

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5641

STATE OF NEW JERSEY

DATED: JUNE 22, 2021

The Assembly Budget Committee reports favorably Assembly Bill No. 5641.

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

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

- N.J.S.2C:35-3, leader of a narcotics trafficking network;
- N.J.S.2C:35-4, maintaining, operating, aiding, or financing a controlled dangerous substance production facility used to manufacture methamphetamine, lysergic acid diethylamide (LSD), phencyclidine, gamma, flunitrazepam, marijuana in an amount greater than five pounds or ten plants or any substance listed in Schedule I or II;
- N.J.S.2C:35-5, manufacturing, distributing, or dispensing, or possessing with intent to manufacture, distribute, or dispense heroin or coca leaves in a quantity of five ounces or more, lysergic acid diethylamide (LSD) in a quantity of 100 milligrams or more, or phencyclidine (PCP or “angel dust”) in a quantity of 10 grams or more;
- N.J.S.2C:35-6, employing a juvenile in a production facility or drug distribution scheme as described above;

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

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

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

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

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

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

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

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

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

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

- N.J.S.2C:29-6, introducing within an institution or detention facility or providing an inmate with implements useful for escape. If the implement is a weapon then a mandatory minimum term of three years would still be imposed if any person suffered bodily injury or death.

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

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

- N.J.S.2C:20-9, theft by failure to make required disposition of property received, if the amount involved exceeds \$10,000;

- N.J.S.2C:21-10, commercial bribery;

- section 3 of P.L.1994, c.121 (C.2C:21-25), money laundering (for which a mandatory minimum would be eliminated under the bill when committed by any person);

- section 97 of P.L.1999, c.440 (C.2C:21-34), false contract payment claims;
- N.J.S.2C:27-2, bribery in official matters;
- section 100 of P.L.1999, c.440 (C.2C:27-9), unlawful official business transaction where interest is involved;
- section 5 of P.L.2003, c.255 (C.2C:27-10), acceptance or receipt of unlawful benefit by public servant for official behavior;
- section 6 of P.L.2003, c.255 (C.2C:27-11), offer of unlawful benefit to public servant for official behavior;
- N.J.S.2C:28-1, perjury;
- N.J.S.2C:28-7, tampering with public records or information;
- N.J.S.2C:29-4, compounding, by accepting any pecuniary benefit to refrain from reporting to law enforcement authorities the commission or suspected commission of any offense, or information relating to an offense, or from seeking prosecution of an offense, or agree to give any pecuniary benefit to another to refrain from reporting of seeking prosecution;
- N.J.S.2C:30-2, official misconduct;
- N.J.S.2C:30-3, speculating or wagering on official action or information; and
- section 3 of P.L.2003, c.31 (C.2C:30-7), pattern of official misconduct.

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

As reported by the committee, Assembly Bill No. 5641 is identical to Senate Bill No. 3658, which also was reported by the committee on this date.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.