

ASSEMBLY, No. 364

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman HOLZAPFEL

1 AN ACT concerning penalties for committing an offense while released  
2 on bail and amending and supplementing Title 2C of the New Jersey  
3 Statutes.

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

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8 1. (New section) a. A person who commits a crime of the first,  
9 second or third degree while released on bail after being charged with  
10 committing a crime of the first, second or third degree, and who is  
11 subsequently convicted of committing that earlier offense shall, for the  
12 second crime, be sentenced to an extended term of imprisonment  
13 pursuant to the provisions of N.J.S. 2C:43-7 and shall be subject to  
14 double the fine authorized for that degree of crime under the  
15 provisions of N.J.S. 2C:43-3.

16 b. The court shall not impose a sentence of imprisonment pursuant  
17 to this subsection unless the ground therefore has been established at  
18 a hearing after the conviction of the defendant and on written notice  
19 to the defendant of the ground proposed. The defendant shall have the  
20 right to hear and controvert the evidence against his and to offer  
21 evidence upon the issue.

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

24 2C:43-7. Sentence of Imprisonment for Crime; Extended Terms.

25 a. In the cases designated in section 2C:44-3, a person who has  
26 been convicted of a crime may be sentenced, and in the cases  
27 designated in subsection e. of section 2 of P.L.1994, c.130  
28 (C.2C:43-6.4), and in the cases designated in section 1 of P.L. c.  
29 (C. ) (now pending before the Legislature as section 1 of this bill),  
30 a person who has been convicted of a crime shall be sentenced, to an  
31 extended term of imprisonment, as follows:

32 (1) In case of aggravated manslaughter sentenced under subsection

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

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

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

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

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

14 (5) In the case of a crime of the fourth degree pursuant to  
15 2C:43-6c., 2C:44-3d., 2C:44-3e. for a term of five years, and in the  
16 case of a crime of the fourth degree pursuant to 2C:43-6f. and  
17 2C:43-6g. for a term which shall be fixed by the court between three  
18 and five years;

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

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

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

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

1 convicted for a violation of N.J.S.2C:35-3, the term of parole  
2 ineligibility shall be 30 years.

3 d. In the case of a person sentenced to an extended term pursuant  
4 to N.J.S.2C:43-6g., the court shall impose a sentence within the ranges  
5 permitted by N.J.S.2C:43-7a(2), (3), (4) or (5) according to the  
6 degree or nature of the crime for which the defendant is being  
7 sentenced, which sentence shall include a minimum term which shall  
8 be fixed at 15 years for a crime of the first or second degree, eight  
9 years for a crime of the third degree, or five years for a crime of the  
10 fourth degree during which the defendant shall not be eligible for  
11 parole. Where the sentence imposed is life imprisonment, the court  
12 shall impose a minimum term of 25 years during which the defendant  
13 shall not be eligible for parole, except that where the term of life  
14 imprisonment is imposed on a person convicted of a violation of  
15 N.J.S.2C:35-3, the term of parole eligibility shall be 30 years.  
16 (cf: 1994, c.130, s.3)

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18 3. This act shall take effect immediately.

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#### STATEMENT

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23 This bill would increase the penalties for committing certain serious  
24 offenses while released on bail. Under the bill, if a person commits a  
25 crime of the first, second or third degree while released on bail after  
26 being charged with a crime of the first, second or third degree, and is  
27 subsequently convicted of committing the first offense, the individual  
28 shall be subject to an extended term of imprisonment and to double the  
29 fines ordinarily imposed for the second offense.

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35 Increases penalties for committing serious offenses while released on  
bail.