

SENATE, No. 1889

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1997

By Senator INVERSO

1 AN ACT concerning motor vehicle theft, amending P.L.1991, c.83 and  
2 P.L.1982, c.77 and supplementing chapter 20 of Title 2C of the  
3 New Jersey Statutes.

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

7  
8 1. (New section) Notwithstanding the provisions of any other law,  
9 a person convicted of theft of a motor vehicle pursuant to  
10 subparagraph (b) of paragraph (2) of subsection b. of N.J.S.2C:20-2  
11 shall be sentenced to a term of imprisonment by the court. The term  
12 of imprisonment shall include the imposition of a minimum term of  
13 three years, during which the defendant shall not be eligible for parole.

14  
15 2. Section 1 of P.L.1991, c.83 (C.2C:20-2.1) is amended to read  
16 as follows:

17 1. a. In addition to the penalties set forth in section 1 of P.L. ,  
18 c. (C. )(now pending before the Legislature as this bill) and any  
19 other disposition authorized by law, a person convicted under the  
20 provisions of this chapter of theft or unlawful taking of a motor  
21 vehicle shall be subject:

22 (1) For the first offense, to a penalty of ~~[\$500.00]~~ \$1000 and to  
23 the suspension or postponement of the person's license to operate a  
24 motor vehicle over the highways of this State for a period of one year.

25 (2) For a second offense, to a penalty of ~~[\$750.00]~~ \$1500 and to  
26 the suspension or postponement of the person's license to operate a  
27 motor vehicle over the highways of this State for a period of two  
28 years.

29 (3) For a third or subsequent offense, to a penalty of ~~[\$1,000.00]~~  
30 \$2000, and to the suspension or postponement of the person's license  
31 to operate a motor vehicle over the highways of this State for 10  
32 years.

33 b. The suspension or postponement of the person's license to  
34 operate a motor vehicle pursuant to subsection a. of this section shall

**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 commence on the day the sentence is imposed. If the person will be  
2 servng a period of incarceration pursuant to section 1 of P.L. , c.  
3 (C. )(now pending before the Legislature as this bill), the suspension  
4 or postponement shall commence on the day the sentence is imposed,  
5 but be tolled during the period of incarceration and shall resume  
6 running upon the person's release. In the case of any person who at  
7 the time of the imposition of sentence is less than 17 years of age, the  
8 period of the suspension of driving privileges authorized herein,  
9 including a suspension of the privilege of operating a motorized  
10 bicycle, shall commence on the day the sentence is imposed and shall  
11 run for a period as fixed by the court of one year for a first offense,  
12 two years for a second offense or 10 years for a third offense  
13 calculated from the day after the day the person reaches the age of 17  
14 years. If the driving privilege of any person is under revocation,  
15 suspension, or postponement for a violation of any provision of this  
16 Title or Title 39 of the Revised Statutes at the time of any conviction  
17 or adjudication of delinquency for a violation of any offense defined  
18 in this chapter or chapter 36 of this Title, the revocation, suspension,  
19 or postponement period imposed herein shall commence as of the date  
20 of termination of the existing revocation, suspension, or  
21 postponement, but shall be tolled during the service of any period of  
22 incarceration imposed pursuant to section 1 of P.L. , c. (C. )(now  
23 pending before the Legislature as this bill).

24 Upon conviction the court shall collect forthwith the New Jersey  
25 driver's licenses of the person and forward such license or licenses to  
26 the Director of the Division of Motor Vehicles along with a report  
27 indicating the first and last day of the suspension or postponement  
28 period imposed by the court pursuant to this section. For any person  
29 who will be incarcerated pursuant to section 1 of P.L. , c.  
30 (C. )(now pending before the Legislature as this bill), the court shall  
31 note that fact to the Director of the Division of Motor Vehicles when  
32 indicating the first day of any postponement or suspension. The last  
33 day of the period of postponement or suspension shall be calculated by  
34 the Division of Motor Vehicles upon notification by the Department  
35 of Corrections of the date that the person was incarcerated and the  
36 date the person was released. If the court is for any reason unable to  
37 collect the license or licenses of the person, the court shall cause a  
38 report of the conviction or adjudication of delinquency to be filed with  
39 the director. That report shall include the complete name, address,  
40 date of birth, eye color, and sex of the person and shall indicate the  
41 first and last day of the suspension or postponement period imposed  
42 by the court pursuant to this section. The court shall inform the  
43 person orally and in writing that if the person is convicted of  
44 personally operating a motor vehicle during the period of license  
45 suspension or postponement imposed pursuant to this section the  
46 person shall, upon conviction, be subject to the penalties set forth in

1 R.S.39:3-40. A person shall be required to acknowledge receipt of the  
2 written notice in writing. Failure to receive a written notice or failure  
3 to acknowledge in writing the receipt of a written notice shall not be  
4 a defense to a subsequent charge of a violation of R.S.39:3-40. If the  
5 person is the holder of a driver's license from another jurisdiction, the  
6 court shall not collect the license but shall notify the director who shall  
7 notify the appropriate officials in the licensing jurisdiction. The court  
8 shall, however, in accordance with the provisions of this section,  
9 revoke the person's non-resident driving privileges in this State.

10 c. All penalties provided for in this section shall be collected as  
11 provided for the collection of fines and restitutions in section 3 of  
12 P.L.1979, c.396 (C.2C:46-4), and shall be distributed in accordance  
13 with the provisions of N.J.S.2C:64-6 as if the collected monies were  
14 the proceeds of property forfeited pursuant to the provisions of  
15 chapter 64. However, the distributed monies are to be used for law  
16 enforcement activities related to auto theft.

17 (cf: P.L.1993, c.219, s.4)

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19 3. Section 7 of P.L.1982, c.77 (C.2A:4A-26) is amended to read  
20 as follows:

21 7. Referral to another court without juvenile's consent.

22 a. [On] Except as provided in subsection e. of this section, on  
23 motion of the prosecutor, the court shall, without the consent of the  
24 juvenile, waive jurisdiction over a case and refer that case from the  
25 Superior Court, Chancery Division, Family Part to the appropriate  
26 court and prosecuting authority having jurisdiction if it finds, after  
27 hearing, that:

28 (1) The juvenile was 14 years of age or older at the time of the  
29 charged delinquent act; and

30 (2) There is probable cause to believe that the juvenile committed  
31 a delinquent act or acts which if committed by an adult would  
32 constitute:

33 (a) Criminal homicide other than death by auto, strict liability for  
34 drug induced deaths, pursuant to N.J.S.2C:35-9, robbery which would  
35 constitute a crime of the first degree, aggravated sexual assault, sexual  
36 assault, aggravated assault which would constitute a crime of the  
37 second degree, kidnapping or aggravated arson; or

38 (b) A crime committed at a time when the juvenile had previously  
39 been adjudicated delinquent, or convicted, on the basis of any of the  
40 offenses enumerated in subsection a.(2)(a);

41 (c) A crime committed at a time when the juvenile had previously  
42 been sentenced and confined in an adult penal institution; or

43 (d) An offense against a person committed in an aggressive, violent  
44 and willful manner, other than an offense enumerated in subsection  
45 a.(2)(a) of this section, or the unlawful possession of a firearm,  
46 destructive device or other prohibited weapon, arson or death by auto

1 if the juvenile was operating the vehicle under the influence of an  
2 intoxicating liquor, narcotic, hallucinogenic or habit producing drug;  
3 or

4 (e) A violation of N.J.S.2C:35-3, N.J.S.2C:35-4, or N.J.S.2C:35-5;  
5 or

6 (f) Crimes which are a part of a continuing criminal activity in  
7 concert with two or more persons and the circumstances of the crimes  
8 show the juvenile has knowingly devoted himself to criminal activity  
9 as a source of livelihood; or

10 (g) An attempt or conspiracy to commit any of the acts enumerated  
11 in paragraph (a), (d) or (e) of this subsection; or

12 (h) Theft of an automobile pursuant to chapter 20 of Title 2C of  
13 the New Jersey Statutes; and

14 (3) Except with respect to any of the acts enumerated in subsection  
15 a.(2)(a) of this section, or with respect to any acts enumerated in  
16 subparagraph (e) of paragraph (2) of subsection a. of this section  
17 which involve the distribution for pecuniary gain of any controlled  
18 dangerous substance or controlled substance analog while on any  
19 property used for school purposes which is owned by or leased to any  
20 school or school board, or within 1,000 feet of such school property  
21 or while on any school bus, or any attempt or conspiracy to commit  
22 any of those acts, the State has shown that the nature and  
23 circumstances of the charge or the prior record of the juvenile are  
24 sufficiently serious that the interests of the public require waiver.

25 However, if in any case the juvenile can show that the probability  
26 of his rehabilitation by the use of the procedures, services and facilities  
27 available to the court prior to the juvenile reaching the age of 19  
28 substantially outweighs the reasons for waiver, waiver shall not be  
29 granted.

30 b. In every case where there is a motion seeking waiver, the  
31 prosecutor shall within a reasonable time thereafter file a statement  
32 with the Attorney General setting forth the basis for the motion. In  
33 addition, the court shall, in writing, state its reasons for granting or  
34 denying the waiver motion. The Attorney General shall compile this  
35 information and report its findings to the Legislature 18 months after  
36 the effective date of this act with the objective of developing, where  
37 appropriate, guidelines as to the waiver of juveniles from the Family  
38 Part.

39 c. An order referring a case shall incorporate therein not only the  
40 alleged act or acts upon which the referral is premised, but also all  
41 other delinquent acts arising out of or related to the same transaction.

42 d. A motion seeking waiver shall be filed by the prosecutor within  
43 30 days of receipt of the complaint. This time limit shall not, except  
44 for good cause shown, be extended.

45 e. Notwithstanding the provisions of this section, waiver shall be  
46 mandatory if there is probable cause to believe that the juvenile

1 committed a delinquent act which, if committed by an adult, would  
2 constitute a first offense of theft of a motor vehicle and a person  
3 suffered bodily injury or death as a result of the delinquent act.  
4 Waiver shall be mandatory if there is probable cause to believe the  
5 juvenile committed a second or subsequent such act, regardless of  
6 whether any person suffered bodily injury or death as a result of the  
7 delinquent act.

8 (cf: P.L.1991, c.91, s.6)

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10 4. This act shall take effect immediately.

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STATEMENT

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15 This bill would impose a mandatory three-year term of  
16 imprisonment, without eligibility for parole, on any person convicted  
17 of motor vehicle theft. The bill also provides that a juvenile who  
18 commits an act which, if committed by an adult, would constitute a  
19 first offense of motor vehicle theft which resulted in injury to or the  
20 death of a person would be required to be "waived" out of family court  
21 and tried as an adult. If the juvenile commits a second or subsequent  
22 such act, regardless of whether there were any injuries or deaths, the  
23 juvenile would be required to be "waived" out of family court and tried  
24 as an adult. If convicted, the juvenile would also be subject to the  
25 mandatory three-year imprisonment term.

26 The bill also provides that the period of driver's license suspension  
27 or postponement required under current law for motor vehicle theft  
28 would be tolled while the person is incarcerated, with the suspension  
29 commencing once the offender is released.

30 Finally, the bill increases the fines for the theft or unlawful taking  
31 of a motor vehicle. The fine for a first offense is increased from \$500  
32 to \$1000, for a second offense, from \$750 to \$1500, and for a third  
33 offense, from \$1000 to \$2000.

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38 Establishes mandatory three-year imprisonment and waiver of certain  
39 juveniles for motor vehicle theft.