

ASSEMBLY, No. 697

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen ZISA and ROMA

1 AN ACT concerning the increase of penalties for the offense of  
2 resisting arrest and amending N.J.S.2C:29-2.

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

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7 1. N.J.S.2C:29-2 is amended to read as follows:  
8 2C:29-2. Resisting Arrest; Eluding Officer.

9 a. A person is guilty of a [~~disorderly persons offense~~] crime of the  
10 fourth degree if he purposely prevents a law enforcement officer from  
11 effecting a lawful arrest, except that he is guilty of a crime of the  
12 [~~fourth~~] third degree if he:

13 1. Uses or threatens to use physical force or violence against the  
14 law enforcement officer or another; or

15 2. Uses any other means to create a substantial risk of causing  
16 physical injury to the public servant or another.

17 It is not a defense to a prosecution under this subsection that the  
18 law enforcement officer was acting unlawfully in making the arrest,  
19 provided he was acting under color of his official authority and  
20 provided the law enforcement officer announces his intention to arrest  
21 prior to the resistance.

22 b. Any person, while operating a motor vehicle on any street or  
23 highway in this State, who knowingly flees or attempts to elude any  
24 police or law enforcement officer after having received any signal from  
25 such officer to bring the vehicle to a full stop commits a crime of the  
26 third degree; except that, a person is guilty of a crime of the second  
27 degree if the flight or attempt to elude creates a risk of death or injury  
28 to any person. For purposes of this subsection, there shall be a  
29 permissive inference that the flight or attempt to elude creates a risk  
30 of death or injury to any person if the person's conduct involves a  
31 violation of chapter 4 of Title 39 of the Revised Statutes. In addition  
32 to the penalty prescribed under this subsection or any other section of

**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 law, the court shall order the suspension of that person's driver's  
2 license for a period of not less than six months or more than two years.

3 In the case of a person who is at the time of the imposition of  
4 sentence less than 17 years of age, the period of the suspension of  
5 driving privileges authorized herein, including a suspension of the  
6 privilege of operating a motorized bicycle, shall commence on the day  
7 the sentence is imposed and shall run for a period as fixed by the  
8 court. If the driving privilege of any person is under revocation,  
9 suspension, or postponement for a violation of any provision of this  
10 Title or Title 39 of the Revised Statutes at the time of any conviction  
11 or adjudication of delinquency for a violation of any offense defined  
12 in this chapter or chapter 36 of this Title, the revocation, suspension,  
13 or postponement period imposed herein shall commence as of the date  
14 of termination of the existing revocation, suspension, or  
15 postponement.

16 Upon conviction the court shall collect forthwith the New Jersey  
17 driver's licenses of the person and forward such license or licenses to  
18 the Director of the Division of Motor Vehicles along with a report  
19 indicating the first and last day of the suspension or postponement  
20 period imposed by the court pursuant to this section. If the court is for  
21 any reason unable to collect the license or licenses of the person, the  
22 court shall cause a report of the conviction or adjudication of  
23 delinquency to be filed with the director. That report shall include the  
24 complete name, address, date of birth, eye color, and sex of the person  
25 and shall indicate the first and last day of the suspension or  
26 postponement period imposed by the court pursuant to this section.  
27 The court shall inform the person orally and in writing that if the  
28 person is convicted of personally operating a motor vehicle during the  
29 period of license suspension or postponement imposed pursuant to this  
30 section the person shall, upon conviction, be subject to the penalties  
31 set forth in R.S.39:3-40. A person shall be required to acknowledge  
32 receipt of the written notice in writing. Failure to receive a written  
33 notice or failure to acknowledge in writing the receipt of a written  
34 notice shall not be a defense to a subsequent charge of violation of  
35 R.S.39:3-40. If the person is the holder of a driver's license from  
36 another jurisdiction, the court shall not collect the license but shall  
37 notify the director who shall notify the appropriate officials in the  
38 licensing jurisdiction. The court shall, however, in accordance with the  
39 provisions of this section, revoke the person's non-resident driving  
40 privileges in this State.

41 For the purposes of this subsection, it shall be a rebuttable  
42 presumption that the owner of a vehicle was the operator of the  
43 vehicle at the time of the offense.

44 (cf: P.L.1993, c.219, s.5)

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46 2. This act shall take effect immediately.

## 1 STATEMENT

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3 This bill upgrades the penalties for the offense of resisting arrest.  
4 Currently a person is guilty of a disorderly persons offense if he  
5 purposely prevents a law enforcement officer from effecting a lawful  
6 arrest. This bill would increase that offense to a crime of the fourth  
7 degree. Under the present scheme the offense is upgraded to a crime  
8 of the fourth degree if the actor uses or threatens to use physical force  
9 or violence against the law enforcement officer or another; or uses any  
10 other means to create a substantial risk of causing physical injury to  
11 the public servant or another. The bill increases the penalty under  
12 those circumstances to a crime of the third degree.

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17 Upgrades penalties for the offense of resisting arrest.