

ASSEMBLY, No. 2209

STATE OF NEW JERSEY

INTRODUCED JUNE 27, 1996

By Assemblyman MATTISON

1 AN ACT concerning motor vehicle theft, amending P.L.1991, c.83 and
2 P.L.1982, c.77 and supplementing chapter 20 of Title 2C of the
3 New Jersey Statutes.

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

7
8 1. (New section) Notwithstanding the provisions of any other law,
9 a person convicted of theft of a motor vehicle pursuant to
10 subparagraph (b) of paragraph (2) of subsection b. of N.J.S.2C:20-2
11 shall be sentenced to a term of imprisonment by the court. The term
12 of imprisonment shall include the imposition of a minimum term of
13 three years, during which the defendant shall not be eligible for parole.

14
15 2. Section 1 of P.L.1991, c.83 (C.2C:20-2.1) is amended to read
16 as follows:

17 1. a. In addition to the penalties set forth in section 1 of P.L. ,
18 c. (C.)(now pending before the Legislature as this bill) and any
19 other disposition authorized by law, a person convicted under the
20 provisions of this chapter of theft or unlawful taking of a motor
21 vehicle shall be subject:

22 (1) For the first offense, to a penalty of \$500.00 and to the
23 suspension or postponement of the person's license to operate a motor
24 vehicle over the highways of this State for a period of one year.

25 (2) For a second offense, to a penalty of \$750.00 and to the
26 suspension or postponement of the person's license to operate a motor
27 vehicle over the highways of this State for a period of two years.

28 (3) For a third or subsequent offense, to a penalty of \$1,000.00,
29 and to the suspension or postponement of the person's license to
30 operate a motor vehicle over the highways of this State for 10 years.

31 b. The suspension or postponement of the person's license to
32 operate a motor vehicle pursuant to subsection a. of this section shall
33 commence on the day the sentence is imposed. If the person will be
34 servng a period of incarceration pursuant to section 1 of P.L. , c.

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

Matter underlined thus is new matter.

1 (C.)(now pending before the Legislature as this bill), the suspension
2 or postponement shall commence on the day the sentence is imposed
3 but shall be tolled during the period of incarceration and shall begin to
4 run again upon the person's release. In the case of any person who at
5 the time of the imposition of sentence is less than 17 years of age, the
6 period of the suspension of driving privileges authorized herein,
7 including a suspension of the privilege of operating a motorized
8 bicycle, shall commence on the day the sentence is imposed and shall
9 run for a period as fixed by the court of one year for a first offense,
10 two years for a second offense or 10 years for a third offense
11 calculated from the day after the day the person reaches the age of 17
12 years. If the driving privilege of any person is under revocation,
13 suspension, or postponement for a violation of any provision of this
14 Title or Title 39 of the Revised Statutes at the time of any conviction
15 or adjudication of delinquency for a violation of any offense defined
16 in this chapter or chapter 36 of this Title, the revocation, suspension,
17 or postponement period imposed herein shall commence as of the date
18 of termination of the existing revocation, suspension, or postponement
19 but shall be tolled during the service of any period of incarceration
20 imposed pursuant to section 1 of P.L. , c. (C.)(now pending
21 before the Legislature as this bill).

22 Upon conviction the court shall collect forthwith the New Jersey
23 driver's licenses of the person and forward such license or licenses to
24 the Director of the Division of Motor Vehicles along with a report
25 indicating the first and last day of the suspension or postponement
26 period imposed by the court pursuant to this section. For any person
27 who will be incarcerated pursuant to section 1 of P.L. , c.
28 (C.)(now pending before the Legislature as this bill), the court shall
29 note that fact to the Director of the Division of Motor Vehicles when
30 indicating the first day of any postponement or suspension. The last
31 day of the period of postponement or suspension shall be calculated by
32 the Division of Motor Vehicles upon notification by the Department
33 of Corrections of the date that the person was incarcerated and the
34 date the person was released. If the court is for any reason unable to
35 collect the license or licenses of the person, the court shall cause a
36 report of the conviction or adjudication of delinquency to be filed with
37 the director. That report shall include the complete name, address,
38 date of birth, eye color, and sex of the person and shall indicate the
39 first and last day of the suspension or postponement period imposed
40 by the court pursuant to this section. The court shall inform the
41 person orally and in writing that if the person is convicted of
42 personally operating a motor vehicle during the period of license
43 suspension or postponement imposed pursuant to this section the
44 person shall, upon conviction, be subject to the penalties set forth in
45 R.S.39:3-40. A person shall be required to acknowledge receipt of the
46 written notice in writing. Failure to receive a written notice or failure

1 to acknowledge in writing the receipt of a written notice shall not be
2 a defense to a subsequent charge of a violation of R.S.39:3-40. If the
3 person is the holder of a driver's license from another jurisdiction, the
4 court shall not collect the license but shall notify the director who shall
5 notify the appropriate officials in the licensing jurisdiction. The court
6 shall, however, in accordance with the provisions of this section,
7 revoke the person's non-resident driving privileges in this State.

8 c. All penalties provided for in this section shall be collected as
9 provided for the collection of fines and restitutions in section 3 of
10 P.L.1979, c.396 (C.2C:46-4), and shall be distributed in accordance
11 with the provisions of N.J.S.2C:64-6 as if the collected monies were
12 the proceeds of property forfeited pursuant to the provisions of
13 chapter 64. However, the distributed monies are to be used for law
14 enforcement activities related to auto theft.

15 (cf: P.L.1993, c.219, s.4)

16

17 3. Section 7 of P.L.1982, c.77 (C.2A:4A-26) is amended to read
18 as follows:

19 7. Referral to another court without juvenile's consent.

20 a. [On] Except as provided in subsection e. of this section, on
21 motion of the prosecutor, the court shall, without the consent of the
22 juvenile, waive jurisdiction over a case and refer that case from the
23 Superior Court, Chancery Division, Family Part to the appropriate
24 court and prosecuting authority having jurisdiction if it finds, after
25 hearing, that:

26 (1) The juvenile was 14 years of age or older at the time of the
27 charged delinquent act; and

28 (2) There is probable cause to believe that the juvenile committed
29 a delinquent act or acts which if committed by an adult would
30 constitute:

31 (a) Criminal homicide other than death by auto, strict liability for
32 drug induced deaths, pursuant to N.J.S.2C:35-9, robbery which would
33 constitute a crime of the first degree, aggravated sexual assault, sexual
34 assault, aggravated assault which would constitute a crime of the
35 second degree, kidnapping or aggravated arson; or

36 (b) A crime committed at a time when the juvenile had previously
37 been adjudicated delinquent, or convicted, on the basis of any of the
38 offenses enumerated in subsection a.(2)(a);

39 (c) A crime committed at a time when the juvenile had previously
40 been sentenced and confined in an adult penal institution; or

41 (d) An offense against a person committed in an aggressive, violent
42 and willful manner, other than an offense enumerated in subsection
43 a.(2)(a) of this section, or the unlawful possession of a firearm,
44 destructive device or other prohibited weapon, arson or death by auto
45 if the juvenile was operating the vehicle under the influence of an
46 intoxicating liquor, narcotic, hallucinogenic or habit producing drug;

1 or

2 (e) A violation of N.J.S.2C:35-3, N.J.S.2C:35-4, or N.J.S.2C:35-5;

3 or

4 (f) Crimes which are a part of a continuing criminal activity in
5 concert with two or more persons and the circumstances of the crimes
6 show the juvenile has knowingly devoted himself to criminal activity
7 as a source of livelihood; or

8 (g) An attempt or conspiracy to commit any of the acts enumerated
9 in paragraph (a), (d) or (e) of this subsection; or

10 (h) Theft of an automobile pursuant to chapter 20 of Title 2C of
11 the New Jersey Statutes; and

12 (3) Except with respect to any of the acts enumerated in subsection
13 a.(2)(a) of this section, or with respect to any acts enumerated in
14 subparagraph (e) of paragraph (2) of subsection a. of this section
15 which involve the distribution for pecuniary gain of any controlled
16 dangerous substance or controlled substance analog while on any
17 property used for school purposes which is owned by or leased to any
18 school or school board, or within 1,000 feet of such school property
19 or while on any school bus, or any attempt or conspiracy to commit
20 any of those acts, the State has shown that the nature and
21 circumstances of the charge or the prior record of the juvenile are
22 sufficiently serious that the interests of the public require waiver.

23 However, if in any case the juvenile can show that the probability
24 of his rehabilitation by the use of the procedures, services and facilities
25 available to the court prior to the juvenile reaching the age of 19
26 substantially outweighs the reasons for waiver, waiver shall not be
27 granted.

28 b. In every case where there is a motion seeking waiver, the
29 prosecutor shall within a reasonable time thereafter file a statement
30 with the Attorney General setting forth the basis for the motion. In
31 addition, the court shall, in writing, state its reasons for granting or
32 denying the waiver motion. The Attorney General shall compile this
33 information and report its findings to the Legislature 18 months after
34 the effective date of this act with the objective of developing, where
35 appropriate, guidelines as to the waiver of juveniles from the Family
36 Part.

37 c. An order referring a case shall incorporate therein not only the
38 alleged act or acts upon which the referral is premised, but also all
39 other delinquent acts arising out of or related to the same transaction.

40 d. A motion seeking waiver shall be filed by the prosecutor within
41 30 days of receipt of the complaint. This time limit shall not, except
42 for good cause shown, be extended.

43 e. Notwithstanding the provisions of this section, waiver shall be
44 mandatory if there is probable cause to believe that the juvenile
45 committed a delinquent act which, if committed by an adult, would

1 constitute a second or subsequent offense of theft of a motor vehicle.
2 (cf: P.L.1991, c.91, s.6)

3

4 4. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill would impose a mandatory three-year term of
10 imprisonment, without eligibility for parole, on any person convicted
11 of motor vehicle theft. The bill also provides that a juvenile who
12 commits a second or subsequent act which, if committed by an adult,
13 would constitute motor vehicle theft would be required to be "waived"
14 out of family court and tried as an adult. If convicted, the juvenile
15 would also be subject to the mandatory three-year imprisonment term.

16

17 In addition, the bill provides that the period of driver's license
18 suspension or postponement already in the law for motor vehicle theft
19 would be tolled while the person is incarcerated, and the period would
20 only begin once the offender is released.

21

22

23

24

25 Establishes mandatory three-year imprisonment and mandatory waiver
26 of certain juveniles for motor vehicle theft.