

[Second Reprint]  
ASSEMBLY, No. 364

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen HOLZAPFEL, BLEE, Senators Ciesla and Sacco

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 <sup>2</sup>[commits a crime of the  
9 first, second or third degree while released on bail after being charged  
10 with committing a crime of the first, second or third degree, and who  
11 is subsequently convicted of committing that earlier offense] has been  
12 convicted under subsection a. of N.J.S.2C:39-4 of possession of a  
13 firearm with intent to use it unlawfully against the person of another;  
14 or a crime under N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1;  
15 subsection a. of N.J.S.2C:14-2; subsection a. of N.J.S.2C:14-3;  
16 N.J.S.2C:15-1; N.J.S.2C:18-2 if the burglary is a crime of the second  
17 degree or the structure was adapted for overnight accommodation of  
18 persons; or a crime of the first, second or third degree under  
19 subsection b. of N.J.S.2C:12-1.<sup>2</sup> shall <sup>2</sup>[, for the second crime,]<sup>2</sup> be  
20 sentenced to an extended term of imprisonment pursuant to the  
21 provisions of N.J.S.2C:43-7 and shall be subject to double the fine  
22 authorized for that <sup>2</sup>[degree of]<sup>2</sup> crime under the provisions of  
23 N.J.S.2C:43-3 <sup>2</sup>if, at the time of the commission of the crime, the  
24 defendant was released on bail or on his own recognizance for one of  
25 the enumerated crimes and was convicted of that crime<sup>2</sup>.

26 b. The court shall not impose a sentence of imprisonment pursuant  
27 to this <sup>1</sup>[subsection] section<sup>1</sup> unless the ground therefore has been  
28 established at a hearing after the conviction of the defendant and on  
29 written notice to the defendant of the ground proposed. The  
30 defendant shall have the right to hear and controvert the evidence  
31 against <sup>1</sup>[his] the defendant<sup>1</sup> and to offer evidence upon the issue.

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SBA committee amendments adopted February 10, 1997.

<sup>2</sup> Senate floor amendments adopted June 19, 1997.

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

3 2C:43-7. Sentence of Imprisonment for Crime; Extended Terms.

4 a. In the cases designated in section 2C:44-3, a person who has  
5 been convicted of a crime may be sentenced, and in the cases  
6 designated in subsection e. of section 2 of P.L.1994, c.130  
7 (C.2C:43-6.4) [and] , in subsection b. of section 2 of P.L.1995, c.126  
8 (C.2C:43-7.1) and in the cases designated in section 1 of  
9 P.L. , c. ( ) (now pending before the Legislature as section 1 of  
10 this bill), a person who has been convicted of a crime shall be  
11 sentenced, to an extended term of imprisonment, as follows:

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

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

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

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

27 (5) In the case of a crime of the fourth degree pursuant to  
28 2C:43-6c., 2C:44-3d., 2C:44-3e. for a term of five years, and in the  
29 case of a crime of the fourth degree pursuant to 2C:43-6f. and  
30 2C:43-6g. for a term which shall be fixed by the court between three  
31 and five years;

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

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

40 b. As part of a sentence for an extended term and notwithstanding  
41 the provisions of 2C:43-9, the court may fix a minimum term not to  
42 exceed one-half of the term set pursuant to subsection a. during which  
43 the defendant shall not be eligible for parole or a term of 25 years  
44 during which time the defendant shall not be eligible for parole where  
45 the sentence imposed was life imprisonment; provided that no  
46 defendant shall be eligible for parole at a date earlier than otherwise

1 provided by the law governing parole.

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

16 d. In the case of a person sentenced to an extended term pursuant  
17 to N.J.S.2C:43-6g., the court shall impose a sentence within the ranges  
18 permitted by N.J.S.2C:43-7a(2), (3), (4) or (5) according to the  
19 degree or nature of the crime for which the defendant is being  
20 sentenced, which sentence shall include a minimum term which shall  
21 be fixed at 15 years for a crime of the first or second degree, eight  
22 years for a crime of the third degree, or five years for a crime of the  
23 fourth degree during which the defendant shall not be eligible for  
24 parole. Where the sentence imposed is life imprisonment, the court  
25 shall impose a minimum term of 25 years during which the defendant  
26 shall not be eligible for parole, except that where the term of life  
27 imprisonment is imposed on a person convicted of a violation of  
28 N.J.S.2C:35-3, the term of parole eligibility shall be 30 years.  
29 (cf: P.L.1995, c.126, s.3)

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31 3. This act shall take effect immediately.

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