

[First Reprint]
ASSEMBLY, No. 697

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen ZISA and ROMA

1 AN ACT concerning ¹[the increase of penalties for the offense of
2 resisting arrest] fleeing from law enforcement officers¹ and
3 amending ¹N.J.S.2C:29-1 and¹ N.J.S.2C:29-2.

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

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8 ¹1. N.J.S.2C:29-1 is amended to read as follows:

9 2C:29-1. Obstructing Administration of Law or Other
10 Governmental Function. a. A person commits an offense if he
11 purposely obstructs, impairs or perverts the administration of law or
12 other governmental function or prevents or attempts to prevent a
13 public servant from lawfully performing an official function by means
14 of flight, intimidation, force, violence, or physical interference or
15 obstacle, or by means of any independently unlawful act. This section
16 does not apply to [flight by a person charged with crime, refusal to
17 submit to arrest,] failure to perform a legal duty other than an official
18 duty, or any other means of avoiding compliance with law without
19 affirmative interference with governmental functions.

20 b. An offense under this section is a crime of the fourth degree if
21 the actor obstructs the detection or investigation of a crime or the
22 prosecution of a person for a crime, otherwise it is a disorderly
23 persons offense.¹

24 (cf: P.L.1986, c.34, s.1)

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26 ¹[1.] 2.¹ N.J.S. 2C:29-2 is amended to read as follows:

27 2C:29-2. a. ¹[A] (1) Except as provided in paragraph (3), a¹
28 person is guilty of a [disorderly persons offense] ¹[crime of the fourth
29 degree] disorderly persons offense¹ if he purposely prevents ¹or
30 attempts to prevent¹ a law enforcement officer from effecting ¹[a
31 lawful] an¹ arrest ¹[,except that he is guilty of a crime of the [fourth]

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted February 29, 1996.

1 third degree if he]. (2) Except as provided in paragraph (3), a person
2 is guilty of a crime of the fourth degree if he, by flight, purposely
3 prevents or attempts to prevent a law enforcement officer from
4 effecting an arrest. (3) An offense under paragraphs (1) or (2) of
5 subsection a. is a crime of the third degree if the person¹:

6 ¹[1.] (a)¹ Uses or threatens to use physical force or violence
7 against the law enforcement officer or another; or

8 ¹[2.] (b)¹ Uses any other means to create a substantial risk of
9 causing physical injury to the public servant or another.

10 It is not a defense to a prosecution under this subsection that the
11 law enforcement officer was acting unlawfully in making the arrest,
12 provided he was acting under color of his official authority and
13 provided the law enforcement officer announces his intention to arrest
14 prior to the resistance.

15 b. Any person, while operating a motor vehicle on any street or
16 highway in this State or any vessel, as defined pursuant to section 2 of
17 P.L.1995, c.401 (C.12:7-71), on the waters of this State, who
18 knowingly flees or attempts to elude any police or law enforcement
19 officer after having received any signal from such officer to bring the
20 vehicle or vessel to a full stop commits a crime of the third degree;
21 except that, a person is guilty of a crime of the second degree if the
22 flight or attempt to elude creates a risk of death or injury to any
23 person. For purposes of this subsection, there shall be a permissive
24 inference that the flight or attempt to elude creates a risk of death or
25 injury to any person if the person's conduct involves a violation of
26 chapter 4 of Title 39 or chapter 7 of Title 12 of the Revised Statutes.
27 In addition to the penalty prescribed under this subsection or any other
28 section of law, the court shall order the suspension of that person's
29 driver's license, or privilege to operate a vessel, whichever is
30 appropriate, for a period of not less than six months or more than two
31 years.

32 In the case of a person who is at the time of the imposition of
33 sentence less than 17 years of age, the period of the suspension of
34 driving privileges authorized herein, including a suspension of the
35 privilege of operating a motorized bicycle, shall commence on the day
36 the sentence is imposed and shall run for a period as fixed by the
37 court. If the driving or vessel operating privilege of any person is
38 under revocation, suspension, or postponement for a violation of any
39 provision of this Title or Title 39 of the Revised Statutes at the time
40 of any conviction or adjudication of delinquency for a violation of any
41 offense defined in this chapter or chapter 36 of this Title, the
42 revocation, suspension, or postponement period imposed herein shall
43 commence as of the date of termination of the existing revocation,
44 suspension, or postponement.

45 Upon conviction the court shall collect forthwith the New Jersey
46 driver's licenses of the person and forward such license or licenses to

1 the Director of the Division of Motor Vehicles along with a report
2 indicating the first and last day of the suspension or postponement
3 period imposed by the court pursuant to this section. If the court is
4 for any reason unable to collect the license or licenses of the person,
5 the court shall cause a report of the conviction or adjudication of
6 delinquency to be filed with the director. That report shall include the
7 complete name, address, date of birth, eye color, and sex of the person
8 and shall indicate the first and last day of the suspension or
9 postponement period imposed by the court pursuant to this section.
10 The court shall inform the person orally and in writing that if the
11 person is convicted of personally operating a motor vehicle or a vessel,
12 whichever is appropriate, during the period of license suspension or
13 postponement imposed pursuant to this section the person shall, upon
14 conviction, be subject to the penalties set forth in R.S.39:3-40 or
15 section 14 of P.L.1995, c.401 (C.12:7-83), whichever is appropriate.
16 A person shall be required to acknowledge receipt of the written
17 notice in writing. Failure to receive a written notice or failure to
18 acknowledge in writing the receipt of a written notice shall not be a
19 defense to a subsequent charge of violation of R.S.39:3-40 or section
20 14 of P.L.1995, c.401 (C.12:7-83), whichever is appropriate. If the
21 person is the holder of a driver's or vessel operator's license from
22 another jurisdiction, the court shall not collect the license but shall
23 notify the director who shall notify the appropriate officials in the
24 licensing jurisdiction. The court shall, however, in accordance with
25 the provisions of this section, revoke the person's non-resident driving
26 or vessel operating privileges, whichever is appropriate, in this State.
27 For the purposes of this subsection, it shall be a rebuttable
28 presumption that the owner of a vehicle or vessel was the operator of
29 the vehicle or vessel at the time of the offense.
30 (cf: P.L.1995, c.401, s.54)

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32 ¹[2.] 3.¹ This act shall take effect immediately.

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37 Clarifies criminal statutes dealing with obstruction of justice and
38 resisting arrest; upgrades penalties for resisting arrest.