CHAPTER 34

AN ACT concerning conspiracy and amending N.J.S.2C:5-4.

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

1. N.J.S. 2C:5-4 is amended to read as follows:

Grading of criminal attempt and conspiracy; mitigation in cases of lesser danger.

2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation in Cases of Lesser Danger.

a. Grading. Except as provided in subsection c., an attempt or conspiracy to commit a crime of the first degree is a crime of the second degree; except that an attempt to commit murder is a crime of the first degree. Otherwise an attempt is a crime of the same degree as the most serious crime which is attempted, and conspiracy is a crime of the same degree as the most serious crime which is the object of the conspiracy; provided that, leader of organized crime is a crime of the second degree. An attempt or conspiracy to commit an offense defined by a statute outside the code shall be graded as a crime of the same degree as the offense is graded pursuant to sections 2C:1-4 and 2C:43-1.

b. Mitigation. The court may impose sentence for a crime of a lower grade or degree if neither the particular conduct charged nor the defendant presents a public danger warranting the grading provided for such crime under subsection a. because:

(1) The criminal attempt or conspiracy charged is so inherently unlikely to result or culminate in the commission of a crime; or

(2) The conspiracy, as to the particular defendant charged, is so peripherally related to the main unlawful enterprise.

c. Notwithstanding the provisions of subsection a. of this section, conspiracy to commit a crime set forth in subsection a., b., or d. of N.J.S.2C:17-1 where the structure which was the target of the crime was a church, synagogue, temple or other place of public worship is a crime of the first degree.

2. This act shall take effect immediately.

Approved March 7, 1997.