

ASSEMBLY, No. 2543

STATE OF NEW JERSEY

INTRODUCED DECEMBER 5, 1996

By Assemblyman **HOLZAPFEL** and Assemblywoman
CRECCO

1 AN ACT concerning fleeing from law enforcement officers and
2 amending N.J.S.2C:29-1 and N.J.S.2C:29-2.

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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:29-1 is amended to read as follows:

8 2C:29-1. Obstructing Administration of Law or Other
9 Governmental Function.

10 a. A person commits an offense if he purposely obstructs, impairs
11 or perverts the administration of law or other governmental function
12 or prevents or attempts to prevent a public servant from lawfully
13 performing an official function by means of flight, intimidation, force,
14 violence, or physical interference or obstacle, or by means of any
15 independently unlawful act. This section does not apply to [flight by
16 a person charged with crime, refusal to submit to arrest,]failure to
17 perform a legal duty other than an official duty, or any other means of
18 avoiding compliance with law without affirmative interference with
19 governmental functions.

20 b. An offense under this section is a crime of the fourth degree if
21 the actor obstructs the detection or investigation of a crime or the
22 prosecution of a person for a crime, otherwise it is a disorderly
23 persons offense.

24 (cf: P.L.1986, c.34, s.1)

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26 2. N.J.S.2C:29-2 is amended to read as follows:

27 2C:29-2. Resisting Arrest; Eluding Officer.

28 a. A person is guilty of a disorderly persons offense if he, by any
29 means, including flight, purposely prevents or attempts to prevent a
30 law enforcement officer from effecting [a lawful] an arrest, except that
31 he is guilty of a crime of the fourth degree if he:

32 1. Uses or threatens to use physical force or violence against the
33 law enforcement officer or another; 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.

1 2. Uses any other means to create a substantial risk of causing
2 physical injury to the public servant or another.

3 It is not a defense to a prosecution under this subsection that the
4 law enforcement officer was acting unlawfully in making the arrest,
5 provided he was acting under color of his official authority and
6 provided the law enforcement officer announces his intention to arrest
7 prior to the resistance.

8 b. Any person, while operating a motor vehicle on any street or
9 highway in this State or any vessel, as defined pursuant to section 2 of
10 P.L.1995, c.401 (C.12:7-71), on the waters of this State, who
11 knowingly flees or attempts to elude any police or law enforcement
12 officer after having received any signal from such officer to bring the
13 vehicle or vessel to a full stop commits a crime of the third degree;
14 except that, a person is guilty of a crime of the second degree if the
15 flight or attempt to elude creates a risk of death or injury to any
16 person. For purposes of this subsection, there shall be a permissive
17 inference that the flight or attempt to elude creates a risk of death or
18 injury to any person if the person's conduct involves a violation of
19 chapter 4 of Title 39 or chapter 7 of Title 12 of the Revised Statutes.
20 In addition to the penalty prescribed under this subsection or any other
21 section of law, the court shall order the suspension of that person's
22 driver's license, or privilege to operate a vessel, whichever is
23 appropriate, for a period of not less than six months or more than two
24 years.

25 In the case of a person who is at the time of the imposition of
26 sentence less than 17 years of age, the period of the suspension of
27 driving privileges authorized herein, including a suspension of the
28 privilege of operating a motorized bicycle, shall commence on the day
29 the sentence is imposed and shall run for a period as fixed by the
30 court. If the driving or vessel operating privilege of any person is
31 under revocation, suspension, or postponement for a violation of any
32 provision of this Title or Title 39 of the Revised Statutes at the time
33 of any conviction or adjudication of delinquency for a violation of any
34 offense defined in this chapter or chapter 36 of this Title, the
35 revocation, suspension, or postponement period imposed herein shall
36 commence as of the date of termination of the existing revocation,
37 suspension, or postponement.

38 Upon conviction the court shall collect forthwith the New Jersey
39 driver's licenses of the person and forward such license or licenses to
40 the Director of the Division of Motor Vehicles along with a report
41 indicating the first and last day of the suspension or postponement
42 period imposed by the court pursuant to this section. If the court is
43 for any reason unable to collect the license or licenses of the person,
44 the court shall cause a report of the conviction or adjudication of
45 delinquency to be filed with the director. That report shall include the
46 complete name, address, date of birth, eye color, and sex of the person

1 and shall indicate the first and last day of the suspension or
2 postponement period imposed by the court pursuant to this section.
3 The court shall inform the person orally and in writing that if the
4 person is convicted of personally operating a motor vehicle or a vessel,
5 whichever is appropriate, during the period of license suspension or
6 postponement imposed pursuant to this section the person shall, upon
7 conviction, be subject to the penalties set forth in R.S.39:3-40 or
8 section 14 of P.L.1995, c.401 (C.12:7-83), whichever is appropriate.
9 A person shall be required to acknowledge receipt of the written
10 notice in writing. Failure to receive a written notice or failure to
11 acknowledge in writing the receipt of a written notice shall not be a
12 defense to a subsequent charge of violation of R.S.39:3-40 or section
13 14 of P.L.1995, c.401 (C.12:7-83), whichever is appropriate. If the
14 person is the holder of a driver's or vessel operator's license from
15 another jurisdiction, the court shall not collect the license but shall
16 notify the director who shall notify the appropriate officials in the
17 licensing jurisdiction. The court shall, however, in accordance with the
18 provisions of this section, revoke the person's non-resident driving or
19 vessel operating privileges, whichever is appropriate, in this State.

20 For the purposes of this subsection, it shall be a rebuttable
21 presumption that the owner of a vehicle or vessel was the operator of
22 the vehicle or vessel at the time of the offense.

23 (cf: P.L.1995, c.401 s.54)

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25 3. This act shall take effect immediately.

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STATEMENT

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30 N.J.S.2C:29-1 prohibits a wide range of conduct intended to
31 impede or defeat the administration of justice or to obstruct other
32 governmental functions. Language in N.J.S.2C:29-1 specifically
33 exempts flight by a person charged with a crime and the refusal to
34 submit to arrest from the activities criminalized. This bill would clarify
35 that N.J.S.2C:29-1 is intended to prohibit flight when intended to
36 impair or prevent the administration of justice.

37 This bill would also clarify that N.J.S.2C:29-2 which prohibits
38 resisting arrest includes flight for the purpose of preventing or
39 attempting to prevent an arrest by a law enforcement officer.

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44 Clarifies criminal statutes dealing with obstruction of justice and
45 resisting arrest.