

[Passed Both Houses]

[Second Reprint]

ASSEMBLY, No. 364

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen **HOLZAPFEL, BLEE,**
Senators Ciesla, Sacco and Assemblyman Corodemus

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 ²[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;² shall ²[, for the second crime,]² 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 ²[degree of]² crime under the provisions of
23 N.J.S.2C:43-3 ²if, 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 crime².

26 b. The court shall not impose a sentence of imprisonment pursuant
27 to this ¹[subsection] section¹ unless the ground therefore has been

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:

¹ Senate SBA committee amendments adopted February 10, 1997.

² Senate floor amendments adopted June 19, 1997.

1 established at a hearing after the conviction of the defendant and on
2 written notice to the defendant of the ground proposed. The
3 defendant shall have the right to hear and controvert the evidence
4 against ¹[his] the defendant¹ and to offer evidence upon the issue.

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

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

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

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

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

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

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

31 (5) In the case of a crime of the fourth degree pursuant to
32 2C:43-6c., 2C:44-3d., 2C:44-3e. for a term of five years, and in the
33 case of a crime of the fourth degree pursuant to 2C:43-6f. and
34 2C:43-6g. for a term which shall be fixed by the court between three
35 and five years;

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

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

44 b. As part of a sentence for an extended term and notwithstanding
45 the provisions of 2C:43-9, the court may fix a minimum term not to
46 exceed one-half of the term set pursuant to subsection a. during which

1 the defendant shall not be eligible for parole or a term of 25 years
2 during which time the defendant shall not be eligible for parole where
3 the sentence imposed was life imprisonment; provided that no
4 defendant shall be eligible for parole at a date earlier than otherwise
5 provided by the law governing parole.

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

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

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35 3. This act shall take effect immediately.

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