

ASSEMBLY, No. 2316

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 16, 1996

By Assemblymen O'TOOLE and WEINGARTEN

1 AN ACT concerning penalties for crimes committed in places of  
2 worship and cemeteries and amending N.J.S.2C:44-3.

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

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7 1. N.J.S.2C:44-3 is amended to read as follows:

8 2C:44-3. Criteria for Sentence of Extended Term of Imprisonment.

9 The court may, upon application of the prosecuting attorney,  
10 sentence a person who has been convicted of a crime of the first,  
11 second or third degree to an extended term of imprisonment if it finds  
12 one or more of the grounds specified in subsection a., b., c., or f. of  
13 this section. The court shall, upon application of the prosecuting  
14 attorney, sentence a person who has been convicted of a crime, other  
15 than a violation of N.J.S.2C:12-1a., N.J.S.2C:33-4, or a violation of  
16 N.J.S.2C:14-2 or 2C:14-3 if the grounds for the application is purpose  
17 to intimidate because of gender, to an extended term if it finds, by a  
18 preponderance of the evidence, the grounds in subsection e. If the  
19 grounds specified in subsection d. are found, and the person is being  
20 sentenced for commission of any of the offenses enumerated in  
21 N.J.S.2C:43-6c. or N.J.S.2C:43-6g., the court shall sentence the  
22 defendant to an extended term as required by N.J.S.2C:43-6c. or  
23 N.J.S.2C:43-6g., and application by the prosecutor shall not be  
24 required. The court shall, upon application of the prosecuting  
25 attorney, sentence a person who has been convicted of a crime under  
26 N.J.S.2C:14-2 or N.J.S.2C:14-3 to an extended term of imprisonment,  
27 upon application of the prosecutor, if the grounds specified in  
28 subsection g. of this section are found. The court shall, upon  
29 application of the prosecuting attorney, sentence a person to an  
30 extended term if the imposition of such term is required pursuant to  
31 the provisions of section 2 of P.L.1994, c.130 (C.2C:43-6.4). The  
32 court shall, upon application of the prosecuting attorney, sentence a  
33 person who has been convicted of a crime of the first, second or third  
34 degree to an extended term of imprisonment if the grounds specified

**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 in subsection h. are found. The finding of the court shall be  
2 incorporated in the record.

3 a. The defendant has been convicted of a crime of the first, second  
4 or third degree and is a persistent offender. A persistent offender is a  
5 person who at the time of the commission of the crime is 21 years of  
6 age or over, who has been previously convicted on at least two  
7 separate occasions of two crimes, committed at different times, when  
8 he was at least 18 years of age, if the latest in time of these crimes or  
9 the date of the defendant's last release from confinement, whichever is  
10 later, is within 10 years of the date of the crime for which the  
11 defendant is being sentenced.

12 b. The defendant has been convicted of a crime of the first, second  
13 or third degree and is a professional criminal. A professional criminal  
14 is a person who committed a crime as part of a continuing criminal  
15 activity in concert with two or more persons, and the circumstances of  
16 the crime show he has knowingly devoted himself to criminal activity  
17 as a major source of livelihood.

18 c. The defendant has been convicted of a crime of the first, second  
19 or third degree and committed the crime as consideration for the  
20 receipt, or in expectation of the receipt, of anything of pecuniary value  
21 the amount of which was unrelated to the proceeds of the crime or he  
22 procured the commission of the offense by payment or promise of  
23 payment of anything of pecuniary value.

24 d. Second offender with a firearm. The defendant is at least 18  
25 years of age and has been previously convicted of any of the following  
26 crimes: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-3a.,  
27 2C:15-1, 2C:18-2, 2C:29-5, 2C:39-4a., or has been previously  
28 convicted of an offense under Title 2A of the New Jersey Statutes  
29 which is equivalent of the offenses enumerated in this subsection and  
30 he used or possessed a firearm, as defined in 2C:39-1f., in the course  
31 of committing or attempting to commit any of these crimes, including  
32 the immediate flight therefrom.

33 e. The defendant in committing the crime acted with a purpose to  
34 intimidate an individual or group of individuals because of race, color,  
35 gender, handicap, religion, sexual orientation or ethnicity.

36 f. The defendant has been convicted of a crime under any of the  
37 following sections: N.J.S.2C:11-4, N.J.S.2C12-1b., N.J.S.2C:13-1,  
38 N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2,  
39 N.J.S.2C:29-2b., N.J.S.2C:29-5, N.J.S.2C:35-5, and in the course of  
40 committing or attempting to commit the crime, including the  
41 immediate flight therefrom, the defendant used or was in possession  
42 of a stolen motor vehicle.

43 g. The defendant has been convicted of a crime under  
44 N.J.S.2C:14-2 or N.J.S.2C:14-3 involving violence or the threat of  
45 violence and the victim of the crime was 16 years of age or less.

46 h. The defendant committed any of the following crimes: 2C:11-3,

1 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2, 2C:14-3, 2C:15-1, 2C:18-2,  
2 2C:35-5, 2C:39-4a., while on property used for cemetery purposes or  
3 as a place of worship.

4 For purposes of this subsection, a crime involves violence or the  
5 threat of violence if the victim sustains serious bodily injury as defined  
6 in subsection b. of N.J.S.2C:11-1, or the actor is armed with and uses  
7 a deadly weapon or threatens by word or gesture to use a deadly  
8 weapon as defined in subsection c. of N.J.S.2C:11-1, or threatens to  
9 inflict serious bodily injury.

10 (cf: P.L.1995, c.211, s.3)

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12 2. This act shall take effect immediately.

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#### STATEMENT

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17 This bill requires extended terms of imprisonment for the  
18 commission of first, second and third degree offenses involving  
19 murder, manslaughter, aggravated assault, kidnapping, sexual assault,  
20 aggravated criminal sexual contact, robbery, burglary, trafficking in  
21 controlled dangerous substances or possession of a firearm for an  
22 unlawful purpose, if the court finds that the act was committed the  
23 crime occurred in a place of worship or cemetery.

24 It is the sponsor's view that enhanced penalties are warranted in  
25 these circumstances because persons are especially vulnerable to  
26 attack in these locations.

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31 Requires extended terms of imprisonment for certain crimes committed  
32 in places of worship or cemeteries.