

ASSEMBLY, No. 2503

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 14, 1996

By Assemblymen GEIST and RUSSO

1 AN ACT concerning suspension of driving privileges under certain  
2 circumstances, amending P.L.1982, c.77, N.J.S.2C:35-16,  
3 N.J.S.2C:46-1, N.J.S.2C:46-2, P.L.1979, c.396, P.L.1991, c.329  
4 and supplementing Title 2C of the New Jersey Statutes.

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

8  
9 1. Section 24 of P.L.1982, c.77 (C.2A:4A-43) is amended to read  
10 as follows:

11 24. Disposition of delinquency cases. a. In determining the  
12 appropriate disposition for a juvenile adjudicated delinquent the court  
13 shall weigh the following factors:

14 (1) The nature and circumstances of the offense;

15 (2) The degree of injury to persons or damage to property caused  
16 by the juvenile's offense;

17 (3) The juvenile's age, previous record, prior social service  
18 received and out-of-home placement history;

19 (4) Whether the disposition supports family strength, responsibility  
20 and unity and the well-being and physical safety of the juvenile;

21 (5) Whether the disposition provides for reasonable participation  
22 by the child's parent, guardian, or custodian, provided, however, that  
23 the failure of a parent or parents to cooperate in the disposition shall  
24 not be weighed against the juvenile in arriving at an appropriate  
25 disposition;

26 (6) Whether the disposition recognizes and treats the unique  
27 physical, psychological and social characteristics and needs of the  
28 child;

29 (7) Whether the disposition contributes to the developmental needs  
30 of the child, including the academic and social needs of the child where  
31 the child has mental retardation or learning disabilities; and

32 (8) Any other circumstances related to the offense and the  
33 juvenile's social history as deemed appropriate by the court.

34 b. If a juvenile is adjudged delinquent, and except to the extent that

**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 an additional specific disposition is required pursuant to subsection e.  
2 or f. of this section, the court may order incarceration pursuant to  
3 section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one or more of the  
4 following dispositions:

5 (1) Adjourn formal entry of disposition of the case for a period not  
6 to exceed 12 months for the purpose of determining whether the  
7 juvenile makes a satisfactory adjustment, and if during the period of  
8 continuance the juvenile makes such an adjustment, dismiss the  
9 complaint; provided that if the court adjourns formal entry of  
10 disposition of delinquency for a violation of an offense defined in  
11 chapter 35 or 36 of Title 2C, of the New Jersey Statutes the court  
12 shall assess the mandatory penalty set forth in N.J.S.2C:35-15 [ but  
13 may waive imposition of the penalty set forth in N.J.S.2C:35-16 for  
14 juveniles adjudicated delinquent];

15 (2) Release the juvenile to the supervision of the juvenile's parent  
16 or guardian;

17 (3) Place the juvenile on probation to the chief probation officer of  
18 the county or to any other suitable person who agrees to accept the  
19 duty of probation supervision for a period not to exceed three years  
20 upon such written conditions as the court deems will aid rehabilitation  
21 of the juvenile;

22 (4) Transfer custody of the juvenile to any relative or other person  
23 determined by the court to be qualified to care for the juvenile;

24 (5) Place the juvenile under the care of the Department of Human  
25 Services under the responsibility of the Division of Youth and Family  
26 Services pursuant to P.L.1951, c.138 (C.30:4C-1 et seq.) for the  
27 purpose of providing services in or out of the home. Within 14 days,  
28 unless for good cause shown, but not later than 30 days, the  
29 Department of Human Services shall submit to the court a service  
30 plan, which shall be presumed valid, detailing the specifics of any  
31 disposition order. The plan shall be developed within the limits of  
32 fiscal and other resources available to the department. If the court  
33 determines that the service plan is inappropriate, given existing  
34 resources, the department may request a hearing on that  
35 determination;

36 (6) Place the juvenile under the care and custody of the  
37 Commissioner of the Department of Human Services for the purpose  
38 of receiving the services of the Division of Developmental Disabilities  
39 of that department, provided that the juvenile has been determined to  
40 be eligible for those services under P.L.1965, c.59, s.16 (C.30:4-25.4);

41 (7) Commit the juvenile, pursuant to applicable laws and the Rules  
42 of Court governing civil commitment, to the Department of Human  
43 Services under the responsibility of the Division of Mental Health  
44 Services for the purpose of placement in a suitable public or private  
45 hospital or other residential facility for the treatment of persons who  
46 are mentally ill, on the ground that the juvenile is in need of

1 involuntary commitment;

2 (8) Fine the juvenile an amount not to exceed the maximum  
3 provided by law for such a crime or offense if committed by an adult  
4 and which is consistent with the juvenile's income or ability to pay and  
5 financial responsibility to the juvenile's family, provided that the fine  
6 is specially adapted to the rehabilitation of the juvenile or to the  
7 deterrence of the type of crime or offense. If the fine is not paid due  
8 to financial limitations, the fine may be satisfied by requiring the  
9 juvenile to submit to any other appropriate disposition provided for in  
10 this section;

11 (9) Order the juvenile to make restitution to a person or entity who  
12 has suffered loss resulting from personal injuries or damage to  
13 property as a result of the offense for which the juvenile has been  
14 adjudicated delinquent. The court may determine the reasonable  
15 amount, terms and conditions of restitution. If the juvenile  
16 participated in the offense with other persons, the participants shall be  
17 jointly and severally responsible for the payment of restitution. The  
18 court shall not require a juvenile to make full or partial restitution if  
19 the juvenile reasonably satisfies the court that the juvenile does not  
20 have the means to make restitution and could not reasonably acquire  
21 the means to pay restitution;

22 (10) Order that the juvenile perform community services under the  
23 supervision of a probation division or other agency or individual  
24 deemed appropriate by the court. Such services shall be compulsory  
25 and reasonable in terms of nature and duration. Such services may be  
26 performed without compensation, provided that any money earned by  
27 the juvenile from the performance of community services may be  
28 applied towards any payment of restitution or fine which the court has  
29 ordered the juvenile to pay;

30 (11) Order that the juvenile participate in work programs which are  
31 designed to provide job skills and specific employment training to  
32 enhance the employability of job participants. Such programs may be  
33 without compensation, provided that any money earned by the juvenile  
34 from participation in a work program may be applied towards any  
35 payment of restitution or fine which the court has ordered the juvenile  
36 to pay;

37 (12) Order that the juvenile participate in programs emphasizing  
38 self-reliance, such as intensive outdoor programs teaching survival  
39 skills, including but not limited to camping, hiking and other  
40 appropriate activities;

41 (13) Order that the juvenile participate in a program of academic  
42 or vocational education or counseling, such as a youth service bureau,  
43 requiring attendance at sessions designed to afford access to  
44 opportunities for normal growth and development. This may require  
45 attendance after school, evenings and weekends;

46 (14) Place the juvenile in a suitable residential or nonresidential

1 program for the treatment of alcohol or narcotic abuse, provided that  
2 the juvenile has been determined to be in need of such services;

3 (15) Order the parent or guardian of the juvenile to participate in  
4 appropriate programs or services when the court has found either that  
5 such person's omission or conduct was a significant contributing factor  
6 towards the commission of the delinquent act, or, under its authority  
7 to enforce litigant's rights, that such person's omission or conduct has  
8 been a significant contributing factor towards the ineffective  
9 implementation of a court order previously entered in relation to the  
10 juvenile;

11 (16) (a) Place the juvenile in a nonresidential program operated by  
12 a public or private agency, providing intensive services to juveniles for  
13 specified hours, which may include education, counseling to the  
14 juvenile and the juvenile's family if appropriate, vocational training,  
15 employment counseling, work or other services;

16 (b) Place the juvenile under the custody of the Juvenile Justice  
17 Commission established pursuant to section 2 of P.L.1995, c.284  
18 (C.52:17B-170) for placement with any private group home or private  
19 residential facility with which the commission has entered into a  
20 purchase of service contract;

21 (17) Instead of or in addition to any disposition made according to  
22 this section, the court may postpone, suspend, or revoke for a period  
23 not to exceed two years the driver's license, registration certificate, or  
24 both of any juvenile who used a motor vehicle in the course of  
25 committing an act for which the juvenile was adjudicated delinquent.  
26 In imposing this disposition and in deciding the duration of the  
27 postponement, suspension, or revocation, the court shall consider the  
28 severity of the delinquent act and the potential effect of the loss of  
29 driving privileges on the juvenile's ability to be rehabilitated. Any  
30 postponement, suspension, or revocation shall be imposed  
31 consecutively with any custodial commitment;

32 (18) Order that the juvenile satisfy any other conditions reasonably  
33 related to the rehabilitation of the juvenile; or

34 (19) Order a parent or guardian who has failed or neglected to  
35 exercise reasonable supervision or control of a juvenile who has been  
36 adjudicated delinquent to make restitution to any person or entity who  
37 has suffered a loss as a result of that offense. The court may  
38 determine the reasonable amount, terms and conditions of restitution.

39 c. (1) Except as otherwise provided in subsections e. and f. of this  
40 section, if the county in which the juvenile has been adjudicated  
41 delinquent has a juvenile detention facility meeting the physical and  
42 program standards established pursuant to this subsection by the  
43 Juvenile Justice Commission, the court may, in addition to any of the  
44 dispositions not involving placement out of the home enumerated in  
45 this section, incarcerate the juvenile in the youth detention facility in  
46 that county for a term not to exceed 60 consecutive days. Counties

1 which do not operate their own juvenile detention facilities may  
2 contract for the use of approved commitment programs with counties  
3 with which they have established agreements for the use of  
4 pre-disposition juvenile detention facilities. The Juvenile Justice  
5 Commission shall promulgate such rules and regulations from time to  
6 time as deemed necessary to establish minimum physical facility and  
7 program standards for the use of juvenile detention facilities pursuant  
8 to this subsection.

9 (2) No juvenile may be incarcerated in any county detention facility  
10 unless the county has entered into an agreement with the Juvenile  
11 Justice Commission concerning the use of the facility for sentenced  
12 juveniles. Upon agreement with the county, the Juvenile Justice  
13 Commission shall certify detention facilities which may receive  
14 juveniles sentenced pursuant to this subsection and shall specify the  
15 capacity of the facility that may be made available to receive such  
16 juveniles; provided, however, that in no event shall the number of  
17 juveniles incarcerated pursuant to this subsection exceed 50% of the  
18 maximum capacity of the facility.

19 (3) The court may fix a term of incarceration under this subsection  
20 where:

21 (a) The act for which the juvenile was adjudicated delinquent, if  
22 committed by an adult, would have constituted a crime or repetitive  
23 disorderly persons offense;

24 (b) Incarceration of the juvenile is consistent with the goals of  
25 public safety, accountability and rehabilitation and the court is clearly  
26 convinced that the aggravating factors substantially outweigh the  
27 mitigating factors as set forth in section 25 of P.L.1982, c.77  
28 (C.2A:4A-44); and

29 (c) The detention facility has been certified for admission of  
30 adjudicated juveniles pursuant to paragraph (2).

31 (4) If as a result of incarceration of adjudicated juveniles pursuant  
32 to this subsection, a county is required to transport a predisposition  
33 juvenile to a juvenile detention facility in another county, the costs of  
34 such transportation shall be borne by the Juvenile Justice Commission.

35 d. Whenever the court imposes a disposition upon an adjudicated  
36 delinquent which requires the juvenile to perform a community service,  
37 restitution, or to participate in any other program provided for in this  
38 section other than subsection c., the duration of the juvenile's  
39 mandatory participation in such alternative programs shall extend for  
40 a period consistent with the program goal for the juvenile and shall in  
41 no event exceed one year beyond the maximum duration permissible  
42 for the delinquent if the juvenile had been committed to a term of  
43 incarceration.

44 e. In addition to any disposition the court may impose pursuant to  
45 this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the  
46 following orders shall be included in dispositions of the adjudications

1 set forth below:

2 (1) An order of incarceration for a term of the duration authorized  
3 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
4 or an order to perform community service pursuant to paragraph (10)  
5 of subsection b. of this section for a period of at least 60 days, if the  
6 juvenile has been adjudicated delinquent for an act which, if committed  
7 by an adult, would constitute the crime of theft of a motor vehicle, or  
8 the crime of unlawful taking of a motor vehicle in violation of  
9 subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding  
10 in violation of subsection b. of N.J.S.2C:29-2;

11 (2) An order of incarceration for a term of the duration authorized  
12 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
13 which shall include a minimum term of 60 days during which the  
14 juvenile shall be ineligible for parole, if the juvenile has been  
15 adjudicated delinquent for an act which, if committed by an adult,  
16 would constitute the crime of aggravated assault in violation of  
17 paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree  
18 crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or  
19 theft of a motor vehicle, in a case in which the juvenile has previously  
20 been adjudicated delinquent for an act, which if committed by an adult,  
21 would constitute unlawful taking of a motor vehicle or theft of a motor  
22 vehicle;

23 (3) An order to perform community service pursuant to paragraph  
24 (10) of subsection b. of this section for a period of at least 30 days, if  
25 the juvenile has been adjudicated delinquent for an act which, if  
26 committed by an adult, would constitute the fourth degree crime of  
27 unlawful taking of a motor vehicle in violation of subsection b. of  
28 N.J.S.2C:20-10;

29 (4) An order of incarceration for a term of the duration authorized  
30 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
31 which shall include a minimum term of 30 days during which the  
32 juvenile shall be ineligible for parole, if the juvenile has been  
33 adjudicated delinquent for an act which, if committed by an adult,  
34 would constitute the crime of unlawful taking of a motor vehicle in  
35 violation of N.J.S.2C:20-10 or the third degree crime of eluding in  
36 violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has  
37 previously been adjudicated delinquent for an act which, if committed  
38 by an adult, would constitute either theft of a motor vehicle, the  
39 unlawful taking of a motor vehicle or eluding.

40 f. (1) The minimum terms of incarceration required pursuant to  
41 subsection e. of this section shall be imposed regardless of the weight  
42 or balance of factors set forth in this section or in section 25 of  
43 P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those  
44 factors shall determine the length of the term of incarceration  
45 appropriate, if any, beyond any mandatory minimum term required  
46 pursuant to subsection e. of this section.

1       (2) When a court in a county that does not have a juvenile  
2 detention facility or a contractual relationship permitting incarceration  
3 pursuant to subsection c. of this section is required to impose a term  
4 of incarceration pursuant to subsection e. of this section, the court  
5 may, subject to limitations on commitment to State correctional  
6 facilities of juveniles who are under the age of 11 or developmentally  
7 disabled, set a term of incarceration consistent with subsection c.  
8 which shall be served in a State correctional facility. When a juvenile  
9 who because of age or developmental disability cannot be committed  
10 to a State correctional facility or cannot be incarcerated in a county  
11 facility, the court shall order a disposition appropriate as an alternative  
12 to any incarceration required pursuant to subsection e.

13       (3) For purposes of subsection e. of this section, in the event that  
14 a "boot camp" program for juvenile offenders should be developed and  
15 is available, a term of commitment to such a program shall be  
16 considered a term of incarceration.

17 (cf: P.L.1995, c.280, s.10)

18

19       2. N.J.S.2C:35-16 is amended to read as follows:

20       2C:35-16. Mandatory Forfeiture or Postponement of Driving  
21 Privileges. In addition to any disposition authorized by this title, the  
22 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), or any other  
23 statute indicating the dispositions that can be ordered for an  
24 adjudication of delinquency, and notwithstanding the provisions of  
25 subsection c. of N.J.S.2C:43-2 every person convicted of or  
26 adjudicated delinquent for a violation of any offense defined in this  
27 chapter or chapter 36 of this title shall forthwith forfeit his right to  
28 operate a motor vehicle over the highways of this State for a period to  
29 be fixed by the court at not less than six months or more than two  
30 years which shall commence on the day the sentence is imposed. In  
31 the case of any person who at the time of the imposition of sentence  
32 is less than 17 years of age, the period of the suspension of driving  
33 privileges authorized herein, including a suspension of the privilege of  
34 operating a motorized bicycle, shall commence on the day the sentence  
35 is imposed and shall run for a period as fixed by the court of not less  
36 than six months or more than two years after the day the person  
37 reaches the age of 17 years. If the driving privilege of any person is  
38 under revocation, suspension, or postponement for a violation of any  
39 provision of this title or Title 39 of the Revised Statutes at the time of  
40 any conviction or adjudication of delinquency for a violation of any  
41 offense defined in this chapter or chapter 36 of this title, the  
42 revocation, suspension, or postponement period imposed herein shall  
43 commence as of the date of termination of the existing revocation,  
44 suspension, or postponement.

45       The court before whom any person is convicted of or adjudicated  
46 delinquent for a violation of any offense defined in this chapter or

1 chapter 36 of this title shall collect forthwith the New Jersey driver's  
2 license or licenses of the person and forward such license or licenses  
3 to the Director of the Division of Motor Vehicles along with a report  
4 indicating the first and last day of the suspension or postponement  
5 period imposed by the court pursuant to this section. If the court is  
6 for any reason unable to collect the license or licenses of the person,  
7 the court shall cause a report of the conviction or adjudication of  
8 delinquency to be filed with the Director. That report shall include the  
9 complete name, address, date of birth, eye color, and sex of the person  
10 and shall indicate the first and last day of the suspension or  
11 postponement period imposed by the court pursuant to this section.  
12 The court shall inform the person orally and in writing that if the  
13 person is convicted of personally operating a motor vehicle during the  
14 period of license suspension or postponement imposed pursuant to this  
15 section, the person shall, upon conviction, be subject to the penalties  
16 set forth in R.S.39:3-40. A person shall be required to acknowledge  
17 receipt of the written notice in writing. Failure to receive a written  
18 notice or failure to acknowledge in writing the receipt of a written  
19 notice shall not be a defense to a subsequent charge of a violation of  
20 R.S.39:3-40. If the person is the holder of a driver's license from  
21 another jurisdiction, the court shall not collect the license but shall  
22 notify forthwith the Director who shall notify the appropriate officials  
23 in the licensing jurisdiction. The court shall, however, in accordance  
24 with the provisions of this section, revoke the person's non-resident  
25 driving privilege in this State.

26 In addition to any other condition imposed, a court [may in its  
27 discretion] shall suspend, revoke or postpone in accordance with the  
28 provisions of this section the driving privileges of a person admitted  
29 to supervisory treatment under N.J.S.2C:36A-1 or N.J.S.2C:43-12  
30 without a plea of guilty or finding of guilt.  
31 (cf: P.L.1988, c.44, s.7)

32

33 3. N.J.S.2C:46-1 is amended to read as follows:

34 2C:46-1. Time and Method of Payment; Disposition of Funds.

35 a. When a defendant is sentenced to pay an assessment pursuant to  
36 section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty imposed  
37 pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed  
38 pursuant to N.J.S.2C:35-20, a fine imposed pursuant to section 7 of  
39 P.L. , c. (C. )(now pending before the Legislature as section 7  
40 of this bill) or to make restitution, the court may grant permission for  
41 the payment to be made within a specified period of time or in  
42 specified installments. If no such permission is embodied in the  
43 sentence, the assessment, fine, penalty, fee or restitution shall be  
44 payable forthwith, and the court shall file a copy of the judgment of  
45 conviction with the Clerk of the Superior Court who shall enter the  
46 following information upon the record of docketed judgments:

- 1 (1) the name of the convicted person as judgment debtor;
- 2 (2) the amount of the assessment imposed pursuant to section 2 of
- 3 P.L.1979, c.396 (C.2C:43-3.1) and the Violent Crimes Compensation
- 4 Board as a judgment creditor in that amount;
- 5 (3) the amount of any restitution ordered and the name of any
- 6 persons entitled to receive payment as judgment creditors in the
- 7 amount and according to the priority set by the court;
- 8 (4) the amount of any fine and the governmental entity entitled to
- 9 receive payment pursuant to N.J.S.2C:46-4;
- 10 (5) the amount of the mandatory Drug Enforcement and Demand
- 11 Reduction penalty imposed;
- 12 (6) the amount of the forensic laboratory fee imposed;[ and]
- 13 (7) the amount of the fine imposed pursuant to section 7 of
- 14 P.L. , c. (C. )(now pending before the Legislature as section 7
- 15 of this bill.); and
- 16 (8) the date of the order.

17 Where there is more than one judgment creditor the creditors shall  
18 be given priority consistent with the provisions of section 13 of  
19 P.L.1991, c.329 (C.2C:46-4.1). These entries shall have the same  
20 force as a civil judgment docketed in the Superior Court.

21 b. (1) When a defendant sentenced to pay an assessment imposed  
22 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a  
23 penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee  
24 imposed pursuant to N.J.S.2C:35-20 , a fine imposed pursuant to  
25 section 7 of P.L. , c. (C. )(now pending before the Legislature  
26 as section 7 of this bill) or to make restitution is also sentenced to  
27 probation, the court shall make continuing payment of installments on  
28 the assessment and restitution a condition of probation, and may make  
29 continuing payment of installments on the fine, the mandatory Drug  
30 Enforcement and Demand Reduction penalty, the mandatory fine  
31 pursuant to pursuant to section 7 of P.L. , c. (C. )(now pending  
32 before the Legislature as section 7 of this bill) or the forensic  
33 laboratory fee a condition of probation.

34 (2) When a defendant sentenced to pay an assessment imposed  
35 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a  
36 penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee  
37 imposed pursuant to N.J.S.2C:35-20 , a fine imposed pursuant to  
38 section 7 of P.L. , c. (C. )(now pending before the Legislature  
39 as section 7 of this bill) or to make restitution is also sentenced to a  
40 custodial term in a State correctional facility, the court may require the  
41 defendant to pay installments on the assessment, penalty, fee, fine and  
42 restitution.

43 c. The defendant shall pay an assessment imposed pursuant to  
44 section 2 of P.L.1979, c.396 (C.2C:43-3.1), restitution, penalty, fee or  
45 fine or any installment thereof to the officer entitled by law to collect  
46 the payment. In the event of default in payment, such agency shall

1 take appropriate action for its collection.

2 d. (1) When, in connection with a sentence of probation, a  
3 defendant is sentenced to pay an assessment imposed pursuant to  
4 section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty imposed  
5 pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed  
6 pursuant to N.J.S.2C:35-20 , a fine imposed pursuant to section 7 of  
7 P.L. , c. (C. )(now pending before the Legislature as section 7  
8 of this bill) or to make restitution, the defendant, in addition, shall be  
9 sentenced to pay a transaction fee on each occasion that the defendant  
10 makes a payment or an installment payment, until the defendant has  
11 paid the full amount he is sentenced to pay. All other individuals  
12 making payments on court ordered financial obligations through the  
13 probation division shall also pay a transaction fee on each payment or  
14 installment payment. The Administrative Office of the Courts shall  
15 promulgate a transaction fee schedule for use in connection with  
16 installment payments made pursuant to this paragraph; provided,  
17 however, the transaction fee on an installment payment shall not  
18 exceed \$2.00.

19 (2) When, in connection with a custodial sentence in a State  
20 correctional institution, a defendant is sentenced to pay an assessment  
21 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a  
22 fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic  
23 laboratory fee imposed pursuant to N.J.S.2C:35-20 , a fine imposed  
24 pursuant to section 7 of P.L. , c. (C. )(now pending before the  
25 Legislature as section 7 of this bill) or to make restitution, the  
26 defendant, in addition, shall be sentenced to pay a transaction fee on  
27 each occasion that the defendant makes a payment or an installment  
28 payment until the defendant has paid the full amount he is sentenced  
29 to pay. The Department of Corrections shall promulgate a transaction  
30 fee schedule for use in connection with installment payments made  
31 pursuant to this paragraph; provided, however, the transaction fee on  
32 an installment payment shall not exceed \$1.00.

33 (cf: P.L.1995, c.9, s.11)

34

35 4. N.J.S.2C:46-2 is amended to read as follows:

36 2C:46-2. Consequences of Nonpayment; Summary Collection. a.  
37 When a defendant sentenced to pay an assessment imposed pursuant  
38 to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee,  
39 fine , a fine imposed pursuant to section 7 of P.L. , c. (C. )(now  
40 pending before the Legislature as section 7 of this bill) , other court  
41 imposed financial penalties or to make restitution defaults in the  
42 payment thereof or of any installment, upon the motion of the person  
43 authorized by law to collect the payment, the motion of the  
44 prosecutor, the motion of the victim entitled to payment of restitution,  
45 the motion of the Violent Crimes Compensation Board, the motion of  
46 the State or county Office of Victim and Witness Advocacy or upon

1 its own motion, the court shall recall him, or issue a summons or a  
2 warrant of arrest for his appearance. The court shall afford the person  
3 notice and an opportunity to be heard on the issue of default. Failure  
4 to make any payment when due shall be considered a default. The  
5 standard of proof shall be by a preponderance of the evidence, and the  
6 burden of establishing good cause for a default shall be on the person  
7 who has defaulted.

8 (1) If the court finds that the person has defaulted without good  
9 cause, the court shall:

10 (a) Order the suspension of the driver's license or the nonresident  
11 reciprocity driving privilege of the person; and

12 (b) Prohibit the person from obtaining a driver's license or  
13 exercising reciprocity driving privileges until the person has made all  
14 past due payments; and

15 (c) Notify the Director of the Division of Motor Vehicles of the  
16 action taken; and

17 (d) Take such other actions as may be authorized by law.

18 (2) If the court finds that the person defaulted on payment of a  
19 court imposed financial obligation without good cause and finds that  
20 the default was willful, the court may, in addition to the action  
21 required by paragraph (1) of this subsection a., impose a term of  
22 imprisonment or participation in a labor assistance program or  
23 enforced community service to achieve the objective of the court  
24 imposed financial obligation. These options shall not reduce the  
25 amount owed by the person in default. The term of imprisonment or  
26 enforced community service or participation in a labor assistance  
27 program in such case shall be specified in the order of commitment. It  
28 need not be equated with any particular dollar amount but, in the case  
29 of a fine it shall not exceed one day for each \$20.00 of the fine nor  
30 40 days if the fine was imposed upon conviction of a disorderly  
31 persons offense nor 25 days for a petty disorderly persons offense nor  
32 one year in any other case, whichever is the shorter period. In no case  
33 shall the total period of imprisonment in the case of a disorderly  
34 persons offense for both the sentence of imprisonment and for failure  
35 to pay a fine exceed six months.

36 (3) Except where incarceration is ordered pursuant to paragraph  
37 (2) of this subsection a., if the court finds that the person has defaulted  
38 the court shall take appropriate action to modify or establish a  
39 reasonable schedule for payment, and, in the case of a fine, if the court  
40 finds that the circumstances that warranted the fine have changed or  
41 that it would be unjust to require payment, the court may revoke or  
42 suspend the fine or the unpaid portion of the fine.

43 (4) When failure to pay an assessment imposed pursuant to section  
44 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee,  
45 restitution, a fine imposed pursuant to section 7 of P.L. , c.  
46 (C. )(now pending before the Legislature as section 7 of this bill) or

1 other financial penalties or to perform enforced community service or  
2 to participate in a labor assistance program is determined to be willful,  
3 the failure to do so shall be considered to be contumacious.

4 (5) When a fine, assessment imposed pursuant to section 2 of  
5 P.L.1979, c.396 (C.2C:43-3.1), other financial penalty or restitution  
6 is imposed on a corporation, it is the duty of the person or persons  
7 authorized to make disbursements from the assets of the corporation  
8 or association to pay it from such assets and their failure so to do may  
9 be held to be contumacious.

10 b. Upon any default in the payment of a fine, assessment imposed  
11 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly  
12 probation fee, a fine imposed pursuant to section 7 of P.L. , c.  
13 (C. )(now pending before the Legislature as section 7 of this bill)  
14 other financial penalties, restitution, or any installment thereof,  
15 execution may be levied and such other measures may be taken for  
16 collection of it or the unpaid balance thereof as are authorized for the  
17 collection of an unpaid civil judgment entered against the defendant in  
18 an action on a debt.

19 c. Upon any default in the payment of restitution or any installment  
20 thereof, the victim entitled to the payment may institute summary  
21 collection proceedings authorized by subsection b. of this section.

22 d. Upon any default in the payment of an assessment imposed  
23 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or any  
24 installment thereof, the Violent Crimes Compensation Board or the  
25 party responsible for collection may institute summary collection  
26 proceedings authorized by subsection b. of this section.

27 e. When a defendant sentenced to make restitution to a public  
28 entity other than the Violent Crimes Compensation Board, defaults in  
29 the payment thereof or any installment, the court may, in lieu of other  
30 modification of the sentence, order the defendant to perform work in  
31 a labor assistance program or enforced community service program.

32 f. If a defendant ordered to participate in a labor assistance  
33 program or enforced community service program fails to report for  
34 work or to perform the assigned work, the comprehensive enforcement  
35 hearing officer may revoke the work order and impose any sentence  
36 permitted as a consequence of the original conviction.

37 g. If a defendant ordered to participate in a labor assistance  
38 program or an enforced community service program pays all  
39 outstanding assessments, the comprehensive enforcement hearing  
40 officer may review the work order, and modify the same to reflect the  
41 objective of the sentence.

42 h. As used in this section:

43 (1) "Comprehensive enforcement program" means the program  
44 established pursuant to the "Comprehensive Enforcement Program  
45 Fund Act," P.L.1995, c.9 (C.2B:19-1 et seq.).

46 (2) The terms "labor assistance program" and "enforced community

1 service" have the same meaning as those terms are defined in section  
2 5 of the "Comprehensive Enforcement Program Fund Act," P.L.1995,  
3 c.9 (C.2B:19-5).

4 (3) "Public entity" means the State, any county, municipality,  
5 district, public authority, public agency and any other political  
6 subdivision or public body in the State.

7 (cf: P.L.1995, c.9, s.11)

8

9 5. Section 3 of P.L.1979, c.396 (C.2C:46-4) is amended to read as  
10 follows:

11 3. a. All fines, assessments imposed pursuant to section 2 of  
12 P.L.1979, c.396 (C.2C:43-3.1), all fines imposed pursuant to section  
13 7 of P.L. , c. (C. )(now pending before the Legislature as section  
14 7 of this bill) and restitution shall be collected as follows:

15 (1) All fines, assessments imposed pursuant to section 2 of  
16 P.L.1979, c.396 (C.2C:43-3.1) all fines imposed pursuant to section  
17 7 of P.L. c. (C. )(now pending before the Legislature as section 7  
18 of this bill) and restitution imposed by the Superior Court or  
19 otherwise imposed at the county level, shall be collected by the county  
20 probation division except when such fine, assessment or restitution is  
21 imposed in conjunction with a custodial sentence to a State  
22 correctional facility or in conjunction with a term of incarceration  
23 imposed pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44) in  
24 which event such fine, assessment or restitution shall be collected by  
25 the Department of Corrections or the Juvenile Justice Commission  
26 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).  
27 An adult prisoner of a State correctional institution or a juvenile  
28 serving a term of incarceration imposed pursuant to section 25 of  
29 P.L.1982, c.77 (C.2A:4A-44) who has not paid an assessment imposed  
30 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) a fine  
31 imposed pursuant to section 7 of P.L. , c. (C. )(now pending  
32 before the Legislature as section 7 of this bill) or restitution shall have  
33 the assessment, fine or restitution deducted from any income the  
34 inmate receives as a result of labor performed at the institution or on  
35 any type of work release program or, pursuant to regulations  
36 promulgated by the Commissioner of the Department of Corrections  
37 or the Juvenile Justice Commission, from any personal account  
38 established in the institution for the benefit of the inmate.

39 (2) All fines, assessments imposed pursuant to section 2 of  
40 P.L.1979, c.396 (C.2C:43-3.1) any fine imposed pursuant to section  
41 7 of P.L. c. (C. )(now pending before the Legislature as section 7  
42 of this bill) and restitution imposed by a municipal court shall be  
43 collected by the municipal court administrator except if such fine,  
44 assessments imposed pursuant to section 2 of P.L.1979, c.396  
45 (C.2C:43-3.1) or restitution is ordered as a condition of probation in  
46 which event it shall be collected by the county probation division.

1 b. Except as provided in subsection c. with respect to fines  
2 imposed on appeals following convictions in municipal courts, all fines  
3 imposed by the Superior Court or otherwise imposed at the county  
4 level, shall be paid over by the officer entitled to collect same to:

5 (1) The county treasurer with respect to fines imposed on  
6 defendants who are sentenced to and serve a custodial term, including  
7 a term as a condition of probation, in the county jail, workhouse or  
8 penitentiary except where such county sentence is served concurrently  
9 with a sentence to a State institution; or

10 (2) The State Treasurer with respect to all other fines.

11 c. All fines imposed by municipal courts, except a central municipal  
12 court established pursuant to N.J.S.2B:12-1 on defendants convicted  
13 of crimes, disorderly persons offenses and petty disorderly persons  
14 offenses, and all fines imposed following conviction on appeal  
15 therefrom, and all forfeitures of bail shall be paid over by the officer  
16 entitled to collect same to the treasury of the municipality wherein the  
17 municipal court is located.

18 In the case of an intermunicipal court, fines shall be paid into the  
19 municipal treasury of the municipality in which the offense was  
20 committed, and costs, fees, and forfeitures of bail shall be apportioned  
21 among the several municipalities to which the court's jurisdiction  
22 extends according to the ratios of the municipalities' contributions to  
23 the total expense of maintaining the court.

24 In the case of a central municipal court, established by a county  
25 pursuant to N.J.S.2B:12-1, all costs, fines, fees and forfeitures of bail  
26 shall be paid into the county treasury of the county where the central  
27 municipal court is located.

28 d. All assessments imposed pursuant to section 2 of P.L.1979,  
29 c.396 (C.2C:43-3.1) shall be forwarded and deposited as provided in  
30 that section.

31 e. All mandatory Drug Enforcement and Demand Reduction  
32 penalties imposed pursuant to N.J.S.2C:35-15 shall be forwarded and  
33 deposited as provided for in that section.

34 f. All forensic laboratory fees assessed pursuant to N.J.S.2C:35-20  
35 shall be forwarded and deposited as provided for in that section.

36 g. All restitution ordered to be paid to the Victims of Crime  
37 Compensation Board pursuant to N.J.S.2C:44-2 shall be forwarded to  
38 the Board for deposit in the Victims of Crime Compensation Board  
39 Account.

40 h. All assessments imposed pursuant to section 11 of P.L.1993,  
41 c.220 (C.2C:43-3.2) shall be forwarded and deposited as provided in  
42 that section.

43 i. All fines imposed pursuant to section 7 of P.L. \_\_\_\_\_, c.  
44 (C. \_\_\_\_\_)(now pending before the Legislature as section 7 of this bill.)  
45 shall be forwarded and deposited as provided in that section.

46 (cf: P.L.1996, c.95, s.17)

1       6. Section 13 of P.L.1991, c.329 (C.2C:46-4.1) is amended to read  
2 as follows:

3       13. Moneys that are collected in satisfaction of any assessment  
4 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or  
5 in satisfaction of restitution or fines imposed in accordance with the  
6 provisions of Title 2C of the New Jersey Statutes or with the  
7 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), shall be  
8 applied in the following order:

9       a. first, in satisfaction of all assessments imposed pursuant to  
10 section 2 of P.L.1979, c.396 (C.2C:43-3.1);

11       b. second, in satisfaction of any restitution ordered;

12       c. third, in satisfaction of all assessments imposed pursuant to  
13 section 11 of P.L.1993, c.220 (C.2C:43-3.2);

14       d. fourth, in satisfaction of any forensic laboratory fee assessed  
15 pursuant to N.J.S.2C:35-20;

16       e. fifth, in satisfaction of any mandatory Drug Enforcement and  
17 Demand Reduction penalty assessed pursuant to N.J.S.2C:35-15;  
18 [and]

19       f. sixth, in satisfaction of any fine imposed pursuant to section 7  
20 of P.L. c. (C. ) (now pending before the Legislature as section 7  
21 of this bill); and

22       g. seventh, in satisfaction of any fine.

23 (cf: P.L.1995, c.281, s.3)

24

25       7. (New section) a. In addition to any term or condition that may  
26 be included in an agreement for supervisory treatment pursuant to  
27 N.J.S.2C:43-13 or imposed as a term or condition of conditional  
28 discharge pursuant to N.J.S.2C:36A-1 for a violation of any offense  
29 defined in chapters 35 or 36 of Title 2C of the New Jersey Statutes,  
30 each participant shall be assessed a fine of \$50.00 for each  
31 adjudication or conviction.

32       b. All fines provided by this section shall be collected as provided  
33 for collection of fines and restitutions in section 3 of P.L.1979, c.396  
34 (C.2C:46-4) and shall be forwarded to the Department of Treasury as  
35 provided in subsection c. of this section.

36       c. All monies collected pursuant to this section shall be forwarded  
37 to the Department of Treasury to be deposited in a nonlapsing  
38 revolving fund to be known as the " Drug Abuse Resistance Education  
39 (DARE) Fund."

40       d. Monies in the fund shall be appropriated by the Legislature on  
41 an annual basis for the purposes of funding the Drug Abuse Resistance  
42 Education (DARE) programs in this State and shall not be used to  
43 fund administrative costs.

44

45       8. This act shall take effect immediately.

STATEMENT

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This bill would mandate the suspension or postponement of driving privileges for juveniles involved in drug-related offenses. Currently, the statutory language in N.J.S.2A:4A-43 allows the court to waive such imposition. This bill would also remove the language in N.J.S.2C:35-16 which made permissive certain suspensions or postponements of driving privileges for drug related offenses.

In addition, this bill would impose a \$50.00 fine on any person who participates in a supervisory treatment program pursuant to N.J.S.2C:43-13 or who is conditionally discharged pursuant to N.J.S.2C:36A-1. The fine would be imposed for each adjudication or conviction. The monies would be collected by the Department of Treasury and deposited in nonlapsing revolving fund known as the "Drug Abuse Resistance Education (DARE) Fund." The Legislature would appropriate the monies on an annual basis to the Drug Abuse Resistance Education (DARE) programs in this State.

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Provides for mandatory suspension of driving privileges under certain circumstances; establishes the Drug Abuse Resistance Education Fund.