

[Second 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 ²[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.]²

23

24 ²[2.] 1.² 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.

² Assembly AAP committee amendments adopted June 17, 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 ²[, during
32 which the person shall not be eligible for parole] with no eligibility for
33 parole, as defined in subsection e. of section 2 of P.L.1995, c.126
34 (C.2C:43-7.1)² .

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

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

46 Where the defendant has been tried by a jury, the proceeding shall

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

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

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

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

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

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

45 (f) Evidence offered by the State with regard to the establishment
46 of a prior homicide conviction pursuant to paragraph (4)(a) of this

1 subsection may include the identity and age of the victim, the manner
2 of death and the relationship, if any, of the victim to the defendant.

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (i) The defendant: (i) as a leader of a narcotics trafficking network
46 as defined in N.J.S.2C:35-3 and in furtherance of a conspiracy

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25

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

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

43 (cf: P.L.1977, c.455, s.1)]²

44

45 ²[4.] 2.² N.J.S.40A:14-147 is amended to read as follows:

46 40A:14-147. Except as otherwise provided by law, no permanent

1 member or officer of the police department or force shall be removed
2 from his office, employment or position for political reasons or for any
3 cause other than incapacity, misconduct, or disobedience of rules and
4 regulations established for the government of the police department
5 and force, nor shall such member or officer be suspended, removed,
6 fined or reduced in rank from or in office, employment, or position
7 therein, except for just cause as hereinbefore provided and then only
8 upon a written complaint setting forth the charge or charges against
9 such member or officer. [Said] The complaint shall be filed in the
10 office of the body, officer or officers having charge of the department
11 or force wherein the complaint is made and a copy shall be served
12 upon the member or officer so charged, with notice of a designated
13 hearing thereon by the proper authorities, which shall be not less than
14 10 nor more than 30 days from date of service of the complaint.

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

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

31 ¹[Notwithstanding any provisions of this Title or Title 11A to the
32 contrary, any person designated to consider a complaint filed pursuant
33 to the provisions of this section shall not be an officer, agent,
34 representative, elected or appointed official, or employee of the
35 municipality or county or any subdivision thereof.]¹ The law
36 enforcement officer may waive the right to a hearing and may appeal
37 the charges directly to any available authority specified by ²[any
38 other]² law ¹[of] or¹ ²[the Department of Personnel] regulation² , or
39 follow any other procedure recognized by a contract, as permitted by
40 law.

41 ²[No penalty shall be imposed ¹in any administrative proceeding¹
42 pending the final outcome of this appeal] Prior to imposition of
43 discipline, a member or officer employed by a municipality that has not
44 adopted the provisions of Title 11A of the New Jersey Statutes shall
45 be afforded procedural protections substantially equivalent to those
46 afforded under Title 11A of the New Jersey Statutes and the

1 regulations adopted pursuant thereto².

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

3

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

5 40A:14-155. Whenever a member or officer of a municipal police
6 department or force is a defendant in any action or legal proceeding
7 arising out of and directly related to the lawful exercise of police
8 powers in the furtherance of his official duties, the governing body of
9 the municipality shall provide said member or officer with necessary
10 means for the defense of such action or proceeding, but not for his
11 defense in a disciplinary proceeding instituted against him by the
12 municipality or in criminal proceeding instituted as a result of a
13 complaint on behalf of the municipality. ~~[If] Notwithstanding the~~
14 ~~provisions of this section, if any such disciplinary or criminal~~
15 ~~proceeding instituted by or on the complaint of the municipality, or if~~
16 ~~any other legal [action or] proceeding [instituted by or on complaint~~
17 ~~of the municipality]~~ ¹arising out of and directly related to the lawful
18 exercise of police powers in the furtherance of his official duties¹ in
19 which the member or officer is the defendant shall be dismissed or
20 finally determined in favor of the member or officer, ~~[he] the officer~~
21 shall be reimbursed for the expense of his defense.

22 (cf: P.L.1985, c.457, s.1)]²

23

24 ²[6] 3.² Section 1 of P.L.1977, c.437 (C.40A:14-152.2) is
25 amended to read as follows:

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

37 ²As used in this section, "law enforcement officer" means any
38 ~~person who is employed as a permanent full-time member of any State,~~
39 ~~county or municipal law enforcement agency, department, or division~~
40 ~~of those governments who is statutorily empowered to act for the~~
41 ~~detection, investigation, arrest, conviction, detention, or rehabilitation~~
42 ~~of persons violating the criminal laws of this State and statutorily~~
43 ~~required to successfully complete a training course approved by, or~~
44 ~~certified as being substantially equivalent to such an approved course,~~
45 ~~by the Police Training Commission pursuant to P.L.1961, c.56~~
46 ~~(C.52:17B-66 et seq.). "Law enforcement agency" means any public~~

1 agency, other than the Department of Law and Public Safety, any
2 police force, department or division within the State of New Jersey, or
3 any county or municipality thereof, which is empowered by statute to
4 act for the detection, investigation, arrest, conviction, detention, or
5 rehabilitation of persons violating the criminal laws of this State.²

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

7

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

10 1. Whenever a member or officer of a county park police system
11 is a defendant in any action or legal proceeding arising out of or
12 incidental to the performance of his duties, the county park
13 commission shall provide said member or officer with necessary and
14 reasonable means for the defense of such action or proceeding, other
15 than for his defense in a disciplinary proceeding instituted against him
16 by the county park commission or in a criminal proceeding instituted
17 as a result of a complaint on behalf of the park commission. [If]
18 Notwithstanding the provisions of this section, if any such disciplinary
19 or criminal proceeding instituted by or on complaint of the park
20 commission, or if any other legal proceeding¹ arising out of or
21 incidental to the performance of his duties¹ in which the member or
22 officer is the defendant shall be dismissed or finally determined in
23 favor of the member or officer, he shall be reimbursed for the
24 reasonable expense of his defense.

25 (cf: P.L.1973, c.353, c.1)]²

26

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

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

34 (cf: P.L.1991, c.327, s.1)]²

35

36 ²[9.] 4.² Section 7 of P.L.1968, c.303 (C.34:13A-5.3) is amended
37 to read as follows:

38 7. Except as hereinafter provided, public employees shall have, and
39 shall be protected in the exercise of, the right, freely and without fear
40 of penalty or reprisal, to form, join and assist any employee
41 organization or to refrain from any such activity; provided, however,
42 that this right shall not extend to elected officials, members of boards
43 and commissions, managerial executives, or confidential employees,
44 except in a school district the term managerial executive shall mean the
45 superintendent of schools or his equivalent, nor, except where
46 established practice, prior agreement or special circumstances, dictate

1 the contrary, shall any supervisor having the power to hire, discharge,
2 discipline, or to effectively recommend the same, have the right to be
3 represented in collective negotiations by an employee organization that
4 admits nonsupervisory personnel to membership, and the fact that any
5 organization has such supervisory employees as members shall not
6 deny the right of that organization to represent the appropriate unit in
7 collective negotiations; and provided further, that, except where
8 established practice, prior agreement, or special circumstances dictate
9 the contrary, no policeman shall have the right to join an employee
10 organization that admits employees other than policemen to
11 membership. The negotiating unit shall be defined with due regard for
12 the community of interest among the employees concerned, but the
13 commission shall not intervene in matters of recognition and unit
14 definition except in the event of a dispute.

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

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

1 employee performance.

2 When an agreement is reached on the terms and conditions of
3 employment, it shall be embodied in writing and signed by the
4 authorized representatives of the public employer and the majority
5 representative.

6 Public employers shall negotiate written policies setting forth
7 grievance and disciplinary review procedures by means of which their
8 employees or representatives of employees may appeal the
9 interpretation, application or violation of policies, agreements, and
10 administrative decisions, including disciplinary determinations,
11 affecting them, provided that such grievance and disciplinary review
12 procedures shall be included in any agreement entered into between
13 the public employer and the representative organization. Such
14 grievance and disciplinary review procedures may provide for binding
15 arbitration as a means for resolving disputes. The procedures agreed
16 to by the parties may not replace or be inconsistent with any alternate
17 statutory appeal procedure [nor may they provide for binding
18 arbitration of disputes involving the discipline of employees with
19 statutory protection under] ²[for the specific form of discipline
20 imposed, but may provide for binding arbitration of any form of
21 discipline which is not specifically covered by] nor may they provide
22 for binding arbitration of disputes involving the discipline of
23 employees with statutory protection under² tenure or civil service laws
24 ², except that such procedures may provide for binding arbitration of
25 disputes involving the minor discipline of any public employees
26 protected under the provisions of P.L.1968, c.303 (C.34:13A-5.3),
27 other than public employees subject to discipline pursuant to R.S.53:1-
28 10². Grievance and disciplinary review procedures established by
29 agreement between the public employer and the representative
30 organization shall be utilized for any dispute covered by the terms of
31 such agreement. ²[The provisions of this paragraph shall apply to all
32 public employees and employers.] For the purposes of this section,
33 minor discipline shall mean a suspension or fine of less than five days
34 unless the employee has been suspended or fined an aggregate of 15
35 or more days or received more than three suspensions or fines of five
36 days or less in one calendar year.²

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

38

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

41 1. Any individual, including (a) a person licensed to practice any
42 method of treatment of human ailments, disease, pain, injury,
43 deformity, mental or physical condition, or licensed to render services
44 ancillary thereto, or (b) any person who is a volunteer member of a
45 duly incorporated first aid and emergency or volunteer ambulance or
46 rescue squad association, or (c) any municipal, county or State law

1 enforcement officer, who ¹,¹ in good faith ¹and provided reasonable
2 care is exercised,¹ renders emergency care at the scene of an accident
3 or emergency to the victim or victims thereof, or while transporting
4 the victim or victims thereof to a hospital or other facility where
5 treatment or care is to be rendered, shall not be liable for any civil
6 damages as a result of any acts or omissions by such person in
7 rendering the emergency care.

8 (cf: P.L.1987, c.296, s.1)]²

9

10 ²5. (New section) A municipal, county or State law enforcement
11 officer is not liable for any civil damages as a result of any acts or
12 omissions undertaken in good faith in rendering care at the scene of an
13 accident or emergency to any victim thereof, or in transporting any
14 such victim to a hospital or other facility where treatment or care is to
15 be rendered; provided, however, that nothing in this section shall
16 exonerate a law enforcement officer for gross negligence. ²

17

18 ²[11.] 6.² Section 6 of P.L.1961, c.56 (C.52:17B-71) is amended
19 to read as follows:

20 ¹[52:17-71 Power of commission]¹

21 6. The commission is vested with the power, responsibility and
22 duty:

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

31 b. To approve and issue certificates of approval to such schools,
32 to inspect such schools from time to time, and to revoke any approval
33 or certificate issued to such schools;

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

42 d. To prescribe minimum qualifications for instructors at such
43 schools and to certify, as qualified, instructors for approved police
44 training schools and to issue appropriate certificates to such
45 instructors;

46 e. To certify police officers, corrections officers, juvenile

1 corrections officers and juvenile detention officers who have
2 satisfactorily completed training programs and to issue appropriate
3 certificates to such police officers, corrections officers, juvenile
4 corrections officers and juvenile detention officers;

5 f. To advise and consent in the appointment of an administrator of
6 police services by the Attorney General pursuant to section 8 of
7 P.L.1961, c.56 (C.52:17B-73);

8 g. (Deleted by amendment, P.L.1985, c.491.)

9 h. To make such rules and regulations as may be reasonably
10 necessary or appropriate to accomplish the purposes and objectives of
11 this act;

12 i. To make a continuous study of police training methods and
13 training methods for corrections officers, juvenile corrections officers
14 and juvenile detention officers and to consult and accept the
15 cooperation of any recognized federal or State law enforcement
16 agency or educational institution;

17 j. To consult and cooperate with universities, colleges and
18 institutes in the State for the development of specialized courses of
19 study for police officers in police science and police administration;

20 k. To consult and cooperate with other departments and agencies
21 of the State concerned with police training or the training of
22 corrections officers, juvenile corrections officers and juvenile detention
23 officers;

24 l. To participate in unified programs and projects relating to police
25 training and the training of corrections officers, juvenile corrections
26 officers and juvenile detention officers sponsored by any federal, State,
27 or other public or private agency;

28 m. To perform such other acts as may be necessary or appropriate
29 to carry out its functions and duties as set forth in this act;

30 n. To extend the time limit for satisfactory completion of police
31 training programs or programs for the training of corrections officers,
32 juvenile corrections officers and juvenile detention officers upon a
33 finding that health, extraordinary workload or other factors have,
34 singly or in combination, effected a delay in the satisfactory
35 completion of such training program;

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

40 p. To review and approve new standards and course curricula
41 developed by the Department of Corrections for both basic and
42 in-service training of State and county corrections officers and juvenile
43 detention officers. These courses for the State corrections officers and
44 juvenile detention officers shall be centrally provided at the
45 Corrections Officers' Training Academy of the Department of
46 Corrections. Courses for the county corrections officers and juvenile

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

8 q. To administer and distribute the monies in the Law Enforcement
 9 Officers Training and Equipment Fund established by section ²[¹[17]
 10 16¹] 9² of P.L....., c.... (C.....)(now pending before the Legislature
 11 as this bill) and make such rules and regulations for the administration
 12 and distribution of the monies as may be necessary or appropriate to
 13 accomplish the purpose for which the fund was established.

14 (cf: P.L.1995, c.280, s.55)

15

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

26

27 ²[13.] 7.² (New section) a. In addition to any other disposition
 28 made pursuant to law, a court shall order a person convicted of,
 29 indicted for or formally charged with a criminal offense, a disorderly
 30 persons offense or a petty disorderly persons offense, to submit to an
 31 approved serological test for acquired immune deficiency syndrome
 32 (AIDS) or infection with the human immunodeficiency virus (HIV) or
 33 any other related virus identified as a probable causative agent of
 34 AIDS if:

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

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

46 The court may order a person to submit to an approved serological

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

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

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

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

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

46 e. Persons who perform tests ordered pursuant to subsection a. of

1 this section in accordance with accepted medical standards for the
2 performance of such tests shall be immune from civil and criminal
3 liability arising from their conduct.

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

8
9 ²[14.] §.2 (New section) a. In addition to any other disposition
10 made pursuant to law, a court shall order a juvenile charged with
11 delinquency or adjudicated delinquent for an act which, if committed
12 by an adult would constitute a crime, a disorderly persons offense or
13 a petty disorderly persons offense, to submit to an approved
14 serological test for acquired immune deficiency syndrome (AIDS) or
15 infection with the human immunodeficiency virus (HIV) or any other
16 related virus identified as a probable causative agent of AIDS if:

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

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

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

45 b. A court order issued pursuant to subsection a. of this section
46 shall require testing to be performed as soon as practicable by the

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

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

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

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

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

33

34 ²[15. (New section) Whenever a county correctional officer is a
35 defendant in any action or legal proceeding arising out of and directly
36 related to or incident to the lawful exercise of his official duties, the
37 governing body of the county shall provide that officer with the
38 necessary means for the defense of such action or proceeding, other
39 than for his defense in a disciplinary proceeding instituted against him
40 by the county or in a criminal proceeding instituted as a result of a
41 complaint on behalf of the county. Notwithstanding the provisions of
42 this section, if any such disciplinary or criminal proceeding instituted
43 by or on the complaint of the county, or if any other legal proceeding
44 in which the officer is the defendant shall be dismissed or finally
45 determined in favor of the officer, the officer shall be reimbursed for
46 the expense of his defense.]²

1 ²[16.] 9.² (New section) a. In addition to any disposition made
2 pursuant to the provisions of Title 2C of the New Jersey Statutes, any
3 person convicted of a crime shall be assessed a penalty of \$30.

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

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

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

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

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

42
43 ²[¹17.] 10.² (New section) ²[A] Every² law enforcement agency
44 ²[, as defined in section 1 of P.L. _____, c. _____ (C. _____)(now pending
45 before the Legislature as this bill),]² shall adopt and implement
46 ²guidelines which shall be consistent with² the guidelines governing

1 the "Internal Affairs Policy and Procedures" of the Police
2 Management Manual promulgated by the Police Bureau of the
3 Division of Criminal Justice in the Department of Law and Public
4 Safety² , and shall be consistent with any tenure or civil service laws,
5 and shall not supersede any existing contractual agreements² .¹

6

7 ¹[17.] ²[18.1] 11.² This act shall take effect ²[immediately] on the
8 120th day following enactment².

9

10

11

12

13 "Law Enforcement Officers' Protection Act."