

SENATE, No. 1254

STATE OF NEW JERSEY

INTRODUCED JUNE 3, 1996

By Senator LESNIAK

1 AN ACT concerning restitution for extradition costs amending
2 N.J.S.2C:43-2 and N.J.S.2C:46-4 and supplementing Title 2C of
3 the New Jersey Statutes.

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

7
8 1. N.J.S.2C:43-2. is amended to read:

9 2C:43-2. Sentence in accordance with code; authorized
10 dispositions. a. Except as otherwise provided by this code, all
11 persons convicted of an offense or offenses shall be sentenced in
12 accordance with this chapter.

13 b. Except as provided in subsection a. of this section and subject
14 to the applicable provisions of the code, the court may suspend the
15 imposition of sentence on a person who has been convicted of an
16 offense, or may sentence him as follows:

17 (1) To pay a fine or make restitution authorized by [section]
18 N.J.S.2C:43-3 or P.L. _____, c. (C. _____) (now pending before the
19 Legislature as section 3 of this bill); or

20 (2) To be placed on probation and, in the case of a person
21 convicted of a crime, to imprisonment for a term fixed by the court not
22 exceeding 364 days to be served as a condition of probation, or in the
23 case of a person convicted of a disorderly persons offense, to
24 imprisonment for a term fixed by the court not exceeding 90 days to
25 be served as a condition of probation; or

26 (3) To imprisonment for a term authorized by sections 2C:11-3,
27 2C:43-5, 2C:43-6, 2C:43-7, and 2C:43-8 or 2C:44-5; or

28 (4) To pay a fine, make restitution and probation, or fine,
29 restitution and imprisonment; or

30 (5) To release under supervision in the community or to require the
31 performance of community-related service; or

32 (6) To a halfway house or other residential facility in the
33 community, including agencies which are not operated by the
34 Department of Human Services; 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 (7) To imprisonment at night or on weekends with liberty to work
2 or to participate in training or educational programs.

3 c. Instead of or in addition to any disposition made according to
4 this section, the court may postpone, suspend, or revoke for a period
5 not to exceed two years the driver's license, registration certificate, or
6 both of any person convicted of a crime, disorderly persons offense,
7 or petty disorderly persons offense in the course of which a motor
8 vehicle was used. In imposing this disposition and in deciding the
9 duration of the postponement, suspension, or revocation, the court
10 shall consider the severity of the crime or offense and the potential
11 effect of the loss of driving privileges on the person's ability to be
12 rehabilitated. Any postponement, suspension, or revocation shall be
13 imposed consecutively with any custodial sentence.

14 d. This chapter does not deprive the court of any authority
15 conferred by law to decree a forfeiture of property, suspend or cancel
16 a license, remove a person from office, or impose any other civil
17 penalty. Such a judgment or order may be included in the sentence.

18 e. The court shall state on the record the reasons for imposing the
19 sentence, including its findings pursuant to the criteria for withholding
20 or imposing imprisonment or fines under sections 2C:44-1 to 2C:44-3,
21 where imprisonment is imposed, consideration of the defendant's
22 eligibility for release under the law governing parole and the factual
23 basis supporting its findings of particular aggravating or mitigating
24 factors affecting sentence.

25 f. The court shall explain the parole laws as they apply to the
26 sentence and shall state:

27 (1) the approximate period of time in years and months the
28 defendant will serve in custody before parole eligibility;

29 (2) the jail credits or the amount of time the defendant has already
30 served;

31 (3) that the defendant may be entitled to good time and work
32 credits; and

33 (4) that the defendant may be eligible for participation in the
34 Intensive Supervision Program.

35 (cf: P.L.1994, c.155. s.1)

36

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

39 3. a. All fines, assessments imposed pursuant to section 2 of
40 P.L.1979, c.396 (C.2C:43-3.1) and restitution shall be collected as
41 follows:

42 (1) All fines, assessments imposed pursuant to section 2 of
43 P.L.1979, c.396 (C.2C:43-3.1) and restitution imposed by the
44 Superior Court or otherwise imposed at the county level, shall be
45 collected by the county probation division except when such fine,
46 assessment or restitution is imposed in conjunction with a custodial

1 sentence to a State correctional facility or in conjunction with a term
2 of incarceration imposed pursuant to section 25 of P.L.1982, c.77
3 (C.2A:4A-44) in which event such fine, assessment or restitution shall
4 be collected by the Department of Corrections or the Juvenile Justice
5 Commission established pursuant to section 2 of P.L.1995, c.284
6 (C.52:17B-170). An adult prisoner of a State correctional institution
7 or a juvenile serving a term of incarceration imposed pursuant to
8 section 25 of P.L.1982, c.77 (C.2A:4A-44) who has not paid an
9 assessment imposed pursuant to section 2 of P.L.1979, c.396
10 (C.2C:43-3.1) or restitution shall have the assessment or restitution
11 deducted from any income the inmate receives as a result of labor
12 performed at the institution or on any type of work release program
13 or, pursuant to regulations promulgated by the Commissioner of the
14 Department of Corrections or the Juvenile Justice Commission, from
15 any personal account established in the institution for the benefit of the
16 inmate.

17 (2) All fines, assessments imposed pursuant to section 2 of
18 P.L.1979, c.396 (C.2C:43-3.1) and restitution imposed by a municipal
19 court shall be collected by the municipal court clerk except if such
20 fine, assessments imposed pursuant to section 2 of P.L.1979, c.396
21 (C.2C:43-3.1), or restitution is ordered as a condition of probation in
22 which event it shall be collected by the county probation division.

23 b. Except as provided in subsection c. with respect to fines
24 imposed on appeals following convictions in municipal courts and
25 except as provided in subsection i. with respect to restitution imposed
26 under the provisions of P.L. _____, c. _____ (now pending before the
27 Legislature as section 3 of this bill), all fines imposed by the Superior
28 Court or otherwise imposed at the county level, shall be paid over by
29 the officer entitled to collect same to:

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

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

36 c. All fines imposed by municipal courts on defendants convicted
37 of crimes, disorderly persons offenses and petty disorderly persons
38 offenses, and all fines imposed following conviction on appeal
39 therefrom, and all forfeitures of bail shall be paid over by the officer
40 entitled to collect same to the treasury of the municipality wherein the
41 municipal court is located.

42 In the case of an intermunicipal court, fines shall be paid into the
43 municipal treasury of the municipality in which the offense was
44 committed, and costs, fees, and forfeitures of bail shall be apportioned
45 among the several municipalities to which the court's jurisdiction
46 extends according to the ratios of the municipalities' contributions to

1 the total expense of maintaining the court.

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

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

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

10 g. All restitution ordered to be paid to the Victims of Crime
11 Compensation Board pursuant to N.J.S.2C:44-2 shall be forwarded to
12 the board for deposit in the Victims of Crime Compensation Board
13 Account.

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

17 i. All restitution imposed on defendants under the provisions of
18 P.L. _____, c. _____ (now pending before the Legislature as section 3 of this
19 bill) for costs incurred by a law enforcement entity in extraditing the
20 defendant from another jurisdiction shall be paid over by the officer
21 entitled to collect same to the law enforcement entities which
22 participated in the extradition of the defendant.

23 (cf: P.L.1995, c.281, s.2)

24

25 3. (New section) In addition to any fine or restitution authorized
26 by N.J.S.2C:43-3, the court may sentence a defendant to make
27 restitution for costs incurred by any law enforcement entity in
28 extraditing the defendant from another jurisdiction if the court finds
29 that, at the time of the extradition, the defendant was located in othe
30 other jurisdiction in order to avoid prosecution for a crime committed
31 in this State or service of a criminal sentence imposed by a court of
32 this State.

33

34 4. This act shall take effect immediately.

35

36

37

STATEMENT

38

39 Law enforcement entities may incur substantial costs in extraditing
40 persons who have fled the State to avoid prosecution and punishment.
41 This bill would authorize the court, in sentencing a defendant
42 convicted of a crime, to also require the defendant to make restitution
43 to any law enforcement entity for costs it incurred in extraditing him.
44 In order to impose restitution, the court would be required to find
45 that, at the time of the extradition, the defendant was located in the
46 other jurisdiction in order to avoid prosecution for a crime committed

1 in this State or service of criminal sentence imposed by a court of this
2 State.

3

4

5

6

7 Authorizes court to require criminal defendant to make restitution for
8 extradition costs incurred by law enforcement entity in certain
9 instances.