

ASSEMBLY, No. 412

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman HECK

1 AN ACT concerning law enforcement officers, and amending and
2 supplementing parts of statutory law.

3

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

6

7 1. (New section) This act shall be known and may be cited as the
8 "Law Enforcement Officers' Protection Act."

9

10 2. (New section) As used in this act, unless another meaning is
11 clearly apparent from the language or context:

12 "Law enforcement agency" means any public agency other than a
13 county prosecutor's office or the Department of Law and Public
14 Safety, any police force, department or division within the State of
15 New Jersey, or any county or municipality thereof, which is
16 empowered by statute to act for the detection, investigation, arrest,
17 conviction, detention, or rehabilitation of persons violating the
18 criminal law of this State.

19 "Law enforcement officer" means any person who is employed as
20 a permanent full-time member of any State, county or municipal law
21 enforcement agency, department, or division of those governments
22 who is statutorily empowered to act for the detection, investigation,
23 arrest, conviction, detention, or rehabilitation of persons violating the
24 criminal law of this State and statutorily required to successfully
25 complete a training course approved by or certified as substantially
26 equivalent by the Police Training Commission.

27

28 3. N.J.S.2C:11-3 is amended to read as follows:

29 2C:11-3. Murder.

30 a. Except as provided in N.J.S.2C:11-4 criminal homicide
31 constitutes murder when:

32 (1) The actor purposely causes death or serious bodily injury

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 resulting in death; or

2 (2) The actor knowingly causes death or serious bodily injury
3 resulting in death; or

4 (3) It is committed when the actor, acting either alone or with one
5 or more other persons, is engaged in the commission of, or an attempt
6 to commit, or flight after committing or attempting to commit robbery,
7 sexual assault, arson, burglary, kidnapping or criminal escape, and in
8 the course of such crime or of immediate flight therefrom, any person
9 causes the death of a person other than one of the participants; except
10 that in any prosecution under this subsection, in which the defendant
11 was not the only participant in the underlying crime, it is an affirmative
12 defense that the defendant:

13 (a) Did not commit the homicidal act or in any way solicit, request,
14 command, importune, cause or aid the commission thereof; and

15 (b) Was not armed with a deadly weapon, or any instrument, article
16 or substance readily capable of causing death or serious physical injury
17 and of a sort not ordinarily carried in public places by law-abiding
18 persons; and

19 (c) Had no reasonable ground to believe that any other participant
20 was armed with such a weapon, instrument, article or substance; and

21 (d) Had no reasonable ground to believe that any other participant
22 intended to engage in conduct likely to result in death or serious
23 physical injury.

24 b. (1) Murder is a crime of the first degree but a person convicted
25 of murder shall be sentenced, except as provided in subsection c. of
26 this section, by the court to a term of 30 years, during which the
27 person shall not be eligible for parole or to a specific term of years
28 which shall be between 30 years and life imprisonment of which the
29 person shall serve 30 years before being eligible for parole.

30 (2) If the victim was a law enforcement officer and was murdered
31 while performing his official duties or was murdered because of his
32 status as a law enforcement officer, the person convicted of that
33 murder shall be sentenced, except as otherwise provided in subsection
34 c. of this section, by the court to a term of life imprisonment, during
35 which the person shall not be eligible for parole.

36 c. Any person convicted under subsection a.(1) or (2) who
37 committed the homicidal act by his own conduct; or who as an
38 accomplice procured the commission of the offense by payment or
39 promise of payment of anything of pecuniary value; or who, as a leader
40 of a narcotics trafficking network as defined in N.J.S.2C:35-3 and in
41 furtherance of a conspiracy enumerated in N.J.S.2C:35-3, commanded
42 or by threat or promise solicited the commission of the offense, shall
43 be sentenced as provided hereinafter:

44 (1) The court shall conduct a separate sentencing proceeding to
45 determine whether the defendant should be sentenced to death or
46 pursuant to the provisions of subsection b. of this section.

1 Where the defendant has been tried by a jury, the proceeding shall
2 be conducted by the judge who presided at the trial and before the jury
3 which determined the defendant's guilt, except that, for good cause,
4 the court may discharge that jury and conduct the proceeding before
5 a jury empaneled for the purpose of the proceeding. Where the
6 defendant has entered a plea of guilty or has been tried without a jury,
7 the proceeding shall be conducted by the judge who accepted the
8 defendant's plea or who determined the defendant's guilt and before a
9 jury empaneled for the purpose of the proceeding. On motion of the
10 defendant and with consent of the prosecuting attorney the court may
11 conduct a proceeding without a jury. Nothing in this subsection shall
12 be construed to prevent the participation of an alternate juror in the
13 sentencing proceeding if one of the jurors who rendered the guilty
14 verdict becomes ill or is otherwise unable to proceed before or during
15 the sentencing proceeding.

16 (2) (a) At the proceeding, the State shall have the burden of
17 establishing beyond a reasonable doubt the existence of any
18 aggravating factors set forth in paragraph (4) of this subsection. The
19 defendant shall have the burden of producing evidence of the existence
20 of any mitigating factors set forth in paragraph (5) of this subsection
21 but shall not have a burden with regard to the establishment of a
22 mitigating factor.

23 (b) The admissibility of evidence offered by the State to establish
24 any of the aggravating factors shall be governed by the rules governing
25 the admission of evidence at criminal trials. The defendant may offer,
26 without regard to the rules governing the admission of evidence at
27 criminal trials, reliable evidence relevant to any of the mitigating
28 factors. If the defendant produces evidence in mitigation which would
29 not be admissible under the rules governing the admission of evidence
30 at criminal trials, the State may rebut that evidence without regard to
31 the rules governing the admission of evidence at criminal trials.

32 (c) Evidence admitted at the trial, which is relevant to the
33 aggravating and mitigating factors set forth in paragraphs (4) and (5)
34 of this subsection, shall be considered without the necessity of
35 reintroducing that evidence at the sentencing proceeding; provided
36 that the fact finder at the sentencing proceeding was present as either
37 the fact finder or the judge at the trial.

38 (d) The State and the defendant shall be permitted to rebut any
39 evidence presented by the other party at the sentencing proceeding and
40 to present argument as to the adequacy of the evidence to establish the
41 existence of any aggravating or mitigating factor.

42 (e) Prior to the commencement of the sentencing proceeding, or at
43 such time as he has knowledge of the existence of an aggravating
44 factor, the prosecuting attorney shall give notice to the defendant of
45 the aggravating factors which he intends to prove in the proceeding.

46 (f) Evidence offered by the State with regard to the establishment

1 of a prior homicide conviction pursuant to paragraph (4)(a) of this
2 subsection may include the identity and age of the victim, the manner
3 of death and the relationship, if any, of the victim to the defendant.

4 (3) The jury or, if there is no jury, the court shall return a special
5 verdict setting forth in writing the existence or nonexistence of each
6 of the aggravating and mitigating factors set forth in paragraphs (4)
7 and (5) of this subsection. If any aggravating factor is found to exist,
8 the verdict shall also state whether it outweighs beyond a reasonable
9 doubt any one or more mitigating factors.

10 (a) If the jury or the court finds that any aggravating factors exist
11 and that all of the aggravating factors outweigh beyond a reasonable
12 doubt all of the mitigating factors, the court shall sentence the
13 defendant to death.

14 (b) If the jury or the court finds that no aggravating factors exist,
15 or that all of the aggravating factors which exist do not outweigh all
16 of the mitigating factors, the court shall sentence the defendant
17 pursuant to subsection b.

18 (c) If the jury is unable to reach a unanimous verdict, the court shall
19 sentence the defendant pursuant to subsection b.

20 (4) The aggravating factors which may be found by the jury or the
21 court are:

22 (a) The defendant has been convicted, at any time, of another
23 murder. For purposes of this section, a conviction shall be deemed
24 final when sentence is imposed and may be used as an aggravating
25 factor regardless of whether it is on appeal;

26 (b) In the commission of the murder, the defendant purposely or
27 knowingly created a grave risk of death to another person in addition
28 to the victim;

29 (c) The murder was outrageously or wantonly vile, horrible or
30 inhuman in that it involved torture, depravity of mind, or an
31 aggravated assault to the victim;

32 (d) The defendant committed the murder as consideration for the
33 receipt, or in expectation of the receipt of anything of pecuniary value;

34 (e) The defendant procured the commission of the offense by
35 payment or promise of payment of anything of pecuniary value;

36 (f) The murder was committed for the purpose of escaping
37 detection, apprehension, trial, punishment or confinement for another
38 offense committed by the defendant or another;

39 (g) The offense was committed while the defendant was engaged
40 in the commission of, or an attempt to commit, or flight after
41 committing or attempting to commit murder, robbery, sexual assault,
42 arson, burglary or kidnapping;

43 (h) The defendant murdered a public servant, as defined in
44 N.J.S.2C:27-1, while the victim was engaged in the performance of his
45 official duties, or because of the victim's status as a public servant;

46 (i) The defendant: (i) as a leader of a narcotics trafficking network

1 as defined in N.J.S.2C:35-3 and in furtherance of a conspiracy
2 enumerated in N.J.S.2C:35-3, committed, commanded or by threat or
3 promise solicited the commission of the offense or (ii) committed the
4 offense at the direction of a leader of a narcotics trafficking network
5 as defined in N.J.S.2C:35-3 in furtherance of a conspiracy enumerated
6 in N.J.S.2C:35-3;

7 (j) The homicidal act that the defendant committed or procured
8 was in violation of paragraph (1) of subsection a. of N.J.S.2C:17-2; or

9 (k) The victim was less than 14 years old.

10 (5) The mitigating factors which may be found by the jury or the
11 court are:

12 (a) The defendant was under the influence of extreme mental or
13 emotional disturbance insufficient to constitute a defense to
14 prosecution;

15 (b) The victim solicited, participated in or consented to the
16 conduct which resulted in his death;

17 (c) The age of the defendant at the time of the murder;

18 (d) The defendant's capacity to appreciate the wrongfulness of his
19 conduct or to conform his conduct to the requirements of the law was
20 significantly impaired as the result of mental disease or defect or
21 intoxication, but not to a degree sufficient to constitute a defense to
22 prosecution;

23 (e) The defendant was under unusual and substantial duress
24 insufficient to constitute a defense to prosecution;

25 (f) The defendant has no significant history of prior criminal
26 activity;

27 (g) The defendant rendered substantial assistance to the State in
28 the prosecution of another person for the crime of murder; or

29 (h) Any other factor which is relevant to the defendant's character
30 or record or to the circumstances of the offense.

31 (6) When a defendant at a sentencing proceeding presents evidence
32 of the defendant's character or record pursuant to subparagraph (h) of
33 paragraph (5) of this subsection, the State may present evidence of the
34 murder victim's character and background and of the impact of the
35 murder on the victim's survivors. If the jury finds that the State has
36 proven at least one aggravating factor beyond a reasonable doubt and
37 the jury finds the existence of a mitigating factor pursuant to
38 subparagraph (h) of paragraph (5) of this subsection, the jury may
39 consider the victim and survivor evidence presented by the State
40 pursuant to this paragraph in determining the appropriate weight to
41 give mitigating evidence presented pursuant to subparagraph (h) of
42 paragraph (5) of this subsection.

43 d. The sentencing proceeding set forth in subsection c. of this
44 section shall not be waived by the prosecuting attorney.

45 e. Every judgment of conviction which results in a sentence of
46 death under this section shall be appealed, pursuant to the Rules of

1 Court, to the Supreme Court. Upon the request of the defendant, the
2 Supreme Court shall also determine whether the sentence is
3 disproportionate to the penalty imposed in similar cases, considering
4 both the crime and the defendant. Proportionality review under this
5 section shall be limited to a comparison of similar cases in which a
6 sentence of death has been imposed under subsection c. of this section.
7 In any instance in which the defendant fails, or refuses to appeal, the
8 appeal shall be taken by the Office of the Public Defender or other
9 counsel appointed by the Supreme Court for that purpose.

10 f. Prior to the jury's sentencing deliberations, the trial court shall
11 inform the jury of the sentences which may be imposed pursuant to
12 subsection b. of this section on the defendant if the defendant is not
13 sentenced to death. The jury shall also be informed that a failure to
14 reach a unanimous verdict shall result in sentencing by the court
15 pursuant to subsection b.

16 g. A juvenile who has been tried as an adult and convicted of
17 murder shall not be sentenced pursuant to the provisions of subsection
18 c. but shall be sentenced pursuant to the provisions of subsection b. of
19 this section.

20 h. In a sentencing proceeding conducted pursuant to this section,
21 no evidence shall be admissible concerning the method or manner of
22 execution which would be imposed on a defendant sentenced to death.

23 i. For purposes of this section the term "homicidal act" shall mean
24 conduct that causes death or serious bodily injury resulting in death.
25 (cf: P.L.1995, c.123, s. 1)

26

27 4. N.J.S.2C:39-6 is amended to read as follows:

28 2C:39-6. a. Provided a person complies with the requirements of
29 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

30 (1) Members of the Armed Forces of the United States or of the
31 National Guard while actually on duty, or while traveling between
32 places of duty and carrying authorized weapons in the manner
33 prescribed by the appropriate military authorities;

34 (2) Federal law enforcement officers, and any other federal officers
35 and employees required to carry firearms in the performance of their
36 official duties;

37 (3) Members of the State Police and, under conditions prescribed
38 by the superintendent, members of the Marine Law Enforcement
39 Bureau of the Division of State Police;

40 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
41 assistant prosecutor, prosecutor's detective or investigator, deputy
42 attorney general or State investigator employed by the Division of
43 Criminal Justice of the Department of Law and Public Safety,
44 investigator employed by the State Commission of Investigation,
45 inspector of the Alcoholic Beverage Control Enforcement Bureau of
46 the Division of State Police in the Department of Law and Public

1 Safety authorized to carry such weapons by the Superintendent of
2 State Police, State park ranger, or State conservation officer;

3 (5) A prison or jail warden of any penal institution in this State or
4 his deputies, or an employee of the Department of Corrections
5 engaged in the interstate transportation of convicted offenders, while
6 in the performance of his duties, and when required to possess the
7 weapon by his superior officer, or a correction officer or keeper of a
8 penal institution in this State at all times while in the State of New
9 Jersey, provided he annually passes an examination approved by the
10 superintendent testing his proficiency in the handling of firearms;

11 (6) A civilian employee of the United States Government under the
12 supervision of the commanding officer of any post, camp, station, base
13 or other military or naval installation located in this State who is
14 required, in the performance of his official duties, to carry firearms,
15 and who is authorized to carry such firearms by said commanding
16 officer, while in the actual performance of his official duties;

17 (7) (a) A regularly employed member, including a detective, of the
18 police department of any county or municipality, or of any State,
19 interstate, municipal or county park police force or boulevard police
20 force, at all times while in the State of New Jersey;

21 (b) A special law enforcement officer authorized to carry a weapon
22 as provided in subsection b. of section 7 of P.L.1985, c.439
23 (C.40A:14-146.14);

24 (c) An airport security officer or a special law enforcement officer
25 appointed by the governing body of any county or municipality, except
26 as provided in subsection b. of this section, or by the commission,
27 board or other body having control of a county park or airport or
28 boulevard police force, while engaged in the actual performance of his
29 official duties and when specifically authorized by the governing body
30 to carry weapons; or

31 (8) A full-time, paid member of a paid or part-paid fire department
32 or force of any municipality who is assigned full-time or part-time to
33 an arson investigation unit created pursuant to section 1 of P.L.1981,
34 c.409 (C.40A:14-7.1) or to the county arson investigation unit in the
35 county prosecutor's office, while either engaged in the actual
36 performance of arson investigation duties or while actually on call to
37 perform arson investigation duties and when specifically authorized by
38 the governing body or the county prosecutor, as the case may be, to
39 carry weapons. Prior to being permitted to carry a firearm, such a
40 member shall take and successfully complete a firearms training course
41 administered by the Police Training Commission pursuant to P.L.1961,
42 c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a
43 revolver or similar weapon prior to being permitted to carry a firearm.

44 b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

45 (1) A law enforcement officer employed by a governmental agency
46 outside of the State of New Jersey while actually engaged in his

1 official duties, provided, however, that he has first notified the
2 superintendent or the chief law enforcement officer of the municipality
3 or the prosecutor of the county in which he is engaged; or

4 (2) A licensed dealer in firearms and his registered employees
5 during the course of their normal business while traveling to and from
6 their place of business and other places for the purpose of
7 demonstration, exhibition or delivery in connection with a sale,
8 provided, however, that the weapon is carried in the manner specified
9 in subsection g. of this section.

10 c. Provided a person complies with the requirements of subsection
11 j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply
12 to:

13 (1) A special agent of the Division of Taxation who has passed an
14 examination in an approved police training program testing proficiency
15 in the handling of any firearm which he may be required to carry, while
16 in the actual performance of his official duties and while going to or
17 from his place of duty, or any other police officer, while in the actual
18 performance of his official duties;

19 (2) A State deputy conservation officer or a full-time employee of
20 the Division of Parks and Forestry having the power of arrest and
21 authorized to carry weapons, while in the actual performance of his
22 official duties;

23 (3) (Deleted by amendment, P.L.1986, c.150.)

24 (4) A court attendant serving as such under appointment by the
25 sheriff of the county or by the judge of any municipal court or other
26 court of this State, while in the actual performance of his official
27 duties;

28 (5) A guard in the employ of any railway express company,
29 banking or building and loan or savings and loan institution of this
30 State, while in the actual performance of his official duties;

31 (6) A member of a legally recognized military organization while
32 actually under orders or while going to or from the prescribed place
33 of meeting and carrying the weapons prescribed for drill, exercise or
34 parade;

35 (7) An officer of the Society for the Prevention of Cruelty to
36 Animals, while in the actual performance of his duties;

37 (8) An employee of a public utilities corporation actually engaged
38 in the transportation of explosives;

39 (9) A railway policeman, except a transit police officer of the New
40 Jersey Transit Police Department, at all times while in the State of
41 New Jersey, provided that he has passed an approved police academy
42 training program consisting of at least 280 hours. The training
43 program shall include, but need not be limited to, the handling of
44 firearms, community relations, and juvenile relations;

45 (10) A campus police officer appointed under P.L.1970, c.211
46 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a

1 firearm, a campus police officer shall take and successfully complete
2 a firearms training course administered by the Police Training
3 Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
4 shall annually qualify in the use of a revolver or similar weapon prior
5 to being permitted to carry a firearm;

6 (11) A person who has not been convicted of a crime under the
7 laws of this State or under the laws of another state or the United
8 States, and who is employed as a full-time security guard for a nuclear
9 power plant under the license of the Nuclear Regulatory Commission,
10 while in the actual performance of his official duties;

11 (12) A transit police officer of the New Jersey Transit Police
12 Department, at all times while in the State of New Jersey, provided the
13 officer has satisfied the training requirements of the Police Training
14 Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291
15 (C.27:25-15.1); or

16 (13) A parole officer employed by the Bureau of Parole in the
17 Department of Corrections at all times. Prior to being permitted to
18 carry a firearm, a parole officer shall take and successfully complete
19 a basic course for regular police officer training administered by the
20 Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66
21 et seq.), and shall annually qualify in the use of a revolver or similar
22 weapon prior to being permitted to carry a firearm.

23 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
24 antique firearms, provided that such antique firearms are unloaded or
25 are being fired for the purposes of exhibition or demonstration at an
26 authorized target range or in such other manner as has been approved
27 in writing by the chief law enforcement officer of the municipality in
28 which the exhibition or demonstration is held, or if not held on
29 property under the control of a particular municipality, the
30 superintendent.

31 (2) Subsection a. of N.J.S.2C:39-3 and subsection d. of
32 N.J.S.2C:39-5 do not apply to an antique cannon that is capable of
33 being fired but that is unloaded and immobile, provided that the
34 antique cannon is possessed by (a) a scholastic institution, a museum,
35 a municipality, a county or the State, or (b) a person who obtained a
36 firearms purchaser identification card as specified in N.J.S.2C:58-3.

37 (3) Subsection a. of N.J.S.2C:39-3 and subsection d. of
38 N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is
39 being transported by one eligible to possess it, in compliance with
40 regulations the superintendent may promulgate, between its permanent
41 location and place of purchase or repair.

42 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. of
43 N.J.S.2C:39-5 do not apply to antique cannons that are being loaded
44 or fired by one eligible to possess an antique cannon, for purposes of
45 exhibition or demonstration at an authorized target range or in the
46 manner as has been approved in writing by the chief law enforcement

1 officer of the municipality in which the exhibition or demonstration is
2 held, or if not held on property under the control of a particular
3 municipality, the superintendent, provided that performer has given at
4 least 30 days' notice to the superintendent.

5 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. of
6 N.J.S.2C:39-5 do not apply to the transportation of unloaded antique
7 cannons directly to or from exhibitions or demonstrations authorized
8 under paragraph (4) of subsection d. of this section, provided that the
9 transportation is in compliance with safety regulations the
10 superintendent may promulgate. Nor do those subsections apply to
11 transportation directly to or from exhibitions or demonstrations
12 authorized under the law of another jurisdiction, provided that the
13 superintendent has been given 30 days' notice and that the
14 transportation is in compliance with safety regulations the
15 superintendent may promulgate.

16 e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
17 construed to prevent a person keeping or carrying about his place of
18 business, residence, premises or other land owned or possessed by
19 him, any firearm, or from carrying the same, in the manner specified
20 in subsection g. of this section, from any place of purchase to his
21 residence or place of business, between his dwelling and his place of
22 business, between one place of business or residence and another when
23 moving, or between his dwelling or place of business and place where
24 such firearms are repaired, for the purpose of repair. For the purposes
25 of this section, a place of business shall be deemed to be a fixed
26 location.

27 f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
28 construed to prevent:

29 (1) A member of any rifle or pistol club organized in accordance
30 with the rules prescribed by the National Board for the Promotion of
31 Rifle Practice, in going to or from a place of target practice, carrying
32 such firearms as are necessary for said target practice, provided that
33 the club has filed a copy of its charter with the superintendent and
34 annually submits a list of its members to the superintendent and
35 provided further that the firearms are carried in the manner specified
36 in subsection g. of this section;

37 (2) A person carrying a firearm or knife in the woods or fields or
38 upon the waters of this State for the purpose of hunting, target
39 practice or fishing, provided that the firearm or knife is legal and
40 appropriate for hunting or fishing purposes in this State and he has in
41 his possession a valid hunting license, or, with respect to fresh water
42 fishing, a valid fishing license;

43 (3) A person transporting any firearm or knife while traveling:

44 (a) Directly to or from any place for the purpose of hunting or
45 fishing, provided the person has in his possession a valid hunting or
46 fishing license; or

1 (b) Directly to or from any target range, or other authorized place
2 for the purpose of practice, match, target, trap or skeet shooting
3 exhibitions, provided in all cases that during the course of the travel
4 all firearms are carried in the manner specified in subsection g. of this
5 section and the person has complied with all the provisions and
6 requirements of Title 23 of the Revised Statutes and any amendments
7 thereto and all rules and regulations promulgated thereunder; or

8 (c) In the case of a firearm, directly to or from any exhibition or
9 display of firearms which is sponsored by any law enforcement agency,
10 any rifle or pistol club, or any firearms collectors club, for the purpose
11 of displaying the firearms to the public or to the members of the
12 organization or club, provided, however, that not less than 30 days
13 prior to the exhibition or display, notice of the exhibition or display
14 shall be given to the Superintendent of the State Police by the
15 sponsoring organization or club, and the sponsor has complied with
16 such reasonable safety regulations as the superintendent may
17 promulgate. Any firearms transported pursuant to this section shall be
18 transported in the manner specified in subsection g. of this section;

19 (4) A person from keeping or carrying about a private or
20 commercial aircraft or any boat, or from transporting to or from such
21 vessel for the purpose of installation or repair a visual distress
22 signalling device approved by the United States Coast Guard.

23 g. All weapons being transported under paragraph (2) of
24 subsection b., subsection e., or paragraph (1) or (3) of subsection f. of
25 this section shall be carried unloaded and contained in a closed and
26 fastened case, gunbox, securely tied package, or locked in the trunk of
27 the automobile in which it is being transported, and in the course of
28 travel shall include only such deviations as are reasonably necessary
29 under the circumstances.

30 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
31 prevent any employee of a public utility, as defined in R.S.48:2-13,
32 doing business in this State or any United States Postal Service
33 employee, while in the actual performance of duties which specifically
34 require regular and frequent visits to private premises, from
35 possessing, carrying or using any device which projects, releases or
36 emits any substance specified as being noninjurious to canines or other
37 animals by the Commissioner of Health and which immobilizes only on
38 a temporary basis and produces only temporary physical discomfort
39 through being vaporized or otherwise dispensed in the air for the sole
40 purpose of repelling canine or other animal attacks.

41 The device shall be used solely to repel only those canine or other
42 animal attacks when the canines or other animals are not restrained in
43 a fashion sufficient to allow the employee to properly perform his
44 duties.

45 Any device used pursuant to this act shall be selected from a list of
46 products, which consist of active and inert ingredients, permitted by

1 the Commissioner of Health.

2 i. Nothing in N.J.S.2C:39-5 shall be construed to prevent any
3 person who is 18 years of age or older and who has not been convicted
4 of a felony, from possession for the purpose of personal self-defense
5 of one pocket-sized device which contains and releases not more than
6 three-quarters of an ounce of chemical substance not ordinarily
7 capable of lethal use or of inflicting serious bodily injury, but rather,
8 is intended to produce temporary physical discomfort or disability
9 through being vaporized or otherwise dispensed in the air. Any person
10 in possession of any device in violation of this subsection shall be
11 deemed and adjudged to be a disorderly person, and upon conviction
12 thereof, shall be punished by a fine of not less than \$100.00.

13 j. A person shall qualify for an exemption from the provisions of
14 N.J.S.2C:39-5, as specified under subsections a. and c. of this section,
15 if the person has satisfactorily completed a firearms training course
16 approved by the Police Training Commission.

17 Such exempt person shall not possess or carry a firearm until the
18 person has satisfactorily completed a firearms training course and shall
19 annually qualify in the use of a revolver or similar weapon. For
20 purposes of this subsection, a "firearms training course" means a
21 course of instruction in the safe use, maintenance and storage of
22 firearms which is approved by the Police Training Commission. The
23 commission shall approve a firearms training course if the
24 requirements of the course are substantially equivalent to the
25 requirements for firearms training provided by police training courses
26 which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71).
27 A person who is specified in paragraph (1), (2), (3) or (6) of
28 subsection a. of this section shall be exempt from the requirements of
29 this subsection.

30 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
31 prevent any financial institution, or any duly authorized personnel of
32 the institution, from possessing, carrying or using for the protection of
33 money or property, any device which projects, releases or emits tear
34 gas or other substances intended to produce temporary physical
35 discomfort or temporary identification.

36 l. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed to
37 prevent a law enforcement officer who retired in good standing, is not
38 over 70 years of age and who was regularly employed or has obtained
39 service credit for an aggregate of 25 or more years as a full-time
40 member of a county or municipal law enforcement agency in this State
41 or a full-time member of the State Police from carrying a handgun
42 under the conditions provided herein. The retired officer, within six
43 months after retirement, shall make application in writing to and may
44 receive approval to carry the handgun for one year by the chief of
45 police of the municipality or county wherein he was last regularly
46 employed as a full-time law enforcement officer prior to his retirement

1 or, in the case of a retired member of the State Police, to the
2 superintendent. An application for annual renewal shall be submitted
3 in the same manner to the chief of police of that municipality or
4 county, or to the superintendent, as appropriate.

5 Whenever a chief of police or the superintendent shall approve a
6 retired law enforcement officer's application or reapplication to carry
7 a handgun pursuant to the provisions of this section, he shall forthwith
8 so notify in writing the chief of police of the municipality wherein that
9 retired law enforcement officer resides. In the event the retired law
10 enforcement officer resides in a municipality having no chief of police,
11 the notice shall be filed with the superintendent.

12 A person approved to carry a handgun under this subsection shall
13 annually qualify in the use of the handgun he is permitted to carry.
14 The annual qualification, which shall be in accordance with the
15 procedures established by the Attorney General pursuant to subsection
16 j. of this section, shall be conducted in the municipality wherein the
17 retired law enforcement officer was last regularly employed as a
18 full-time officer prior to his retirement or, in the case of a retired
19 member of the State Police, at a place designated by the
20 superintendent. A person who fails to so qualify in any year or
21 becomes subject to any of the disabilities set forth in subsection c. of
22 N.J.S.2C:58-3 shall be permanently disqualified to carry a handgun
23 under this section.

24 In addition, a retired law enforcement officer approved to carry a
25 handgun under this subsection shall provide proof of either a bond or
26 insurance sufficient to protect and absolve the municipality of any and
27 all claims arising or which may arise from his carrying that handgun.

28 m. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed to
29 prevent a federal law enforcement officer who retired in good
30 standing, is not over 70 years of age and who was regularly employed
31 or has obtained service credit for an aggregate of 25 or more years as
32 a full-time member of a federal law enforcement agency from carrying
33 a handgun under the conditions provided herein. The retired federal
34 law enforcement officer, within six months after retirement, shall make
35 application in writing to, and may receive approval to carry the
36 handgun for one year by, the superintendent. An application for
37 annual renewal shall be submitted in the same manner to the
38 superintendent.

39 Whenever the superintendent shall approve a retired federal law
40 enforcement officer's application or reapplication to carry a handgun
41 pursuant to the provisions of this section, the superintendent shall
42 forthwith so notify in writing the chief of police of the municipality
43 wherein that retired law enforcement officer resides.

44 A retired federal law enforcement officer approved to carry a
45 handgun under this subsection shall annually qualify in the use of the
46 handgun the retired officer is permitted to carry. The annual

1 qualification, which shall be in accordance with the procedures
2 established by the Attorney General pursuant to subsection j. of this
3 section, shall be conducted at a place designated by the
4 superintendent. A retired federal law enforcement officer who fails to
5 so qualify in any year or becomes subject to any of the disabilities set
6 forth in subsection c. of N.J.S.2C:58-3 shall be permanently
7 disqualified to carry a handgun under this section.

8 In addition, a retired federal law enforcement officer approved to
9 carry a handgun under this subsection shall provide proof of either a
10 bond or insurance sufficient to protect and absolve the municipality of
11 any and all claims arising or which may arise from the retired officer
12 carrying that handgun.

13 (cf: P.L.1993, c.246, s.2)

14
15 5. N.J.S.2C:52-6 is amended to read as follows:

16 2C:52-6. Arrests not resulting in conviction a. In all cases, except
17 as herein provided, wherein a person has been arrested or held to
18 answer for a crime, disorderly persons offense, petty disorderly
19 persons offense or municipal ordinance violation under the laws of this
20 State or of any governmental entity thereof and against whom
21 proceedings were dismissed, or who was acquitted, or who was
22 discharged without a conviction or finding of guilt, may at any time
23 following the disposition of proceedings, present a duly verified
24 petition as provided in section 2C:52-7 to the Superior Court in the
25 county in which the disposition occurred praying that records of such
26 arrest and all records and information pertaining thereto be expunged.

27 b. Any person who has had charges dismissed against him pursuant
28 to section 27 of P.L.1970, c.226, (C.24:21-27) or pursuant to a
29 program of supervisory treatment, shall be barred from the relief
30 provided in this section until 6 months after the entry of the order of
31 dismissal.

32 c. Any person who has been arrested or held to answer for a crime
33 shall be barred from the relief provided in this section where the
34 dismissal, discharge, or acquittal resulted from a determination that the
35 person was insane or lacked the mental capacity to commit the crime
36 charged.

37 d. At the time of dismissal, acquittal, or discharge, the court shall,
38 upon motion of the defense, order the expungement of all records and
39 information relating to the arrest of a law enforcement officer. The
40 agency employing the officer, and all other relevant criminal justice
41 and law enforcement agencies required to be notified pursuant to
42 N.J.S.2C:52-10, shall be immediately notified of the expungement
43 order.

44 e. The court shall not order the expungement of records pursuant
45 to subsection d. of this section when:

46 (1) The dismissal of charges, acquittal, or discharge is a result of

1 a plea bargaining agreement involving a conviction on other charges;
2 or

3 (2) The person at the time of dismissal, acquittal, or discharge has
4 another charge pending against him which alleges the commission of
5 a crime, disorderly persons offense, or petty disorderly persons
6 offense.

7 (cf: P.L.1979, c.178, s.113)

8

9 6. N.J.S.40A:14-155 is amended to read as follows:

10 40A:14-155. Whenever a member or officer of a municipal police
11 department or force is a defendant in any action or legal proceeding
12 arising out of and directly related to the lawful exercise of police
13 powers in the furtherance of his official duties, the governing body of
14 the municipality shall provide said member or officer with necessary
15 means for the defense of such action or proceeding, but not for his
16 defense in a disciplinary proceeding instituted against him by the
17 municipality or in criminal proceeding instituted as a result of a
18 complaint on behalf of the municipality. [If] Notwithstanding the
19 provisions of this section, if any such disciplinary or [criminal] criminal
20 proceeding instituted by or on the complaint of the municipality, or if
21 any other legal [action or] proceeding [instituted by or on complaint
22 of the municipality] in which the member or officer is the defendant
23 shall be dismissed or finally determined in favor of the member or
24 officer, [he] the officer shall be reimbursed for the expense of his
25 defense.

26 (cf: P.L.1985, c.457, s.1)

27

28 7. Section 1 of P.L.1991, c.299 (C.40A:14-180) is amended to
29 read as follows:

30 1. a. The provisions of any other law to the contrary
31 notwithstanding, the appointing authority of a county or municipality
32 which, pursuant to N.J.S.40A:14-106, in the case of a county, or
33 N.J.S.40A:14-118, in the case of a municipality, has established and
34 maintains a police force may appoint as a member or officer of the
35 county or municipal police department any person who:

36 (1) was serving as a law enforcement officer in good standing in
37 any State, county or municipal law enforcement department or agency;

38 (2) satisfactorily completed a working test period in a State law
39 enforcement title or in a law enforcement title in a county or
40 municipality which has adopted Title 11A, Civil Service, of the New
41 Jersey Statutes or satisfactorily completed a comparable, documented
42 probationary period in a law enforcement title in a county or
43 municipality which has not adopted Title 11A, Civil Service]; and

44 (3) was, for reasons of economy, terminated as a law enforcement
45 officer within 36 months prior to the appointment] ;and

46 (3) was, for reasons of economy, terminated as a law enforcement

1 officer within 36 months prior to the appointment.

2 b. A county or municipality may employ such a person
3 notwithstanding that:

4 (1) Title 11A, Civil Service, of the New Jersey Statutes is
5 operative in that county or municipality;

6 (2) the county or municipality has available to it an eligible or
7 regular reemployment list of persons eligible for such appointments;
8 and

9 (3) the appointed person is not on any eligible list. A county or
10 municipality which has adopted Title 11A, Civil Service, may not
11 employ such a person if a special reemployment list is in existence for
12 the law enforcement title to be filled.

13 c. [If a county determines to appoint a person pursuant to the
14 provisions of this act, it shall give first priority in making such
15 appointments to residents of the county. A municipality making such
16 an appointment shall give first priority to residents of the municipality
17 and second priority to residents of the county not residing in the
18 municipality.] Deleted by amendment (P.L. , c.)(now pending
19 before the Legislature as this bill).

20 d. The seniority, seniority-related privileges and rank a law
21 enforcement officer possessed with the employer who terminated the
22 officer's employment for reasons of economy shall not be transferable
23 to a new position when the officer is appointed to a law enforcement
24 position pursuant to the provisions of this section.

25 (cf: P.L.1993, c.187, s.1)

26

27 8. Section 1 of P.L.1989, c.314 (C.26:2K-39) is amended to read
28 as follows:

29 1. As used in this act:

30 "Commissioner" means the Commissioner of Health.

31 "Emergency medical service" means a program in a hospital staffed
32 24 hours-a-day by a licensed physician trained in emergency medicine.

33 "Emergency medical technician" means a person trained in basic life
34 support services as defined in section 1 of P.L.1985, c.351
35 (C.26:2K-21) and who is certified by the Department of Health to
36 perform these services.

37 "EMT-D" means an emergency medical technician who is certified
38 by the commissioner to perform cardiac defibrillation.

39 "First Responder" means a law enforcement officer, firefighter or
40 other person who has been trained to provide emergency medical first
41 response services in a program recognized by the commissioner.

42 "First Responder-D" means a First Responder who is certified by
43 the commissioner to perform cardiac defibrillation.

44 "Pre-hospital care" means those emergency medical services
45 rendered to emergency patients at the scene of a traffic accident or
46 other emergency and during transportation to emergency treatment

1 facilities, and upon arrival within those facilities.

2 (cf: P.L.1989, c.314, s.1)

3

4 9. Section 2 of P.L.1989, c.314 (C.26:2K-40) is amended to read
5 as follows:

6 2. a. An emergency medical technician who has been certified by
7 the commissioner as an EMT-D may perform cardiac defibrillation,
8 with or without the assistance of another EMT-D, according to rules
9 and regulations adopted by the commissioner. A person who has been
10 certified by the commissioner as a First Responder-D may perform
11 cardiac defibrillation, with or without the assistance of an EMT-D or
12 another First Responder-D, according to rules and regulations adopted
13 by the commissioner.

14 b. The commissioner shall establish written standards and
15 application procedures which an emergency medical technician shall
16 meet in order to obtain certification as an EMT-D, and which a person
17 shall meet in order to obtain certification as a First Responder-D. The
18 commissioner shall certify a candidate who provides evidence of
19 satisfactory completion of an educational program which includes
20 training in the performance of cardiac defibrillation and which is
21 approved by the commissioner, and who passes an examination in the
22 performance of cardiac defibrillation which is approved by the
23 commissioner.

24 c. The commissioner shall maintain a register of all applications for
25 certification as an EMT-D or a First Responder-D which shall include,
26 but not be limited to:

27 (1) The name and residence of the applicant;

28 (2) The date of the application;

29 (3) Whether the applicant was rejected or approved and the date
30 of that action.

31 d. The commissioner shall annually compile a list of certified
32 EMT-D's and First Responder-D's which shall be available to the
33 public.

34 e. A fee may be charged to a person who is enrolled in an
35 educational program approved by the Department of Health which
36 includes training in the performance of cardiac defibrillation, to cover
37 the costs of training and testing for certification as an EMT-D or a
38 First Responder-D.

39 (cf: P.L.1989, c.314, s.2)

40

41 10. Section 3 of P.L.1989, c.314 (C.26:2K-41) is amended to read
42 as follows:

43 3. The commissioner, after notice and hearing, may revoke the
44 certification of an EMT-D or a First Responder-D for violation of any

1 provisions of this act or of any rule or regulation adopted pursuant to
2 this act.

3 (cf: P.L.1989, c.314, s.3)

4

5 11. Section 4 of P.L.1989, c.314 (C.26:2K-42) is amended to read
6 as follows:

7 4. a. A person shall not advertise or disseminate information to the
8 public that the person is an EMT-D or a First Responder-D unless the
9 person is authorized to do so pursuant to this act.

10 b. A person shall not impersonate or refer to himself as an EMT-D
11 or a First Responder-D unless he is certified pursuant to section 2 of
12 this act.

13 (cf: P.L.1989, c.314, s.4)

14

15 12. Section 5 of P.L.1989, c.314 (C.26:2K-43) is amended to read
16 as follows:

17 5. An EMT-D, First Responder-D, EMT-intermediate, licensed
18 physician, hospital or its board of trustees, officers and members of the
19 medical staff, nurses, paramedics or other employees of the hospital,
20 or officers and members of a first aid, ambulance or rescue squad shall
21 not be liable for any civil damages as the result of an act or the
22 omission of an act committed while in training to perform, or in the
23 performance of, cardiac defibrillation in good faith and in accordance
24 with this act.

25 (cf: P.L.1989, c.314, s.5)

26

27 13. Section 8 of P.L.1989, c.314 (C.26:2K-45) is amended to read
28 as follows:

29 8. Nothing in this act shall be construed to permit an EMT-D or a
30 First Responder-D to perform the duties or fill the position of another
31 health professional employed by a hospital, except that the EMT-D or
32 First Responder-D may perform those functions that are necessary to
33 assure the orderly transfer of a traffic accident victim or other
34 emergency patient receiving pre-hospital care to hospital staff upon
35 arrival at an emergency department and that are necessary to obtain
36 the clinical training in the performance of cardiac defibrillation
37 required by the department.

38 (cf: P.L.1989, c.314, s.8)

39

40 14. Section 10 of P.L.1989, c.314 (C.26:2K-47) is amended to
41 read as follows:

42 10. Nothing in this act shall be construed to prevent a licensed and
43 qualified member of a health care profession from performing any of
44 the duties of an EMT-D or a First Responder-D if the duties are
45 consistent with the accepted standards of the member's profession.

46 (cf: P.L.1989, c.314, s.10)

1 15. Section 3 of P.L.1984, c.179 (C.39:3-76.2g) is amended to
2 read as follows:

3 3. This act shall not apply to a driver or front seat passenger of:

4 a. A passenger automobile manufactured before July 1, 1966;

5 b. A passenger automobile in which the driver or passenger
6 possesses a written verification from a licensed physician that the
7 driver or passenger is unable to wear a safety seat belt system for
8 physical or medical reasons;

9 c. A passenger automobile which is not required to be equipped
10 with safety seat belt system under federal law; [or,]

11 d. A passenger automobile operated by a rural letter carrier of the
12 United States Postal Service while performing the duties of a rural
13 letter carrier; or,

14 e. A passenger automobile operated by a law enforcement officer
15 while in the performance of his official duties.

16 (cf: P.L.1984, c.179, s.3)

17

18 16. Section 1 of P.L.1963, c.140 (C.2A:62A-1) is amended to read
19 as follows:

20 1. Any individual, including (a) a person licensed to practice any
21 method of treatment of human ailments, disease, pain, injury,
22 deformity, mental or physical condition, or licensed to render services
23 ancillary thereto, or (b) any person who is a volunteer member of a
24 duly incorporated first aid and emergency or volunteer ambulance or
25 rescue squad association, or (c) any municipal, county or State law
26 enforcement officer, who in good faith renders emergency care at the
27 scene of an accident or emergency to the victim or victims thereof, or
28 while transporting the victim or victims thereof to a hospital or other
29 facility where treatment or care is to be rendered, shall not be liable for
30 any civil damages as a result of any acts or omissions by such person
31 in rendering the emergency care.

32 (cf: P.L.1987, c.296, s.1)

33

34 17. Section 6 of P.L.1961, c.56 (C.52:17B-71) is amended to read
35 as follows:

36 6. The commission is vested with the power, responsibility and
37 duty:

38 a. To prescribe standards for the approval and continuation of
39 approval of schools at which police training courses authorized by this
40 act and in-service police training courses shall be conducted, including
41 but not limited to presently existing regional, county, municipal and
42 police chief association police training schools or at which basic
43 training courses and in-service training courses shall be conducted for
44 State and county juvenile and adult corrections officers and juvenile
45 detention officers;

46 b. To approve and issue certificates of approval to such schools,

- 1 to inspect such schools from time to time, and to revoke any approval
2 or certificate issued to such schools;
- 3 c. To prescribe the curriculum, the minimum courses of study,
4 attendance requirements, equipment and facilities, and standards of
5 operation for such schools. Courses of study in crime prevention may
6 be recommended to the Police Training Commission by the Crime
7 Prevention Advisory Committee, established by section 2 of P.L.1985,
8 c.1 (C.52:17B-77.1). The Police Training Commission may prescribe
9 psychological and psychiatric examinations for police recruits while in
10 such schools;
- 11 d. To prescribe minimum qualifications for instructors at such
12 schools and to certify, as qualified, instructors for approved police
13 training schools and to issue appropriate certificates to such
14 instructors;
- 15 e. To certify police officers, corrections officers and juvenile
16 detention officers who have satisfactorily completed training programs
17 and to issue appropriate certificates to such police officers, corrections
18 officers and juvenile detention officers;
- 19 f. To advise and consent in the appointment of an administrator of
20 police services by the Attorney General pursuant to section 8 of
21 P.L.1961, c.56 (C.52:17B-73);
- 22 g. (Deleted by amendment, P.L.1985, c.491.)
- 23 h. To make such rules and regulations as may be reasonably
24 necessary or appropriate to accomplish the purposes and objectives of
25 this act;
- 26 i. To make a continuous study of police training methods and
27 training methods for corrections officers and juvenile detention
28 officers and to consult and accept the cooperation of any recognized
29 federal or State law enforcement agency or educational institution;
- 30 j. To consult and cooperate with universities, colleges and
31 institutes in the State for the development of specialized courses of
32 study for police officers in police science and police administration;
- 33 k. To consult and cooperate with other departments and agencies
34 of the State concerned with police training or the training of
35 corrections officers and juvenile detention officers;
- 36 l. To participate in unified programs and projects relating to police
37 training and the training of corrections officers and juvenile detention
38 officers sponsored by any federal, State, or other public or private
39 agency;
- 40 m. To perform such other acts as may be necessary or appropriate
41 to carry out its functions and duties as set forth in this act;
- 42 n. To extend the time limit for satisfactory completion of police
43 training programs or programs for the training of corrections officers
44 and juvenile detention officers upon a finding that health, extraordinary
45 workload or other factors have, singly or in combination, effected a
46 delay in the satisfactory completion of such training program;

1 o. To furnish approved schools, for inclusion in their regular police
2 training courses and curriculum, with information concerning the
3 advisability of high speed chases, the risk caused thereby, and the
4 benefits resulting therefrom;

5 p. To review and approve new standards and course curricula
6 developed by the Department of Corrections for both basic and
7 in-service training of State and county corrections officers and juvenile
8 detention officers. These courses for the State corrections officers
9 and juvenile detention officers shall be centrally provided at the
10 Corrections Officers' Training Academy of the Department of
11 Corrections. Courses for the county corrections officers and juvenile
12 detention officers shall also be centrally provided at the Corrections
13 Officers' Training Academy unless an off-grounds training program is
14 established by the county. A county may elect to establish and
15 conduct a basic training program for corrections officers and juvenile
16 detention officers seeking permanent appointment in that county. The
17 Corrections Officers' Training Academy shall develop the curriculum
18 of the basic training program to be conducted by a county;

19 q. To administer and distribute the monies in the Law Enforcement
20 Officers Training and Equipment Fund established by section 25 of
21 P.L....., c.... (C.....)(now pending before the Legislature as this bill)
22 and make such rules and regulations for the administration and
23 distribution of the monies as may be necessary or appropriate to
24 accomplish the purpose for which the fund was established.

25 (cf: P.L.1988, c.176, s.4)

26

27 18. Section 7 of P.L.1968, c.303 (C.34:13A-5.3) is amended to
28 read as follows:

29 7. Except as hereinafter provided, public employees shall have, and
30 shall be protected in the exercise of, the right, freely and without fear
31 of penalty or reprisal, to form, join and assist any employee
32 organization or to refrain from any such activity; provided, however,
33 that this right shall not extend to elected officials, members of boards
34 and commissions, managerial executives, or confidential employees,
35 except in a school district the term managerial executive shall mean the
36 superintendent of schools or his equivalent, nor, except where
37 established practice, prior agreement or special circumstances, dictate
38 the contrary, shall any supervisor having the power to hire, discharge,
39 discipline, or to effectively recommend the same, have the right to be
40 represented in collective negotiations by an employee organization that
41 admits nonsupervisory personnel to membership, and the fact that any
42 organization has such supervisory employees as members shall not
43 deny the right of that organization to represent the appropriate unit in
44 collective negotiations; and provided further, that, except where
45 established practice, prior agreement, or special circumstances dictate
46 the contrary, no policeman shall have the right to join an employee

1 organization that admits employees other than policemen to
2 membership. The negotiating unit shall be defined with due regard for
3 the community of interest among the employees concerned, but the
4 commission shall not intervene in matters of recognition and unit
5 definition except in the event of a dispute.

6 Representatives designated or selected by public employees for the
7 purposes of collective negotiation by the majority of the employees in
8 a unit appropriate for such purposes or by the majority of the
9 employees voting in an election conducted by the commission as
10 authorized by this act shall be the exclusive representatives for
11 collective negotiation concerning the terms and conditions of
12 employment of the employees in such unit. Nothing herein shall be
13 construed to prevent any official from meeting with an employee
14 organization for the purpose of hearing the views and requests of its
15 members in such unit so long as (a) the majority representative is
16 informed of the meeting; (b) any changes or modifications in terms and
17 conditions of employment are made only through negotiation with the
18 majority representative; and (c) a minority organization shall not
19 present or process grievances. Nothing herein shall be construed to
20 deny to any individual employee his rights under Civil Service laws or
21 regulations. When no majority representative has been selected as the
22 bargaining agent for the unit of which an individual employee is a part,
23 he may present his own grievance either personally or through an
24 appropriate representative or an organization of which he is a member
25 and have such grievance adjusted.

26 A majority representative of public employees in an appropriate unit
27 shall be entitled to act for and to negotiate agreements covering all
28 employees in the unit and shall be responsible for representing the
29 interest of all such employees without discrimination and without
30 regard to employee organization membership. Proposed new rules or
31 modifications of existing rules governing working conditions shall be
32 negotiated with the majority representative before they are established.
33 In addition, the majority representative and designated representatives
34 of the public employer shall meet at reasonable times and negotiate in
35 good faith with respect to grievances, disciplinary disputes, and other
36 terms and conditions of employment. Nothing herein shall be
37 construed as permitting negotiation of the standards or criteria for
38 employee performance.

39 When an agreement is reached on the terms and conditions of
40 employment, it shall be embodied in writing and signed by the
41 authorized representatives of the public employer and the majority
42 representative.

43 Public employers shall negotiate written policies setting forth
44 grievance and disciplinary review procedures by means of which their
45 employees or representatives of employees may appeal the
46 interpretation, application or violation of policies, agreements, and

1 administrative decisions, including disciplinary determinations,
2 affecting them, provided that such grievance and disciplinary review
3 procedures shall be included in any agreement entered into between
4 the public employer and the representative organization. Such
5 grievance and disciplinary review procedures may provide for binding
6 arbitration as a means for resolving disputes. The procedures agreed
7 to by the parties may not replace or be inconsistent with any alternate
8 statutory appeal procedure [nor may they provide for binding
9 arbitration of disputes involving the discipline of employees with
10 statutory protection under] for the specific form of discipline imposed,
11 but may provide for binding arbitration of any form of discipline which
12 is not specifically covered by tenure or civil service laws. Grievance
13 and disciplinary review procedures established by agreement between
14 the public employer and the representative organization shall be
15 utilized for any dispute covered by the terms of such agreement. The
16 provisions of this paragraph shall apply to all public employees and
17 employers.

18 (cf: P.L.1982, c.103, s.1)

19

20 19. R.S.39:4-91 is amended to read as follows:

21 39:4-91. a. The driver of a vehicle upon a highway shall yield the
22 right of way to any authorized emergency vehicle when it is operated
23 on official business, or in the exercise of the driver's profession or
24 calling, in response to an emergency call or in the pursuit of an actual
25 or suspected violator of the law and when an audible signal by bell,
26 siren, exhaust whistle or other means is sounded from the authorized
27 emergency vehicle and when the authorized emergency vehicle, except
28 a police vehicle, is equipped with at least one lighted lamp displaying
29 a red light visible under normal atmospheric conditions from a distance
30 of at least five hundred feet to the front of the vehicle.

31 b. This section shall not relieve the driver of any authorized
32 emergency vehicle from the duty to drive with due regard for the
33 safety of all persons, nor shall it protect the driver from the
34 consequences of his reckless disregard for the safety of others.

35 c. Notwithstanding the provisions of subsection b. of this section,
36 neither a public entity nor a law enforcement officer is liable for any
37 injury arising out of a law enforcement officer's motor vehicle pursuit
38 if the law enforcement officer complied with the guidelines or policy
39 adopted by the Attorney General concerning motor vehicle pursuits.

40 d. Nothing in this section shall be construed to limit the immunity
41 provided to a public employee or a public entity under the provisions
42 of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

43 (cf: P.L.1951, c.23, s.49)

44

45 20. Section 1 of P.L.1977, c.436 (C.40A:14-152.1) is amended to
46 read as follows:

1 1. Notwithstanding the provisions of N.J.S.40A:14-152 or any
2 other law to the contrary, any full-time, permanently appointed
3 municipal police officer and any full-time permanently appointed law
4 enforcement officer, as defined in section 2 of P.L. , c. (C.)(now
5 pending before the Legislature as this bill), shall have full power of
6 arrest for any crime committed in said officer's presence and
7 committed anywhere within the territorial limits of the State of New
8 Jersey.

9 (cf: P.L.1977, c.436, s.1)

10
11 21. Section 1 of P.L.1977, c.437 (C.40A:14-152.2) is amended to
12 read as follows:

13 1. Whenever any municipal police officer or other law enforcement
14 officer, as defined in section 2 of P.L. , c. (C.)(now pending
15 before the Legislature as this bill), has been conferred with Statewide
16 police powers and is acting under lawful authority beyond the
17 territorial limits of his employing municipality or other appointing
18 authority, said police officer or law enforcement officer, as the case
19 may be, shall have all of the immunities from tort liability and shall
20 have all of the pension, relief, disability, workmen's compensation,
21 insurance, and other benefits enjoyed while performing duties within
22 said employing municipality or the jurisdictional responsibility of the
23 other appointing authority, as the case may be.

24 (cf: P.L.1977, c.437, s.1)

25
26 22. (New section) Notwithstanding any provisions of law to the
27 contrary, a law enforcement officer who is authorized to carry a
28 firearm under the provisions of N.J.S.2C:39-6, and who in the lawful
29 exercise of his police powers in the furtherance of his official duties,
30 and consistent with all applicable departmental policies and guidelines,
31 discharges or fires that weapon shall not be liable in any civil action for
32 damages resulting from that discharging or firing. Nothing in this
33 section shall be deemed to grant immunity to any law enforcement
34 officer causing any damage by his willful, wanton, or grossly negligent
35 act of commission or omission.

36
37 23. (New section) Any police officer who meets all the
38 qualifications set forth in subsection 1. of N.J.S.2C:39-6, but retired
39 prior to the enactment of P.L. , c. (now pending before the
40 Legislature as this bill), may apply and receive approval to carry a
41 handgun. Any such application shall be in the manner as provided in
42 subsection 1. of N.J.S.2C:39-6 and any such retired police officer
43 whose application is approved pursuant thereto shall be subject to all
44 the restrictions, qualifications and requirements set forth therein.

45
46 24. (New section) a. In addition to any disposition made pursuant

1 to the provisions of Title 2C of the New Jersey Statutes, any person
2 convicted of a crime shall be assessed a penalty of \$30.

3 b. In addition to any other disposition made pursuant to the
4 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43) or any other
5 statute indicating the dispositions that may be ordered for
6 adjudications of delinquency, a juvenile adjudicated delinquent for an
7 offense which if committed by an adult would be a crime shall be
8 assessed a penalty of \$15.

9 c. The penalties assessed under subsections a. and b. of this section
10 shall be collected as provided for the collection of fines and restitution
11 in section 3 of P.L.1979, c.396 (C.2C:46-4) and forwarded to the
12 State Treasury for deposit in a separate account to be known as the
13 "Law Enforcement Officers Training and Equipment Fund." The
14 penalty assessed in this section shall be collected only after a penalty
15 assessed in section 2 of P.L.1979, c.396 (C.2C:43-3.1) and any
16 restitution ordered is collected.

17 The fund shall be used to support the development and provision of
18 basic and in-service training courses for law enforcement officers by
19 police training schools approved pursuant to P.L.1961, c.56
20 (C.52:17B-66 et seq.). In addition, the fund shall also be used to
21 enable police training schools to purchase equipment needed for the
22 training of law enforcement officers. Distributions from the fund shall
23 only be made directly to such approved schools.

24 d. The Police Training Commission in the Department of Law and
25 Public Safety shall be responsible for the administration and
26 distribution of the fund pursuant to its authority under section 6 of
27 P.L.1961, c.56 (C.52:17B-71).

28 e. An adult prisoner of a State correctional institution who does
29 not pay the penalty imposed pursuant to this section shall have the
30 penalty deducted from any income the inmate receives as a result of
31 labor performed at the institution or any type of work release program.
32 If any person, including an inmate, fails to pay the penalty imposed
33 pursuant to this section, the court may order the suspension of the
34 person's driver's license or nonresident reciprocity privilege, or
35 prohibit the person from receiving or obtaining a license until the
36 assessment is paid. The court shall notify the Director of the Division
37 of Motor Vehicles of such an action. Prior to any action being taken
38 pursuant to this subsection, the person shall be given notice and a
39 hearing before the court to contest the charge of the failure to pay the
40 assessment.

41

42 25. (New section) a. In addition to any other disposition made
43 pursuant to law, a court shall order a person convicted of, indicted for
44 or formally charged with, a criminal offense to submit to an approved
45 serological test for acquired immune deficiency syndrome (AIDS) or
46 infection with the human immunodeficiency virus (HIV) or any other

1 related virus identified as a probable causative agent of AIDS if:

2 (1) in the course of the commission of the offense, including the
3 immediate flight thereafter or during any investigation or arrest related
4 to that offense, a law enforcement officer, the victim or other person
5 suffered a prick from a hypodermic needle, provided there is probable
6 cause to believe that the defendant is an intravenous user of controlled
7 dangerous substances; or

8 (2) in the course of the commission of the offense, including the
9 immediate flight thereafter or during any investigation or arrest related
10 to that offense, a law enforcement officer, the victim or other person
11 had contact with the defendant which involved or was likely to involve
12 the transmission of bodily fluids.

13 The court shall issue such an order only upon the request of the law
14 enforcement officer, victim of the offense or other affected person
15 made at the time of indictment, charge or conviction. The person shall
16 be ordered by the court to submit to such repeat or confirmatory tests
17 as may be medically necessary.

18 As used in this section, "formal charge" includes a proceeding by
19 accusation in the event that the defendant has waived the right to an
20 indictment.

21 b. A court order issued pursuant to subsection a. of this section
22 shall require testing to be performed as soon as practicable by the
23 Commissioner of the Department of Corrections pursuant to authority
24 granted to the commissioner by sections 6 and 10 of P.L.1976, c.98
25 (C.30:1B-6 and 30:1B-10) or by a provider of health care or at a
26 health facility licensed pursuant to section 12 of P.L.1971, c.136
27 (C.26:2H-12). The order shall also require that the results of the test
28 be reported to the offender, the appropriate Office of Victim-Witness
29 Advocacy if a victim of an offense is tested , and the affected law
30 enforcement officer. Upon receipt of the result of a test ordered
31 pursuant to subsection a. of this section, the Office of Victim-Witness
32 Advocacy shall provide the victim with appropriate counseling, referral
33 for counseling and if appropriate, referral for health care. The office
34 shall notify the victim or make appropriate arrangements for the victim
35 to be notified of the test result.

36 c. In addition to any other disposition authorized, a court may
37 order an offender at the time of sentencing to reimburse the State for
38 the costs of the tests ordered by subsection a. of this section.

39 d. The result of a test ordered pursuant to subsection a. of this
40 section shall be confidential and health care providers and employees
41 of the Department of Corrections, the Office of Victim-Witness
42 Advocacy, a health care facility or counseling service shall not disclose
43 the result of a test performed pursuant to this section except as
44 authorized herein or as otherwise authorized by law or court order.
45 The provisions of this section shall not be deemed to prohibit
46 disclosure of a test result to the person tested.

1 e. Persons who perform tests ordered pursuant to subsection a. of
2 this section in accordance with accepted medical standards for the
3 performance of such tests shall be immune from civil and criminal
4 liability arising from their conduct.

5 f. This section shall not be construed to preclude or limit any other
6 testing for AIDS or infection with the HIV or any other related virus
7 identified as a probable causative agent of AIDS which is otherwise
8 permitted by statute, court rule or common law.

9

10 26. (New section) a. In addition to any other disposition made
11 pursuant to law, a court shall order a juvenile charged with
12 delinquency or adjudicated delinquent for an act which, if committed
13 by an adult would constitute a criminal offense, to submit to an
14 approved serological test for acquired immune deficiency syndrome
15 (AIDS) or infection with the human immunodeficiency virus (HIV) or
16 any other related virus identified as a probable causative agent of
17 AIDS if:

18 (1) in the course of the commission of the act, including the
19 immediate flight thereafter or during any investigation or arrest related
20 to that act, a law enforcement officer, the victim or other person
21 suffered a prick from a hypodermic needle, provided there is probable
22 cause to believe that the juvenile is an intravenous user of controlled
23 dangerous substances; or

24 (2) in the course of the commission of the act, including the
25 immediate flight thereafter or during any investigation or arrest related
26 to that act, a law enforcement officer, the victim or other person had
27 contact with the juvenile which involved or was likely to involve the
28 transmission of bodily fluids.

29 The court shall issue such an order only upon the request of the law
30 enforcement officer, victim of the offense or other affected person
31 made at the time of adjudication of delinquency. The juvenile shall be
32 ordered by the court to submit to such repeat or confirmatory tests as
33 may be medically necessary.

34 b. A court order issued pursuant to subsection a. of this section
35 shall require testing to be performed as soon as practicable by the
36 Executive Director of the Juvenile Justice Commission pursuant to
37 authority granted to the executive director by sections 6 and 10 of
38 P.L.1976, c.98 (C.30:1B-6 and 30:1B-10) or by a provider of health
39 care or at a health care facility licensed pursuant to section 12 of
40 P.L.1971, c.136 (C.26:2H-12). The order shall also require that the
41 results of the test be reported to the offender, the appropriate Office
42 of Victim-Witness Advocacy if a victim of an offense is tested, and
43 the affected law enforcement officer. Upon receipt of the result of a
44 test ordered pursuant to subsection a. of this section, the Office of
45 Victim-Witness Advocacy shall provide the victim with appropriate
46 counseling, referral for counseling and if appropriate, referral for

1 health care. The office shall notify the victim or make appropriate
2 arrangements for the victim to be notified of the test result.

3 c. In addition to any other disposition authorized, a court may
4 order a juvenile at the time of sentencing to reimburse the State for the
5 costs of the tests ordered by subsection a. of this section.

6 d. The result of a test ordered pursuant to subsection a. of this
7 section shall be confidential and health care providers and employees
8 of the Juvenile Justice Commission, the Office of Victim-Witness
9 Advocacy, a health care facility or counseling service shall not disclose
10 the result of a test performed pursuant to this section except as
11 authorized herein or as otherwise authorized by law or court order.
12 The provisions of this section shall not be deemed to prohibit
13 disclosure of a test result to the person tested.

14 e. Persons who perform tests ordered pursuant to subsection a. of
15 this section in accordance with accepted medical standards for the
16 performance of such tests shall be immune from civil and criminal
17 liability arising from their conduct.

18 f. This section shall not be construed to preclude or limit any other
19 testing for AIDS or infection with the HIV or any other related virus
20 identified as a probable causative agent of AIDS which is otherwise
21 permitted by statute, court rule or common law.

22

23 27. N.J.S.2B:20-10 is amended to read as follows:

24 2B:20-10. Grounds for excuse from jury service.

25 An excuse from jury service shall be granted only if:

26 a. The prospective juror is 75 years of age or older;

27 b. The prospective juror has served as a juror within the last three
28 years in the county to which the juror is being summoned;

29 c. Jury service will impose a severe hardship due to circumstances
30 which are not likely to change within the following year. Severe
31 hardship includes the following circumstances:

32 (1) The prospective juror has a medical inability to serve which is
33 verified by a licensed physician.

34 (2) The prospective juror will suffer a severe financial hardship
35 which will compromise the juror's ability to support himself, herself,
36 or dependents. In determining whether to excuse the prospective
37 juror, the Assignment Judge shall consider:

38 (a) the sources of the prospective juror's household income; and

39 (b) the availability and extent of income reimbursement; and

40 (c) the expected length of service.

41 (3) The prospective juror has a personal obligation to care for
42 another, including a sick, aged or infirm dependent or a minor child,
43 who requires the prospective juror's personal care and attention, and
44 no alternative care is available without severe financial hardship on the
45 prospective juror or the person requiring care.

46 (4) The prospective juror provides highly specialized technical

1 health care services for which replacement cannot reasonably be
2 obtained.

3 (5) The prospective juror is a health care worker directly involved
4 in the care of a mentally or physically handicapped person, and the
5 prospective juror's continued presence is essential to the regular and
6 personal treatment of that person.

7 (6) The prospective juror is a member of the full-time instructional
8 staff of a grammar school or high school, the scheduled jury service is
9 during the school term, and a replacement cannot reasonably be
10 obtained. In determining whether to excuse the prospective juror or
11 grant a deferral of service, the Assignment Judge shall consider:

12 (a) the impact on the school considering the number and function
13 of teachers called for jury service during the current academic year;
14 and

15 (b) the special role of certified special education teachers in
16 providing continuity of instruction to handicapped students;

17 d. The prospective juror is a member of a volunteer fire department
18 or fire patrol; [or]

19 e. The prospective juror is a volunteer member of a first aid or
20 rescue squad; or

21 f. The prospective juror is a law enforcement officer as defined in
22 section 2 of P.L. , c. (C.) (now pending before the Legislature
23 as this bill).

24 (cf: N.J.S.2B:20-10)

25

26 28. R.S.43:21-5 is amended to read as follows:

27 43:21-5. Disqualification for benefits

28 An individual shall be disqualified for benefits:

29 (a) For the week in which the individual has left work voluntarily
30 without good cause attributable to such work, and for each week
31 thereafter until the individual becomes reemployed and works four
32 weeks in employment, which may include employment for the federal
33 government, and has earned in employment at least six times the
34 individual's weekly benefit rate, as determined in each case. This
35 subsection shall apply to any individual seeking unemployment benefits
36 on the basis of employment in the production and harvesting of
37 agricultural crops, including any individual who was employed in the
38 production and harvesting of agricultural crops on a contract basis and
39 who has refused an offer of continuing work with that employer
40 following the completion of the minimum period of work required to
41 fulfill the contract.

42 (b) For the week in which the individual has been suspended or
43 discharged for misconduct connected with the work, and for the five
44 weeks which immediately follow that week (in addition to the waiting
45 period), as determined in each case. In the event the discharge should
46 be rescinded by the employer voluntarily or as a result of mediation or

1 arbitration, this subsection (b) shall not apply, provided, however, an
2 individual who is restored to employment with back pay shall return
3 any benefits received under this chapter for any week of
4 unemployment for which the individual is subsequently compensated
5 by the employer.

6 If the discharge was for gross misconduct connected with the work
7 because of the commission of an act punishable as a crime of the first,
8 second, third or fourth degree under the "New Jersey Code of Criminal
9 Justice," N.J.S.2C:1-1 et seq., the individual shall be disqualified in
10 accordance with the disqualification prescribed in subsection (a) of this
11 section and no benefit rights shall accrue to any individual based upon
12 wages from that employer for services rendered prior to the day upon
13 which the individual was discharged.

14 The director shall insure that any appeal of a determination holding
15 the individual disqualified for gross misconduct in connection with the
16 work shall be expeditiously processed by the appeal tribunal.

17 In the case of a law enforcement officer under investigation
18 pursuant to section 33 of P.L. , c. (C.) (now pending before the
19 Legislature as this bill), benefits shall not be withheld until an internal
20 investigation has been completed and the officer has been found guilty
21 and discharged.

22 (c) If it is found that the individual has failed, without good cause,
23 either to apply for available, suitable work when so directed by the
24 employment office or the director or to accept suitable work when it
25 is offered, or to return to the individual's customary self-employment
26 (if any) when so directed by the director. The disqualification shall
27 continue for the week in which the failure occurred and for the three
28 weeks which immediately follow that week (in addition to the waiting
29 period), as determined:

30 (1) In determining whether or not any work is suitable for an
31 individual, consideration shall be given to the degree of risk involved
32 to health, safety, and morals, the individual's physical fitness and prior
33 training, experience and prior earnings, the individual's length of
34 unemployment and prospects for securing local work in the individual's
35 customary occupation, and the distance of the available work from the
36 individual's residence. In the case of work in the production and
37 harvesting of agricultural crops, the work shall be deemed to be
38 suitable without regard to the distance of the available work from the
39 individual's residence if all costs of transportation are provided to the
40 individual and the terms and conditions of hire are as favorable or
41 more favorable to the individual as the terms and conditions of the
42 individual's base year employment.

43 (2) Notwithstanding any other provisions of this chapter, no work
44 shall be deemed suitable and benefits shall not be denied under this
45 chapter to any otherwise eligible individual for refusing to accept new
46 work under any of the following conditions: (a) if the position offered

1 is vacant due directly to a strike, lockout, or other labor dispute; (b)
2 if the remuneration, hours, or other conditions of the work offered are
3 substantially less favorable to the individual than those prevailing for
4 similar work in the locality; (c) if as a condition of being employed the
5 individual would be required to join a company union or to resign from
6 or refrain from joining any bona fide labor organization.

7 (d) If it is found that this unemployment is due to a stoppage of
8 work which exists because of a labor dispute at the factory,
9 establishment or other premises at which the individual is or was last
10 employed. No disqualification under this subsection shall apply if it is
11 shown that:

12 (1) The individual is not participating in or financing or directly
13 interested in the labor dispute which caused the stoppage of work; and

14 (2) The individual does not belong to a grade or class of workers
15 of which, immediately before the commencement of the stoppage,
16 there were members employed at the premises at which the stoppage
17 occurs, any of whom are participating in or financing or directly
18 interested in the dispute; provided that if in any case in which (1) or
19 (2) above applies, separate branches of work which are commonly
20 conducted as separate businesses in separate premises are conducted
21 in separate departments of the same premises, each department shall,
22 for the purpose of this subsection, be deemed to be a separate factory,
23 establishment, or other premises.

24 (e) For any week with respect to which the individual is receiving
25 or has received remuneration in lieu of notice.

26 (f) For any week with respect to which or a part of which the
27 individual has received or is seeking unemployment benefits under an
28 unemployment compensation law of any other state or of the United
29 States; provided that if the appropriate agency of the other state or of
30 the United States finally determines that the individual is not entitled
31 to unemployment benefits, this disqualification shall not apply.

32 (g) (1) For a period of one year from the date of the discovery by
33 the division of the illegal receipt or attempted receipt of benefits
34 contrary to the provisions of this chapter, as the result of any false or
35 fraudulent representation; provided that any disqualification may be
36 appealed in the same manner as any other disqualification imposed
37 hereunder; and provided further that a conviction in the courts of this
38 State arising out of the illegal receipt or attempted receipt of these
39 benefits in any proceeding instituted against the individual under the
40 provisions of this chapter or any other law of this State shall be
41 conclusive upon the appeals tribunal and the board of review.

42 (2) A disqualification under this subsection shall not preclude the
43 prosecution of any civil, criminal or administrative action or
44 proceeding to enforce other provisions of this chapter for the
45 assessment and collection of penalties or the refund of any amounts
46 collected as benefits under the provisions of R.S.43:21-16, or to

1 enforce any other law, where an individual obtains or attempts to
2 obtain by theft or robbery or false statements or representations any
3 money from any fund created or established under this chapter or any
4 negotiable or nonnegotiable instrument for the payment of money from
5 these funds, or to recover money erroneously or illegally obtained by
6 an individual from any fund created or established under this chapter.

7 (h) (1) Notwithstanding any other provisions of this chapter
8 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied
9 benefits for any week because the individual is in training approved
10 under section 236(a)(1) of the Trade Act of 1974, P.L.93-618, 19
11 U.S.C.§2296, nor shall the individual be denied benefits by reason of
12 leaving work to enter this training, provided the work left is not
13 suitable employment, or because of the application to any week in
14 training of provisions in this chapter (R.S.43:21-1 et seq.), or any
15 applicable federal unemployment compensation law, relating to
16 availability for work, active search for work, or refusal to accept
17 work.

18 (2) For purposes of this subsection (h), the term "suitable"
19 employment means, with respect to an individual, work of a
20 substantially equal or higher skill level than the individual's past
21 adversely affected employment (as defined for purposes of the Trade
22 Act of 1974, P.L.93-618, 19 U.S.C.§2102 et seq.), and wages for this
23 work at not less than 80% of the individual's average weekly wage, as
24 determined for the purposes of the Trade Act of 1974.

25 (i) For benefit years commencing after June 30, 1984, for any week
26 in which the individual is a student in full attendance at, or on vacation
27 from, an educational institution, as defined in subsection (y) of
28 R.S.43:21-19; except that this subsection shall not apply to any
29 individual attending a training program approved by the division to
30 enhance the individual's employment opportunities, as defined under
31 subsection (c) of R.S.43:21-4; nor shall this subsection apply to any
32 individual who, during the individual's base year, earned sufficient
33 wages, as defined under subsection (e) of R.S.43:21-4, while attending
34 an educational institution during periods other than established and
35 customary vacation periods or holiday recesses at the educational
36 institution, to establish a claim for benefits. For purposes of this
37 subsection, an individual shall be treated as a full-time student for any
38 period:

39 (1) During which the individual is enrolled as a full-time student at
40 an educational institution, or

41 (2) Which is between academic years or terms, if the individual was
42 enrolled as a full-time student at an educational institution for the
43 immediately preceding academic year or term.

44 (cf: P.L.1985, c.508, s.3)

45

46 29. N.J.S.40A:14-147 is amended to read as follows:

1 40A:14-147. Except as otherwise provided by law, no permanent
2 member or officer of the police department or force shall be removed
3 from his office, employment or position for political reasons or for any
4 cause other than incapacity, misconduct, or disobedience of rules and
5 regulations established for the government of the police department
6 and force, nor shall such member or officer be suspended, removed,
7 fined or reduced in rank from or in office, employment, or position
8 therein, except for just cause as hereinbefore provided and then only
9 upon a written complaint setting forth the charge or charges against
10 such member or officer. [Said] The complaint shall be filed in the
11 office of the body, officer or officers having charge of the department
12 or force wherein the complaint is made and a copy shall be served
13 upon the member or officer so charged, with notice of a designated
14 hearing thereon by the proper authorities, which shall be not less than
15 10 nor more than 30 days from date of service of the complaint.

16 A complaint charging a violation of the internal rules and
17 regulations established for the conduct of a law enforcement unit shall
18 be filed no later than the 45th day after the date on which the person
19 filing the complaint obtained sufficient information to file the matter
20 upon which the complaint is based. The 45-day time limit shall not
21 apply if an investigation of a law enforcement officer for a violation of
22 the internal rules or regulations of the law enforcement unit is included
23 directly or indirectly within a concurrent investigation of that officer
24 for a violation of the criminal laws of this State. The 45-day limit shall
25 begin on the day after the disposition of the criminal investigation.
26 The 45-day requirement of this paragraph for the filing of a complaint
27 against an officer shall not apply to a filing of a complaint by a private
28 individual.

29 A failure to comply with said provisions as to the service of the
30 complaint and the time within which a complaint is to be filed shall
31 require a dismissal of the complaint.

32 Notwithstanding any provisions of this title or Title 11A to the
33 contrary, any person designated to consider a complaint filed pursuant
34 to the provisions of this section shall not be an officer, agent,
35 representative, elected or appointed official, or employee of the
36 municipality or county or any subdivision thereof.

37 (cf: P.L.1988, c.145, s.1)

38

39 30. Section 3 of P.L.1978, c.63 (C.40A:9-1.5) is amended to
40 read as follows:

41 3. The governing body of a local unit which has adopted a
42 resolution or ordinance, as the case may be, pursuant to section 1 of
43 this act shall require therein that all nonresidents subsequently
44 appointed to positions or employments, except for a county law
45 enforcement officer, shall become bona fide residents of the local unit
46 within 1 year of their appointment, except as otherwise provided in

1 such ordinance or resolution pursuant to sections 4 and 5 of this act.

2 It shall be the duty of the hiring authority to insure that all
3 employees hired after the effective date of this act remain bona fide
4 residents of the local unit in which they are employed. Failure of any
5 such employee to maintain residency in a local unit shall be cause for
6 removal or discharge from service. In the event such employee does
7 not maintain bona fide residency, the hiring authority shall notify said
8 employee that failure to again take up bona fide residency in the local
9 unit within 6 months of such notification will result in removal or
10 discharge from service. Such removal or discharge shall take effect on
11 the date specified in such notice, but any employee so removed or
12 discharged shall have the right to such appeals as are available
13 pursuant to law.

14 (cf: P.L.1978, c.63, s.3)

15

16 31. (New section) If a law enforcement officer is ordered to testify
17 or produce a record, document or other item in a civil, administrative
18 or disciplinary proceeding, the officer shall be granted transactional
19 immunity and shall not be prosecuted or punished in any criminal
20 action or proceeding for or on account of any such testimony or the
21 production of any such record, document or other item; provided
22 however, the officer may be prosecuted for perjury, giving a false
23 statement, or for an offense involving a failure to comply with the
24 order.

25

26 32. (New section) A law enforcement agency as defined in section
27 2 of P.L. , c. (C.) (now pending before the Legislature as this
28 bill) shall adopt and implement the guidelines governing the "Internal
29 Affairs Policy and Procedures" of the Police Management Manual
30 promulgated by the Police Bureau of the Division of Criminal Justice
31 in the Department of Law and Public Safety.

32

33 33. (New section) A law enforcement officer holding employment,
34 whose compensation is paid by any municipality of this State, shall
35 indicate in writing to the proper disbursing officer of his municipality
36 his desire to have a deduction made from his compensation for
37 payment of insurance premiums written on an individual plan of
38 supplemental insurance. The disbursing officer shall make the
39 deduction from the compensation of that person, and the disbursing
40 officer shall transmit the sum deducted to the company carrying such
41 insurance. The insurance company shall be so designated by the local
42 bargaining unit of the employee. Any costs incurred by the
43 municipality for administration of this program shall be reimbursed by
44 the insurance company. The Commissioner of Insurance shall
45 promulgate rules and regulations concerning payment of administrative
46 fees by insurance companies to a municipality.

1 34. (New section) The provisions of this act shall be liberally
2 construed to effectuate the Legislature's intent.

3
4 35. This act shall take effect on the first day of the fourth month
5 following enactment.

6
7
8 STATEMENT

9
10 This bill, the "Law Enforcement Officers' Protection Act clarifies
11 and codifies certain law enforcement officer powers, protections,
12 privileges, and rights. It also establishes a Law Enforcement Officers
13 Training and Equipment Fund and provides for its funding by imposing
14 additional monetary penalties upon adults convicted of crimes and
15 juveniles adjudicated delinquent.

16 The bill:

17 (1) Provides for life imprisonment without parole for murderers
18 convicted of killing law enforcement officers but who escape the death
19 penalty;

20 (2) Establishes and extends certain tort coverages and immunities
21 to law enforcement officers, most notably in areas of motor vehicle
22 pursuits, firing a weapon in the performance of official duties, and
23 rendering good faith assistance to victims of an accident or in times of
24 emergency;

25 (3) Entitles law enforcement officers to reimbursements of legal
26 fees in certain civil suits and disciplinary hearings;

27 (4) Exempts law enforcement officers from the State seat belt law
28 when in the actual performance of their duties;

29 (5) Clarifies the Statewide police powers of all law enforcement
30 officers, particularly county park police;

31 (6) Requires HIV and AIDS testing whenever body fluids have
32 been transmitted between a law enforcement officer and any person
33 (adult or juvenile) arrested for an offense;

34 (7) Permits trained law enforcement officers to use cardiac
35 defibrillation;

36 (8) Authorizes certain retired law enforcement officers to carry a
37 handgun under certain circumstances;

38 (9) Provides for the immediate expungement of charges against any
39 law enforcement officer who is acquitted of those charges;

40 (10) Provides that in any disciplinary or criminal proceeding
41 instituted by or on complaint of a municipality or other legal
42 proceeding the officer or member shall be reimbursed for the expense
43 of his defense if the proceedings are dismissed or determined in favor
44 of the officer;

45 (11) Provides that law enforcement agencies shall adopt and
46 implement the guidelines governing the "Internal Affairs Policy and

1 Procedures" promulgated by the Police Bureau of the Division of
2 Criminal Justice in the Department of Law and Public Safety;
3 (12) Exempts law enforcement officers from jury duty;
4 (13) Removes residency requirements for county law enforcement
5 officers;
6 (14) Provides that benefits shall not be withheld from a law
7 enforcement officer under investigation until the officer is found guilty
8 and discharged;
9 (15) Provides that any person designated to hear charges shall not
10 be an officer, agent, representative, elected or appointed official or
11 employee of the municipality or county or any subdivision;
12 (16) Permits municipal law enforcement officers to request in
13 writing that a deduction be made from their salary for payment of
14 supplemental life insurance;
15 (17) Provides transactional immunity for law enforcement officers;
16 and
17 (18) Permits counties and municipalities to hire a qualified law
18 enforcement officer in good standing who had been laid off within 36
19 months prior to the appointment.
20
21
22 _____
23
24 "Law Enforcement Officers' Protection Act."