

CHAPTER 115

AN ACT concerning law enforcement officers, and amending and supplementing parts of statutory law.

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

1. N.J.S.2C:11-3 is amended to read as follows:

Murder.

2C:11-3. Murder.

a. Except as provided in N.J.S.2C:11-4 criminal homicide constitutes murder when:

(1) The actor purposely causes death or serious bodily injury resulting in death; or

(2) The actor knowingly causes death or serious bodily injury resulting in death; or

(3) It is committed when the actor, acting either alone or with one or more other persons, is engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit robbery, sexual assault, arson, burglary, kidnapping or criminal escape, and in the course of such crime or of immediate flight therefrom, any person causes the death of a person other than one of the participants; except that in any prosecution under this subsection, in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:

(a) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and

(b) Was not armed with a deadly weapon, or any instrument, article or substance readily capable of causing death or serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons; and

(c) Had no reasonable ground to believe that any other participant was armed with such a weapon, instrument, article or substance; and

(d) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.

b. (1) Murder is a crime of the first degree but a person convicted of murder shall be sentenced, except as provided in subsection c. of this section, by the court to a term of 30 years, during which the person shall not be eligible for parole or to a specific term of years which shall be between 30 years and life imprisonment of which the person shall serve 30 years before being eligible for parole.

(2) If the victim was a law enforcement officer and was murdered while performing his official duties or was murdered because of his status as a law enforcement officer, the person convicted of that murder shall be sentenced, except as otherwise provided in subsection c. of this section, by the court to a term of life imprisonment, during which the person shall not be eligible for parole.

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

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

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

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

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

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

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

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

(f) Evidence offered by the State with regard to the establishment of a prior homicide conviction pursuant to paragraph (4)(a) of this subsection may include the identity and age of the victim, the manner of death and the relationship, if any, of the victim to the defendant.

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

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

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

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

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

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

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

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

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

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

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

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

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

servant;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

e. Every judgment of conviction which results in a sentence of death under this section shall be appealed, pursuant to the Rules of Court, to the Supreme Court. Upon the request of the defendant, the Supreme Court shall also determine whether the sentence is disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant. Proportionality review under this section shall be limited to a comparison of similar cases in which a sentence of death has been imposed under subsection c. of this section. In any instance in which the defendant fails, or refuses to appeal, the appeal shall be taken by the Office of the Public Defender or other counsel appointed by the Supreme Court for that purpose.

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

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

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

i. For purposes of this section the term "homicidal act" shall mean conduct that causes death or serious bodily injury resulting in death.

2. N.J.S.40A:14-147 is amended to read as follows:

Removal, suspension of police officer.

40A:14-147. Except as otherwise provided by law, no permanent member or officer of the police department or force shall be removed from his office, employment or position for political reasons or for any cause other than incapacity, misconduct, or disobedience of rules and regulations established for the government of the police department and force, nor shall such member or officer be suspended, removed, fined or reduced in rank from or in office, employment, or position therein, except for just cause as hereinbefore provided and then only upon a written complaint setting forth the charge or charges against such member or officer. The complaint shall be filed in the office of the body, officer or officers having charge of the department or force wherein the complaint is made and a copy shall be served upon the member or officer so charged, with notice of a designated hearing thereon by the proper authorities, which shall be not less than 10 nor more than 30 days from date of service of the complaint.

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

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

The law enforcement officer may waive the right to a hearing and may appeal the charges directly to any available authority specified by law or regulation, or follow any other procedure recognized by a contract, as permitted by law.

3.. Section 1 of P.L.1977, c.437 (C.40A:14-152.2) is amended to read as follows:

C.40A:14-152.2 Immunity from tort liability; provision of benefits for police, law enforcement officer exercising Statewide police powers; exemptions; terms defined.

1. Whenever any municipal police officer or other law enforcement officer has been conferred with Statewide police powers and is acting under lawful authority beyond the territorial limits of his employing municipality or other appointing authority, said police officer or law enforcement officer, as the case may be, shall have all of the immunities from tort liability and shall have all of the pension, relief, disability, workmen's compensation, insurance, and other benefits enjoyed while performing duties within said employing municipality or the jurisdictional responsibility of the other appointing authority, as the case may be; provided, however, in the case of a law enforcement officer other than a municipal police officer or a county law enforcement officer afforded such immunities and benefits under the provisions of section 1 of P.L.1977, c.439 (C.40A:14-107.1), the immunities from tort liability and other benefits enjoyed while performing duties within the jurisdictional responsibility of the appointing authority shall be extended only in those instances where (1) the law enforcement officer has been requested by the other jurisdiction to perform law enforcement duties within its boundaries; or (2) the law enforcement officer is performing law enforcement duties within another jurisdiction upon the orders of his superiors.

As used in this section, "law enforcement officer" means any person who is employed as a permanent full-time member of any State, county or municipal law enforcement agency, department, or division of those governments who is statutorily empowered to act for the detection, investigation, arrest, conviction, detention, or rehabilitation of persons violating the criminal laws of this State and statutorily required to successfully complete a training course approved by, or certified as being substantially equivalent to such an approved course, by the Police Training Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.). "Law enforcement agency" means any public agency, other than the Department of Law and Public Safety, any police force, department or division within the State of New Jersey, or any county or municipality thereof, which is empowered by statute to act for the detection, investigation, arrest, conviction, detention, or rehabilitation of persons violating the criminal laws of this State.

4. Section 7 of P.L.1968, c.303 (C.34:13A-5.3) is amended to read as follows:

C.34:13A-5.3 Employee organizations; right to form or join; collective negotiations; grievance procedures.

7. Except as hereinafter provided, public employees shall have, and shall be protected in the exercise of, the right, freely and without fear of penalty or reprisal, to form, join and assist any employee organization or to refrain from any such activity; provided, however, that this right shall not extend to elected officials, members of boards and commissions, managerial executives, or confidential employees, except in a school district the term managerial executive shall mean the superintendent of schools or his equivalent, nor, except where established practice, prior agreement or special circumstances dictate the contrary, shall any supervisor having the power to hire, discharge, discipline, or to effectively recommend the same, have the right to be represented in collective negotiations by an employee organization that admits nonsupervisory personnel to membership, and the fact that any organization has such supervisory employees as members shall not deny the right of that organization to represent the appropriate unit in collective negotiations; and provided further, that, except where established practice, prior agreement, or special circumstances dictate the contrary, no policeman shall have the right to join an employee organization that admits employees other than policemen to membership. The negotiating unit shall be defined with due regard for the community of interest among the employees concerned, but the commission shall not intervene in matters of recognition and unit definition except in the event of a dispute.

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

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

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

Public employers shall negotiate written policies setting forth grievance and disciplinary review procedures by means of which their employees or representatives of employees may appeal the interpretation, application or violation of policies, agreements, and administrative decisions, including disciplinary determinations, affecting them, provided that such grievance and disciplinary review procedures shall be included in any agreement entered into between the public employer and the representative organization. Such grievance and disciplinary review procedures may provide for binding arbitration as a means for resolving disputes. The procedures agreed to by the parties may not replace or be inconsistent with any alternate statutory appeal procedure nor may they provide for binding arbitration of disputes involving the

discipline of employees with statutory protection under tenure or civil service laws, except that such procedures may provide for binding arbitration of disputes involving the minor discipline of any public employees protected under the provisions of section 7 of P.L.1968, c.303 (C.34:13A-5.3), other than public employees subject to discipline pursuant to R.S.53:1-10. Grievance and disciplinary review procedures established by agreement between the public employer and the representative organization shall be utilized for any dispute covered by the terms of such agreement. For the purposes of this section, minor discipline shall mean a suspension or fine of less than five days unless the employee has been suspended or fined an aggregate of 15 or more days or received more than three suspensions or fines of five days or less in one calendar year.

C.2A:62A-1.1 Immunity from civil damages for certain law enforcement officers at accident scenes.

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

6. Section 6 of P.L.1961, c.56 (C.52:17B-71) is amended to read as follows:

C.52:17B-71 Powers, responsibilities, duties of commission.

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

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

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

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

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

e. To certify police officers, corrections officers, juvenile corrections officers and juvenile detention officers who have satisfactorily completed training programs and to issue appropriate certificates to such police officers, corrections officers, juvenile corrections officers and juvenile detention officers;

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

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

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

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

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

k. To consult and cooperate with other departments and agencies of the State concerned with

police training or the training of corrections officers, juvenile corrections officers and juvenile detention officers;

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

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

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

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

p. To review and approve new standards and course curricula developed by the Department of Corrections for both basic and in-service training of State and county corrections officers and juvenile detention officers. These courses for the State corrections officers and juvenile detention officers shall be centrally provided at the Corrections Officers' Training Academy of the Department of Corrections. Courses for the county corrections officers and juvenile detention officers shall also be centrally provided at the Corrections Officers' Training Academy unless an off-grounds training program is established by the county. A county may elect to establish and conduct a basic training program for corrections officers and juvenile detention officers seeking permanent appointment in that county. The Corrections Officers' Training Academy shall develop the curriculum of the basic training program to be conducted by a county;

q. To administer and distribute the monies in the Law Enforcement Officers Training and Equipment Fund established by section 9 of P.L.1996, c.115 (C.2C:43-3.3) and make such rules and regulations for the administration and distribution of the monies as may be necessary or appropriate to accomplish the purpose for which the fund was established.

C.2C:43-2.3 Orders for certain serological testing required under certain circumstances.

7. a. In addition to any other disposition made pursuant to law, a court shall order a person convicted of, indicted for or formally charged with a criminal offense, a disorderly persons offense or a petty disorderly persons offense, to submit to an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS if:

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

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

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

As used in this section, "formal charge" includes a proceeding by accusation in the event that

the defendant has waived the right to an indictment.

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

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

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

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

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

C.2A:4A-43.4 Orders for certain serological testing of juveniles required under certain circumstances.

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

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

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

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

b. A court order issued pursuant to subsection a. of this section shall require testing to be

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

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

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

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

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

C.2C:43-3.3 Additional penalties for persons convicted of crime deposited in "Law Enforcement Officers Training and Equipment Fund."

9. a. In addition to any disposition made pursuant to the provisions of Title 2C of the New Jersey Statutes, any person convicted of a crime shall be assessed a penalty of \$30.

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

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

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

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

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

C.40A:14-181 Adoption of guidelines for internal affairs by law enforcement agency.

10. Every law enforcement agency shall adopt and implement guidelines which shall be consistent with the guidelines governing the "Internal Affairs Policy and Procedures" of the Police Management Manual promulgated by the Police Bureau of the Division of Criminal Justice in the Department of Law and Public Safety, and shall be consistent with any tenure or civil service laws, and shall not supersede any existing contractual agreements .

11. This act shall take effect on the 120th day following enactment.

Approved September 11, 1996.