

[Second Reprint]

ASSEMBLY, No. 3199

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MARCH 7, 2022

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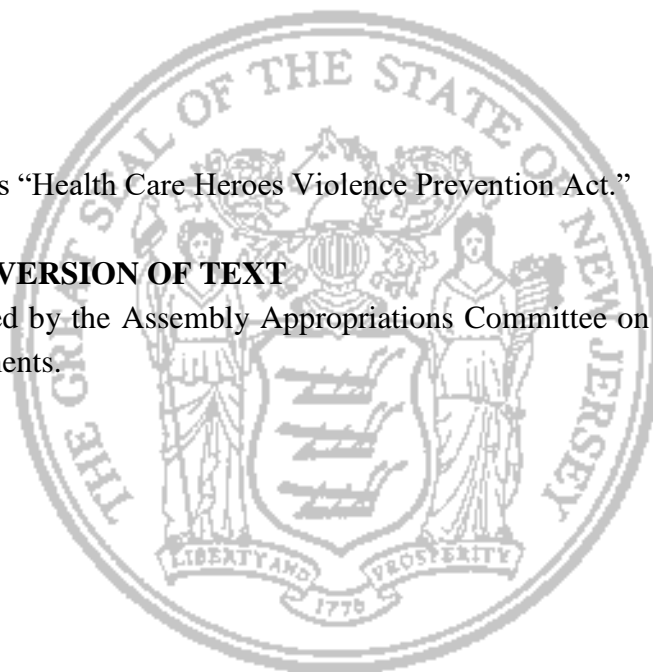
Assemblyman Conaway and Assemblywoman Lopez

SYNOPSIS

Establishes "Health Care Heroes Violence Prevention Act."

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 13, 2022,
with amendments.



(Sponsorship Updated As Of: 6/16/2022)

1 AN ACT concerning violence against health care professionals
2 ¹**[and]**,¹ amending ¹N.J.S.2C:44-1,¹ and supplementing
3 ¹**[various parts of the statutory law]** Title 2C of the New Jersey
4 Statutes and P.L.1971, c.136 (C.26:2H-1 et seq.)¹.
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:
8

9 1. (New section) This act may be known and may be cited as
10 the “Health Care Heroes Violence Prevention Act.”
11

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

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

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

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

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

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

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

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

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

41 (8) The defendant committed the offense against a police or
42 other law enforcement officer, correctional employee or firefighter,
43 acting in the performance of the officer, employee, or firefighter
44 duties while in uniform or exhibiting evidence of his authority; the

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

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALP committee amendments adopted May 9, 2022.

²Assembly AAP committee amendments adopted June 13, 2022.

1 defendant committed the offense because of the status of the victim
2 as a public servant; ¹**[or]**¹ the defendant committed the offense
3 against a sports official, athletic coach or manager, acting in or
4 immediately following the performance of the person's duties or
5 because of the person's status as a sports official, coach or manager;
6 or the defendant committed the offense against any ¹**[worker**
7 **employed by a licensed health care facility or a]**¹ health care
8 **professional ¹**[licensed or otherwise authorized pursuant to Title 26**
9 **or Title 45 of the New Jersey Statutes to practice a health care**
10 **profession while clearly identifiable as being engaged in the duties**
11 **of providing direct patient care, practicing the health care**
12 **profession, or any other professional duties]** , volunteer working for
13 a health care professional or working at a health care facility, or
14 employee of a health care professional or ²health care² facility,
15 while the health care professional, volunteer, or employee is
16 performing official duties.**

17 For the purposes of this paragraph, “health care facility” and
18 “health care professional” mean the same as those terms are defined
19 in subsection b. of section 3 of P.L. , c. (C.)(pending before the
20 Legislature as this bill)¹;

21 (9) The need for deterring the defendant and others from
22 violating the law;

23 (10) The offense involved fraudulent or deceptive practices
24 committed against any department or division of State government;

25 (11) The imposition of a fine, penalty, or order of restitution
26 without also imposing a term of imprisonment would be perceived
27 by the defendant or others merely as part of the cost of doing
28 business, or as an acceptable contingent business or operating
29 expense associated with the initial decision to resort to unlawful
30 practices;

31 (12) The defendant committed the offense against a person who
32 the defendant knew or should have known was 60 years of age or
33 older, or disabled;

34 (13) The defendant, while in the course of committing or
35 attempting to commit the crime, including the immediate flight
36 therefrom, used or was in possession of a stolen motor vehicle;

37 (14) The offense involved an act of domestic violence, as that
38 term is defined in subsection a. of section 3 of P.L.1991, c.261
39 (C.2C:25-19), committed in the presence of a child under 16 years
40 of age; and

41 (15) The offense involved an act of domestic violence, as that
42 term is defined in subsection a. of section 3 of P.L.1991, c.261
43 (C.2C:25-19) and the defendant committed at least one act of
44 domestic violence on more than one occasion.

45 b. In determining the appropriate sentence to be imposed on a
46 person who has been convicted of an offense, the court may
47 properly consider the following mitigating circumstances:

- 1 (1) The defendant's conduct neither caused nor threatened
2 serious harm;
 - 3 (2) The defendant did not contemplate that the defendant's
4 conduct would cause or threaten serious harm;
 - 5 (3) The defendant acted under a strong provocation;
 - 6 (4) There were substantial grounds tending to excuse or justify
7 the defendant's conduct, though failing to establish a defense;
 - 8 (5) The victim of the defendant's conduct induced or facilitated
9 its commission;
 - 10 (6) The defendant has compensated or will compensate the
11 victim of the defendant's conduct for the damage or injury that the
12 victim sustained, or will participate in a program of community
13 service;
 - 14 (7) The defendant has no history of prior delinquency or
15 criminal activity or has led a law-abiding life for a substantial
16 period of time before the commission of the present offense;
 - 17 (8) The defendant's conduct was the result of circumstances
18 unlikely to recur;
 - 19 (9) The character and attitude of the defendant indicate that the
20 defendant is unlikely to commit another offense;
 - 21 (10) The defendant is particularly likely to respond affirmatively
22 to probationary treatment;
 - 23 (11) The imprisonment of the defendant would entail excessive
24 hardship to the defendant or the defendant's dependents;
 - 25 (12) The willingness of the defendant to cooperate with law
26 enforcement authorities;
 - 27 (13) The conduct of a youthful defendant was substantially
28 influenced by another person more mature than the defendant; and
 - 29 (14) The defendant was under 26 years of age at the time of the
30 commission of the offense.
- 31 c. (1) A plea of guilty by a defendant or failure to so plead
32 shall not be considered in withholding or imposing a sentence of
33 imprisonment.
- 34 (2) When imposing a sentence of imprisonment the court shall
35 consider the defendant's eligibility for release under the law
36 governing parole, including time credits awarded pursuant to Title
37 30 of the Revised Statutes, in determining the appropriate term of
38 imprisonment.
- 39 d. Presumption of imprisonment. The court shall deal with a
40 person who has been convicted of a crime of the first or second
41 degree, or a crime of the third degree where the court finds that the
42 aggravating factor in paragraph (5), (14), or (15) of subsection a. of
43 this section applies, by imposing a sentence of imprisonment unless,
44 having regard to the character and condition of the defendant, it is
45 of the opinion that the defendant's imprisonment would be a serious
46 injustice which overrides the need to deter such conduct by others.
47 Notwithstanding the provisions of subsection e. of this section, the
48 court shall deal with a person who has been convicted of theft of a
49 motor vehicle or of the unlawful taking of a motor vehicle and who

1 has previously been convicted of either offense by imposing a
2 sentence of imprisonment unless, having regard to the character and
3 condition of the defendant, it is of the opinion that imprisonment
4 would be a serious injustice which overrides the need to deter such
5 conduct by others.

6 e. The court shall deal with a person convicted of an offense
7 other than a crime of the first or second degree, who has not
8 previously been convicted of an offense, without imposing a
9 sentence of imprisonment unless, having regard to the nature and
10 circumstances of the offense and the history, character, and
11 condition of the defendant, it is of the opinion that imprisonment is
12 necessary for the protection of the public under the criteria set forth
13 in subsection a. of this section, except that this subsection shall not
14 apply if the court finds that the aggravating factor in paragraph (5),
15 (14) or (15) of subsection a. of this section applies or if the person
16 is convicted of any of the following crimes of the third degree: theft
17 of a motor vehicle; unlawful taking of a motor vehicle; eluding;
18 strict liability vehicular homicide pursuant to section 1 of P.L.2017,
19 c.165 (C.2C:11-5.3); if the person is convicted of a crime of the
20 third degree constituting use of a false government document in
21 violation of subsection c. of section 1 of P.L.1983, c.565 (C.2C:21-
22 2.1); if the person is convicted of a crime of the third degree
23 constituting distribution, manufacture or possession of an item
24 containing personal identifying information in violation of
25 subsection b. of section 6 of P.L.2003, c.184 (C.2C:21-17.3); if the
26 person is convicted of a crime of the third or fourth degree
27 constituting bias intimidation in violation of N.J.S.2C:16-1; if the
28 person is convicted of a crime of the third degree under paragraph
29 (12) of subsection b. of N.J.S.2C:12-1 or section 2 of P.L.1997,
30 c.111 (C.2C:12-1.1); or if the person is convicted of a crime of the
31 third or fourth degree under the provisions of section 1 or 2 of
32 P.L.2007, c.341 (C.2C:33-29 or C.2C:33-30).

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

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

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

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

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

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

48 In imposing a minimum term pursuant to subsection b. of
49 N.J.S.2C:43-6, the sentencing court shall specifically place on the

1 record the aggravating factors set forth in this section which justify
2 the imposition of a minimum term.

3 Unless the preponderance of mitigating factors set forth in
4 subsection b. weighs in favor of a lower term within the limits
5 authorized, sentences imposed pursuant to paragraph (1) of
6 subsection a. of N.J.S.2C:43-7 shall have a presumptive term of life
7 imprisonment. Unless the preponderance of aggravating and
8 mitigating factors set forth in subsections a. and b. of this section
9 weighs in favor of a higher or lower term within the limits
10 authorized, sentences imposed pursuant to paragraph (2) of
11 subsection a. of N.J.S.2C:43-7 shall have a presumptive term of 50
12 years' imprisonment; sentences imposed pursuant to paragraph (3)
13 of subsection a. of N.J.S.2C:43-7 shall have a presumptive term of
14 15 years' imprisonment; and sentences imposed pursuant to
15 paragraph (4) of subsection a. of N.J.S.2C:43-7 shall have a
16 presumptive term of seven years' imprisonment.

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

21 (2) In cases of convictions for crimes of the first or second
22 degree where the court is clearly convinced that the mitigating
23 factors substantially outweigh the aggravating factors and where the
24 interest of justice demands, the court may sentence the defendant to
25 a term appropriate to a crime of one degree lower than that of the
26 crime for which the defendant was convicted. If the court does
27 impose sentence pursuant to this paragraph, or if the court imposes
28 a noncustodial or probationary sentence upon conviction for a crime
29 of the first or second degree, the sentence shall not become final for
30 10 days in order to permit the appeal of the sentence by the
31 prosecution.

32 g. Imposition of Noncustodial Sentences in Certain Cases. If
33 the court, in considering the aggravating factors set forth in
34 subsection a. of this section, finds the aggravating factor in
35 paragraph (2), (5), (10), or (12) of subsection a. of this section and
36 does not impose a custodial sentence, the court shall specifically
37 place on the record the mitigating factors which justify the
38 imposition of a noncustodial sentence.

39 h. Except as provided in section 2 of P.L.1993, c.123 (C.2C:43-
40 11), the presumption of imprisonment as provided in subsection d.
41 of this section shall not preclude the admission of a person to the
42 Intensive Supervision Program, established pursuant to the Rules
43 Governing the Courts of the State of New Jersey.
44 (cf: P.L.2020, c.110, s.1)

45
46 3. (New section) a. A person commits a disorderly persons
47 offense if the ¹【individual】 person¹ orally or in writing:

48 (1) knowingly and willfully makes a threat against any ¹【person
49 employed by a health care facility, which is licensed by the

1 Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et
 2 seq.)**】** health care professional, volunteer working for a health care
 3 professional or working at a health care facility, or employee of a
 4 health care professional or health care facility¹, with the intent to
 5 intimidate, interfere with, or impede the ¹health care professional,
 6 volunteer, or employee in the¹ performance of ¹the health care
 7 professional’s, volunteer’s, or employee’s ²**【performance of¹】**²
 8 official duties; or

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

12 b. For ¹the¹ purposes of this section:

13 (1) “health care professional” means a person licensed ¹**【,】** or¹
 14 certified ¹**【, registered, or otherwise authorized】** to practice a health
 15 care profession¹ pursuant to Title 45 or Title 52 of the Revised
 16 Statutes ¹**【, or by any principal department of the Executive Branch**
 17 **of State government or any entity within any department or any**
 18 **other entity created to license or otherwise regulate a health care**
 19 **profession. "Health care professional" shall include, but shall not**
 20 **be limited to, health care professionals regulated by the following**
 21 **entities: the State Board of Medical Examiners, the New Jersey**
 22 **Board of Nursing, the New Jersey State Board of Dentistry, the**
 23 **New Jersey State Board of Optometrists, the Board of Pharmacy,**
 24 **the State Board of Chiropractic Examiners, the Acupuncture**
 25 **Examining Board, the State Board of Physical Therapy Examiners,**
 26 **the Orthotics and Prosthetics Board of Examiners, the State Board**
 27 **of Psychological Examiners, the State Board of Examiners of**
 28 **Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology**
 29 **and Speech-Language Pathology Advisory Committee, the**
 30 **Occupational Therapy Advisory Council and the Certified**
 31 **Psychoanalysts Advisory Committee】**¹.

32 (2) “health care facility” means a ¹**【general or special hospital**
 33 **or nursing home licensed by the Department of Health pursuant to**
 34 **P.L.1971, c.136 (C.26:2H-1 et al.), a State or county psychiatric**
 35 **hospital, or a State developmental center】** health care facility
 36 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 ²**【et seq.】** et al.²),
 37 a State or county psychiatric hospital, a State developmental center,
 38 or a health care service firm registered by the Division of Consumer
 39 Affairs in the Department of Law and Public Safety pursuant to
 40 P.L.1960, c.39 (C.56:8-1 et seq.)¹.

41
 42 4. (New section) a. In addition to any fine imposed pursuant
 43 to N.J.S.2C:43-3 or any term of imprisonment pursuant to
 44 N.J.S.2C:43-6, the court may order any defendant who commits an
 45 assault pursuant to N.J.S.2C:12-1 against any ¹**【person employed**
 46 **by a health care facility, which is licensed by the Department of**
 47 **Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)】** health care

1 professional, volunteer working for a health care professional or
2 working at a health care facility, or employee of a health care
3 professional or health care facility¹, while ¹the health care
4 professional, volunteer, or employee is¹ performing official
5 duties ^{2, 2} to satisfactorily complete an anger management course.

6 b. The court may order a defendant to participate in an anger
7 management course of up to 12 months ¹duration¹ ²pursuant to this
8 section².

9 c. A defendant shall pay the enrollment cost of ²[the ordered]
10 an² anger management course ²ordered pursuant to this section² .

11 d. A defendant sentenced to an anger management course
12 ²pursuant to this section² shall have one year to comply with the
13 court order. Failure to satisfactorily complete the course within one
14 year shall constitute a violation of the order. Any defendant who
15 fails to comply with the court order requiring an anger management
16 course may be subject to an additional penalty of up to \$500.

17 e. The Administrative Office of the Courts shall develop and
18 approve a list of eligible anger management courses that may
19 provide anger management services to any person ordered to
20 participate pursuant to this section.

21 f. The Administrative Office of the Courts shall establish
22 standards and procedures for certification of anger management
23 courses required pursuant to this section.

24

25 5. (New section) a. Notwithstanding the term of imprisonment
26 provided in N.J.S.2C:43-6 or any fine imposed pursuant to
27 N.J.S.2C:43-3, ²[any person] a defendant² convicted of assault,
28 pursuant to N.J.S.2C:12-1, against any ¹[person employed by a
29 health care facility, which is licensed by the Department of Health
30 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)] health care
31 professional, volunteer working for a health care professional or
32 working at a health care facility, or employee of a health care
33 professional or health care facility¹, while ¹the health care
34 professional, volunteer, or employee is¹ performing official
35 duties^{2, 2} may be sentenced to community service.

36 b. The court may order the ²[person] defendant² to perform
37 community service ²pursuant to this section² in lieu of part of the
38 ²[person's] defendant's² period of incarceration. The court
39 ²[shall] may² impose a term of community service of up to 30
40 days.

41 c. The Administrative Office of the Courts shall establish
42 standards and procedures for ²the² certification of community
43 service ²[for any person] organizations and providers to which a
44 defendant may be² sentenced pursuant to this section.

45

46 6. (New section) a. As used in this section, “health care
47 facility” means ¹[a general or special hospital or nursing home

1 licensed by the Department of Health pursuant to P.L.1971, c.136
 2 (C.26:2H-1 et al.), a State or county psychiatric hospital, or a State
 3 developmental center] the same as defined in subsection b. of
 4 section 3 of P.L. , c. (C.)(pending before the Legislature as this
 5 bill)¹.

6 b. A health care facility shall prominently display a written
 7 notice in a conspicuous public location that contains the following
 8 or substantially similar statement: “It is a crime to assault a health
 9 care ¹[worker] professional, any volunteer working for a health
 10 care professional or working at a health care facility, or any
 11 employee of a health care professional or ²[working at]² a health
 12 care facility while the health care professional, volunteer, or
 13 employee is performing official duties¹. Any person who assaults a
 14 health care ¹[worker] professional, volunteer, or employee in
 15 violation of this prohibition¹ shall be subject to a fine,
 16 imprisonment, or both under the New Jersey Code of Criminal
 17 Justice, N.J.S.2C:1-1 et seq.”

18 c. The Commissioner of Health may adopt rules and
 19 regulations, in accordance with the “Administrative Procedure Act,”
 20 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate
 21 the provisions of this section.
 22

23 ¹7. (New section) a. A physician responsible for managing a
 24 professional physician practice shall prominently display a written
 25 notice in a conspicuous public location that contains the following
 26 or substantially similar statement: “It is a crime to assault a health
 27 care professional, any volunteer working for a health care
 28 professional or working at a health care facility, or any employee of
 29 a health care professional or a health care facility, while the health
 30 care professional, volunteer, or employee is performing official
 31 duties. Any person who assaults a health care professional,
 32 volunteer, or employee in violation of this prohibition shall be
 33 subject to a fine, imprisonment, or both under the New Jersey Code
 34 of Criminal Justice, N.J.S.2C:1-1 et seq.”

35 b. The Board of Medical Examiners may adopt rules and
 36 regulations, in accordance with the “Administrative Procedure Act,”
 37 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate
 38 the provisions of this section.¹
 39

40 ¹[7.] 8.¹ This act shall take effect immediately.