, or dispense heroin  
47 or coca leaves in a quantity of five ounces or more, lysergic acid  
48 diethylamide (LSD) in a quantity of 100 milligrams or more, or

1 phencyclidine (PCP or “angel dust”) in a quantity of 10 grams or  
2 more;

3 -N.J.S.2C:35-6, employing a juvenile in a production facility or  
4 drug distribution scheme as described above;

5 -Section 1 of P.L.1987, c.101 (C.2C:35-7), distribution of a  
6 controlled dangerous substance on or within 1,000 feet of school  
7 property; and

8 -N.J.S.2C:35-8, distribution of a controlled dangerous substance  
9 to a juvenile or pregnant female of any age.

10

11 Additionally, the bill would eliminate the imposition of a  
12 mandatory minimum term of imprisonment, but not the possibility  
13 of a longer, extended term that is greater than an ordinary term, for  
14 a multiple offender, whose current conviction was for any of the  
15 above listed crimes other than N.J.S.2C:35-8, distributing to a  
16 juvenile or pregnant female, and whose previous conviction was for  
17 a violation of N.J.S.2C:35-5, manufacturing, distributing,  
18 dispensing or possessing with intent to manufacture, distribute, or  
19 dispense any controlled dangerous substance. See N.J.S.2C:43-6,  
20 subsection f.

21

22 - section 4 of P.L.2013, c.53 (C.2C:20-2.4), for a second or  
23 subsequent offense of leader of a cargo theft network;

24 - section 6 of P.L.2013, c.53 (C.2C:20-2.6), for a second or  
25 subsequent offense for maintaining or operating any place used for  
26 the storage or resale of property stolen from a cargo carrier;

27 - N.J.S.2C:20-11, for a third or subsequent shoplifting offense;

28 - section 4 of P.L.1984, c.184 (C.2C:20-25), computer hacking  
29 when graded as a crime of the first degree;

30 - section 10 of P.L.1984, c.184 (C.2C:20-31), unauthorized  
31 computer access and disclosure of information protected from  
32 disclosure by any law, court order, or rule of court;

33 - section 5 of P.L.1994, c.121, (2C:21-27), money laundering;

34 - N.J.S.2C:29-3, hindering apprehension or prosecution; and

35 - N.J.S.2C:29-6, introducing within an institution or detention  
36 facility or providing an inmate with implements useful for escape.

37 If the implement is a weapon then a mandatory minimum term of  
38 three years would still be imposed if any person suffered bodily  
39 injury or death.

40

41 Finally, the following crimes currently punishable with a  
42 mandatory minimum term of imprisonment for a person who serves  
43 or has served as a State or local public officer or employee, when  
44 the criminal act involves or touches upon the person’s office or  
45 employment, would no longer be subject to such a mandatory  
46 minimum:

47 - N.J.S.2C:20-4, theft by deception, when the amount involved  
48 exceeds \$10,000;



- 1       - N.J.S.2C:20-9, theft by failure to make required disposition of
- 2 property received, if the amount involved exceeds \$10,000;
- 3       - N.J.S.2C:21-10, commercial bribery;
- 4       - section 3 of P.L.1994, c.121 (C.2C:21-25), money laundering
- 5 (for which a mandatory minimum would be eliminated under the
- 6 bill when committed by any person);
- 7       - section 97 of P.L.1999, c.440 (C.2C:21-34), false contract
- 8 payment claims;
- 9       - N.J.S.2C:27-2, bribery in official matters;
- 10      - section 100 of P.L.1999, c.440 (C.2C:27-9), unlawful official
- 11 business transaction where interest is involved;
- 12      - section 5 of P.L.2003, c.255 (C.2C:27-10), acceptance or
- 13 receipt of unlawful benefit by public servant for official behavior;
- 14      - section 6 of P.L.2003, c.255 (C.2C:27-11), offer of unlawful
- 15 benefit to public servant for official behavior;
- 16      - N.J.S.2C:28-1, perjury;
- 17      - N.J.S.2C:28-7, tampering with public records or information;
- 18      - N.J.S.2C:29-4, compounding, by accepting any pecuniary
- 19 benefit to refrain from reporting to law enforcement authorities the
- 20 commission or suspected commission of any offense, or information
- 21 relating to an offense, or from seeking prosecution of an offense, or
- 22 agree to give any pecuniary benefit to another to refrain from
- 23 reporting of seeking prosecution;
- 24      - N.J.S.2C:30-2, official misconduct;
- 25      - N.J.S.2C:30-3, speculating or wagering on official action or
- 26 information; and
- 27      - section 3 of P.L.2003, c.31 (C.2C:30-7), pattern of official
- 28 misconduct.

29       As stated in the introductory remarks to this statement, the  
30 intent with respect to all of the listed non-violent crimes for which a  
31 mandatory minimum term or imprisonment would no longer apply  
32 would allow the return of decision making to the courts for  
33 matching each individual's punishment to account for the nature  
34 and circumstances of the crime committed, and to strive for a  
35 reduction in the State's prison populations of non-violent offenders  
36 who do not pose a danger to their surrounding communities on the  
37 basis of the crimes they committed.