

[First Reprint]
ASSEMBLY, No. 1836

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

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) As used in this act, unless another meaning is
8 clearly apparent from the language or context:

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

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

23

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

25 2C:11-3. Murder.

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

28 (1) The actor purposely causes death or serious bodily injury
29 resulting in death; or

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

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 ALP committee amendments adopted May 13, 1996.

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

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

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

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

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

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

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

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

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

44 Where the defendant has been tried by a jury, the proceeding shall
45 be conducted by the judge who presided at the trial and before the jury
46 which determined the defendant's guilt, except that, for good cause,

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

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

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

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

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

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

43 (f) Evidence offered by the State with regard to the establishment
44 of a prior homicide conviction pursuant to paragraph (4)(a) of this
45 subsection may include the identity and age of the victim, the manner
46 of death and the relationship, if any, of the victim to the defendant.

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (i) The defendant: (i) as a leader of a narcotics trafficking network
44 as defined in N.J.S.2C:35-3 and in furtherance of a conspiracy
45 enumerated in N.J.S.2C:35-3, committed, commanded or by threat or
46 promise solicited the commission of the offense or (ii) committed the

1 offense at the direction of a leader of a narcotics trafficking network
2 as defined in N.J.S.2C:35-3 in furtherance of a conspiracy enumerated
3 in N.J.S.2C:35-3;

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

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

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

9 (a) The defendant was under the influence of extreme mental or
10 emotional disturbance insufficient to constitute a defense to
11 prosecution;

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

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

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

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

22 (f) The defendant has no significant history of prior criminal
23 activity;

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

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

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

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

42 e. Every judgment of conviction which results in a sentence of
43 death under this section shall be appealed, pursuant to the Rules of
44 Court, to the Supreme Court. Upon the request of the defendant, the
45 Supreme Court shall also determine whether the sentence is
46 disproportionate to the penalty imposed in similar cases, considering

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

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

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

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

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

23

24 3. N.J.S.40A:14-117 is amended to read as follows:

25 40A:14-117. Whenever a member or officer of a county police, or
26 county park police, department or force is a defendant in any action or
27 legal proceeding arising out of or incidental to the performance of his
28 duties, the governing body of the county, or county park commission,
29 as the case may be, shall provide said member or officer with
30 necessary means for the defense of such action or proceeding, other
31 than for his defense in a disciplinary proceeding instituted against him
32 by the county or park commission, or in a criminal proceeding
33 instituted as a result of a complaint on behalf of the county or park
34 commission. [If] Notwithstanding the provisions of this section, if
35 any such disciplinary or criminal proceeding instituted by or on
36 complaint of the county or park commission, or any other legal
37 proceeding ¹arising out of or incidental to the performance of his
38 duties¹ in which the member or officer is the defendant shall be
39 dismissed or finally determined in favor of the member or officer, he
40 shall be reimbursed for the expense of his defense.

41 (cf: P.L.1977, c.455, s.1)

42

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

44 40A:14-147. Except as otherwise provided by law, no permanent
45 member or officer of the police department or force shall be removed
46 from his office, employment or position for political reasons or for any

1 cause other than incapacity, misconduct, or disobedience of rules and
2 regulations established for the government of the police department
3 and force, nor shall such member or officer be suspended, removed,
4 fined or reduced in rank from or in office, employment, or position
5 therein, except for just cause as hereinbefore provided and then only
6 upon a written complaint setting forth the charge or charges against
7 such member or officer. [Said] The complaint shall be filed in the
8 office of the body, officer or officers having charge of the department
9 or force wherein the complaint is made and a copy shall be served
10 upon the member or officer so charged, with notice of a designated
11 hearing thereon by the proper authorities, which shall be not less than
12 10 nor more than 30 days from date of service of the complaint.

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

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

29 ¹[Notwithstanding any provisions of this Title or Title 11A to the
30 contrary, any person designated to consider a complaint filed pursuant
31 to the provisions of this section shall not be an officer, agent,
32 representative, elected or appointed official, or employee of the
33 municipality or county or any subdivision thereof.]¹ The law
34 enforcement officer may waive the right to a hearing and may appeal
35 the charges directly to any available authority specified by any other
36 law ¹[of] or¹ the Department of Personnel, or follow any other
37 procedure recognized by a contract, as permitted by law. No penalty
38 shall be imposed ¹in any administrative proceeding¹ pending the final
39 outcome of this appeal.

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

41

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

43 40A:14-155. Whenever a member or officer of a municipal police
44 department or force is a defendant in any action or legal proceeding
45 arising out of and directly related to the lawful exercise of police
46 powers in the furtherance of his official duties, the governing body of

1 the municipality shall provide said member or officer with necessary
2 means for the defense of such action or proceeding, but not for his
3 defense in a disciplinary proceeding instituted against him by the
4 municipality or in criminal proceeding instituted as a result of a
5 complaint on behalf of the municipality. [If] Notwithstanding the
6 provisions of this section, if any such disciplinary or criminal
7 proceeding instituted by or on the complaint of the municipality, or if
8 any other legal [action or] proceeding [instituted by or on complaint
9 of the municipality] ¹arising out of and directly related to the lawful
10 exercise of police powers in the furtherance of his official duties¹ in
11 which the member or officer is the defendant shall be dismissed or
12 finally determined in favor of the member or officer, [he] the officer
13 shall be reimbursed for the expense of his defense.

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

15

16 6. Section 1 of P.L.1977, c.437 (C.40A:14-152.2) is amended to
17 read as follows:

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

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

30

31 7. Section 1 of P.L.1973, c.353 (C.40:37-11.5) is amended to read
32 as follows:

33 1. Whenever a member or officer of a county park police system
34 is a defendant in any action or legal proceeding arising out of or
35 incidental to the performance of his duties, the county park
36 commission shall provide said member or officer with necessary and
37 reasonable means for the defense of such action or proceeding, other
38 than for his defense in a disciplinary proceeding instituted against him
39 by the county park commission or in a criminal proceeding instituted
40 as a result of a complaint on behalf of the park commission. [If]
41 Notwithstanding the provisions of this section, if any such disciplinary
42 or criminal proceeding instituted by or on complaint of the park
43 commission, or if any other legal proceeding ¹arising out of or
44 incidental to the performance of his duties¹ in which the member or
45 officer is the defendant shall be dismissed or finally determined in
46 favor of the member or officer, he shall be reimbursed for the

1 reasonable expense of his defense.

2 (cf: P.L.1973, c.353, c.1)

3

4 8. Section 4 of P.L.1970, c.211 (C.18A:6-4.5) is amended to read
5 as follows:

6 4. Every person so appointed and commissioned shall possess all
7 the powers of policemen and constables in criminal cases and offenses
8 against the law anywhere in the State of New Jersey [, pursuant to any
9 limitations as may be imposed by the governing body of the institution
10 which appointed and commissioned the person].

11 (cf: P.L.1991, c.327, s.1)

12

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

15 7. Except as hereinafter provided, public employees shall have, and
16 shall be protected in the exercise of, the right, freely and without fear
17 of penalty or reprisal, to form, join and assist any employee
18 organization or to refrain from any such activity; provided, however,
19 that this right shall not extend to elected officials, members of boards
20 and commissions, managerial executives, or confidential employees,
21 except in a school district the term managerial executive shall mean the
22 superintendent of schools or his equivalent, nor, except where
23 established practice, prior agreement or special circumstances, dictate
24 the contrary, shall any supervisor having the power to hire, discharge,
25 discipline, or to effectively recommend the same, have the right to be
26 represented in collective negotiations by an employee organization that
27 admits nonsupervisory personnel to membership, and the fact that any
28 organization has such supervisory employees as members shall not
29 deny the right of that organization to represent the appropriate unit in
30 collective negotiations; and provided further, that, except where
31 established practice, prior agreement, or special circumstances dictate
32 the contrary, no policeman shall have the right to join an employee
33 organization that admits employees other than policemen to
34 membership. The negotiating unit shall be defined with due regard for
35 the community of interest among the employees concerned, but the
36 commission shall not intervene in matters of recognition and unit
37 definition except in the event of a dispute.

38 Representatives designated or selected by public employees for the
39 purposes of collective negotiation by the majority of the employees in
40 a unit appropriate for such purposes or by the majority of the
41 employees voting in an election conducted by the commission as
42 authorized by this act shall be the exclusive representatives for
43 collective negotiation concerning the terms and conditions of
44 employment of the employees in such unit. Nothing herein shall be
45 construed to prevent any official from meeting with an employee
46 organization for the purpose of hearing the views and requests of its

1 members in such unit so long as (a) the majority representative is
2 informed of the meeting; (b) any changes or modifications in terms and
3 conditions of employment are made only through negotiation with the
4 majority representative; and (c) a minority organization shall not
5 present or process grievances. Nothing herein shall be construed to
6 deny to any individual employee his rights under Civil Service laws or
7 regulations. When no majority representative has been selected as the
8 bargaining agent for the unit of which an individual employee is a part,
9 he may present his own grievance either personally or through an
10 appropriate representative or an organization of which he is a member
11 and have such grievance adjusted.

12 A majority representative of public employees in an appropriate unit
13 shall be entitled to act for and to negotiate agreements covering all
14 employees in the unit and shall be responsible for representing the
15 interest of all such employees without discrimination and without
16 regard to employee organization membership. Proposed new rules or
17 modifications of existing rules governing working conditions shall be
18 negotiated with the majority representative before they are established.
19 In addition, the majority representative and designated representatives
20 of the public employer shall meet at reasonable times and negotiate in
21 good faith with respect to grievances, disciplinary disputes, and other
22 terms and conditions of employment. Nothing herein shall be
23 construed as permitting negotiation of the standards or criteria for
24 employee performance.

25 When an agreement is reached on the terms and conditions of
26 employment, it shall be embodied in writing and signed by the
27 authorized representatives of the public employer and the majority
28 representative.

29 Public employers shall negotiate written policies setting forth
30 grievance and disciplinary review procedures by means of which their
31 employees or representatives of employees may appeal the
32 interpretation, application or violation of policies, agreements, and
33 administrative decisions, including disciplinary determinations,
34 affecting them, provided that such grievance and disciplinary review
35 procedures shall be included in any agreement entered into between
36 the public employer and the representative organization. Such
37 grievance and disciplinary review procedures may provide for binding
38 arbitration as a means for resolving disputes. The procedures agreed
39 to by the parties may not replace or be inconsistent with any alternate
40 statutory appeal procedure [nor may they provide for binding
41 arbitration of disputes involving the discipline of employees with
42 statutory protection under] for the specific form of discipline imposed,
43 but may provide for binding arbitration of any form of discipline which
44 is not specifically covered by tenure or civil service laws. Grievance
45 and disciplinary review procedures established by agreement between
46 the public employer and the representative organization shall be

1 utilized for any dispute covered by the terms of such agreement. The
2 provisions of this paragraph shall apply to all public employees and
3 employers.

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

5
6 10. Section 1 of P.L.1963, c.140 (C.2A:62A-1) is amended to read
7 as follows:

8 1. Any individual, including (a) a person licensed to practice any
9 method of treatment of human ailments, disease, pain, injury,
10 deformity, mental or physical condition, or licensed to render services
11 ancillary thereto, or (b) any person who is a volunteer member of a
12 duly incorporated first aid and emergency or volunteer ambulance or
13 rescue squad association, or (c) any municipal, county or State law
14 enforcement officer, who ¹,¹ in good faith ¹and provided reasonable
15 care is exercised,¹ renders emergency care at the scene of an accident
16 or emergency to the victim or victims thereof, or while transporting
17 the victim or victims thereof to a hospital or other facility where
18 treatment or care is to be rendered, shall not be liable for any civil
19 damages as a result of any acts or omissions by such person in
20 rendering the emergency care.

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

22
23 11. Section 6 of P.L.1961, c.56 (C.52:17B-71) is amended to read
24 as follows:

25 ¹[52:17-71 Power of commission]¹

26 6. The commission is vested with the power, responsibility and
27 duty:

28 a. To prescribe standards for the approval and continuation of
29 approval of schools at which police training courses authorized by this
30 act and in-service police training courses shall be conducted, including
31 but not limited to presently existing regional, county, municipal and
32 police chief association police training schools or at which basic
33 training courses and in-service training courses shall be conducted for
34 State and county juvenile and adult corrections officers and juvenile
35 detention officers;

36 b. To approve and issue certificates of approval to such schools,
37 to inspect such schools from time to time, and to revoke any approval
38 or certificate issued to such schools;

39 c. To prescribe the curriculum, the minimum courses of study,
40 attendance requirements, equipment and facilities, and standards of
41 operation for such schools. Courses of study in crime prevention may
42 be recommended to the Police Training Commission by the Crime
43 Prevention Advisory Committee, established by section 2 of P.L.1985,
44 c.1 (C.52:17B-77.1). The Police Training Commission may prescribe
45 psychological and psychiatric examinations for police recruits while in
46 such schools;

- 1 d. To prescribe minimum qualifications for instructors at such
2 schools and to certify, as qualified, instructors for approved police
3 training schools and to issue appropriate certificates to such
4 instructors;
- 5 e. To certify police officers, corrections officers, juvenile
6 corrections officers and juvenile detention officers who have
7 satisfactorily completed training programs and to issue appropriate
8 certificates to such police officers, corrections officers, juvenile
9 corrections officers and juvenile detention officers;
- 10 f. To advise and consent in the appointment of an administrator of
11 police services by the Attorney General pursuant to section 8 of
12 P.L.1961, c.56 (C.52:17B-73);
- 13 g. (Deleted by amendment, P.L.1985, c.491.)
- 14 h. To make such rules and regulations as may be reasonably
15 necessary or appropriate to accomplish the purposes and objectives of
16 this act;
- 17 i. To make a continuous study of police training methods and
18 training methods for corrections officers, juvenile corrections officers
19 and juvenile detention officers and to consult and accept the
20 cooperation of any recognized federal or State law enforcement
21 agency or educational institution;
- 22 j. To consult and cooperate with universities, colleges and
23 institutes in the State for the development of specialized courses of
24 study for police officers in police science and police administration;
- 25 k. To consult and cooperate with other departments and agencies
26 of the State concerned with police training or the training of
27 corrections officers, juvenile corrections officers and juvenile detention
28 officers;
- 29 l. To participate in unified programs and projects relating to police
30 training and the training of corrections officers, juvenile corrections
31 officers and juvenile detention officers sponsored by any federal, State,
32 or other public or private agency;
- 33 m. To perform such other acts as may be necessary or appropriate
34 to carry out its functions and duties as set forth in this act;
- 35 n. To extend the time limit for satisfactory completion of police
36 training programs or programs for the training of corrections officers,
37 juvenile corrections officers and juvenile detention officers upon a
38 finding that health, extraordinary workload or other factors have,
39 singly or in combination, effected a delay in the satisfactory
40 completion of such training program;
- 41 o. To furnish approved schools, for inclusion in their regular police
42 training courses and curriculum, with information concerning the
43 advisability of high speed chases, the risk caused thereby, and the
44 benefits resulting therefrom;
- 45 p. To review and approve new standards and course curricula
46 developed by the Department of Corrections for both basic and

1 in-service training of State and county corrections officers and juvenile
 2 detention officers. These courses for the State corrections officers and
 3 juvenile detention officers shall be centrally provided at the
 4 Corrections Officers' Training Academy of the Department of
 5 Corrections. Courses for the county corrections officers and juvenile
 6 detention officers shall also be centrally provided at the Corrections
 7 Officers' Training Academy unless an off-grounds training program is
 8 established by the county. A county may elect to establish and
 9 conduct a basic training program for corrections officers and juvenile
 10 detention officers seeking permanent appointment in that county. The
 11 Corrections Officers' Training Academy shall develop the curriculum
 12 of the basic training program to be conducted by a county.;

13 q. To administer and distribute the monies in the Law Enforcement
 14 Officers Training and Equipment Fund established by section ¹[17]
 15 16¹ of P.L....., c.... (C.....)(now pending before the Legislature
 16 as this bill) and make such rules and regulations for the administration
 17 and distribution of the monies as may be necessary or appropriate to
 18 accomplish the purpose for which the fund was established.
 19 (cf: P.L.1995, c.280, s.55)

20

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

31

32 13. (New section) a. In addition to any other disposition made
 33 pursuant to law, a court shall order a person convicted of, indicted for
 34 or formally charged with a criminal offense, a disorderly persons
 35 offense or a petty disorderly persons offense, to submit to an approved
 36 serological test for acquired immune deficiency syndrome (AIDS) or
 37 infection with the human immunodeficiency virus (HIV) or any other
 38 related virus identified as a probable causative agent of AIDS if:

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

45 (2) in the course of the commission of the offense, including the
 46 immediate flight thereafter or during any investigation or arrest related

1 to that offense, a law enforcement officer, the victim or other person
2 had contact with the defendant which involved or was likely to involve
3 the transmission of bodily fluids.

4 The court may order a person to submit to an approved serological
5 test for AIDS or infection with the HIV or any other related virus
6 identified as a probable cause agent of AIDS if in the course of the
7 performance of any other law enforcement duties, a law enforcement
8 officer suffers a prick from a hyperdermic needle, provided that there
9 is probable cause to believe that the defendant is an intravenous user
10 of controlled dangerous substances, or had contact with the defendant
11 which involved or was likely to involve the transmission of bodily
12 fluids. The court shall issue such an order only upon the request of the
13 law enforcement officer, victim of the offense or other affected person
14 made at the time of indictment, charge or conviction. If a county
15 prosecutor declines to make such an application within 72 hours of
16 being requested to do so by the law enforcement officer, the law
17 enforcement officer may appeal to the Division of Criminal Justice in
18 the Department of Law and Public Safety for that officer to bring the
19 application. The person shall be ordered by the court to submit to
20 such repeat or confirmatory tests as may be medically necessary.

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

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

39 c. In addition to any other disposition authorized, a court may
40 order an offender at the time of sentencing to reimburse the State for
41 the costs of the tests ordered pursuant to subsection a. of this section.

42 d. The result of a test ordered pursuant to subsection a. of this
43 section shall be confidential and health care providers and employees
44 of the Department of Corrections, the Office of Victim-Witness
45 Advocacy, a health care facility or counseling service shall not disclose
46 the result of a test performed pursuant to this section except as

1 authorized herein or as otherwise authorized by law or court order.
2 The provisions of this section shall not be deemed to prohibit
3 disclosure of a test result to the person tested.

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

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

12

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

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

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

32 The court may order a juvenile to submit to an approved serological
33 test for AIDS or infection with the HIV or any other related virus
34 identified as a probable cause agent of AIDS if in the course of the
35 performance of any other law enforcement duties, a law enforcement
36 officer suffers a prick from a hyperdermic needle, provided that there
37 is probable cause to believe that the defendant is an intravenous user
38 of controlled dangerous substances, or had contact with the defendant
39 which involved or was likely to involve the transmission of bodily
40 fluids. The court shall issue such an order only upon the request of the
41 law enforcement officer, victim of the offense or other affected person
42 made at the time of indictment, charge or conviction. If a county
43 prosecutor declines to make such an application within 72 hours of
44 being requested to do so by the law enforcement officer, the law
45 enforcement officer may appeal to the Division of Criminal Justice in
46 the Department of Law and Public Safety for that officer to bring the

1 application. The juvenile shall be ordered by the court to submit to
2 such repeat or confirmatory tests as may be medically necessary.

3 b. A court order issued pursuant to subsection a. of this section
4 shall require testing to be performed as soon as practicable by the
5 Executive Director of the Juvenile Justice Commission pursuant to
6 authority granted to the executive director by sections 6 and 10 of
7 P.L.1976, c.98 (C.30:1B-6 and 30:1B-10) or by a provider of health
8 care or at a health care facility licensed pursuant to section 12 of
9 P.L.1971, c.136 (C.26:2H-12). The order shall also require that the
10 results of the test be reported to the offender, the appropriate Office
11 of Victim-Witness Advocacy if a victim of an offense is tested , and
12 the affected law enforcement officer. Upon receipt of the result of a
13 test ordered pursuant to subsection a. of this section, the Office of
14 Victim-Witness Advocacy shall provide the victim with appropriate
15 counseling, referral for counseling and if appropriate, referral for
16 health care. The office shall notify the victim or make appropriate
17 arrangements for the victim to be notified of the test result.

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

21 d. The result of a test ordered pursuant to subsection a. of this
22 section shall be confidential and health care providers and employees
23 of the Juvenile Justice Commission, the Office of Victim-Witness
24 Advocacy, a health care facility or counseling service shall not disclose
25 the result of a test performed pursuant to this section except as
26 authorized herein or as otherwise authorized by law or court order.
27 The provisions of this section shall not be deemed to prohibit
28 disclosure of a test result to the person tested.

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

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

37
38 15. (New section) Whenever a county correctional officer is a
39 defendant in any action or legal proceeding arising out of and directly
40 related to or incident to the lawful exercise of his official duties, the
41 governing body of the county shall provide that officer with the
42 necessary means for the defense of such action or proceeding, other
43 than for his defense in a disciplinary proceeding instituted against him
44 by the county or in a criminal proceeding instituted as a result of a
45 complaint on behalf of the county. Notwithstanding the provisions of
46 this section, if any such disciplinary or criminal proceeding instituted

1 by or on the complaint of the county, or if any other legal proceeding
2 in which the officer is the defendant shall be dismissed or finally
3 determined in favor of the officer, the officer shall be reimbursed for
4 the expense of his defense.

5
6 16. (New section) a. In addition to any disposition made pursuant
7 to the provisions of Title 2C of the New Jersey Statutes, any person
8 convicted of a crime shall be assessed a penalty of \$30.

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

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

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

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

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

1 ¹17. (New section) A law enforcement agency, as defined in
2 section 1 of P.L. _____, c. _____ (C. _____)(now pending before the
3 Legislature as this bill), shall adopt and implement the guidelines
4 governing the "Internal Affairs Policy and Procedures" of the Police
5 Management Manual promulgated by the Police Bureau of the
6 Division of Criminal Justice in the Department of Law and Public
7 Safety.¹

8

9 ¹[17.] 18.¹ This act shall take effect immediately.

10

11

12

13

14 "Law Enforcement Officers' Protection Act."