

# ASSEMBLY, No. 3199

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 7, 2022

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**Assemblywoman SHAVONDA E. SUMTER**

**District 35 (Bergen and Passaic)**

**Assemblywoman SADAF F. JAFFER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblywoman LISA SWAIN**

**District 38 (Bergen and Passaic)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

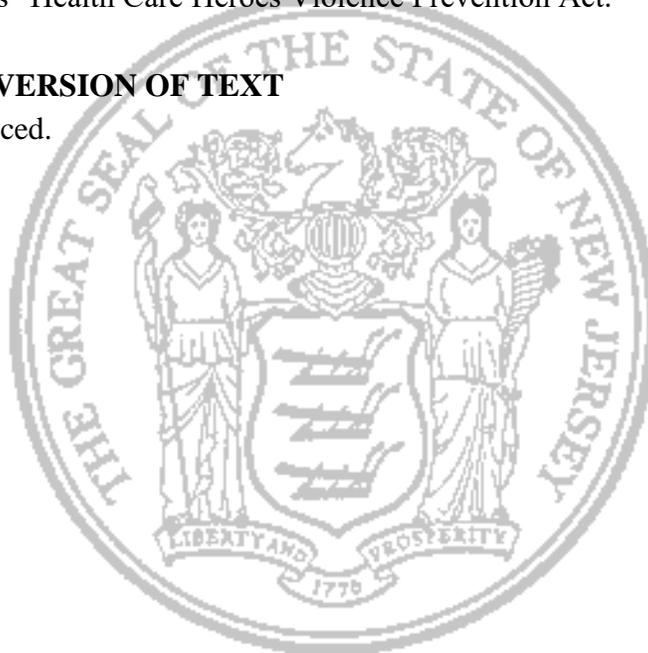
**Assemblymen Moen, Spearman and Assemblywoman McKnight**

**SYNOPSIS**

Establishes "Health Care Heroes Violence Prevention Act."

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 3/7/2022)

A3199 GREENWALD, SUMTER

2

1 AN ACT concerning violence against health care professionals and  
2 amending and supplementing various parts of the statutory law.

3

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

6

7 1. (New section) This act may be known and may be cited as  
8 the "Health Care Heroes Violence Prevention Act."

9

10 2. N.J.S.2C:44-1 is amended to read as follows:

11 2C:44-1. a. In determining the appropriate sentence to be  
12 imposed on a person who has been convicted of an offense, the  
13 court shall consider the following aggravating circumstances:

14 (1) The nature and circumstances of the offense, and the role of  
15 the actor in committing the offense, including whether or not it was  
16 committed in an especially heinous, cruel, or depraved manner;

17 (2) The gravity and seriousness of harm inflicted on the victim,  
18 including whether or not the defendant knew or reasonably should  
19 have known that the victim of the offense was particularly  
20 vulnerable or incapable of resistance due to advanced age, ill-  
21 health, or extreme youth, or was for any other reason substantially  
22 incapable of exercising normal physical or mental power of  
23 resistance;

24 (3) The risk that the defendant will commit another offense;

25 (4) A lesser sentence will depreciate the seriousness of the  
26 defendant's offense because it involved a breach of the public trust  
27 under chapters 27 and 30 of this title, or the defendant took  
28 advantage of a position of trust or confidence to commit the  
29 offense;

30 (5) There is a substantial likelihood that the defendant is  
31 involved in organized criminal activity;

32 (6) The extent of the defendant's prior criminal record and the  
33 seriousness of the offenses of which the defendant has been  
34 convicted;

35 (7) The defendant committed the offense pursuant to an  
36 agreement to either pay or be paid for the commission of the  
37 offense and the pecuniary incentive was beyond that inherent in the  
38 offense itself;

39 (8) The defendant committed the offense against a police or  
40 other law enforcement officer, correctional employee or firefighter,  
41 acting in the performance of the officer, employee, or firefighter  
42 duties while in uniform or exhibiting evidence of his authority; the  
43 defendant committed the offense because of the status of the victim  
44 as a public servant; or the defendant committed the offense against  
45 a sports official, athletic coach or manager, acting in or immediately

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 following the performance of the person's duties or because of the  
2 person's status as a sports official, coach or manager; or the  
3 defendant committed the offense against any worker employed by a  
4 licensed health care facility or a health care professional licensed or  
5 otherwise authorized pursuant to Title 26 or Title 45 of the New  
6 Jersey Statutes to practice a health care profession while clearly  
7 identifiable as being engaged in the duties of providing direct  
8 patient care, practicing the health care profession, or any other  
9 professional duties;
- 10 (9) The need for deterring the defendant and others from  
11 violating the law;
- 12 (10) The offense involved fraudulent or deceptive practices  
13 committed against any department or division of State government;
- 14 (11) The imposition of a fine, penalty, or order of restitution  
15 without also imposing a term of imprisonment would be perceived  
16 by the defendant or others merely as part of the cost of doing  
17 business, or as an acceptable contingent business or operating  
18 expense associated with the initial decision to resort to unlawful  
19 practices;
- 20 (12) The defendant committed the offense against a person who  
21 the defendant knew or should have known was 60 years of age or  
22 older, or disabled;
- 23 (13) The defendant, while in the course of committing or  
24 attempting to commit the crime, including the immediate flight  
25 therefrom, used or was in possession of a stolen motor vehicle;
- 26 (14) The offense involved an act of domestic violence, as that  
27 term is defined in subsection a. of section 3 of P.L.1991, c.261  
28 (C.2C:25-19), committed in the presence of a child under 16 years  
29 of age; and
- 30 (15) The offense involved an act of domestic violence, as that  
31 term is defined in subsection a. of section 3 of P.L.1991, c.261  
32 (C.2C:25-19) and the defendant committed at least one act of  
33 domestic violence on more than one occasion.
- 34 b. In determining the appropriate sentence to be imposed on a  
35 person who has been convicted of an offense, the court may  
36 properly consider the following mitigating circumstances:
- 37 (1) The defendant's conduct neither caused nor threatened  
38 serious harm;
- 39 (2) The defendant did not contemplate that the defendant's  
40 conduct would cause or threaten serious harm;
- 41 (3) The defendant acted under a strong provocation;
- 42 (4) There were substantial grounds tending to excuse or justify  
43 the defendant's conduct, though failing to establish a defense;
- 44 (5) The victim of the defendant's conduct induced or facilitated  
45 its commission;
- 46 (6) The defendant has compensated or will compensate the  
47 victim of the defendant's conduct for the damage or injury that the

1 victim sustained, or will participate in a program of community  
2 service;

3 (7) The defendant has no history of prior delinquency or  
4 criminal activity or has led a law-abiding life for a substantial  
5 period of time before the commission of the present offense;

6 (8) The defendant's conduct was the result of circumstances  
7 unlikely to recur;

8 (9) The character and attitude of the defendant indicate that the  
9 defendant is unlikely to commit another offense;

10 (10) The defendant is particularly likely to respond affirmatively  
11 to probationary treatment;

12 (11) The imprisonment of the defendant would entail excessive  
13 hardship to the defendant or the defendant's dependents;

14 (12) The willingness of the defendant to cooperate with law  
15 enforcement authorities;

16 (13) The conduct of a youthful defendant was substantially  
17 influenced by another person more mature than the defendant; and

18 (14) The defendant was under 26 years of age at the time of the  
19 commission of the offense.

20 c. (1) A plea of guilty by a defendant or failure to so plead shall  
21 not be considered in withholding or imposing a sentence of  
22 imprisonment.

23 (2) When imposing a sentence of imprisonment the court shall  
24 consider the defendant's eligibility for release under the law  
25 governing parole, including time credits awarded pursuant to Title  
26 30 of the Revised Statutes, in determining the appropriate term of  
27 imprisonment.

28 d. Presumption of imprisonment. The court shall deal with a  
29 person who has been convicted of a crime of the first or second  
30 degree, or a crime of the third degree where the court finds that the  
31 aggravating factor in paragraph (5), (14), or (15) of subsection a. of  
32 this section applies, by imposing a sentence of imprisonment unless,  
33 having regard to the character and condition of the defendant, it is  
34 of the opinion that the defendant's imprisonment would be a serious  
35 injustice which overrides the need to deter such conduct by others.  
36 Notwithstanding the provisions of subsection e. of this section, the  
37 court shall deal with a person who has been convicted of theft of a  
38 motor vehicle or of the unlawful taking of a motor vehicle and who  
39 has previously been convicted of either offense by imposing a  
40 sentence of imprisonment unless, having regard to the character and  
41 condition of the defendant, it is of the opinion that imprisonment  
42 would be a serious injustice which overrides the need to deter such  
43 conduct by others.

44 e. The court shall deal with a person convicted of an offense  
45 other than a crime of the first or second degree, who has not  
46 previously been convicted of an offense, without imposing a  
47 sentence of imprisonment unless, having regard to the nature and  
48 circumstances of the offense and the history, character, and

1 condition of the defendant, it is of the opinion that imprisonment is  
2 necessary for the protection of the public under the criteria set forth  
3 in subsection a. of this section, except that this subsection shall not  
4 apply if the court finds that the aggravating factor in paragraph (5),  
5 (14) or (15) of subsection a. of this section applies or if the person  
6 is convicted of any of the following crimes of the third degree: theft  
7 of a motor vehicle; unlawful taking of a motor vehicle; eluding;  
8 strict liability vehicular homicide pursuant to section 1 of P.L.2017,  
9 c.165 (C.2C:11-5.3); if the person is convicted of a crime of the  
10 third degree constituting use of a false government document in  
11 violation of subsection c. of section 1 of P.L.1983, c.565 (C.2C:21-  
12 2.1); if the person is convicted of a crime of the third degree  
13 constituting distribution, manufacture or possession of an item  
14 containing personal identifying information in violation of  
15 subsection b. of section 6 of P.L.2003, c.184 (C.2C:21-17.3); if the  
16 person is convicted of a crime of the third or fourth degree  
17 constituting bias intimidation in violation of N.J.S.2C:16-1; if the  
18 person is convicted of a crime of the third degree under paragraph  
19 (12) of subsection b. of N.J.S.2C:12-1 or section 2 of P.L.1997,  
20 c.111 (C.2C:12-1.1); or if the person is convicted of a crime of the  
21 third or fourth degree under the provisions of section 1 or 2 of  
22 P.L.2007, c.341 (C.2C:33-29 or C.2C:33-30).

23 f. Presumptive Sentences. (1) Except for the crime of murder,  
24 unless the preponderance of aggravating or mitigating factors, as set  
25 forth in subsections a. and b. of this section, weighs in favor of a  
26 higher or lower term within the limits provided in N.J.S.2C:43-6,  
27 when a court determines that a sentence of imprisonment is  
28 warranted, it shall impose sentence as follows:

29 (a) To a term of 20 years for aggravated manslaughter or  
30 kidnapping pursuant to paragraph (1) of subsection c. of  
31 N.J.S.2C:13-1 when the offense constitutes a crime of the first  
32 degree;

33 (b) Except as provided in subparagraph (a) of this paragraph to a  
34 term of 15 years for a crime of the first degree;

35 (c) To a term of seven years for a crime of the second degree;

36 (d) To a term of four years for a crime of the third degree; and

37 (e) To a term of nine months for a crime of the fourth degree.

38 In imposing a minimum term pursuant to subsection b. of  
39 N.J.S.2C:43-6, the sentencing court shall specifically place on the  
40 record the aggravating factors set forth in this section which justify  
41 the imposition of a minimum term.

42 Unless the preponderance of mitigating factors set forth in  
43 subsection b. weighs in favor of a lower term within the limits  
44 authorized, sentences imposed pursuant to paragraph (1) of  
45 subsection a. of N.J.S.2C:43-7 shall have a presumptive term of life  
46 imprisonment. Unless the preponderance of aggravating and  
47 mitigating factors set forth in subsections a. and b. of this section  
48 weighs in favor of a higher or lower term within the limits

1 authorized, sentences imposed pursuant to paragraph (2) of  
2 subsection a. of N.J.S.2C:43-7 shall have a presumptive term of 50  
3 years' imprisonment; sentences imposed pursuant to paragraph (3)  
4 of subsection a. of N.J.S.2C:43-7 shall have a presumptive term of  
5 15 years' imprisonment; and sentences imposed pursuant to  
6 paragraph (4) of subsection a. of N.J.S.2C:43-7 shall have a  
7 presumptive term of seven years' imprisonment.

8 In imposing a minimum term pursuant to subsection b. of  
9 N.J.S.2C:43-7, the sentencing court shall specifically place on the  
10 record the aggravating factors set forth in this section which justify  
11 the imposition of a minimum term.

12 (2) In cases of convictions for crimes of the first or second  
13 degree where the court is clearly convinced that the mitigating  
14 factors substantially outweigh the aggravating factors and where the  
15 interest of justice demands, the court may sentence the defendant to  
16 a term appropriate to a crime of one degree lower than that of the  
17 crime for which the defendant was convicted. If the court does  
18 impose sentence pursuant to this paragraph, or if the court imposes  
19 a noncustodial or probationary sentence upon conviction for a crime  
20 of the first or second degree, the sentence shall not become final for  
21 10 days in order to permit the appeal of the sentence by the  
22 prosecution.

23 g. Imposition of Noncustodial Sentences in Certain Cases. If  
24 the court, in considering the aggravating factors set forth in  
25 subsection a. of this section, finds the aggravating factor in  
26 paragraph (2), (5), (10), or (12) of subsection a. of this section and  
27 does not impose a custodial sentence, the court shall specifically  
28 place on the record the mitigating factors which justify the  
29 imposition of a noncustodial sentence.

30 h. Except as provided in section 2 of P.L.1993, c.123 (C.2C:43-  
31 11), the presumption of imprisonment as provided in subsection d.  
32 of this section shall not preclude the admission of a person to the  
33 Intensive Supervision Program, established pursuant to the Rules  
34 Governing the Courts of the State of New Jersey.

35 (cf: P.L. 2020, c.110, s.1)

36

37 3. (New section) a. A person commits a disorderly persons  
38 offense if the individual orally or in writing:

39 (1) knowingly and willfully makes a threat against any person  
40 employed by a health care facility, which is licensed by the  
41 Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et  
42 seq.), with the intent to intimidate, interfere with, or impede the  
43 performance of official duties; or

44 (2) knowingly sends, delivers, or makes for the purpose of  
45 sending or delivering a threat prohibited pursuant to paragraph (1)  
46 of this subsection.

47 b. For purposes of this section:

1 (1) "health care professional" means a person licensed, certified,  
2 registered, or otherwise authorized pursuant to Title 45 or Title 52  
3 of the Revised Statutes, or by any principal department of the  
4 Executive Branch of State government or any entity within any  
5 department or any other entity created to license or otherwise  
6 regulate a health care profession. "Health care professional" shall  
7 include, but shall not be limited to, health care professionals  
8 regulated by the following entities: the State Board of Medical  
9 Examiners, the New Jersey Board of Nursing, the New Jersey State  
10 Board of Dentistry, the New Jersey State Board of Optometrists, the  
11 Board of Pharmacy, the State Board of Chiropractic Examiners, the  
12 Acupuncture Examining Board, the State Board of Physical  
13 Therapy Examiners, the Orthotics and Prosthetics Board of  
14 Examiners, the State Board of Psychological Examiners, the State  
15 Board of Examiners of Ophthalmic Dispensers and Ophthalmic  
16 Technicians, the Audiology and Speech-Language Pathology  
17 Advisory Committee, the Occupational Therapy Advisory Council  
18 and the Certified Psychoanalysts Advisory Committee.

19 (2) "health care facility" means a general or special hospital or  
20 nursing home licensed by the Department of Health pursuant to  
21 P.L.1971, c.136 (C.26:2H-1 et al.), a State or county psychiatric  
22 hospital, or a State developmental center.

23  
24 4. (New section) a. In addition to any fine imposed  
25 pursuant to N.J.S.2C:43-3 or any term of imprisonment pursuant to  
26 N.J.S.2C:43-6, the court may order any defendant who commits an  
27 assault pursuant to N.J.S.2C:12-1 against any person employed by a  
28 health care facility, which is licensed by the Department of Health  
29 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), while performing  
30 official duties to satisfactorily complete an anger management  
31 course.

32 b. The court may order a defendant to participate in an anger  
33 management course of up to 12 months.

34 c. A defendant shall pay the enrollment cost of the ordered  
35 anger management course.

36 d. A defendant sentenced to an anger management course shall  
37 have one year to comply with the court order. Failure to  
38 satisfactorily complete the course within one year shall constitute a  
39 violation of the order. Any defendant who fails to comply with the  
40 court order requiring an anger management course may be subject  
41 to an additional penalty of up to \$500.

42 e. The Administrative Office of the Courts shall develop and  
43 approve a list of eligible anger management courses that may  
44 provide anger management services to any person ordered to  
45 participate pursuant to this section.

46 f. The Administrative Office of the Courts shall establish  
47 standards and procedures for certification of anger management  
48 courses required pursuant to this section.

1 5. (New section) a. Notwithstanding the term of imprisonment  
2 provided in N.J.S.2C:43-6 or any fine imposed pursuant to  
3 N.J.S.2C:43-3, any person convicted of assault, pursuant to  
4 N.J.S.2C:12-1, against any person employed by a health care  
5 facility, which is licensed by the Department of Health pursuant to  
6 P.L.1971, c.136 (C.26:2H-1 et seq.), while performing official  
7 duties may be sentenced to community service.

8 b. The court may order the person to perform community  
9 service in lieu of part of the person's period of incarceration. The  
10 court shall impose a term of community service of up to 30 days.

11 c. The Administrative Office of the Courts shall establish  
12 standards and procedures for certification of community service for  
13 any person sentenced pursuant to this section.

14

15 6. (New section) a. As used in this section, "health care  
16 facility" means a general or special hospital or nursing home  
17 licensed by the Department of Health pursuant to P.L.1971, c.136  
18 (C.26:2H-1 et al.), a State or county psychiatric hospital, or a State  
19 developmental center.

20 b. A health care facility shall prominently display a written  
21 notice in a conspicuous public location that contains the following  
22 or substantially similar statement: "It is a crime to assault a health  
23 care worker. Any person who assaults a health care worker shall be  
24 subject to a fine, imprisonment, or both under the New Jersey Code  
25 of Criminal Justice, N.J.S.2C:1-1 et seq."

26 c. The Commissioner of Health may adopt rules and  
27 regulations, in accordance with the "Administrative Procedure Act,"  
28 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate  
29 the provisions of this section.

30

31 7. This act shall take effect immediately.

32

33

34

#### STATEMENT

35

36 This bill establishes the "Health Care-Heroes Violence  
37 Prevention Act."

38 This bill expands the aggravating factors a court may consider  
39 pursuant to N.J.S.2C:44-1 in sentencing a defendant to include  
40 whether a defendant committed an offense against a worker  
41 employed by a licensed health care facility or a health care  
42 professional while engaged in their professional duties.

43 This bill also establishes the criminal offense of threats against a  
44 health care professional or any worker employed by a health care  
45 facility. Specifically, a person is guilty of a disorderly persons  
46 offense if the individual knowingly and willfully makes a threat  
47 against a health care professional or any worker employed by a  
48 health care facility with the intent to intimidate, interfere with, or

1   impede the performance of his or her official duties. Further, a  
2   person is guilty of this offense if the individual knowingly sends,  
3   delivers, or makes, for the purpose of sending or delivering, a threat  
4   to intimidate, interfere with, or impede official duties of a health  
5   care professional or any worker employed by a health care facility.  
6   A disorderly persons offense is punishable by imprisonment of up  
7   to six months, a fine of up to \$1,000, or both.

8       The bill defines “healthcare professional” as a person licensed,  
9   certified, registered, or otherwise authorized pursuant to Title 45 or  
10   Title 52 of the Revised Statutes, or by any principal department of  
11   the Executive Branch of State government or any entity within any  
12   department or any other entity hereafter created to license or  
13   otherwise regulate a health care profession. The bill also defines  
14   “health care facility” as a general or special hospital or nursing  
15   home licensed by the Department of Health pursuant to P.L.1971,  
16   c.136 (C.26:2H-1 et al.), a State or county psychiatric hospital, or a  
17   State developmental center.

18       Further, this bill establishes additional penalties for any person  
19   who commits assault against a worker employed by a licensed  
20   health care facility or a health care professional. A court may  
21   sentence a defendant to satisfactorily complete an anger  
22   management course of up to 12 hours or perform up to 30 days of  
23   community service.

24       Finally, the bill requires health care facilities to display a written  
25   notice stating the following: “It is a crime to assault a health care  
26   worker. Any person who assaults a health care worker shall be  
27   subject to a fine, imprisonment, or both under the New Jersey Code  
28   of Criminal Justice, N.J.S.2C:1-1 et seq.