

SENATE, No. 2018

STATE OF NEW JERSEY

INTRODUCED MAY 8, 1997

By Senators BUBBA, CONNORS, and Matheussen

1 AN ACT concerning certain sexual assaults, amending N.J.S.2C:14-6,
2 N.J.S.2C:43-7 and N.J.S.2C:44-3 and supplementing Title 2C of
3 the New Jersey Statutes.

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

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8 1. (New section) The Legislature hereby finds and declares that
9 certain crimes are so reprehensible and abhorrent that extreme
10 measures must be taken against them, and that it is not only murders
11 that are suitable for such a designation. Any person who commits a
12 depraved and violent sexual assault must be permanently removed
13 from contact with society.

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15 2. (New section) A person who has been convicted of aggravated
16 sexual assault pursuant to N.J.S.2C:14-2 where the victim suffered
17 serious bodily injury as defined in subsection b. of N.J.S.2C:11-1 shall
18 be sentenced by the court to a term of life imprisonment, during which
19 the person shall not be eligible for parole.

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21 3. (New section) a. A person who has been convicted of a crime
22 under N.J.S.2C:14-2 or N.J.S.2C:14-3 where the victim of the crime
23 was 16 years of age or less, and the actor was armed with and used a
24 deadly weapon as defined in subsection c. of N.J.S.2C:11-1; or the
25 actor threatened by word or gesture to use a deadly weapon; or the
26 actor threatened to inflict serious bodily injury, shall, upon application
27 of the prosecutor, be sentenced to an extended term of imprisonment.

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29 b. In the case of a conviction of aggravated sexual assault, the
30 extended term shall be for a specific term of years which shall be
31 between 30 years and life imprisonment.

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33 c. In the case of a conviction of sexual assault, the extended term
34 shall be fixed by the court between 10 and 20 years.

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36 d. In the case of a conviction of aggravated criminal sexual
37 contact, the extended term shall be fixed by the court between five and

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 10 years.

2 e. As part of the sentence for the extended term and
3 notwithstanding the provisions of N.J.S.2C:43-9, the court may fix a
4 minimum term not to exceed one-half of the term set pursuant to
5 subsection a. of this section, during which the defendant shall not be
6 eligible for parole, or a term of 25 years during which time the
7 defendant shall not be eligible for parole where the sentence imposed
8 was life imprisonment; provided that no defendant shall be eligible for
9 parole at a date earlier than otherwise provided by the law governing
10 parole.

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12 4. N.J.S.2C:14-6 is amended to read as follows:

13 2C:14-6. Sentencing.

14 If a person is convicted of a second or subsequent offense under
15 sections 2C:14-2 or 2C:14-3a., the sentence imposed under those
16 sections for the second or subsequent offense shall, unless the person
17 is sentenced pursuant to the provisions of 2C:43-7, or sentenced
18 pursuant to the provisions of section 2 or section 3 of P.L. , c.
19 (C.) (now pending before the Legislature as this bill), include a fixed
20 minimum sentence of not less than 5 years during which the defendant
21 shall not be eligible for parole. The court may not suspend or make
22 any other non-custodial disposition of any person sentenced as a
23 second or subsequent offender pursuant to this section. For the
24 purpose of this section an offense is considered a second or
25 subsequent offense, if the actor has at any time been convicted under
26 sections 2C:14-2 or 2C:14-3a. or under any similar statute of the
27 United States, this state, or any other state for an offense that is
28 substantially equivalent to sections 2C:14-2 or 2C:14-3a.

29 (cf: N.J.S.2C:14-6)

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31 5. N.J.S.2C:43-7 is amended to read as follows:

32 2C:43-7. Sentence of Imprisonment for Crime; Extended Terms.

33 a. In the cases designated in section 2C:44-3, a person who has been
34 convicted of a crime may be sentenced, and in the cases designated in
35 subsection e. of section 2 of P.L.1994, c.130 (C.2C:43-6.4) and in
36 subsection b. of section 2 of P.L.1995, c.126 (C.2C:43-7.1) a person
37 who has been convicted of a crime shall be sentenced, to an extended
38 term of imprisonment, as follows:

39 (1) In case of aggravated manslaughter sentenced under subsection
40 c. of N.J.S.2C:11-4; or kidnapping when sentenced as a crime of the
41 first degree under paragraph (1) of subsection c. of 2C:13-1; or
42 aggravated sexual assault if the person is eligible for an extended term
43 pursuant to the provisions of [subsection g. of N.J.S.2C:44-3] section
44 3 of P.L. , c. (C.) (now pending before the Legislature as this
45 bill) for a specific term of years which shall be between 30 years and
46 life imprisonment;

1 (2) Except for the crime of murder and except as provided in
2 paragraph (1) of this subsection, in the case of a crime of the first
3 degree, for a specific term of years which shall be fixed by the court
4 and shall be between 20 years and life imprisonment;

5 (3) In the case of a crime of the second degree, for a term which
6 shall be fixed by the court between 10 and 20 years;

7 (4) In the case of a crime of the third degree, for a term which shall
8 be fixed by the court between five and 10 years;

9 (5) In the case of a crime of the fourth degree pursuant to
10 2C:43-6c., 2C:44-3d., 2C:44-3e. for a term of five years, and in the
11 case of a crime of the fourth degree pursuant to 2C:43-6f. and
12 2C:43-6g. for a term which shall be fixed by the court between three
13 and five years;

14 (6) In the case of the crime of murder, for a specific term of years
15 which shall be fixed by the court between 35 years and life
16 imprisonment, of which the defendant shall serve 35 years before being
17 eligible for parole;

18 (7) In the case of kidnapping under paragraph (2) of subsection c.
19 of 2C:13-1, for a specific term of years which shall be fixed by the
20 court between 30 years and life imprisonment, of which the defendant
21 shall serve 30 years before being eligible for parole.

22 b. As part of a sentence for an extended term and notwithstanding
23 the provisions of 2C:43-9, the court may fix a minimum term not to
24 exceed one-half of the term set pursuant to subsection a. during which
25 the defendant shall not be eligible for parole or a term of 25 years
26 during which time the defendant shall not be eligible for parole where
27 the sentence imposed was life imprisonment; provided that no
28 defendant shall be eligible for parole at a date earlier than otherwise
29 provided by the law governing parole.

30 c. In the case of a person sentenced to an extended term pursuant
31 to 2C:43-6c., 2C:43-6f. and 2C:44-3d., the court shall impose a
32 sentence within the ranges permitted by 2C:43-7a.(2), (3), (4) or (5)
33 according to the degree or nature of the crime for which the defendant
34 is being sentenced, which sentence shall include a minimum term which
35 shall, except as may be specifically provided by N.J.S.2C:43-6f., be
36 fixed at or between one-third and one-half of the sentence imposed by
37 the court or five years, whichever is greater, during which the
38 defendant shall not be eligible for parole. Where the sentence imposed
39 is life imprisonment, the court shall impose a minimum term of 25
40 years during which the defendant shall not be eligible for parole,
41 except that where the term of life imprisonment is imposed on a person
42 convicted for a violation of N.J.S.2C:35-3, the term of parole
43 ineligibility shall be 30 years.

44 d. In the case of a person sentenced to an extended term pursuant
45 to N.J.S.2C:43-6g., the court shall impose a sentence within the ranges
46 permitted by N.J.S.2C:43-7a(2), (3), (4) or (5) according to the

1 degree or nature of the crime for which the defendant is being
2 sentenced, which sentence shall include a minimum term which shall
3 be fixed at 15 years for a crime of the first or second degree, eight
4 years for a crime of the third degree, or five years for a crime of the
5 fourth degree during which the defendant shall not be eligible for
6 parole. Where the sentence imposed is life imprisonment, the court
7 shall impose a minimum term of 25 years during which the defendant
8 shall not be eligible for parole, except that where the term of life
9 imprisonment is imposed on a person convicted of a violation of
10 N.J.S.2C:35-3, the term of parole eligibility shall be 30 years.
11 (cf: P.L.1995, c.126, s.3)

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13 6. N.J.S.2C:44-3 is amended to read as follows:

14 2C:44-3. Criteria for Sentence of Extended Term of Imprisonment.

15 The court may, upon application of the prosecuting attorney,
16 sentence a person who has been convicted of a crime of the first,
17 second or third degree to an extended term of imprisonment if it finds
18 one or more of the grounds specified in subsection a., b., c., or f. of
19 this section. The court shall, upon application of the prosecuting
20 attorney, sentence a person who has been convicted of a crime, other
21 than a violation of N.J.S.2C:12-1a., N.J.S.2C:33-4, or a violation of
22 N.J.S.2C:14-2 or 2C:14-3 if the grounds for the application is purpose
23 to intimidate because of gender, to an extended term if it finds, by a
24 preponderance of the evidence, the grounds in subsection e. If the
25 grounds specified in subsection d. are found, and the person is being
26 sentenced for commission of any of the offenses enumerated in
27 N.J.S.2C:43-6c. or N.J.S.2C:43-6g., the court shall sentence the
28 defendant to an extended term as required by N.J.S.2C:43-6c. or
29 N.J.S.2C:43-6g., and application by the prosecutor shall not be
30 required. The court shall[, upon application of the prosecuting
31 attorney,] sentence a person who has been convicted of a crime under
32 N.J.S.2C:14-2 or N.J.S.2C:14-3 to an extended term of imprisonment
33 pursuant to section 3 of P.L. , c. (C.) (now pending before the
34 Legislature as this bill), upon application of the prosecutor, if the
35 grounds specified in [subsection g. of this section] section 3 of P.L. ,
36 c. (C.) (now pending before the Legislature as this bill) are found.
37 The court shall, upon application of the prosecuting attorney, sentence
38 a person to an extended term if the imposition of such term is required
39 pursuant to the provisions of section 2 of P.L.1994, c.130
40 (C.2C:43-6.4). The finding of the court shall be incorporated in the
41 record.

42 a. The defendant has been convicted of a crime of the first,
43 second or third degree and is a persistent offender. A persistent
44 offender is a person who at the time of the commission of the crime is
45 21 years of age or over, who has been previously convicted on at least
46 two separate occasions of two crimes, committed at different times,

1 when he was at least 18 years of age, if the latest in time of these
2 crimes or the date of the defendant's last release from confinement,
3 whichever is later, is within 10 years of the date of the crime for which
4 the defendant is being sentenced.

5 b. The defendant has been convicted of a crime of the first,
6 second or third degree and is a professional criminal. A professional
7 criminal is a person who committed a crime as part of a continuing
8 criminal activity in concert with two or more persons, and the
9 circumstances of the crime show he has knowingly devoted himself to
10 criminal activity as a major source of livelihood.

11 c. The defendant has been convicted of a crime of the first,
12 second or third degree and committed the crime as consideration for
13 the receipt, or in expectation of the receipt, of anything of pecuniary
14 value the amount of which was unrelated to the proceeds of the crime
15 or he procured the commission of the offense by payment or promise
16 of payment of anything of pecuniary value.

17 d. Second offender with a firearm. The defendant is at least 18
18 years of age and has been previously convicted of any of the following
19 crimes: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-3a.,
20 2C:15-1, 2C:18-2, 2C:29-5, 2C:39-4a., or has been previously
21 convicted of an offense under Title 2A of the New Jersey Statutes
22 which is equivalent of the offenses enumerated in this subsection and
23 he used or possessed a firearm, as defined in 2C:39-1f., in the course
24 of committing or attempting to commit any of these crimes, including
25 the immediate flight therefrom.

26 e. The defendant in committing the crime acted with a purpose to
27 intimidate an individual or group of individuals because of race, color,
28 gender, handicap, religion, sexual orientation or ethnicity.

29 f. The defendant has been convicted of a crime under any of the
30 following sections: N.J.S.2C:11-4, N.J.S.2C12-1b., N.J.S.2C:13-1,
31 N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2,
32 N.J.S.2C:29-2b., N.J.S.2C:29-5, N.J.S.2C:35-5, and in the course of
33 committing or attempting to commit the crime, including the
34 immediate flight therefrom, the defendant used or was in possession
35 of a stolen motor vehicle.

36 g. [The defendant has been convicted of a crime under
37 N.J.S.2C:14-2 or N.J.S.2C:14-3 involving violence or the threat of
38 violence and the victim of the crime was 16 years of age or less.

39 For purposes of this subsection, a crime involves violence or the
40 threat of violence if the victim sustains serious bodily injury as defined
41 in subsection b. of N.J.S.2C:11-1, or the actor is armed with and uses
42 a deadly weapon or threatens by word or gesture to use a deadly
43 weapon as defined in subsection c. of N.J.S.2C:11-1, or threatens to
44 inflict serious bodily injury.] (Deleted by amendment, P.L. , c.

45 (C.) (now pending before the Legislature as this bill)

46 (cf: P.L.1995, c.211, s.3)

1 7. This act shall take effect immediately.

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STATEMENT

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6 In 1987, Lawrence Singleton's parole from a California prison made
7 national headlines; he had served eight years of a fourteen-year
8 sentence for the vicious rape and mutilation of a 15-year-old hitchiker.
9 After the rape, Singleton had hacked off his victim's arms with an ax
10 and left her to die, but she survived to testify against him. Despite the
11 public outcry against Singleton's release, officials were powerless to
12 stop it, since he had served his sentence under the California law in
13 effect at the time. In February, 1997, Singleton was arrested again,
14 this time for the murder of a woman in his home.

15 This bill is intended to prevent brutal attackers such as Singleton
16 from ever getting a second chance to claim another victim. The bill
17 would require that any person who commits a violent sexual assault
18 would be required to serve a life sentence, without possibility for
19 parole. The life sentence would be imposed on any person convicted
20 of aggravated sexual assault upon a victim who suffers serious bodily
21 injury. Under the Criminal Code, "serious bodily injury" is defined as
22 "bodily injury which creates a substantial risk of death or which causes
23 serious, permanent disfigurement, or protracted loss or impairment of
24 the function of any bodily member or organ."

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29 Imposes mandatory term of life imprisonment without eligibility for
30 parole on persons who commit particularly brutal sexual assaults.