

# SENATE, No. 3658

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED APRIL 19, 2021

**Sponsored by:**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Assemblyman NICHOLAS CHIARAVALLOTI**

**District 31 (Hudson)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Assemblywoman LINDA S. CARTER**

**District 22 (Middlesex, Somerset and Union)**

**Co-Sponsored by:**

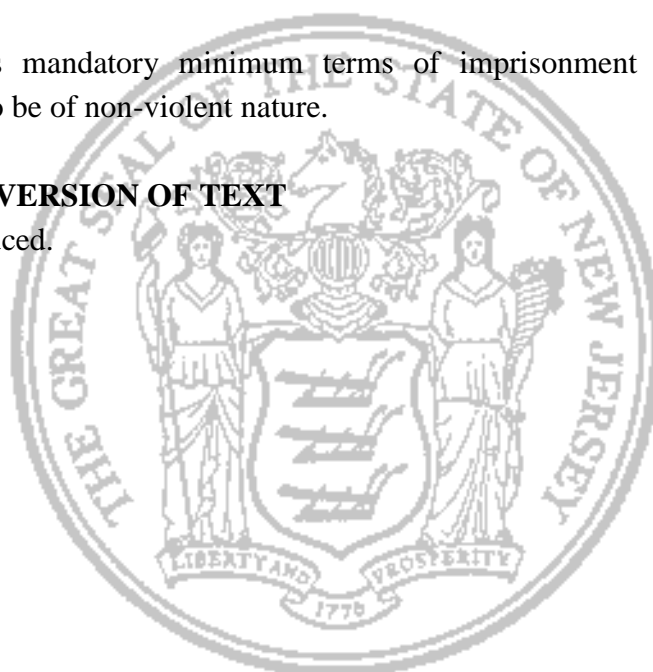
**Senator Pou, Assemblywomen Reynolds-Jackson, Jimenez, Jasey and  
Assemblyman Mejia**

**SYNOPSIS**

Eliminates mandatory minimum terms of imprisonment determined by Legislature to be of non-violent nature.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 6/24/2021)

1   **AN ACT** concerning the elimination of mandatory minimum terms  
2       of imprisonment for crimes determined to be of a non-violent  
3       nature, supplementing chapter 1 of Title 2C of the New Jersey  
4       Statutes, and amending various parts of the statutory law.

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

- 8  
9       1. (New section) The Legislature finds and declares:  
10      a. New Jersey’s criminal justice system will benefit from  
11      sentencing reforms aimed at reviewing and eliminating mandatory  
12      minimum sentences for crimes of a non-violent nature as  
13      determined by the Legislature.  
14      b. The Legislature has an excellent blueprint in the first report  
15      of the New Jersey Criminal Sentencing and Disposition  
16      Commission which was passed unanimously by its members in  
17      November 2019.  
18      c. That Commission had the benefit of a broad membership  
19      that included judges, defense attorneys, prosecutors, law  
20      enforcement, corrections officials and victim advocates, among  
21      others, which encouraged a view of the State’s criminal justice  
22      system from varied vantage points.  
23      d. The Commission’s report included recommendations for  
24      eliminating mandatory minimum terms of imprisonment for non-  
25      violent drug and property crimes, as these types of sentences, noted  
26      in the introduction to the report, contributed to “exponentially”  
27      increasing the State’s prison population and “substantially curtailed  
28      judicial discretion” in the issue of determining the appropriate level  
29      of punishment to match offender accountability.  
30      e. This act, applying the same reasoning of the Commission,  
31      broadly addresses a bigger array of non-violent criminal activity to  
32      return decision making to the courts for matching an individual’s  
33      punishment to account for the nature and circumstances of the crime  
34      committed, and to strive for reductions in the State’s prison  
35      population of non-violent offenders who do not pose a danger to  
36      their surrounding communities on the basis of the crimes they  
37      committed.  
38      f. The Legislature understands that eliminating certain  
39      mandatory minimum terms of imprisonment does not mean  
40      eliminating imprisonment as a punishment in all those cases but  
41      does mean eliminating rigid terms of parole ineligibility for a crime  
42      considered to be non-violent, for which the ordinary sentencing  
43      options appear sufficient when coupled with judicial discretion.  
44      g. The Legislature values the recommendations of the  
45      Commission on eliminating mandatory minimum terms of

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 imprisonment, which are incorporated in this act, and seeks to  
2 expand upon that foundation to help realize that justice for non-  
3 violent crimes is better served when an individual's punishment is  
4 tailored to the specific circumstances of the crime committed, as  
5 determined by the sentencing court, which will also foster broader  
6 public confidence in the criminal justice system for not being overly  
7 punitive in its treatment of non-violent criminal offenders.

8  
9 2. Section 4 of P.L.2013, c.53 (C.2C:20-2.4) is amended to  
10 read as follows:

11 4. a. A person is a leader of a cargo theft network if he  
12 conspires with others as an organizer, supervisor, financier or  
13 manager to engage for profit in a scheme or course of conduct to  
14 unlawfully take, dispose of, distribute, bring into, transport, or store  
15 in this State property stolen from a cargo carrier, where the amount  
16 is at least \$5,000.

17 (1) Except as provided in paragraph (2) of this subsection,  
18 leader of a cargo theft network is a crime of the second degree.  
19 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3,  
20 the court may impose a fine not to exceed \$250,000 or five times  
21 the retail value of the property seized at the time of the arrest,  
22 whichever is greater.

23 (2) Leader of a cargo theft network is a crime of the first degree  
24 if the scheme or course of conduct to unlawfully take, dispose of,  
25 distribute, bring into, transport, or store in this State property stolen  
26 from a cargo carrier included the use or threatened use of any  
27 deadly weapon, as defined in N.J.S.2C:39-1 in the commission of  
28 the theft. Nothing in this subsection shall be deemed to limit the  
29 authority or discretion of the State to charge or prosecute any  
30 person for robbery under N.J.S.2C:15-1 or for any other offense,  
31 nor shall a conviction for robbery merge with any conviction under  
32 this section. Notwithstanding the provisions of subsection a. of  
33 N.J.S.2C:43-3, the court may impose a fine not to exceed \$500,000  
34 or five times the retail value of the property seized at the time of the  
35 arrest, whichever is greater.

36 b. Notwithstanding the provisions of N.J.S.2C:1-8, a conviction  
37 of leader of a cargo theft network shall not merge with the  
38 conviction for any offense which is the object of the conspiracy.  
39 Nothing contained in this act shall prohibit the court from imposing  
40 an extended term pursuant to N.J.S.2C:43-7; nor shall this act be  
41 construed in any way to preclude or limit the prosecution or  
42 conviction of any person for conspiracy under N.J.S.2C:5-2, or any  
43 prosecution or conviction for any other offense.

44 c. It shall not be necessary in any prosecution under this  
45 section for the State to prove that any intended profit was actually  
46 realized. The trier of fact may infer that a particular scheme or  
47 course of conduct was undertaken for profit from all of the  
48 attending circumstances, including but not limited to the number of

1 persons involved in the scheme or course of conduct, the actor's net  
2 worth and his expenditures in relation to his legitimate sources of  
3 income, the amount of property or number of incidents of theft, or  
4 the amount of cash or currency involved.

5 d. It shall not be a defense to a prosecution under this section  
6 that the stolen property was brought into, transported or stored in  
7 this State solely for ultimate distribution in another jurisdiction; nor  
8 shall it be a defense that any profit was intended to be made in  
9 another jurisdiction.

10 e. A person convicted of a second or subsequent offense under  
11 this section shall be sentenced to a term of imprisonment [that shall  
12 include a mandatory minimum term of one-third to one-half of the  
13 sentence imposed, during which time the defendant shall not be  
14 eligible for parole], and may be sentenced to an extended term of  
15 imprisonment as set forth in subsection a. of N.J.S.2C:43-7,  
16 notwithstanding the provisions of N.J.S.2C:44-3. The court may  
17 not suspend or make any other non-custodial disposition of any  
18 person sentenced as a second or subsequent offender pursuant to  
19 this section. For the purposes of this section an offense is  
20 considered a second or subsequent offense if the actor has at any  
21 time been convicted pursuant to this section, or under any similar  
22 statute of the United States, this State or any other state for an  
23 offense that is substantially equivalent to this section.

24 (cf: P.L.2013, c.58, s.4)

25  
26 3. Section 6 of P.L.2013, c.58 (C.2C:20-2.6) is amended to  
27 read as follows:

28 6. a. A person who knowingly maintains or operates any  
29 premises, place or facility used for the storage or resale of any  
30 property stolen from a cargo carrier is guilty of a crime. Where the  
31 property involved in the offense is valued at \$50,000 or more, the  
32 offense is a crime of the second degree. Otherwise, the offense is a  
33 crime of the third degree.

34 b. Notwithstanding the provisions of subsection a. of  
35 N.J.S.2C:43-3, the court may impose a fine not to exceed \$250,000  
36 or five times the retail value of the property stolen from the carrier  
37 seized at the time of the arrest, whichever is greater.

38 c. A person convicted of a second or subsequent offense under  
39 this section shall be sentenced to a term of imprisonment [that shall  
40 include a mandatory minimum term of one-third to one-half of the  
41 sentence imposed, during which time the defendant shall not be  
42 eligible for parole], and may be sentenced to an extended term of  
43 imprisonment as set forth subsection a. of N.J.S.2C:43-7,  
44 notwithstanding the provision of N.J.S.2C:44-3. The court may not  
45 suspend or make any other non-custodial disposition of any person  
46 sentenced as a second or subsequent offender pursuant to this  
47 section. For the purposes of this section an offense is considered a  
48 second or subsequent offense if the actor has at any time been

1 convicted pursuant to this section, or under any similar statute of  
2 the United States, this State or any other state for an offense that is  
3 substantially equivalent to this section.

4 (cf: P.L.2013, c.58, s.6)

5  
6 4. N.J.S.2C:20-11 is amended to read as follows:

7 2C:20-11. a. Definitions. The following definitions apply to  
8 this section:

9 (1) "Shopping cart" means those push carts of the type or types  
10 which are commonly provided by grocery stores, drug stores or  
11 other retail mercantile establishments for the use of the public in  
12 transporting commodities in stores and markets and, incidentally,  
13 from the stores to a place outside the store;

14 (2) "Store or other retail mercantile establishment" means a  
15 place where merchandise is displayed, held, stored or sold or  
16 offered to the public for sale;

17 (3) "Merchandise" means any goods, chattels, foodstuffs or  
18 wares of any type and description, regardless of the value thereof;

19 (4) "Merchant" means any owner or operator of any store or  
20 other retail mercantile establishment, or any agent, servant,  
21 employee, lessee, consignee, officer, director, franchisee or  
22 independent contractor of such owner or proprietor;

23 (5) "Person" means any individual or individuals, including an  
24 agent, servant or employee of a merchant where the facts of the  
25 situation so require;

26 (6) "Conceal" means to conceal merchandise so that, although  
27 there may be some notice of its presence, it is not visible through  
28 ordinary observation;

29 (7) "Full retail value" means the merchant's stated or advertised  
30 price of the merchandise;

31 (8) "Premises of a store or retail mercantile establishment"  
32 means and includes but is not limited to, the retail mercantile  
33 establishment; any common use areas in shopping centers and all  
34 parking areas set aside by a merchant or on behalf of a merchant for  
35 the parking of vehicles for the convenience of the patrons of such  
36 retail mercantile establishment;

37 (9) "Under-ring" means to cause the cash register or other sale  
38 recording device to reflect less than the full retail value of the  
39 merchandise;

40 (10) "Antishoplifting or inventory control device  
41 countermeasure" means any item or device which is designed,  
42 manufactured, modified, or altered to defeat any antishoplifting or  
43 inventory control device;

44 (11) "Organized retail theft enterprise" means any association  
45 of two or more persons who engage in the conduct of or are  
46 associated for the purpose of effectuating the transfer or sale of  
47 shoplifted merchandise.

1       b. Shoplifting. Shoplifting shall consist of any one or more of  
2 the following acts:

3       (1) For any person purposely to take possession of, carry away,  
4 transfer or cause to be carried away or transferred, any merchandise  
5 displayed, held, stored or offered for sale by any store or other retail  
6 mercantile establishment with the intention of depriving the  
7 merchant of the possession, use or benefit of such merchandise or  
8 converting the same to the use of such person without paying to the  
9 merchant the full retail value thereof.

10       (2) For any person purposely to conceal upon his person or  
11 otherwise any merchandise offered for sale by any store or other  
12 retail mercantile establishment with the intention of depriving the  
13 merchant of the processes, use or benefit of such merchandise or  
14 converting the same to the use of such person without paying to the  
15 merchant the value thereof.

16       (3) For any person purposely to alter, transfer or remove any  
17 label, price tag or marking indicia of value or any other markings  
18 which aid in determining value affixed to any merchandise  
19 displayed, held, stored or offered for sale by any store or other retail  
20 mercantile establishment and to attempt to purchase such  
21 merchandise personally or in consort with another at less than the  
22 full retail value with the intention of depriving the merchant of all  
23 or some part of the value thereof.

24       (4) For any person purposely to transfer any merchandise  
25 displayed, held, stored or offered for sale by any store or other retail  
26 merchandise establishment from the container in or on which the  
27 same shall be displayed to any other container with intent to deprive  
28 the merchant of all or some part of the retail value thereof.

29       (5) For any person purposely to under-ring with the intention of  
30 depriving the merchant of the full retail value thereof.

31       (6) For any person purposely to remove a shopping cart from the  
32 premises of a store or other retail mercantile establishment without  
33 the consent of the merchant given at the time of such removal with  
34 the intention of permanently depriving the merchant of the  
35 possession, use or benefit of such cart.

36       c. Gradation. (1) Shoplifting constitutes a crime of the second  
37 degree under subsection b. of this section if the full retail value of  
38 the merchandise is \$75,000 or more, or the offense is committed in  
39 furtherance of or in conjunction with an organized retail theft  
40 enterprise and the full retail value of the merchandise is \$1,000 or  
41 more.

42       (2) Shoplifting constitutes a crime of the third degree under  
43 subsection b. of this section if the full retail value of the  
44 merchandise exceeds \$500 but is less than \$75,000, or the offense  
45 is committed in furtherance of or in conjunction with an organized  
46 retail theft enterprise and the full retail value of the merchandise is  
47 less than \$1,000.

1 (3) Shoplifting constitutes a crime of the fourth degree under  
2 subsection b. of this section if the full retail value of the  
3 merchandise is at least \$200 but does not exceed \$500.

4 (4) Shoplifting is a disorderly persons offense under subsection  
5 b. of this section if the full retail value of the merchandise is less  
6 than \$200.

7 The value of the merchandise involved in a violation of this  
8 section may be aggregated in determining the grade of the offense  
9 where the acts or conduct constituting a violation were committed  
10 pursuant to one scheme or course of conduct, whether from the  
11 same person or several persons, or were committed in furtherance  
12 of or in conjunction with an organized retail theft enterprise.

13 Additionally, notwithstanding the term of imprisonment provided  
14 in N.J.S.2C:43-6 or 2C:43-8, any person convicted of a shoplifting  
15 offense shall be sentenced to perform community service as  
16 follows: for a first offense, at least ten days of community service;  
17 for a second offense, at least 15 days of community service; and for  
18 a third or subsequent offense, a maximum of 25 days of community  
19 service and any person convicted of a third or subsequent  
20 shoplifting offense shall **【serve a minimum】** be sentenced to a term  
21 of imprisonment 【of not less than 90 days】.

22 d. Presumptions. Any person purposely concealing  
23 unpurchased merchandise of any store or other retail mercantile  
24 establishment, either on the premises or outside the premises of  
25 such store or other retail mercantile establishment, shall be prima  
26 facie presumed to have so concealed such merchandise with the  
27 intention of depriving the merchant of the possession, use or benefit  
28 of such merchandise without paying the full retail value thereof,  
29 and the finding of such merchandise concealed upon the person or  
30 among the belongings of such person shall be prima facie evidence  
31 of purposeful concealment; and if such person conceals, or causes  
32 to be concealed, such merchandise upon the person or among the  
33 belongings of another, the finding of the same shall also be prima  
34 facie evidence of willful concealment on the part of the person so  
35 concealing such merchandise.

36 e. A law enforcement officer, or a special officer, or a  
37 merchant, who has probable cause for believing that a person has  
38 willfully concealed unpurchased merchandise and that he can  
39 recover the merchandise by taking the person into custody, may, for  
40 the purpose of attempting to effect recovery thereof, take the person  
41 into custody and detain him in a reasonable manner for not more  
42 than a reasonable time, and the taking into custody by a law  
43 enforcement officer or special officer or merchant shall not render  
44 such person criminally or civilly liable in any manner or to any  
45 extent whatsoever.

46 Any law enforcement officer may arrest without warrant any  
47 person he has probable cause for believing has committed the  
48 offense of shoplifting as defined in this section.

1 A merchant who causes the arrest of a person for shoplifting, as  
2 provided for in this section, shall not be criminally or civilly liable  
3 in any manner or to any extent whatsoever where the merchant has  
4 probable cause for believing that the person arrested committed the  
5 offense of shoplifting.

6 f. Any person who possesses or uses any antishoplifting or  
7 inventory control device countermeasure within any store or other  
8 retail mercantile establishment is guilty of a disorderly persons  
9 offense.

10 (cf: P.L.2006, c.56, s.1)

11

12 5. Section 4 of P.L.1984, c.184 (C.2C:20-25) is amended to  
13 read as follows:

14 4. A person is guilty of computer criminal activity if the person  
15 purposely or knowingly and without authorization, or in excess of  
16 authorization:

17 a. Accesses any data, data base, computer storage medium,  
18 computer program, computer software, computer equipment,  
19 computer, computer system or computer network;

20 b. Alters, damages or destroys any data, data base, computer,  
21 computer storage medium, computer program, computer software,  
22 computer system or computer network, or denies, disrupts or  
23 impairs computer services, including access to any part of the  
24 Internet, that are available to any other user of the computer  
25 services;

26 c. Accesses or attempts to access any data, data base,  
27 computer, computer storage medium, computer program, computer  
28 software, computer equipment, computer system or computer  
29 network for the purpose of executing a scheme to defraud, or to  
30 obtain services, property, personal identifying information, or  
31 money, from the owner of a computer or any third party;

32 d. (Deleted by amendment, P.L.2003, c.39).

33 e. Obtains, takes, copies or uses any data, data base, computer  
34 program, computer software, personal identifying information, or  
35 other information stored in a computer, computer network,  
36 computer system, computer equipment or computer storage  
37 medium; or

38 f. Accesses and recklessly alters, damages or destroys any  
39 data, data base, computer, computer storage medium, computer  
40 program, computer software, computer equipment, computer system  
41 or computer network.

42 g. A violation of subsection a. of this section is a crime of the  
43 third degree. A violation of subsection b. is a crime of the second  
44 degree. A violation of subsection c. is a crime of the third degree,  
45 except that it is a crime of the second degree if the value of the  
46 services, property, personal identifying information, or money  
47 obtained or sought to be obtained exceeds \$5,000. A violation of  
48 subsection e. is a crime of the third degree, except that it is a crime



1 of the second degree if the data, data base, computer program,  
2 computer software, or information:

3 (1) is or contains personal identifying information, medical  
4 diagnoses, treatments or other medical information concerning an  
5 identifiable person;

6 (2) is or contains governmental records or other information that  
7 is protected from disclosure by law, court order or rule of court; or

8 (3) has a value exceeding \$5,000.

9 A violation of subsection f. is a crime of the fourth degree,  
10 except that it is a crime of the third degree if the value of the  
11 damage exceeds \$5,000.

12 A violation of any subsection of this section is a crime of the  
13 first degree if the offense results in:

14 (1) a substantial interruption or impairment of public  
15 communication, transportation, supply of water, gas or power, or  
16 other public service. The term "substantial interruption or  
17 impairment" shall mean such interruption or impairment that:

18 (a) affects 10 or more structures or habitations;

19 (b) lasts for two or more hours; or

20 (c) creates a risk of death or significant bodily injury to any  
21 person;

22 (2) damages or loss in excess of \$250,000; or

23 (3) significant bodily injury to any person.

24 **【Every sentence of imprisonment for a crime of the first degree**  
25 **committed in violation of this section shall include a minimum term**  
26 **of one-third to one-half of the sentence imposed, during which term**  
27 **the defendant shall not be eligible for parole.】**

28 h. Every sentence imposed upon a conviction pursuant to this  
29 section shall, if the victim is a government agency, include a period  
30 of imprisonment. **【The period of imprisonment shall include a**  
31 **minimum term of one-third to one-half of the sentence imposed,**  
32 **during which term the defendant shall not be eligible for parole.】**

33 The victim shall be deemed to be a government agency if a  
34 computer, computer network, computer storage medium, computer  
35 system, computer equipment, computer program, computer  
36 software, computer data or data base that is a subject of the crime is  
37 owned, operated or maintained by or on behalf of a governmental  
38 agency or unit of State or local government or a public authority.  
39 The defendant shall be strictly liable under this subsection and it  
40 shall not be a defense that the defendant did not know or intend that  
41 the victim was a government agency, or that the defendant intended  
42 that there be other victims of the crime.

43 A violation of any subsection of this section shall be a distinct  
44 offense from a violation of any other subsection of this section, and  
45 a conviction for a violation of any subsection of this section shall  
46 not merge with a conviction for a violation of any other subsection  
47 of this section or section 10 of P.L.1984, c.184 (C.2C:20-31), or for  
48 conspiring or attempting to violate any subsection of this section or

1 section 10 of P.L.1984, c.184 (C.2C:20-31), and a separate sentence  
2 shall be imposed for each such conviction.

3 When a violation of any subsection of this section involves an  
4 offense committed against a person under 18 years of age, the  
5 violation shall constitute an aggravating circumstance to be  
6 considered by the court when determining the appropriate sentence  
7 to be imposed.

8 (cf: P.L.2003, c.39, s.3)

9  
10 6. Section 10 of P.L.1984, c.184 (C.2C:20-31) is amended to  
11 read as follows:

12 10. a. A person is guilty of a crime of the third degree if the  
13 person purposely or knowingly and without authorization, or in  
14 excess of authorization, accesses any data, data base, computer,  
15 computer storage medium, computer software, computer equipment,  
16 computer system and knowingly or recklessly discloses or causes to  
17 be disclosed any data, data base, computer software, computer  
18 programs or personal identifying information.

19 b. A person is guilty of a crime of the second degree if the  
20 person purposely or knowingly and without authorization, or in  
21 excess of authorization, accesses any data, data base, computer,  
22 computer storage medium, computer software, computer equipment,  
23 computer system or computer network and purposely or knowingly  
24 discloses or causes to be disclosed any data, data base, computer  
25 software, computer program or other information that is protected  
26 from disclosure by any law, court order or rule of court. Every  
27 sentence imposed upon a conviction pursuant to this subsection  
28 shall include a period of imprisonment. **【The period of**  
29 **imprisonment shall include a minimum term of one-third to one-**  
30 **half of the sentence imposed, during which term the defendant shall**  
31 **not be eligible for parole.】**

32 (cf: P.L.2003, c.39, s.4)

33

34 7. Section 5 of P.L.1994, c.121, (2C:21-27) is amended to read  
35 as follows:

36 5. a. The offense defined in subsections a. b. and c. of section  
37 3 of P.L.1994, c.121 (C.2C:21-25) constitutes a crime of the first  
38 degree if the amount involved is \$500,000.00 or more. If the  
39 amount involved is at least \$75,000.00 but less than \$500,000.00  
40 the offense constitutes a crime of the second degree; otherwise, the  
41 offense constitutes a crime of the third degree. The offense defined  
42 in subsection e. of section 3 of P.L.1994, c.121 (C.2C:21-25)  
43 constitutes a crime of the third degree. Notwithstanding the  
44 provisions of N.J.S.2C:43-3, the court may also impose a fine up to  
45 \$500,000.00. The amount involved in a prosecution for violation of  
46 this section shall be determined by the trier of fact. Amounts  
47 involved in transactions conducted pursuant to one scheme or  
48 course of conduct may be aggregated in determining the degree of

1 the offense. [Notwithstanding the provisions of paragraph (1) of  
2 subsection a. of N.J.S.2C:43-6, a person convicted of a crime of the  
3 first degree pursuant to the provisions of this subsection shall be  
4 sentenced to a term of imprisonment that shall include the  
5 imposition of a minimum term which shall be fixed at, or between,  
6 one-third and one-half of the sentence imposed, during which time  
7 the defendant shall not be eligible for parole.]

8 b. In addition to any other dispositions authorized by this Title,  
9 upon conviction of a violation of this section, the court may  
10 sentence the defendant to pay an amount as calculated pursuant to  
11 subsection a. of section 6 of P.L.1994, c.121 (C.2C:21-28).

12 c. Notwithstanding N.J.S.2C:1-8 or any other provision of law,  
13 a conviction of an offense defined in this section shall not merge  
14 with the conviction of any other offense constituting the criminal  
15 activity involved or from which the property was derived, and a  
16 conviction of any offense constituting the criminal activity involved  
17 or from which the property was derived shall not merge with a  
18 conviction of an offense defined in section 3 of P.L.1994, c.121  
19 (C.2C:21-25), and the sentence imposed upon a conviction of any  
20 offense defined in section 3 of P.L.1994, c.121 (C.2C:21-25) shall  
21 be ordered to be served consecutively to that imposed for a  
22 conviction of any offense constituting the criminal activity involved  
23 or from which the property was derived. Nothing in P.L.1994, c.121  
24 (C.2C:21-23 et seq.) shall be construed in any way to preclude or  
25 limit a prosecution or conviction for any other offense defined in  
26 this Title or any other criminal law of this State.

27 (cf: P.L.2002, c.26, s.15)

28  
29 8. N.J.S.2C:29-3 is amended to read as follows:

30 2C:29-3. Hindering Apprehension or Prosecution. a. A person  
31 commits an offense if, with purpose to hinder the detention,  
32 apprehension, investigation, prosecution, conviction or punishment  
33 of another for an offense or violation of Title 39 of the Revised  
34 Statutes or a violation of chapter 33A of Title 17 of the Revised  
35 Statutes he:

36 (1) Harbors or conceals the other;

37 (2) Provides or aids in providing a weapon, money,  
38 transportation, disguise or other means of avoiding discovery or  
39 apprehension or effecting escape;

40 (3) Suppresses, by way of concealment or destruction, any  
41 evidence of the crime, or tampers with a witness, informant,  
42 document or other source of information, regardless of its  
43 admissibility in evidence, which might aid in the discovery or  
44 apprehension of such person or in the lodging of a charge against  
45 him;

46 (4) Warns the other of impending discovery or apprehension,  
47 except that this paragraph does not apply to a warning given in

1 connection with an effort to bring another into compliance with  
2 law;

3 (5) Prevents or obstructs, by means of force, intimidation or  
4 deception, anyone from performing an act which might aid in the  
5 discovery or apprehension of such person or in the lodging of a  
6 charge against him;

7 (6) Aids such person to protect or expeditiously profit from an  
8 advantage derived from such crime; or

9 (7) Gives false information to a law enforcement officer or a  
10 civil State investigator assigned to the Office of the Insurance Fraud  
11 Prosecutor established by section 32 of P.L.1998, c.21 (C.17:33A-  
12 16).

13 An offense under paragraph (5) of subsection a. of this section is  
14 a crime of the second degree, unless the actor is a spouse, domestic  
15 partner, partner in a civil union, parent or child to the person aided  
16 who is the victim of the offense, in which case the offense is a  
17 crime of the fourth degree. An offense under paragraph (3) or (7) of  
18 subsection a. of this section is a crime of the third degree if the  
19 conduct which the actor knows has been charged or is liable to be  
20 charged against another person would constitute leaving the scene  
21 of a motor vehicle accident that results in the death of another  
22 person in violation of section 1 of P.L.1997, c.111 (C.2C:11-5.1).  
23 Notwithstanding the presumption of non-imprisonment for certain  
24 offenders set forth in subsection e. of N.J.S.2C:44-1, the actor shall  
25 serve a term of imprisonment], which shall be fixed at not less than  
26 one year, during which the actor shall not be eligible for parole].  
27 Otherwise, the offense under subsection a. of this section is a crime  
28 of the third degree if the conduct which the actor knows has been  
29 charged or is liable to be charged against the person aided would  
30 constitute a crime of the second degree or greater, unless the actor  
31 is a spouse, domestic partner, partner in a civil union, parent or  
32 child of the person aided, in which case the offense is a crime of the  
33 fourth degree. The offense is a crime of the fourth degree if such  
34 conduct would constitute a crime of the third degree. Otherwise it is  
35 a disorderly persons offense.

36 b. A person commits an offense if, with purpose to hinder his  
37 own detention, apprehension, investigation, prosecution, conviction  
38 or punishment for an offense or violation of Title 39 of the Revised  
39 Statutes or a violation of chapter 33A of Title 17 of the Revised  
40 Statutes, he:

41 (1) Suppresses, by way of concealment or destruction, any  
42 evidence of the crime or tampers with a document or other source of  
43 information, regardless of its admissibility in evidence, which might  
44 aid in his discovery or apprehension or in the lodging of a charge  
45 against him; or

46 (2) Prevents or obstructs by means of force or intimidation  
47 anyone from performing an act which might aid in his discovery or  
48 apprehension or in the lodging of a charge against him; or

1 (3) Prevents or obstructs by means of force, intimidation or  
2 deception any witness or informant from providing testimony or  
3 information, regardless of its admissibility, which might aid in his  
4 discovery or apprehension or in the lodging of a charge against  
5 him; or

6 (4) Gives false information to a law enforcement officer or a  
7 civil State investigator assigned to the Office of the Insurance Fraud  
8 Prosecutor established by section 32 of P.L.1998, c.21 (C.17:33A-  
9 16).

10 An offense under paragraph (3) of subsection b. of this section is  
11 a crime of the second degree. An offense under paragraph (1) or (4)  
12 of subsection b. of this section is a crime of the third degree if the  
13 conduct which the actor knows has been charged or is liable to be  
14 charged against him would constitute leaving the scene of a motor  
15 vehicle accident that results in the death of another person in  
16 violation of section 1 of P.L.1997, c.111 (C.2C:11-5.1).  
17 Notwithstanding the presumption of non-imprisonment for certain  
18 offenders set forth in subsection e. of N.J.S.2C:44-1, the actor shall  
19 serve a term of imprisonment [which shall be fixed at not less than  
20 one year, during which the actor shall not be eligible for parole].

21 Otherwise, the offense under subsection b. of this section is a  
22 crime of the third degree if the conduct which the actor knows has  
23 been charged or is liable to be charged against him would constitute  
24 a crime of the second degree or greater. The offense is a crime of  
25 the fourth degree if such conduct would constitute a crime of the  
26 third degree. Otherwise it is a disorderly persons offense.

27 (cf: P.L.2015, c.265)

28  
29 9. N.J.S.2C:29-6 is amended to read as follows:

30 2C:29-6. a. Escape implements. (1) A person commits an  
31 offense if he knowingly and unlawfully introduces within an  
32 institution for commitment of persons under N.J.S. 2C:4-8 or a  
33 detention facility, or knowingly and unlawfully provides an inmate  
34 with any weapon, tool, instrument, document or other thing which  
35 may be useful for escape. The offense is a crime of the second  
36 degree and shall be punished by a minimum term of imprisonment,  
37 which shall be fixed at no less than three years if the item is a  
38 weapon as defined by N.J.S. 2C:39-1(r) and any person suffers  
39 bodily injury or death as a result. Otherwise it is a crime of the  
40 third degree.

41 (2) An inmate of an institution or facility defined by paragraph  
42 (1) of subsection a. of this section commits an offense if he  
43 knowingly and unlawfully procures, makes, or otherwise provides  
44 himself with, or has in his possession, any such implement of  
45 escape. The offense is a crime of the second degree and shall be  
46 punished by a minimum term of imprisonment, which shall be fixed  
47 at no less than three years if the item is a weapon as defined by

1 N.J.S. 2C:39-1(r) and any person suffers bodily injury or death as a  
2 result. Otherwise it is a crime of the third degree.

3 "Unlawfully" means surreptitiously or contrary to law, regulation  
4 or order of the detaining authority.

5 b. Other contraband. A person commits a petty disorderly  
6 persons offense if he provides an inmate with any other thing which  
7 the actor knows or should know it is unlawful for the inmate to  
8 possess.

9 (cf: P.L.1983, c.87)

10

11 10. N.J.S.2C:35-3 is amended to read as follows:

12 2C:35-3. Leader of Narcotics Trafficking Network.

13 As used in this section:

14 "Financier" means a person who, with the intent to derive a  
15 profit, provides money or credit or other thing of value in order to  
16 purchase a controlled dangerous substance or an immediate  
17 precursor, or otherwise to finance the operations of a drug  
18 trafficking network.

19 A person is a leader of a narcotics trafficking network if he  
20 conspires with two or more other persons in a scheme or course of  
21 conduct to unlawfully manufacture, distribute, dispense, bring into  
22 or transport in this State methamphetamine, lysergic acid  
23 diethylamide, phencyclidine, gamma hydroxybutyrate,  
24 flunitrazepam or any controlled dangerous substance classified in  
25 Schedule I or II, or any controlled substance analog thereof as a  
26 financier, or as an organizer, supervisor or manager of at least one  
27 other person.

28 Leader of narcotics trafficking network is a crime of the first  
29 degree and upon conviction thereof, except as may be provided by  
30 N.J.S.2C:35-12, a person shall be sentenced to an ordinary term of  
31 between twenty-five years and life imprisonment [during which the  
32 person must serve 25 years before being eligible for parole].  
33 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3,  
34 the court may also impose a fine not to exceed \$750,000.00 or five  
35 times the street value of the controlled dangerous substance,  
36 controlled substance analog, gamma hydroxybutyrate or  
37 flunitrazepam involved, whichever is greater.

38 Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of  
39 leader of narcotics trafficking network shall not merge with the  
40 conviction for any offense which is the object of the conspiracy.  
41 Nothing contained in this section shall prohibit the court from  
42 imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this  
43 section be construed in any way to preclude or limit the prosecution  
44 or conviction of any person for conspiracy under N.J.S.2C:5-2, or  
45 any prosecution or conviction under N.J.S.2C:35-4 (maintaining or  
46 operating a CDS production facility), N.J.S.2C:35-5  
47 (manufacturing, distributing or dispensing), N.J.S.2C:35-6  
48 (employing a juvenile in a drug distribution scheme), N.J.S.2C:35-9

1 (strict liability for drug induced death), N.J.S.2C:41-2 (racketeering  
2 activities) or subsection g. of N.J.S.2C:5-2 (leader of organized  
3 crime).

4 It shall not be necessary in any prosecution under this section for  
5 the State to prove that any intended profit was actually realized. The  
6 trier of fact may infer that a particular scheme or course of conduct  
7 was undertaken for profit from all of the attendant circumstances,  
8 including but not limited to the number of persons involved in the  
9 scheme or course of conduct, the actor's net worth and his  
10 expenditures in relation to his legitimate sources of income, the  
11 amount or purity of the specified controlled dangerous substance,  
12 controlled substance analog, gamma hydroxybutyrate or  
13 flunitrazepam involved, or the amount of cash or currency involved.

14 It shall not be a defense to a prosecution under this section that  
15 such controlled dangerous substance, controlled substance analog,  
16 gamma hydroxybutyrate or flunitrazepam was brought into or  
17 transported in this State solely for ultimate distribution or  
18 dispensing in another jurisdiction; nor shall it be a defense that any  
19 profit was intended to be made in another jurisdiction.

20 It shall not be a defense that the defendant was subject to the  
21 supervision or management of another, nor that another person or  
22 persons were also leaders of the narcotics trafficking network.  
23 (cf: P.L.1999, c.133, s.1)  
24

25 11. N.J.S.2C:35-4 is amended to read as follows:

26 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-  
27 1 et seq.), any person who knowingly maintains or operates any  
28 premises, place or facility used for the manufacture of  
29 methamphetamine, lysergic acid diethylamide, phencyclidine,  
30 gamma hydroxybutyrate, flunitrazepam, marijuana in an amount  
31 greater than five pounds or ten plants or any substance listed in  
32 Schedule I or II, or the analog of any such substance, or any person  
33 who knowingly aids, promotes, finances or otherwise participates in  
34 the maintenance or operations of such premises, place or facility, is  
35 guilty of a crime of the first degree and shall, except as provided in  
36 N.J.S.2C:35-12, be sentenced to a term of imprisonment [which  
37 shall include the imposition of a minimum term which shall be  
38 fixed at, or between, one-third and one-half of the sentence  
39 imposed, during which the defendant shall be ineligible for parole].  
40 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3,  
41 the court may also impose a fine not to exceed \$750,000.00 or five  
42 times the street value of all controlled dangerous substances,  
43 controlled substance analogs, gamma hydroxybutyrate or  
44 flunitrazepam at any time manufactured or stored at such premises,  
45 place or facility, whichever is greater.

46 (cf: P.L.1999, c.133, s.2)  
47

48 12. N.J.S.2C:35-5 is amended to read as follows:

1       2C:35-5. Manufacturing, Distributing or Dispensing.

2       a. Except as authorized by P.L.1970, c.226 (C.24:21-1 et seq.),  
3 it shall be unlawful for any person knowingly or purposely:

4       (1) To manufacture, distribute or dispense, or to possess or have  
5 under his control with intent to manufacture, distribute or dispense,  
6 a controlled dangerous substance or controlled substance analog; or

7       (2) To create, distribute, or possess or have under his control  
8 with intent to distribute, a counterfeit controlled dangerous  
9 substance.

10      b. Any person who violates subsection a. with respect to:

11      (1) Heroin, or its analog, or coca leaves and any salt, compound,  
12 derivative, or preparation of coca leaves, and any salt, compound,  
13 derivative, or preparation thereof which is chemically equivalent or  
14 identical with any of these substances, or analogs, except that the  
15 substances shall not include decocainized coca leaves or extractions  
16 which do not contain cocaine or ecogine, or 3,4-  
17 methylenedioxyamphetamine or 3,4-  
18 methylenedioxyamphetamine, in a quantity of five ounces or more  
19 including any adulterants or dilutants is guilty of a crime of the first  
20 degree. The defendant shall, except as provided in N.J.S.2C:35-12,  
21 be sentenced to a term of imprisonment by the court. **【The term of**  
22 **imprisonment shall include the imposition of a minimum term**  
23 **which shall be fixed at, or between, one-third and one-half of the**  
24 **sentence imposed, during which the defendant shall be ineligible for**  
25 **parole.】** Notwithstanding the provisions of subsection a. of  
26 N.J.S.2C:43-3, a fine of up to \$500,000 may be imposed;

27      (2) A substance referred to in paragraph (1) of this subsection,  
28 in a quantity of one-half ounce or more but less than five ounces,  
29 including any adulterants or dilutants is guilty of a crime of the  
30 second degree;

31      (3) A substance referred to in paragraph (1) of this subsection in  
32 a quantity less than one-half ounce including any adulterants or  
33 dilutants is guilty of a crime of the third degree except that,  
34 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a  
35 fine of up to \$75,000 may be imposed;

36      (4) A substance classified as a narcotic drug in Schedule I or II  
37 other than those specifically covered in this section, or the analog of  
38 any such substance, in a quantity of one ounce or more including  
39 any adulterants or dilutants is guilty of a crime of the second  
40 degree;

41      (5) A substance classified as a narcotic drug in Schedule I or II  
42 other than those specifically covered in this section, or the analog of  
43 any such substance, in a quantity of less than one ounce including  
44 any adulterants or dilutants is guilty of a crime of the third degree  
45 except that, notwithstanding the provisions of subsection b. of  
46 N.J.S.2C:43-3, a fine of up to \$75,000 may be imposed;

47      (6) Lysergic acid diethylamide, or its analog, in a quantity of  
48 100 milligrams or more including any adulterants or dilutants, or



1 phencyclidine, or its analog, in a quantity of 10 grams or more  
2 including any adulterants or dilutants, is guilty of a crime of the  
3 first degree. Except as provided in N.J.S.2C:35-12, the court shall  
4 impose a term of imprisonment [which shall include the imposition  
5 of a minimum term, fixed at, or between, one-third and one-half of  
6 the sentence imposed by the court, during which the defendant shall  
7 be ineligible for parole]. Notwithstanding the provisions of  
8 subsection a. of N.J.S.2C:43-3, a fine of up to \$500,000 may be  
9 imposed;

10 (7) Lysergic acid diethylamide, or its analog, in a quantity of  
11 less than 100 milligrams including any adulterants or dilutants, or  
12 where the amount is undetermined, or phencyclidine, or its analog,  
13 in a quantity of less than 10 grams including any adulterants or  
14 dilutants, or where the amount is undetermined, is guilty of a crime  
15 of the second degree;

16 (8) Methamphetamine, or its analog, or phenyl-2-propanone  
17 (P2P), in a quantity of five ounces or more including any  
18 adulterants or dilutants is guilty of a crime of the first degree.  
19 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a  
20 fine of up to \$300,000 may be imposed;

21 (9) (a) Methamphetamine, or its analog, or phenyl-2-propanone  
22 (P2P), in a quantity of one-half ounce or more but less than five  
23 ounces including any adulterants or dilutants is guilty of a crime of  
24 the second degree;

25 (b) Methamphetamine, or its analog, or phenyl-2-propanone  
26 (P2P), in a quantity of less than one-half ounce including any  
27 adulterants or dilutants is guilty of a crime of the third degree  
28 except that notwithstanding the provisions of subsection b. of  
29 N.J.S.2C:43-3, a fine of up to \$75,000 may be imposed;

30 (10) (a) Marijuana in a quantity of 25 pounds or more including  
31 any adulterants or dilutants, or 50 or more marijuana plants,  
32 regardless of weight, or hashish in a quantity of five pounds or  
33 more including any adulterants or dilutants, is guilty of a crime of  
34 the first degree. Notwithstanding the provisions of subsection a. of  
35 N.J.S.2C:43-3, a fine of up to \$300,000 may be imposed;

36 (b) Marijuana in a quantity of five pounds or more but less than  
37 25 pounds including any adulterants or dilutants, or 10 or more but  
38 fewer than 50 marijuana plants, regardless of weight, or hashish in a  
39 quantity of one pound or more but less than five pounds, including  
40 any adulterants and dilutants, is guilty of a crime of the second  
41 degree;

42 (11) (a) Prior to the effective date of P.L.2021, c.19 (C.2C:35-  
43 23.1 et al.), marijuana in a quantity of one ounce or more but less  
44 than five pounds including any adulterants or dilutants, or hashish  
45 in a quantity of five grams or more but less than one pound  
46 including any adulterants or dilutants, is guilty of a crime of the  
47 third degree except that, notwithstanding the provisions of

1 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000 may be  
2 imposed;

3 (b) On and after the effective date of P.L.2021, c.19 (C.2C:35-  
4 23.1 et al.), marijuana in a quantity of more than one ounce but less  
5 than five pounds including any adulterants or dilutants, or hashish  
6 in a quantity of more than five grams but less than one pound  
7 including any adulterants or dilutants, is guilty of a crime of the  
8 third degree except that, notwithstanding the provisions of  
9 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000 may be  
10 imposed;

11 (12) (a) Prior to the effective date of P.L.2021, c.19 (C.2C:35-  
12 23.1 et al.), marijuana in a quantity of less than one ounce including  
13 any adulterants or dilutants, or hashish in a quantity of less than five  
14 grams including any adulterants or dilutants, is guilty of a crime of  
15 the fourth degree;

16 (b) On and after the effective date of P.L.2021, c.19 (C.2C:35-  
17 23.1 et al.), marijuana in a quantity of one ounce or less including  
18 any adulterants or dilutants, or hashish in a quantity of five grams  
19 or less including any adulterants or dilutants, is, for a first offense,  
20 subject to a written warning, which also indicates that any  
21 subsequent violation is a crime punishable by a term of  
22 imprisonment, a fine, or both, and for a second or subsequent  
23 offense, is guilty of a crime of the fourth degree;

24 (i) The odor of marijuana or hashish, or burnt marijuana or  
25 hashish, shall not constitute reasonable articulable suspicion to  
26 initiate a search of a person to determine a violation of  
27 subparagraph (b) of paragraph (12) of this subsection. A person  
28 who violates this subparagraph shall not be subject to arrest,  
29 detention, or otherwise be taken into custody, unless the person is  
30 being arrested, detained, or otherwise taken into custody for also  
31 committing another violation of law for which that action is legally  
32 permitted or required;

33 (ii) A person shall not be deprived of any legal or civil right,  
34 privilege, benefit, or opportunity provided pursuant to any law  
35 solely by reason of committing a violation of subparagraph (b) of  
36 paragraph (12) of this subsection, nor shall committing one or more  
37 violations modify any legal or civil right, privilege, benefit, or  
38 opportunity provided pursuant to any law, including, but not limited  
39 to, the granting, renewal, forfeiture, or denial of a license, permit,  
40 or certification, qualification for and the receipt, alteration,  
41 continuation, or denial of any form of financial assistance, housing  
42 assistance, or other social services, rights of or custody by a  
43 biological parent, or adoptive or foster parent, or other legal  
44 guardian of a child or newborn infant, or pregnant woman, in any  
45 action or proceeding by the Division of Child Protection and  
46 Permanency in the Department of Children and Families, or  
47 qualification, approval, or disapproval to serve as a foster parent or  
48 other legal guardian;

(iii) All local and county law enforcement authorities shall, following the submission process used for the uniform crime reporting system established by P.L.1966, c.37 (C.52:17B-5.1 et seq.), submit a quarterly report to the Uniform Crime Reporting Unit, within the Division of State Police in the Department of Law and Public Safety, or to another designated recipient determined by the Attorney General, containing the number of violations of subparagraph (b) of paragraph (12) of this subsection committed within their respective jurisdictions, plus the race, ethnicity, gender, and age of each person committing a violation, and the disposition of each person's violation. These violations and associated information, along with a quarterly summary of violations investigated, and associated information collected, by the Division of State Police for the same period shall be summarized by county and municipality in an annual report, and both quarterly summaries and annual reports shall be made available at no cost to the public on the Division of State Police's Internet website;

(13) Any other controlled dangerous substance classified in Schedule I, II, III or IV, or its analog, is guilty of a crime of the third degree, except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000 may be imposed; or

(14) Any Schedule V substance, or its analog, is guilty of a crime of the fourth degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000 may be imposed.

c. Where the degree of the offense for violation of this section depends on the quantity of the substance, the quantity involved shall be determined by the trier of fact, other than with respect to a first violation of subparagraph (b) of paragraph (12) of subsection b. of this section which is subject to a written warning as set forth in that subparagraph. Where the indictment or accusation so provides, the quantity involved in individual acts of manufacturing, distribution, dispensing or possessing with intent to distribute may be aggregated in determining the grade of the offense, whether distribution or dispensing is to the same person or several persons, provided that each individual act of manufacturing, distribution, dispensing or possession with intent to distribute was committed within the applicable statute of limitations.

(cf: P.L.2021, c.19, s.1)

13. N.J.S.2C:35-6 is amended to read as follows:

2C:35-6. Employing a Juvenile in a Drug Distribution Scheme.

Any person being at least 18 years of age who knowingly uses, solicits, directs, hires or employs a person 17 years of age or younger to violate N.J.S.2C:35-4 or subsection a. of N.J.S.2C:35-5, is guilty of a crime of the second degree and shall, except as provided in N.J.S.2C:35-12, be sentenced to a term of imprisonment

1   **【**which shall include the imposition of a minimum term which shall  
2   be fixed at, or between, one-third and one-half of the sentence  
3   imposed, or five years, whichever is greater, during which the  
4   defendant shall be ineligible for parole**】**. Notwithstanding the  
5   provisions of subsection a. of N.J.S.2C:43-3, the court may also  
6   impose a fine not to exceed \$500,000.00 or five times the street  
7   value of the controlled dangerous substance or controlled substance  
8   analog involved, whichever is greater.

9       It shall be no defense to a prosecution under this section that the  
10   actor mistakenly believed that the person which the actor used,  
11   solicited, directed, hired or employed was 18 years of age or older,  
12   even if such mistaken belief was reasonable.

13       Nothing in this section shall be construed to preclude or limit a  
14   prosecution or conviction for a violation of any offense defined in  
15   this chapter pursuant to N.J.S.2C:2-6 or any other provision of law  
16   governing an actor's liability for the conduct of another, and,  
17   notwithstanding the provisions of N.J.S.2C:1-8 or any other  
18   provision of law, a conviction arising under this section shall not  
19   merge with a conviction for a violation of N.J.S.2C:35-3 (leader of  
20   narcotics trafficking network), N.J.S.2C:35-4 (maintaining or  
21   operating a CDS production facility), N.J.S.2C:35-5  
22   (manufacturing, distributing or dispensing), or N.J.S.2C:35-9 (strict  
23   liability for drug induced death).

24   (cf: P.L.1997, c.181, s.4)

25

26       14. Section 1 of P.L.1987, c.101 (C.2C:35-7) is amended to read  
27   as follows:

28       1. a. Any person who violates subsection a. of N.J.S.2C:35-5  
29   by distributing, dispensing or possessing with intent to distribute a  
30   controlled dangerous substance or controlled substance analog  
31   while on any school property used for school purposes which is  
32   owned by or leased to any elementary or secondary school or school  
33   board, or within 1,000 feet of such school property or a school bus,  
34   or while on any school bus, is guilty of a crime of the third degree  
35   and shall, except as provided in N.J.S.2C:35-12, be sentenced by  
36   the court to a term of imprisonment, notwithstanding the  
37   presumption of non-imprisonment for certain offenders set forth in  
38   subsection e. of N.J.S. 2C:44-1. **【**Where the violation involves less  
39   than one ounce of marijuana, the term of imprisonment shall  
40   include the imposition of a minimum term which shall be fixed at,  
41   or between, one-third and one-half of the sentence imposed, or one  
42   year, whichever is greater, during which the defendant shall be  
43   ineligible for parole. In all other cases, the term of imprisonment  
44   shall include the imposition of a minimum term which shall be  
45   fixed at, or between, one-third and one-half of the sentence  
46   imposed, or three years, whichever is greater, during which the  
47   defendant shall be ineligible for parole.**】** Notwithstanding the  
48   provisions of subsection b. of N.J.S.2C:43-3, a fine of up to

1 \$150,000 may also be imposed upon any conviction for a violation  
2 of this section.

3 b. (1) Notwithstanding the provisions of N.J.S.2C:35-12 or  
4 subsection a. of this section, the court may [waive or reduce the  
5 minimum term of parole ineligibility required under subsection a. of  
6 this section or] place the defendant on probation pursuant to  
7 paragraph (2) of subsection b. of N.J.S.2C:43-2. In making this  
8 determination, the court shall consider:

9 (a) the extent of the defendant's prior criminal record and the  
10 seriousness of the offenses for which the defendant has been  
11 convicted;

12 (b) the specific location of the present offense in relation to the  
13 school property, including distance from the school and the  
14 reasonable likelihood of exposing children to drug-related activities  
15 at that location;

16 (c) whether school was in session at the time of the offense; and

17 (d) whether children were present at or in the immediate vicinity  
18 of the location when the offense took place.

19 (2) The court shall not [waive or reduce the minimum term of  
20 parole ineligibility or] sentence the defendant to probation if it  
21 finds that:

22 (a) the offense took place while on any school property used for  
23 school purposes which is owned by or leased to any elementary or  
24 secondary school or school board, or while on any school bus; or

25 (b) the defendant in the course of committing the offense used  
26 or threatened violence or was in possession of a firearm.

27 If the court at sentencing [elects not to impose a minimum term  
28 of imprisonment and parole ineligibility pursuant to this subsection,  
29 imposes a term of parole ineligibility less than the minimum term  
30 prescribed in subsection a. of this section, or] places the defendant  
31 on probation for a violation of subsection a. of this section, the  
32 sentence shall not become final for 10 days in order to permit the  
33 prosecution to appeal the court's finding and the sentence imposed.  
34 The Attorney General shall develop guidelines to ensure the  
35 uniform exercise of discretion in making determinations regarding  
36 whether to appeal a decision to [waive or reduce the minimum term  
37 of parole ineligibility or] place the defendant on probation.

38 Nothing in this subsection shall be construed to establish a basis  
39 for overcoming a presumption of imprisonment authorized or  
40 required by subsection d. of N.J.S.2C:44-1, or a basis for not  
41 imposing a term of imprisonment or term of parole ineligibility  
42 authorized or required to be imposed pursuant to subsection f. of  
43 N.J.S.2C:43-6 or upon conviction for a crime other than the offense  
44 set forth in this subsection.

45 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
46 provisions of law, a conviction arising under this section shall not  
47 merge with a conviction for a violation of subsection a. of

1 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or  
2 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).

3 d. It shall be no defense to a prosecution for a violation of this  
4 section that the actor was unaware that the prohibited conduct took  
5 place while on or within 1,000 feet of any school property. Nor  
6 shall it be a defense to a prosecution under this section, or under  
7 any other provision of this title, that no juveniles were present on  
8 the school property at the time of the offense or that the school was  
9 not in session.

10 e. It is an affirmative defense to prosecution for a violation of  
11 this section that the prohibited conduct took place entirely within a  
12 private residence, that no person 17 years of age or younger was  
13 present in such private residence at any time during the commission  
14 of the offense, and that the prohibited conduct did not involve  
15 distributing, dispensing or possessing with the intent to distribute or  
16 dispense any controlled dangerous substance or controlled  
17 substance analog for profit. The affirmative defense established in  
18 this section shall be proved by the defendant by a preponderance of  
19 the evidence. Nothing herein shall be construed to establish an  
20 affirmative defense with respect to a prosecution for an offense  
21 defined in any other section of this chapter.

22 f. In a prosecution under this section, a map produced or  
23 reproduced by any municipal or county engineer for the purpose of  
24 depicting the location and boundaries of the area on or within 1,000  
25 feet of any property used for school purposes which is owned by or  
26 leased to any elementary or secondary school or school board, or a  
27 true copy of such a map, shall, upon proper authentication, be  
28 admissible and shall constitute prima facie evidence of the location  
29 and boundaries of those areas, provided that the governing body of  
30 the municipality or county has adopted a resolution or ordinance  
31 approving the map as official finding and record of the location and  
32 boundaries of the area or areas on or within 1,000 feet of the school  
33 property. Any map approved pursuant to this section may be  
34 changed from time to time by the governing body of the  
35 municipality or county. The original of every map approved or  
36 revised pursuant to this section, or a true copy thereof, shall be filed  
37 with the clerk of the municipality or county, and shall be  
38 maintained as an official record of the municipality or county.  
39 Nothing in this section shall be construed to preclude the  
40 prosecution from introducing or relying upon any other evidence or  
41 testimony to establish any element of this offense; nor shall this  
42 section be construed to preclude the use or admissibility of any map  
43 or diagram other than one which has been approved by the  
44 governing body of a municipality or county, provided that the map  
45 or diagram is otherwise admissible pursuant to the Rules of  
46 Evidence.

47 (cf: P.L.2009, c.192, s.1)

1       15. N.J.S.2C:35-8 is amended to read as follows:

2       2C:35-8. Distribution to Persons Under Age 18; Enhanced  
3 Punishment. Upon the application of the prosecuting attorney, any  
4 person being at least 18 years of age who has been convicted for  
5 violating subsection a. of N.J.S. 2C:35-5 or section 1 of P.L.1987,  
6 c.101 (C.2C:35-7) by distributing a controlled dangerous substance  
7 or controlled substance analog to a pregnant female or a person 17  
8 years of age or younger shall, except as provided in N.J.S. 2C:35-  
9 12, be subject to twice the term of imprisonment, fine and penalty  
10 **【**, including twice the term of parole ineligibility, if any,**】**  
11 authorized or required to be imposed by subsection b. of N.J.S.  
12 2C:35-5 or section 1 of P.L.1987, c.101 (C.2C:35-7) or any other  
13 provision of this title. In addition, the presumption of non-  
14 imprisonment for certain offenders set forth in subsection e. of  
15 N.J.S. 2C:44-1 shall not apply to any person subject to enhanced  
16 punishment pursuant to this section.

17       The court shall not impose more than one enhanced sentence  
18 pursuant to this section. If the defendant is convicted of more than  
19 one offense which is otherwise subject to enhanced punishment  
20 pursuant to this section, the court shall impose enhanced  
21 punishment based upon the most serious such offense for which the  
22 defendant was convicted **【**, or, where applicable, the offense which  
23 mandates the imposition of the longest term of parole ineligibility**】**.

24       Notwithstanding the provisions of paragraph (2) of subsection a.  
25 of 2C:44-5, nothing herein shall prevent the court from also  
26 imposing an extended term pursuant to subsection f. of N.J.S.  
27 2C:43-6. The court shall not impose an enhanced sentence pursuant  
28 to this section unless the prosecutor has established the ground  
29 therefor by a preponderance of the evidence at a hearing, which  
30 may occur at the time of sentencing. In making its finding, the  
31 court shall take judicial notice of any evidence, testimony or  
32 information adduced at the trial, plea hearing or other court  
33 proceedings, and shall also consider the presentence report and any  
34 other relevant information. It shall not be relevant to the imposition  
35 of enhanced punishment pursuant to this section that the defendant  
36 mistakenly believed that the recipient of the substance was 18 years  
37 of age or older, even if the mistaken belief was reasonable. Nor  
38 shall it be relevant to the imposition of enhanced punishment  
39 pursuant to this section that the defendant did not know that the  
40 recipient was pregnant.

41 (cf: P.L.1988, c.44, s.4)

42

43       16. N.J.S.2C:35-12 is amended to read as follows:

44       2C:35-12. Waiver of Mandatory Minimum and Extended Terms.

45       Whenever an offense defined in this chapter specifies a  
46 mandatory sentence of imprisonment **【**which includes a minimum  
47 term during which the defendant shall be ineligible for parole**】**, a

1 mandatory extended term **【**which includes a period of parole  
2 ineligibility**】**, or an anti-drug profiteering penalty pursuant to  
3 section 2 of P.L.1997, c.187 (N.J.S.2C:35A-1 et seq.), the court  
4 upon conviction shall impose the mandatory sentence of  
5 imprisonment or anti-drug profiteering penalty unless the defendant  
6 has pleaded guilty pursuant to a negotiated agreement or, in cases  
7 resulting in trial, the defendant and the prosecution have entered  
8 into a post-conviction agreement, which provides for a lesser  
9 sentence **【**, period of parole ineligibility**】** or anti-drug profiteering  
10 penalty. The negotiated plea or post-conviction agreement may  
11 provide for a specified term of imprisonment within the range of  
12 ordinary or extended sentences authorized by law, **【**a specified  
13 period of parole ineligibility,**】** a specified fine, a specified anti-drug  
14 profiteering penalty, or other disposition. In that event, the court at  
15 sentencing shall not impose a lesser term of imprisonment, **【**lesser  
16 period of parole ineligibility,**】** lesser fine or lesser anti-drug  
17 profiteering penalty than that expressly provided for under the  
18 terms of the plea or post-conviction agreement.  
19 (cf: P.L.1997, c.187, s.1)

20

21 17. N.J.S.2C:43-6 is amended to read as follows:

22 2C:43-6. a. Except as otherwise provided, a person who has  
23 been convicted of a crime may be sentenced to imprisonment, as  
24 follows:

25 (1) In the case of a crime of the first degree, for a specific term  
26 of years which shall be fixed by the court and shall be between 10  
27 years and 20 years;

28 (2) In the case of a crime of the second degree, for a specific  
29 term of years which shall be fixed by the court and shall be between  
30 five years and 10 years;

31 (3) In the case of a crime of the third degree, for a specific term  
32 of years which shall be fixed by the court and shall be between  
33 three years and five years;

34 (4) In the case of a crime of the fourth degree, for a specific  
35 term which shall be fixed by the court and shall not exceed 18  
36 months.

37 b. As part of a sentence for any crime, where the court is  
38 clearly convinced that the aggravating factors substantially  
39 outweigh the mitigating factors, as set forth in subsections a. and b.  
40 of 2C:44-1, or the court finds that the aggravating factor set forth in  
41 paragraph (5) of subsection a. of N.J.S.2C:44-1 applies, the court  
42 may fix a minimum term not to exceed one-half of the term set  
43 pursuant to subsection a., or one-half of the term set pursuant to a  
44 maximum period of incarceration for a crime set forth in any statute  
45 other than this code, during which the defendant shall not be  
46 eligible for parole; provided that no defendant shall be eligible for



1 parole at a date earlier than otherwise provided by the law  
2 governing parole.

3 c. A person who has been convicted under subsection b. or d.  
4 of N.J.S.2C:39-3, subsection a. of N.J.S.2C:39-4, subsection a. of  
5 section 1 of P.L.1998, c.26 (C.2C:39-4.1), subsection a., b., c., or f.  
6 of N.J.S.2C:39-5, subsection a. or paragraph (2) or (3) of subsection  
7 b. of section 6 of P.L.1979, c.179 (C.2C:39-7), or subsection a., b.,  
8 e. or g. of N.J.S.2C:39-9, or of a crime under any of the following  
9 sections: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-  
10 3a., 2C:15-1, 2C:18-2, 2C:29-5, who, while in the course of  
11 committing or attempting to commit the crime, including the  
12 immediate flight therefrom, used or was in possession of a firearm  
13 as defined in 2C:39-1f., shall be sentenced to a term of  
14 imprisonment by the court. The term of imprisonment shall include  
15 the imposition of a minimum term. The minimum term shall be  
16 fixed at one-half of the sentence imposed by the court or 42 months,  
17 whichever is greater, or 18 months in the case of a fourth degree  
18 crime, during which the defendant shall be ineligible for parole.

19 The minimum terms established by this section shall not prevent  
20 the court from imposing presumptive terms of imprisonment  
21 pursuant to 2C:44-1f. (1) except in cases of crimes of the fourth  
22 degree.

23 A person who has been convicted of an offense enumerated by  
24 this subsection and who used or possessed a firearm during its  
25 commission, attempted commission or flight therefrom and who has  
26 been previously convicted of an offense involving the use or  
27 possession of a firearm as defined in 2C:44-3d., shall be sentenced  
28 by the court to an extended term as authorized by 2C:43-7c.,  
29 notwithstanding that extended terms are ordinarily discretionary  
30 with the court.

31 d. (1) The court shall not impose a mandatory sentence  
32 pursuant to subsection c. of this section, 2C:43-7c. or 2C:44-3d.,  
33 unless the ground therefor has been established at a hearing. At the  
34 hearing, which may occur at the time of sentencing, the prosecutor  
35 shall establish by a preponderance of the evidence that the weapon  
36 used or possessed was a firearm. In making its finding, the court  
37 shall take judicial notice of any evidence, testimony or information  
38 adduced at the trial, plea hearing, or other court proceedings and  
39 shall also consider the presentence report and any other relevant  
40 information.

41 (2) The court shall not impose a mandatory sentence pursuant to  
42 subsection c. of this section for a violation of paragraph (2) of  
43 subsection b. of N.J.S.2C:39-5; a violation of paragraph (2) of  
44 subsection c. of N.J.S.2C:39-5, if that rifle or shotgun is in the  
45 nature of an air gun, spring gun or pistol or other weapon of a  
46 similar nature in which the propelling force is a spring, elastic band,  
47 carbon dioxide, compressed or other gas or vapor, air or compressed  
48 air, or is ignited by compressed air, and ejecting a bullet or missile

1 smaller than three-eighths of an inch in diameter, with sufficient  
2 force to injure a person; or a violation of paragraph (1) of  
3 subsection c. of N.J.S.2C:39-5.

4 e. A person convicted of a third or subsequent offense  
5 involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any  
6 other provision of this code, or under any of the provisions of Title  
7 54 of the Revised Statutes, or Title 54A of the New Jersey Statutes,  
8 as amended and supplemented, shall be sentenced to a term of  
9 imprisonment by the court. This shall not preclude an application  
10 for and imposition of an extended term of imprisonment under  
11 N.J.S.2C:44-3 if the provisions of that section are applicable to the  
12 offender.

13 f. A person convicted of manufacturing, distributing,  
14 dispensing or possessing with intent to distribute any dangerous  
15 substance or controlled substance analog under N.J.S.2C:35-5, of  
16 maintaining or operating a controlled dangerous substance  
17 production facility under N.J.S.2C:35-4, of employing a juvenile in  
18 a drug distribution scheme under N.J.S.2C:35-6, leader of a  
19 narcotics trafficking network under N.J.S.2C:35-3, or of  
20 distributing, dispensing or possessing with intent to distribute on or  
21 near school property or buses under section 1 of P.L.1987, c.101  
22 (C.2C:35-7), who has been previously convicted of manufacturing,  
23 distributing, dispensing or possessing with intent to distribute a  
24 controlled dangerous substance or controlled substance analog,  
25 shall upon application of the prosecuting attorney be sentenced by  
26 the court to an extended term as authorized by subsection c. of  
27 N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily  
28 discretionary with the court. **【The term of imprisonment shall,**  
29 **except as may be provided in N.J.S.2C:35-12, include the**  
30 **imposition of a minimum term. The minimum term shall be fixed**  
31 **at, or between, one-third and one-half of the sentence imposed by**  
32 **the court or three years, whichever is greater, not less than seven**  
33 **years if the person is convicted of a violation of N.J.S.2C:35-6, or**  
34 **18 months in the case of a fourth degree crime, during which the**  
35 **defendant shall be ineligible for parole.】**

36 The court shall not impose an extended term pursuant to this  
37 subsection unless the ground therefor has been established at a  
38 hearing. At the hearing, which may occur at the time of sentencing,  
39 the prosecutor shall establish the ground therefor by a  
40 preponderance of the evidence. In making its finding, the court shall  
41 take judicial notice of any evidence, testimony or information  
42 adduced at the trial, plea hearing, or other court proceedings and  
43 shall also consider the presentence report and any other relevant  
44 information.

45 For the purpose of this subsection, a previous conviction exists  
46 where the actor has at any time been convicted under chapter 35 of  
47 this title or Title 24 of the Revised Statutes or under any similar  
48 statute of the United States, this State, or any other state for an

1 offense that is substantially equivalent to N.J.S.2C:35-3,  
2 N.J.S.2C:35-4, N.J.S.2C:35-5, N.J.S.2C:35-6 or section 1 of  
3 P.L.1987, c.101 (C.2C:35-7).

4 g. Any person who has been convicted under subsection a. of  
5 N.J.S.2C:39-4 or of a crime under any of the following sections:  
6 N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:12-1b., N.J.S.2C:13-1,  
7 N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2,  
8 N.J.S.2C:29-5, N.J.S.2C:35-5 who, while in the course of  
9 committing or attempting to commit the crime, including the  
10 immediate flight therefrom, used or was in possession of a machine  
11 gun or assault firearm shall be sentenced to a term of imprisonment  
12 by the court. The term of imprisonment shall include the  
13 imposition of a minimum term. The minimum term shall be fixed at  
14 10 years for a crime of the first or second degree, five years for a  
15 crime of the third degree, or 18 months in the case of a fourth  
16 degree crime, during which the defendant shall be ineligible for  
17 parole.

18 The minimum terms established by this section shall not prevent  
19 the court from imposing presumptive terms of imprisonment  
20 pursuant to paragraph (1) of subsection f. of N.J.S.2C:44-1 for  
21 crimes of the first degree.

22 A person who has been convicted of an offense enumerated in  
23 this subsection and who used or possessed a machine gun or assault  
24 firearm during its commission, attempted commission or flight  
25 therefrom and who has been previously convicted of an offense  
26 involving the use or possession of any firearm as defined in  
27 subsection d. of N.J.S.2C:44-3, shall be sentenced by the court to an  
28 extended term as authorized by subsection d. of N.J.S.2C:43-7,  
29 notwithstanding that extended terms are ordinarily discretionary  
30 with the court.

31 h. The court shall not impose a mandatory sentence pursuant to  
32 subsection g. of this section, subsection d. of N.J.S.2C:43-7 or  
33 N.J.S.2C:44-3, unless the ground therefor has been established at a  
34 hearing. At the hearing, which may occur at the time of sentencing,  
35 the prosecutor shall establish by a preponderance of the evidence  
36 that the weapon used or possessed was a machine gun or assault  
37 firearm. In making its finding, the court shall take judicial notice of  
38 any evidence, testimony or information adduced at the trial, plea  
39 hearing, or other court proceedings and shall also consider the  
40 presentence report and any other relevant information.

41 i. A person who has been convicted under paragraph (6) of  
42 subsection b. of 2C:12-1 of causing bodily injury while eluding  
43 shall be sentenced to a term of imprisonment by the court. The  
44 term of imprisonment shall include the imposition of a minimum  
45 term. The minimum term shall be fixed at, or between one-third  
46 and one-half of the sentence imposed by the court. The minimum  
47 term established by this subsection shall not prevent the court from

1 imposing a presumptive term of imprisonment pursuant to  
2 paragraph (1) of subsection f. of 2C:44-1.

3 (cf: P.L.2013, c.113, s.2)

4  
5 18. Section 6 of P.L.2007, c.49 (C.2C:43-6.5) is amended to  
6 read as follows:

7 6. a. Notwithstanding the provisions of subsection a. of  
8 N.J.S.2C:43-6 and except as otherwise provided in subsection c. of  
9 this section, a person who serves or has served as a public officer or  
10 employee under the government of this State, or any political  
11 subdivision thereof, who is convicted of a crime that involves or  
12 touches such office or employment as set forth in subsection b. of  
13 this section, shall be sentenced to a mandatory minimum term of  
14 imprisonment without eligibility for parole as follows: for a crime  
15 of the fourth degree, the mandatory minimum term shall be one  
16 year; for a crime of the third degree, two years; for a crime of the  
17 second degree, five years; and for a crime of the first degree, 10  
18 years; unless the provisions of any other law provide for a higher  
19 mandatory minimum term. As used in this subsection, "a crime that  
20 involves or touches such office or employment" means that the  
21 crime was related directly to the person's performance in, or  
22 circumstances flowing from, the specific public office or  
23 employment held by the person.

24 b. Subsection a. of this section applies to a conviction of any of  
25 the following crimes:

26 (1) Paragraph (4) of subsection a. of N.J.S.2C:13-5, criminal  
27 coercion;

28 (2) **【N.J.S.2C:20-4, theft by deception, if the amount involved**  
29 **exceeds \$10,000;】** (Deleted by amendment, P.L. , c. ) (pending  
30 before the Legislature as this bill)

31 (3) Subsection d. of N.J.S.2C:20-5, theft by extortion;

32 (4) **【N.J.S.2C:20-9, theft by failure to make required disposition**  
33 **of property received, if the amount involved exceeds \$10,000;】**  
34 (Deleted by amendment, P.L. , c. ) (pending before the  
35 Legislature as this bill)

36 (5) **【N.J.S.2C:21-10, commercial bribery;】** (Deleted by  
37 amendment, P.L. , c. ) (pending before the Legislature as this  
38 bill)

39 (6) **【Section 3 of P.L.1994, c.121 (C.2C:21-25), money**  
40 **laundering;】** (Deleted by amendment, P.L. , c. ) (pending before  
41 the Legislature as this bill)

42 (7) **【Section 97 of P.L.1999, c.440 (C.2C:21-34), false contract**  
43 **payment claims;】** (Deleted by amendment, P.L. , c. ) (pending  
44 before the Legislature as this bill)

45 (8) **【N.J.S.2C:27-2, bribery in official matters;】** (Deleted by  
46 amendment, P.L. , c. ) (pending before the Legislature as this  
47 bill)

- 1 (9) N.J.S.2C:27-3, threats and other improper influence in  
 2 official and political matters; or
- 3 (10) **【Section 100 of P.L.1999, c.440 (C.2C:27-9), unlawful**  
 4 **official business transaction where interest is involved;】** (Deleted  
 5 by amendment, P.L. , c. ) (pending before the Legislature as this  
 6 bill)
- 7 (11) **【Section 5 of P.L.2003, c.255 (C.2C:27-10), acceptance or**  
 8 **receipt of unlawful benefit by public servant for official behavior;】**  
 9 (Deleted by amendment, P.L. , c. ) (pending before the  
 10 Legislature as this bill)
- 11 (12) **【Section 6 of P.L.2003, c.255 (C.2C:27-11), offer of**  
 12 **unlawful benefit to public servant for official behavior;】** (Deleted  
 13 by amendment, P.L. , c. ) (pending before the Legislature as this  
 14 bill)
- 15 (13) **【N.J.S.2C:28-1, perjury;】** (Deleted by amendment,  
 16 P.L. , c. ) (pending before the Legislature as this bill)
- 17 (14) N.J.S.2C:28-5, tampering with witnesses;
- 18 (15) **【N.J.S.2C:28-7, tampering with public records or**  
 19 **information;】** (Deleted by amendment, P.L. , c. ) (pending  
 20 before the Legislature as this bill)
- 21 (16) **【N.J.S.2C:29-4, compounding;】** (Deleted by amendment,  
 22 P.L. , c. ) (pending before the Legislature as this bill)
- 23 (17) **【N.J.S.2C:30-2, official misconduct;】** (Deleted by  
 24 amendment, P.L. , c. ) (pending before the Legislature as this  
 25 bill)
- 26 (18) **【N.J.S.2C:30-3, speculating or wagering on official action**  
 27 **or information; or】** (Deleted by amendment, P.L. , c. ) (pending  
 28 before the Legislature as this bill)
- 29 (19) **【Section 3 of P.L.2003, c.31 (C.2C:30-7), pattern of**  
 30 **official misconduct.】** (Deleted by amendment, P.L. , c. )  
 31 (pending before the Legislature as this bill)
- 32 c. (1) On motion by the prosecutor stating that the defendant  
 33 has provided substantial assistance in a criminal investigation or  
 34 prosecution of another person, the court may waive or reduce the  
 35 mandatory minimum term of imprisonment required by subsection  
 36 a. of this section. The appropriate waiver or reduction shall be  
 37 determined by the court for reasons stated that may include, but are  
 38 not limited to, consideration of the following:
- 39 (i) the court's evaluation of the significance and usefulness of  
 40 the defendant's assistance, giving substantial weight to the  
 41 prosecutor's evaluation of the assistance rendered;
- 42 (ii) the truthfulness, completeness, and reliability of any  
 43 information or testimony provided by the defendant;
- 44 (iii) the nature and extent of the defendant's assistance;
- 45 (iv) any injury suffered, or any danger or risk of injury to the  
 46 defendant or his family resulting from his assistance;

1 (v) the timeliness of the defendant's assistance.

2 In making such a determination, the court shall give substantial  
3 weight to the prosecutor's evaluation of the extent of the defendant's  
4 assistance, particularly where the extent and value of the assistance  
5 are difficult to ascertain.

6 (2) If the court finds by clear and convincing evidence that  
7 extraordinary circumstances exist such that imposition of a  
8 mandatory minimum term would be a serious injustice which  
9 overrides the need to deter such conduct in others, the court may  
10 waive or reduce the mandatory minimum term of imprisonment  
11 required by subsection a. of this section. In making any such  
12 finding, the court must state with specificity its reasons for waiving  
13 or reducing the mandatory minimum sentence that would otherwise  
14 apply.

15 (3) If, pursuant to paragraph (1) or (2) of this subsection, the  
16 court waives or reduces the mandatory minimum term required by  
17 subsection a. of this section, such sentence shall not become final  
18 for 10 days in order to permit the appeal of the sentence by the  
19 prosecution.

20 d. (1) A prosecutor shall not recommend the admission into or  
21 consent to the referral to a pretrial intervention program of a person  
22 who serves or has served as a public officer or employee under the  
23 government of this State, or any political subdivision thereof, who  
24 is charged with a crime that involves or touches such office or  
25 employment as set forth in subsection b. of this section, without the  
26 prior approval of the Attorney General.

27 (2) A person who serves or has served as a public officer or  
28 employee under the government of this State, or any political  
29 subdivision thereof, who is convicted of a crime that involves or  
30 touches such office or employment as set forth in subsection b. of  
31 this section shall be ineligible for participation in any program of  
32 intensive supervision during any period of parole ineligibility.

33 e. The Attorney General shall develop guidelines to ensure the  
34 uniform exercise of discretion in making determinations regarding  
35 the waiver or reduction of a mandatory minimum term of  
36 imprisonment pursuant to paragraph (1) of subsection c. of this  
37 section and participation in a pretrial intervention program pursuant  
38 to paragraph (1) of subsection d. of this section.

39 (cf: P.L.2007, c.49, s.6)

40

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

42 2C:43-7. Sentence of Imprisonment for Crime; Extended  
43 Terms.

44 a. In the cases designated in section 2C:44-3, a person who has  
45 been convicted of a crime may be sentenced, and in the cases  
46 designated in subsection e. of section 2 of P.L.1994, c.130  
47 (C.2C:43-6.4), in subsection b. of section 2 of P.L.1995, c.126  
48 (C.2C:43-7.1) and in the cases designated in section 1 of P.L.1997,

1 c.410 (C.2C:44-5.1), a person who has been convicted of a crime  
2 shall be sentenced, to an extended term of imprisonment, as  
3 follows:

4 (1) In case of aggravated manslaughter sentenced under  
5 subsection c. of N.J.S.2C:11-4; or kidnapping when sentenced as a  
6 crime of the first degree under paragraph (1) of subsection c. of  
7 2C:13-1; or aggravated sexual assault if the person is eligible for an  
8 extended term pursuant to the provisions of subsection g. of  
9 N.J.S.2C:44-3 for a specific term of years which shall be between  
10 30 years and life imprisonment;

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

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

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

19 (5) In the case of a crime of the fourth degree pursuant to  
20 2C:43-6c, 2C:43-6g and 2C:44-3d for a term of five years, and in  
21 the case of a crime of the fourth degree pursuant to any other  
22 provision of law for a term which shall be fixed by the court  
23 between three and five years;

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

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

32 b. As part of a sentence for an extended term and  
33 notwithstanding the provisions of 2C:43-9, the court may fix a  
34 minimum term not to exceed one-half of the term set pursuant to  
35 subsection a. during which the defendant shall not be eligible for  
36 parole or a term of 25 years during which time the defendant shall  
37 not be eligible for parole where the sentence imposed was life  
38 imprisonment; provided that no defendant shall be eligible for  
39 parole at a date earlier than otherwise provided by the law  
40 governing parole.

41 c. In the case of a person sentenced to an extended term  
42 pursuant to 2C:43-6c, 2C:43-6f and 2C:44-3d, the court shall  
43 impose a sentence within the ranges permitted by 2C:43-7a(2), (3),  
44 (4) or (5) according to the degree or nature of the crime for which  
45 the defendant is being sentenced, which sentence, except for a  
46 sentence imposed pursuant to subsection f. of N.J.S.2C:43-6, shall  
47 include a minimum term which shall **■**, except as may be  
48 specifically provided by N.J.S.2C:43-6f, **■** be fixed at or between

1 one-third and one-half of the sentence imposed by the court or five  
2 years, whichever is greater, during which the defendant shall not be  
3 eligible for parole. Where the sentence imposed is life  
4 imprisonment, the court shall impose a minimum term of 25 years  
5 during which the defendant shall not be eligible for parole, except  
6 that where the term of life imprisonment is imposed on a person  
7 convicted for a violation of N.J.S.2C:35-3, the term of parole  
8 ineligibility shall be 30 years.

9 d. In the case of a person sentenced to an extended term  
10 pursuant to N.J.S.2C:43-6g, the court shall impose a sentence  
11 within the ranges permitted by N.J.S.2C:43-7a(2), (3), (4) or (5)  
12 according to the degree or nature of the crime for which the  
13 defendant is being sentenced, which sentence shall include a  
14 minimum term which shall be fixed at 15 years for a crime of the  
15 first or second degree, eight years for a crime of the third degree, or  
16 five years for a crime of the fourth degree during which the  
17 defendant shall not be eligible for parole. Where the sentence  
18 imposed is life imprisonment, the court shall impose a minimum  
19 term of 25 years during which the defendant shall not be eligible for  
20 parole, except that where the term of life imprisonment is imposed  
21 on a person convicted of a violation of N.J.S.2C:35-3, the term of  
22 parole eligibility shall be 30 years.

23 (cf: P.L.2003, c.267, s.4)

24  
25 20. This act shall take effect immediately.

## 26 27 28 STATEMENT

29  
30 This bill would eliminate mandatory minimum terms of  
31 imprisonment determined by the Legislature to be of a non-violent  
32 nature. The bill incorporates all of the drug and non-violent crimes  
33 that the New Jersey Criminal Sentencing and Disposition Commission  
34 recommended in a November 2019 report to have mandatory  
35 minimum terms eliminated, as these types of sentences, noted in the  
36 introduction to that report, contributed to “exponentially” increasing  
37 the State’s prison population and “substantially curtailed judicial  
38 discretion” in the issue of determining the appropriate level of  
39 punishment to match offender accountability. Applying the same  
40 reasoning, this bill would include a broader array of non-violent  
41 crimes not addressed in the report, which would return decision  
42 making to the courts for matching an individual’s punishment to  
43 account for the nature and circumstances of the crime committed, and  
44 to strive for a reduction in the State’s prison populations of non-violent  
45 offenders who do not pose a danger to their surrounding communities  
46 on the basis of the crimes they committed.

47 The crimes for which mandatory minimum terms of imprisonment  
48 would be eliminated are:



1 -N.J.S.2C:35-3, leader of a narcotics trafficking network;  
2 -N.J.S.2C:35-4, maintaining, operating, aiding, or financing a  
3 controlled dangerous substance production facility used to  
4 manufacture methamphetamine, lysergic acid diethylamide (LSD),  
5 phencyclidine, gamma, flunitrazepam, marijuana in an amount greater  
6 than five pounds or ten plants or any substance listed in Schedule I or  
7 II;

8 -N.J.S.2C:35-5, manufacturing, distributing, or dispensing, or  
9 possessing with intent to manufacture, distribute, or dispense heroin or  
10 coca leaves in a quantity of five ounces or more, lysergic acid  
11 diethylamide (LSD) in a quantity of 100 milligrams or more, or  
12 phencyclidine (PCP or “angel dust”) in a quantity of 10 grams or  
13 more;

14 -N.J.S.2C:35-6, employing a juvenile in a production facility or  
15 drug distribution scheme as described above;

16 -Section 1 of P.L.1987, c.101 (C.2C:35-7), distribution of a  
17 controlled dangerous substance on or within 1,000 feet of school  
18 property; and

19 -N.J.S.2C:35-8, distribution of a controlled dangerous substance to  
20 a juvenile or pregnant female of any age.

21 Additionally, the bill would eliminate the imposition of a  
22 mandatory minimum term of imprisonment, but not the possibility of a  
23 longer, extended term that is greater than an ordinary term, for a  
24 multiple offender, whose current conviction was for any of the above  
25 listed crimes other than N.J.S.2C:35-8, distributing to a juvenile or  
26 pregnant female, and whose previous conviction was for a violation of  
27 N.J.S.2C:35-5, manufacturing, distributing, dispensing or possessing  
28 with intent to manufacture, distribute, or dispense any controlled  
29 dangerous substance. See N.J.S.2C:43-6, subsection f.

30 - section 4 of P.L.2013, c.53 (C.2C:20-2.4), for a second or  
31 subsequent offense of leader of a cargo theft network;

32 - section 6 of P.L.2013, c.53 (C.2C:20-2.6), for a second or  
33 subsequent offense for maintaining or operating any place used for the  
34 storage or resale of property stolen from a cargo carrier;

35 - N.J.S.2C:20-11, for a third or subsequent shoplifting offense;

36 - section 4 of P.L.1984, c.184 (C.2C:20-25), computer hacking  
37 when graded as a crime of the first degree;

38 - section 10 of P.L.1984, c.184 (C.2C:20-31), unauthorized  
39 computer access and disclosure of information protected from  
40 disclosure by any law, court order, or rule of court;

41 - section 5 of P.L.1994, c.121, (2C:21-27), money laundering;

42 - N.J.S.2C:29-3, hindering apprehension or prosecution; and

43 - N.J.S.2C:29-6, introducing within an institution or detention  
44 facility or providing an inmate with implements useful for escape. If  
45 the implement is a weapon then a mandatory minimum term of three  
46 years would still be imposed if any person suffered bodily injury or  
47 death.

1 Finally, the following crimes currently punishable with a  
2 mandatory minimum term of imprisonment for a person who serves or  
3 has served as a State or local public officer or employee, when the  
4 criminal act involves or touches upon the person's office or  
5 employment, would no longer be subject to such a mandatory  
6 minimum:

7 - N.J.S.2C:20-4, theft by deception, when the amount involved  
8 exceeds \$10,000;

9 - N.J.S.2C:20-9, theft by failure to make required disposition of  
10 property received, if the amount involved exceeds \$10,000;

11 - N.J.S.2C:21-10, commercial bribery;

12 - section 3 of P.L.1994, c.121 (C.2C:21-25), money laundering (for  
13 which a mandatory minimum would be eliminated under the bill when  
14 committed by any person);

15 - section 97 of P.L.1999, c.440 (C.2C:21-34), false contract  
16 payment claims;

17 - N.J.S.2C:27-2, bribery in official matters;

18 - section 100 of P.L.1999, c.440 (C.2C:27-9), unlawful official  
19 business transaction where interest is involved;

20 - section 5 of P.L.2003, c.255 (C.2C:27-10), acceptance or receipt  
21 of unlawful benefit by public servant for official behavior;

22 - section 6 of P.L.2003, c.255 (C.2C:27-11), offer of unlawful  
23 benefit to public servant for official behavior;

24 - N.J.S.2C:28-1, perjury;

25 - N.J.S.2C:28-7, tampering with public records or information;

26 - N.J.S.2C:29-4, compounding, by accepting any pecuniary benefit  
27 to refrain from reporting to law enforcement authorities the  
28 commission or suspected commission of any offense, or information  
29 relating to an offense, or from seeking prosecution of an offense, or  
30 agree to give any pecuniary benefit to another to refrain from reporting  
31 of seeking prosecution;

32 - N.J.S.2C:30-2, official misconduct;

33 - N.J.S.2C:30-3, speculating or wagering on official action or  
34 information; and

35 - section 3 of P.L.2003, c.31 (C.2C:30-7), pattern of official  
36 misconduct.

37 As stated in the introductory remarks to this statement, the intent  
38 with respect to all of the listed non-violent crimes for which a  
39 mandatory minimum term or imprisonment would no longer apply  
40 would allow the return of decision making to the courts for matching  
41 each individual's punishment to account for the nature and  
42 circumstances of the crime committed, and to strive for a reduction in  
43 the State's prison populations of non-violent offenders who do not  
44 pose a danger to their surrounding communities on the basis of the  
45 crimes they committed.