

ASSEMBLY, No. 438

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen ROMA and STUHLTRAGER

1 AN ACT concerning penalties for sexual assault and revising various  
2 parts of the New Jersey Statutes.

3

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

6

7 1. N.J.S.2C:14-2 is amended to read as follows:

8 2C:14-2. Sexual assault. a. An actor is guilty of aggravated sexual  
9 assault if he commits an act of sexual penetration with another person  
10 under any one of the following circumstances:

11 (1) The victim is less than 13 years old;

12 (2) The victim is at least 13 but less than 16 years old; and

13 (a) The actor is related to the victim by blood or affinity to the  
14 third degree, or

15 (b) The actor has supervisory or disciplinary power over the victim  
16 by virtue of the actor's legal, professional, or occupational status, or

17 (c) The actor is a foster parent, a guardian, or stands in loco  
18 parentis within the household;

19 (3) The act is committed during the commission, or attempted  
20 commission, whether alone or with one or more other persons, of  
21 robbery, kidnapping, homicide, aggravated assault on another,  
22 burglary, arson or criminal escape;

23 (4) The actor is armed with a weapon or any object fashioned in  
24 such a manner as to lead the victim to reasonably believe it to be a  
25 weapon and threatens by word or gesture to use the weapon or object;

26 (5) The actor is aided or abetted by one or more other persons and  
27 either of the following circumstances exists:

28 (a) The actor uses physical force or coercion, or

29 (b) The victim is one whom the actor knew or should have known  
30 was physically helpless, mentally defective or mentally incapacitated;

31 (6) The actor uses physical force or coercion and severe personal  
32 injury is sustained by the victim.

**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 Aggravated sexual assault is a crime of the first degree.

2 A person convicted under this subsection shall be sentenced to a  
3 term of imprisonment. Notwithstanding the provisions of paragraph  
4 (1) of subsection a. of N.J.S.2C:43-6, the term of imprisonment may  
5 be between 15 years and 30 years and shall include a minimum term of  
6 15 years, during which time the defendant shall not be eligible for  
7 parole. The term of imprisonment imposed pursuant to this subsection  
8 shall not run concurrently with any other term of imprisonment  
9 imposed by the court.

10 b. An actor is guilty of sexual assault if he commits an act of sexual  
11 contact with a victim who is less than 13 years old and the actor is at  
12 least four years older than the victim.

13 c. An actor is guilty of sexual assault if he commits an act of sexual  
14 penetration with another person under any one of the following  
15 circumstances:

16 (1) The actor uses physical force or coercion, but the victim does  
17 not sustain severe personal injury;

18 (2) The victim is one whom the actor knew or should have known  
19 was physically helpless, mentally defective or mentally incapacitated;

20 (3) The victim is on probation or parole, or is detained in a  
21 hospital, prison or other institution and the actor has supervisory or  
22 disciplinary power over the victim by virtue of the actor's legal,  
23 professional or occupational status;

24 (4) The victim is at least 16 but less than 18 years old and:

25 (a) The actor is related to the victim by blood or affinity to the  
26 third degree; or

27 (b) The actor has supervisory or disciplinary power over the  
28 victim; or

29 (c) The actor is a foster parent, a guardian, or stands in loco  
30 parentis within the household;

31 (5) The victim is at least 13 but less than 16 years old and the actor  
32 is at least four years older than the victim.

33 Sexual assault is a crime of the second degree.

34 (cf: P.L.1989, c.228, s.3)

35

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

37 2C:43-7. Sentence of Imprisonment for Crime; Extended Terms.

38 a. In the cases designated in section 2C:44-3, a person who has been  
39 convicted of a crime may be sentenced to an extended term of  
40 imprisonment, as follows:

41 (1) In case of aggravated manslaughter sentenced under subsection  
42 c. of N.J.S.2C:11-4 [or], kidnapping when sentenced as a crime of the  
43 first degree under paragraph (1) of subsection c. of 2C:13-1 or  
44 aggravated sexual assault pursuant to subsection a. of N.J.S.2C:14-2  
45 for a specific term of years which shall be between 30 years and life  
46 imprisonment;

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

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

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

9 (5) In the case of a crime of the fourth degree pursuant to  
10 2C:43-6c., 2C:44-3d. and 2C:44-3e. for a term of five years, and in the  
11 case of a crime of the fourth degree pursuant to 2C:43-6f. for a term  
12 which shall be fixed by the court between three and five years.

13 b. As part of a sentence for an extended term and notwithstanding  
14 the provisions of 2C:43-9, the court may fix a minimum term not to  
15 exceed one-half of the term set pursuant to subsection a. during which  
16 the defendant shall not be eligible for parole or a term of 25 years  
17 during which time the defendant shall not be eligible for parole where  
18 the sentence imposed was life imprisonment; provided that no  
19 defendant shall be eligible for parole at a date earlier than otherwise  
20 provided by the law governing parole.

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

35 d. In the case of a person sentenced to an extended term pursuant  
36 to N.J.S.2C:43-6g., the court shall impose a sentence within the ranges  
37 permitted by N.J.S.2C:43-7a(2), (3), (4) or (5) according to the  
38 degree or nature of the crime for which the defendant is being  
39 sentenced, which sentence shall include a minimum term which shall  
40 be fixed at 15 years for a crime of the first or second degree, eight  
41 years for a crime of the third degree, or five years for a crime of the  
42 fourth degree during which the defendant shall not be eligible for  
43 parole. Where the sentence imposed is life imprisonment, the court  
44 shall impose a minimum term of 25 years during which the defendant  
45 shall not be eligible for parole, except that where the term of life  
46 imprisonment is imposed on a person convicted of a violation of

1 N.J.S.2C:35-3, the term of parole eligibility shall be 30 years.  
2 (cf: P.L.1990, c.87, s.3)

3

4 3. N.J.S.2C:44-1 is amended to read as follows:

5 2C:44-1. Criteria for Withholding or Imposing Sentence of  
6 Imprisonment. a. In determining the appropriate sentence to be  
7 imposed on a person who has been convicted of an offense, the court  
8 shall consider the following aggravating circumstances:

9 (1) The nature and circumstances of the offense, and the role of the  
10 actor therein, including whether or not it was committed in an  
11 especially heinous, cruel, or depraved manner;

12 (2) The gravity and seriousness of harm inflicted on the victim,  
13 including whether or not the defendant knew or reasonably should  
14 have known that the victim of the offense was particularly vulnerable  
15 or incapable of resistance due to advanced age, ill-health, or extreme  
16 youth, or was for any other reason substantially incapable of exercising  
17 normal physical or mental power of resistance;

18 (3) The risk that the defendant will commit another offense;

19 (4) A lesser sentence will depreciate the seriousness of the  
20 defendant's offense because it involved a breach of the public trust  
21 under chapters 27 and 30, or the defendant took advantage of a  
22 position of trust or confidence to commit the offense;

23 (5) There is a substantial likelihood that the defendant is involved  
24 in organized criminal activity;

25 (6) The extent of the defendant's prior criminal record and the  
26 seriousness of the offenses of which he has been convicted;

27 (7) The defendant committed the offense pursuant to an agreement  
28 that he either pay or be paid for the commission of the offense and the  
29 pecuniary incentive was beyond that inherent in the offense itself;

30 (8) The defendant committed the offense against a police or other  
31 law enforcement officer, correctional employee or fireman, acting in  
32 the performance of his duties while in uniform or exhibiting evidence  
33 of his authority, or the defendant committed the offense because of the  
34 status of the victim as a public servant;

35 (9) The need for deterring the defendant and others from violating  
36 the law;

37 (10) The offense involved fraudulent or deceptive practices  
38 committed against any department or division of State government;

39 (11) The imposition of a fine, penalty or order of restitution without  
40 also imposing a term of imprisonment would be perceived by the  
41 defendant or others merely as part of the cost of doing business, or as  
42 an acceptable contingent business or operating expense associated  
43 with the initial decision to resort to unlawful practices;

44 (12) The defendant committed the offense against a person who he  
45 knew or should have known was 60 years of age or older, or disabled.

46 b. In determining the appropriate sentence to be imposed on a

1 person who has been convicted of an offense, the court may properly  
2 consider the following mitigating circumstances:

3 (1) The defendant's conduct neither caused nor threatened serious  
4 harm;

5 (2) The defendant did not contemplate that his conduct would  
6 cause or threaten serious harm;

7 (3) The defendant acted under a strong provocation;

8 (4) There were substantial grounds tending to excuse or justify the  
9 defendant's conduct, though failing to establish a defense;

10 (5) The victim of the defendant's conduct induced or facilitated its  
11 commission;

12 (6) The defendant has compensated or will compensate the victim  
13 of his conduct for the damage or injury that he sustained, or will  
14 participate in a program of community service;

15 (7) The defendant has no history of prior delinquency or criminal  
16 activity or has led a law-abiding life for a substantial period of time  
17 before the commission of the present offense;

18 (8) The defendant's conduct was the result of circumstances  
19 unlikely to recur;

20 (9) The character and attitude of the defendant indicate that he is  
21 unlikely to commit another offense;

22 (10) The defendant is particularly likely to respond affirmatively to  
23 probationary treatment;

24 (11) The imprisonment of the defendant would entail excessive  
25 hardship to himself or his dependents;

26 (12) The willingness of the defendant to cooperate with law  
27 enforcement authorities;

28 (13) The conduct of a youthful defendant was substantially  
29 influenced by another person more mature than the defendant.

30 c. (1) A plea of guilty by a defendant or failure to so plead shall  
31 not be considered in withholding or imposing a sentence of  
32 imprisonment.

33 (2) When imposing a sentence of imprisonment the court shall  
34 consider the defendant's eligibility for release under the law governing  
35 parole, including time credits awarded pursuant to Title 30 of the  
36 Revised Statutes, in determining the appropriate term of imprisonment.

37 d. Presumption of imprisonment. The court shall deal with a  
38 person who has been convicted of a crime of the first or second degree  
39 by imposing a sentence of imprisonment unless, having regard to the  
40 character and condition of the defendant, it is of the opinion that his  
41 imprisonment would be a serious injustice which overrides the need to  
42 deter such conduct by others.

43 e. The court shall deal with a person convicted of an offense other  
44 than a crime of the first or second degree, who has not previously been  
45 convicted of an offense, without imposing sentence of imprisonment  
46 unless, having regard to the nature and circumstances of the offense

1 and the history, character and condition of the defendant, it is of the  
2 opinion that his imprisonment is necessary for the protection of the  
3 public under the criteria set forth in subsection a.

4 f. Presumptive Sentences. (1) Except for the crime of murder,  
5 unless the preponderance of aggravating or mitigating factors, as set  
6 forth in subsections a. and b., weighs in favor of a higher or lower  
7 term within the limits provided in N.J.S.2C:43-6, when a court  
8 determines that a sentence of imprisonment is warranted, it shall  
9 impose sentence as follows:

10 (a) To a term of 20 years for aggravated manslaughter [or],  
11 kidnapping pursuant to paragraph (1) of subsection c. of  
12 N.J.S.2C:13-1 or aggravated sexual assault pursuant to subsection a.  
13 of N.J.S.2C:14-2 when the offense constitutes a crime of the first  
14 degree;

15 (b) Except as provided in paragraph (a) of this subsection to a term  
16 of 15 years for a crime of the first degree;

17 (c) To a term of seven years for a crime of the second degree;

18 (d) To a term of four years for a crime of the third degree; and

19 (e) To a term of nine months for a crime of the fourth degree.

20 In imposing a minimum term pursuant to 2C:43-6b., the sentencing  
21 court shall specifically place on the record the aggravating factors set  
22 forth in this section which justify the imposition of a minimum term.

23 Unless the preponderance of mitigating factors set forth in  
24 subsection b. weighs in favor of a lower term within the limits  
25 authorized, sentences imposed pursuant to 2C:43-7a.(1) shall have a  
26 presumptive term of life imprisonment. Unless the preponderance of  
27 aggravating and mitigating factors set forth in subsections a. and b.  
28 weighs in favor of a higher or lower term within the limits authorized,  
29 sentences imposed pursuant to 2C:43-7a.(2) shall have a presumptive  
30 term of 50 years' imprisonment; sentences imposed pursuant to  
31 2C:43-7a.(3) shall have a presumptive term of 15 years' imprisonment;  
32 and sentences imposed pursuant to 2C:43-7a.(4) shall have a  
33 presumptive term of seven years' imprisonment.

34 In imposing a minimum term pursuant to 2C:43-7b., the sentencing  
35 court shall specifically place on the record the aggravating factors set  
36 forth in this section which justify the imposition of a minimum term.

37 (2) In cases of convictions for crimes of the first or second degree  
38 where the court is clearly convinced that the mitigating factors  
39 substantially outweigh the aggravating factors and where the interest  
40 of justice demands, the court may sentence the defendant to a term  
41 appropriate to a crime of one degree lower than that of the crime for  
42 which he was convicted. If the court does impose sentence pursuant  
43 to this paragraph, or if the court imposes a noncustodial or  
44 probationary sentence upon conviction for a crime of the first or  
45 second degree, such sentence shall not become final for 10 days in  
46 order to permit the appeal of such sentence by the prosecution.

1 g. Imposition of Noncustodial Sentences in Certain Cases. If the  
2 court, in considering the aggravating factors set forth in subsection a.,  
3 finds the aggravating factor in paragraph a.(2) or a.(12) and does not  
4 impose a custodial sentence, the court shall specifically place on the  
5 record the mitigating factors which justify the imposition of a  
6 noncustodial sentence.

7 (cf: P.L.1989, c.23, s.4)

8

9 4. (New section) a. In addition to any disposition made pursuant  
10 to the provisions of N.J.S.2C:43-2 or any other statute or any  
11 assessments imposed pursuant to section 2 of P.L.1979, N.J.S., c.396  
12 (C.2C:43-3.1) and notwithstanding the provisions of N.J.S.2C:43-3,  
13 any person convicted of violating N.J.S.2C:14-2 or 2C:14-3 shall be  
14 assessed \$500.00.

15 b. All moneys collected pursuant to this section shall be collected  
16 as provided for collection of fines and restitution in section 3 of  
17 P.L.1979, c.396 (C.2C:46-4) and shall be forwarded to the  
18 Department of Corrections as provided for in subsection c. of this  
19 section.

20 c. All moneys collected pursuant to this section shall be forwarded  
21 to the Department of Corrections to be deposited in a nonlapsing fund  
22 to be known as the "Sexual Offender Treatment Fund," and dedicated  
23 to the establishment and maintenance of a treatment program for  
24 sexual offenders. The Department of Corrections in consultation with  
25 the Department of Human Services shall establish a mandatory  
26 treatment program for sexual offenders which shall include extensive  
27 psychological testing, individual and group therapy sessions least twice  
28 a week, educational classes, family sessions, substance abuse  
29 counseling, and vocational training.

30 d. The Department of Corrections shall promulgate rules and  
31 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
32 c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this section.

33

34 5. N.J.S.2C:46-1 is amended to read as follows:

35 2C:46-1. Time and Method of Payment; Disposition of Funds.

36 a. When a defendant is sentenced to pay an assessment pursuant to  
37 section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty imposed  
38 pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed  
39 pursuant to N.J.S.2C:35-20, an assessment imposed pursuant to  
40 section 4 of P.L. .c. (C. ) (now pending before the Legislature  
41 as this bill) or to make restitution, the court may grant permission for  
42 the payment to be made within a specified period of time or in  
43 specified installments. If no such permission is embodied in the  
44 sentence, the assessment, fine, penalty, fee or restitution shall be  
45 payable forthwith, and the court shall file a copy of the judgment of  
46 conviction with the Clerk of the Superior Court who shall enter the

1 following information upon the record of docketed judgments:

2 (1) the name of the convicted person as judgment debtor;

3 (2) the amount of the assessment imposed pursuant to section 2 of  
4 P.L.1979, c.396 (C.2C:43-3.1) and the Violent Crimes Compensation  
5 Board as a judgment creditor in that amount;

6 (3) the amount of any restitution ordered and the name of any  
7 persons entitled to receive payment as judgment creditors in the  
8 amount and according to the priority set by the court;

9 (4) the amount of any fine and the governmental entity entitled to  
10 receive payment pursuant to N.J.S.2C:46-4;

11 (5) the amount of the mandatory Drug Enforcement and Demand  
12 Reduction penalty imposed;

13 (6) the amount of the forensic laboratory fee imposed; [and]

14 (7) the date of the order; and

15 (8) the amount of the assessment imposed pursuant to section 4 of  
16 P.L. , c. (C. )(now pending before the Legislature as this bill).

17 Where there is more than one judgment creditor the creditors shall  
18 be given priority consistent with the provisions of section 13 of  
19 P.L.1991, c.329 (C.2C:46-4.1). These entries shall have the same  
20 force as a civil judgment docketed in the Superior Court.

21 b. (1) When a defendant sentenced to pay an assessment imposed  
22 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a  
23 penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee  
24 imposed pursuant to N.J.S.2C:35-20, an assessment imposed pursuant  
25 to section 4 P.L. , c. (C. )(now pending before the Legislature  
26 as this bill) or to make restitution is also sentenced to probation, the  
27 court shall make continuing payment of installments on the assessment  
28 and restitution a condition of probation, and may make continuing  
29 payment of installments on the fine, the mandatory Drug Enforcement  
30 and Demand Reduction penalty or the forensic laboratory fee a  
31 condition of probation.

32 (2) When a defendant sentenced to pay an assessment imposed  
33 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a  
34 penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee  
35 imposed pursuant to N.J.S.2C:35-20, an assessment imposed pursuant  
36 to section 4 of P.L. , c. (C. )(now pending before the  
37 Legislature as this bill) or to make restitution is also sentenced to a  
38 custodial term in a State correctional facility, the court may require the  
39 defendant to pay installments on the assessment, penalty, fee, fine and  
40 restitution.

41 c. The defendant shall pay an assessment imposed pursuant to  
42 section 2 of P.L.1979, c.396 (C.2C:43-3.1)[,] or pursuant to section 4  
43 of P.L. , c. (C. )(now pending before the Legislature as this  
44 bill) restitution, penalty, fee or fine or any installment thereof to the  
45 officer entitled by law to collect the payment. In the event of default  
46 in payment, such agency shall take appropriate action for its collection.

1 d. (1) When, in connection with a sentence of probation, a  
2 defendant is sentenced to pay an assessment imposed pursuant to  
3 section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty imposed  
4 pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed  
5 pursuant to N.J.S.2C:35-20, an assessment imposed pursuant to  
6 section 4 of P.L. , c. (C. ) (now pending before the Legislature  
7 as this bill) or to make restitution, the defendant, in addition, shall be  
8 sentenced to pay a transaction fee on each occasion that the defendant  
9 makes a payment or an installment payment, until the defendant has  
10 paid the full amount he is sentenced to pay. The Administrative Office  
11 of the Courts shall promulgate a transaction fee schedule for use in  
12 connection with installment payments made pursuant to this paragraph;  
13 provided, however, the transaction fee on an installment payment shall  
14 not exceed \$1.00.

15 (2) When, in connection with a custodial sentence in a State  
16 correctional institution, a defendant is sentenced to pay an assessment  
17 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a  
18 fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic  
19 laboratory fee imposed pursuant to N.J.S.2C:35-20, an assessment  
20 imposed pursuant to section 4 of P.L. , c. (C. ) (now pending  
21 before the Legislature as this bill) or to make restitution, the  
22 defendant, in addition, shall be sentenced to pay a transaction fee on  
23 each occasion that the defendant makes a payment or an installment  
24 payment until the defendant has paid the full amount he is sentenced  
25 to pay. The Department of Corrections shall promulgate a transaction  
26 fee schedule for use in connection with installment payments made  
27 pursuant to this paragraph; provided, however, the transaction fee on  
28 an installment payment shall not exceed \$1.00.

29 (cf: P.L.1992, c.169, s.1)

30

31 6. N.J.S.2C:46-2 is amended to read as follows:

32 2C:46-2. Consequence of nonpayment; summary collection. a.  
33 When a defendant sentenced to pay an assessment imposed pursuant  
34 to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or pursuant to P.L.  
35 , c. (C. ) (now pending before the Legislature as this bill), fine or  
36 to make restitution defaults in the payment thereof or of any  
37 installment, upon the motion of the person authorized by law to collect  
38 the payment, the motion of the prosecutor, the motion of the victim  
39 entitled to payment of restitution, the motion of the Violent Crimes  
40 Compensation Board, the motion of the State or county Office of  
41 Victim and Witness Advocacy or upon its own motion, the court shall  
42 recall him, or issue a summons or a warrant of arrest for his  
43 appearance. The court shall afford the person notice and an  
44 opportunity to be heard on the issue of default. Failure to make any  
45 payment when due shall be considered a default. The standard of  
46 proof shall be by a preponderance of the evidence, and the burden of

1 establishing good cause for a default shall be on the person who has  
2 defaulted.

3 (1) If the court finds that the person has defaulted without good  
4 cause, the court shall:

5 (a) Order the suspension of the driver's license or the nonresident  
6 reciprocity driving privilege of the person; and

7 (b) Prohibit the person from obtaining a driver's license or  
8 exercising reciprocity driving privileges until the person has made all  
9 past due payments; and

10 (c) Notify the Director of the Division of Motor Vehicles of the  
11 action taken.

12 (2) If the court finds that the person defaulted on payment of a fine  
13 without good cause and finds that the default was willful, the court  
14 may, in addition to the action required by paragraph a. (1) of this  
15 section, impose a term of imprisonment to achieve the objective of the  
16 fine. The term of imprisonment in such case shall be specified in the  
17 order of commitment. It need not be equated with any particular  
18 dollar amount but it shall not exceed one day for each \$20.00 of the  
19 fine nor 40 days if the fine was imposed upon conviction of a  
20 disorderly persons offense nor 25 days for a petty disorderly persons  
21 offense nor one year in any other case, whichever is the shorter period.  
22 In no case shall the total period of imprisonment in the case of a  
23 disorderly persons offense for both the sentence of imprisonment and  
24 for failure to pay a fine exceed six months.

25 (3) Except where incarceration is ordered pursuant to paragraph  
26 a. (2) of this section, if the court finds that the person has defaulted  
27 the court shall take appropriate action to modify or establish a  
28 reasonable schedule for payment, and, in the case of a fine, if the court  
29 finds that the circumstances that warranted the fine have changed or  
30 that it would be unjust to require payment, the court may revoke or  
31 suspend the fine or the unpaid portion of the fine.

32 (4) When failure to pay an assessment imposed pursuant to section  
33 2 of P.L.1979, c.396 (C.2C:43-3.1) or pursuant to section 4 of P.L.  
34 , c. (C. ) (now pending before the Legislature as this bill) or  
35 restitution is determined to be willful, the failure to do so shall be  
36 considered to be contumacious.

37 (5) When a fine, assessment imposed pursuant to section 2 of  
38 P.L.1979, c.396 (C.2C:43-3.1) or pursuant to section 4 of P.L. , c.  
39 (C. ) (now pending before the Legislature as this bill) or restitution  
40 is imposed on a corporation, it is the duty of the person or persons  
41 authorized to make disbursements from the assets of the corporation  
42 or association to pay it from such assets and their failure so to do may  
43 be held to be contumacious.

44 b. Upon any default in the payment of a fine, assessment imposed  
45 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or pursuant to  
46 section 4 of P.L. , c. (C. ) (now pending before the Legislature

1 as this bill), restitution, or any installment thereof, execution may be  
2 levied and such other measures may be taken for collection of it or the  
3 unpaid balance thereof as are authorized for the collection of an  
4 unpaid civil judgment entered against the defendant in an action on a  
5 debt.

6 c. Upon any default in the payment of restitution or any installment  
7 thereof, the victim entitled to the payment may institute summary  
8 collection proceedings authorized by subsection b. of this section.

9 d. Upon any default in the payment of an assessment imposed  
10 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or pursuant to  
11 section 4 of P.L. , c. (C. ) (now pending before the Legislature  
12 as this bill) or any installment thereof, the Violent Crimes  
13 Compensation Board or the party responsible for collection may  
14 institute summary collection proceedings authorized by subsection b.  
15 of this section.

16 (cf: P.L.1991, c.329, s.11)

17

18 7. Section 3 of P.L.1979, c.396 (C.2C:46-4) is amended to read as  
19 follows:

20 3. a. All fines, assessments imposed pursuant to section 2 of  
21 P.L.1979, c.396 (C.2C:43-3.1) or pursuant to section 4 of P.L. , c.  
22 (C. ) (now pending before the Legislature as this bill) and  
23 restitution shall be collected as follows:

24 (1) All fines, assessments imposed pursuant to section 2 of  
25 P.L.1979, c.396 (C.2C:43-3.1) or pursuant to section 4 of P.L. , c.  
26 (C. ) (now pending before the Legislature as this bill.) and  
27 restitution imposed by the Superior Court or otherwise imposed at the  
28 county level, shall be collected by the county probation department  
29 except when such fine, assessment or restitution is imposed in  
30 conjunction with a custodial sentence to a State correctional facility in  
31 which event such fine, assessment or restitution shall be collected by  
32 the Department of Corrections. An adult prisoner of a State  
33 correctional institution who has not paid an assessment imposed  
34 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution  
35 shall have the assessment or restitution deducted from any income the  
36 inmate receives as a result of labor performed at the institution or on  
37 any type of work release program or, pursuant to regulations  
38 promulgated by the Commissioner of the Department of Corrections,  
39 from any personal account established in the institution for the benefit  
40 of the inmate.

41 (2) All fines, assessments imposed pursuant to section 2 of  
42 P.L.1979, c.396 (C.2C:43-3.1) or pursuant to section 4 of P.L. , c.  
43 (C. ) (now pending before the Legislature as this bill) and  
44 restitution imposed by a municipal court shall be collected by the  
45 municipal court clerk except if such fine, assessments imposed  
46 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or pursuant to

1 section 4 of P.L. , c. (C. ) (now pending before the Legislature  
2 as this bill), or restitution is ordered as a condition of probation in  
3 which event it shall be collected by the county probation department.

4 b. Except as provided in subsection c. with respect to fines  
5 imposed on appeals following convictions in municipal courts, all fines  
6 imposed by the Superior Court or otherwise imposed at the county  
7 level, shall be paid over by the officer entitled to collect same to:

8 (1) The county treasurer with respect to fines imposed on  
9 defendants who are sentenced to and serve a custodial term, including  
10 a term as a condition of probation, in the county jail, workhouse or  
11 penitentiary except where such county sentence is served concurrently  
12 with a sentence to a State institution; or

13 (2) The State Treasurer with respect to all other fines.

14 c. All fines imposed by municipal courts on defendants convicted  
15 of crimes, disorderly persons offenses and petty disorderly persons  
16 offenses, and all fines imposed following conviction on appeal  
17 therefrom, and all forfeitures of bail shall be paid over by the officer  
18 entitled to collect same to the treasury of the municipality wherein the  
19 municipal court is located.

20 In the case of an intermunicipal court, fines shall be paid into the  
21 municipal treasury of the municipality in which the offense was  
22 committed, and costs, fees, and forfeitures of bail shall be apportioned  
23 among the several municipalities to which the court's jurisdiction  
24 extends according to the ratios of the municipalities' contributions to  
25 the total expense of maintaining the court.

26 d. All assessments imposed pursuant to section 2 of P.L.1979,  
27 c.396 (C.2C:43-3.1) shall be forwarded and deposited as provided in  
28 that section.

29 e. All mandatory Drug Enforcement and Demand Reduction  
30 penalties imposed pursuant to N.J.S.2C:35-15 shall be forwarded and  
31 deposited as provided for in that section.

32 f. All forensic laboratory fees assessed pursuant to N.J.S.2C:35-20  
33 shall be forwarded and deposited as provided for in that section.

34 g. All restitution ordered to be paid to the Violent Crimes  
35 Compensation Board pursuant to N.J.S.2C:44-2 shall be forwarded to  
36 the Board for deposit in the Violent Crimes Compensation Board  
37 Account.

38 h. All assessments imposed pursuant to section 4 of P.L. , c. (C.  
39 ) (now pending before the Legislature as this bill) shall be forwarded  
40 and deposited as provided in that section.

41 (cf: P.L. 1991, c.329, s.12)

42

43 8. Section 13 of P.L.1991, c.329 (C.2C:46-4.1) is amended to read  
44 as follows:

45 13. Moneys that are collected in satisfaction of any assessment  
46 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or

1 pursuant to section 4 of P.L. , c. (C. )(now pending before the  
2 Legislature as this bill), or in satisfaction of restitution or fines  
3 imposed in accordance with the provisions of Title 2C of the New  
4 Jersey Statutes, shall be applied in the following order:  
5 a. first, in satisfaction of all assessments imposed pursuant to  
6 section 2 of P.L.1979, c.396 (C.2C:43-3.1);  
7 b. second, in satisfaction of any restitution ordered;  
8 c. third, in satisfaction of any forensic laboratory fee assessed  
9 pursuant to N.J.S.2C:35-20;  
10 d. fourth, in satisfaction of any mandatory Drug Enforcement and  
11 Demand Reduction penalty assessed pursuant to N.J.S.2C:35-15; and  
12 e. fifth, in satisfaction of any assessment pursuant to section 4 of  
13 P.L. ,c. (C. )(now pending before the Legislature as this bill.)  
14 f. sixth, in satisfaction of any fine.  
15 (cf: P.L.1991, c.329, s.13)

16

17 9. This act shall take effect immediately.

18

19

20

## 20 STATEMENT

21

22 At present aggravated sexual assault, a crime of the first degree, is  
23 punishable by a term of imprisonment of 10 to 20 years, a fine of up  
24 to \$100,000, or both. This bill would increase this penalty and provide  
25 that a person convicted of aggravated sexual assault may be sentenced  
26 to a term of imprisonment of between 15 and 30 years which shall  
27 include a minimum term of imprisonment of 15 years, during which  
28 time the defendant shall not be eligible for parole.

29 In addition, this bill would amend the current provisions concerning  
30 extended terms of imprisonment to provide that a person convicted of  
31 aggravated sexual assault may be eligible for a specific term of  
32 imprisonment between 30 years and life imprisonment. The bill also  
33 amends the current sentencing provisions concerning presumptive  
34 sentences.

35 In addition, the bill provides that the term of imprisonment for  
36 aggravated sexual assault shall not run concurrently with any other  
37 term of imprisonment imposed by the court.

38 Finally, the bill requires the court to assess a \$500.00 fine against  
39 any person convicted of aggravated sexual assault or criminal sexual  
40 contact. The moneys collected from this fine would be forwarded to  
41 the Department of Corrections for deposit in a nonlapsing fund to be  
42 known as the "Sexual Offender Treatment Fund" to be used for the  
43 establishment and maintenance of a treatment program for sexual  
44 offenders consisting of extensive psychological testing, individual and  
45 group therapy twice a week, educational classes, family sessions,  
46 substance abuse counseling and vocational training. The amendments

1 would also amend the current laws concerning collection procedures  
2 for fines and penalties to include references to this \$500.00  
3 assessment.

4

5

6

7

8 Establishes a mandatory minimum term of imprisonment for  
9 aggravated sexual assault crimes; provides for increased penalties