

[Third Reprint]

**ASSEMBLY, No. 3199**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

INTRODUCED MARCH 7, 2022

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Assemblyman Conaway, Assemblywoman Lopez, Senators Polistina, Durr,  
O'Scanlon, Ruiz, Turner, Assemblyman Stanley and Assemblywoman  
Speight**

**SYNOPSIS**

Establishes "Health Care Heroes Violence Prevention Act."

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on  
December 5, 2022, with amendments.

(Sponsorship Updated As Of: 2/27/2023)

1 AN ACT concerning violence against health care professionals  
2 **[and]** <sup>1</sup> amending <sup>1</sup>N.J.S.2C:44-1,<sup>1</sup> and supplementing  
3 **[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.)<sup>1</sup>.  
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:

<sup>1</sup>Assembly ALP committee amendments adopted May 9, 2022.

<sup>2</sup>Assembly AAP committee amendments adopted June 13, 2022.

<sup>3</sup>Senate SBA committee amendments adopted December 5, 2022.

1 defendant committed the offense because of the status of the victim  
2 as a public servant; <sup>1</sup>[or]<sup>1</sup> 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 <sup>1</sup>[worker  
7 employed by a licensed health care facility or a]<sup>1</sup> health care  
8 professional <sup>1</sup>[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,  
14 <sup>3</sup>supportive services staff member working for a health care  
15 professional or working at a health care facility,<sup>3</sup> or employee of a  
16 health care professional or <sup>2</sup>health care<sup>2</sup> facility, while the health  
17 care professional, volunteer, <sup>3</sup>supportive services staff member,<sup>3</sup> or  
18 employee is performing official duties.

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

23 (9) The need for deterring the defendant and others from  
24 violating the law;

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

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

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

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

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

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

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

4       (1) The defendant's conduct neither caused nor threatened  
5 serious harm;

6       (2) The defendant did not contemplate that the defendant's  
7 conduct would cause or threaten serious harm;

8       (3) The defendant acted under a strong provocation;

9       (4) There were substantial grounds tending to excuse or justify  
10 the defendant's conduct, though failing to establish a defense;

11       (5) The victim of the defendant's conduct induced or facilitated  
12 its commission;

13       (6) The defendant has compensated or will compensate the  
14 victim of the defendant's conduct for the damage or injury that the  
15 victim sustained, or will participate in a program of community  
16 service;

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

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

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

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

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

28       (12) The willingness of the defendant to cooperate with law  
29 enforcement authorities;

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

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

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

37       (2) When imposing a sentence of imprisonment the court shall  
38 consider the defendant's eligibility for release under the law  
39 governing parole, including time credits awarded pursuant to Title  
40 30 of the Revised Statutes, in determining the appropriate term of  
41 imprisonment.

42       d. Presumption of imprisonment. The court shall deal with a  
43 person who has been convicted of a crime of the first or second  
44 degree, or a crime of the third degree where the court finds that the  
45 aggravating factor in paragraph (5), (14), or (15) of subsection a. of  
46 this section applies, by imposing a sentence of imprisonment unless,  
47 having regard to the character and condition of the defendant, it is  
48 of the opinion that the defendant's imprisonment would be a serious  
49 injustice which overrides the need to deter such conduct by others.

1 Notwithstanding the provisions of subsection e. of this section, the  
2 court shall deal with a person who has been convicted of theft of a  
3 motor vehicle or of the unlawful taking of a motor vehicle and who  
4 has previously been convicted of either offense by imposing a  
5 sentence of imprisonment unless, having regard to the character and  
6 condition of the defendant, it is of the opinion that imprisonment  
7 would be a serious injustice which overrides the need to deter such  
8 conduct by others.

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

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

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

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

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

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

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

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

6 Unless the preponderance of mitigating factors set forth in  
7 subsection b. weighs in favor of a lower term within the limits  
8 authorized, sentences imposed pursuant to paragraph (1) of  
9 subsection a. of N.J.S.2C:43-7 shall have a presumptive term of life  
10 imprisonment. Unless the preponderance of aggravating and  
11 mitigating factors set forth in subsections a. and b. of this section  
12 weighs in favor of a higher or lower term within the limits  
13 authorized, sentences imposed pursuant to paragraph (2) of  
14 subsection a. of N.J.S.2C:43-7 shall have a presumptive term of 50  
15 years' imprisonment; sentences imposed pursuant to paragraph (3)  
16 of subsection a. of N.J.S.2C:43-7 shall have a presumptive term of  
17 15 years' imprisonment; and sentences imposed pursuant to  
18 paragraph (4) of subsection a. of N.J.S.2C:43-7 shall have a  
19 presumptive term of seven years' imprisonment.

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

24 (2) In cases of convictions for crimes of the first or second  
25 degree where the court is clearly convinced that the mitigating  
26 factors substantially outweigh the aggravating factors and where the  
27 interest of justice demands, the court may sentence the defendant to  
28 a term appropriate to a crime of one degree lower than that of the  
29 crime for which the defendant was convicted. If the court does  
30 impose sentence pursuant to this paragraph, or if the court imposes  
31 a noncustodial or probationary sentence upon conviction for a crime  
32 of the first or second degree, the sentence shall not become final for  
33 10 days in order to permit the appeal of the sentence by the  
34 prosecution.

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

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

1 3. (New section) a. A person commits a disorderly persons  
2 offense if the <sup>1</sup>["individual"] person<sup>1</sup> orally or in writing:

3 (1) knowingly and willfully makes a threat against any <sup>1</sup>["person  
4 employed by a health care facility, which is licensed by the  
5 Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et  
6 seq.)"] health care professional, volunteer working for a health care  
7 professional or working at a health care facility, <sup>3</sup>supportive services  
8 staff member working for a health care professional or working at a  
9 health care facility, <sup>3</sup> or employee of a health care professional or  
10 health care facility<sup>1</sup>, with the intent to intimidate, interfere with, or  
11 impede the <sup>1</sup>health care professional, volunteer, <sup>3</sup>supportive services  
12 staff member, <sup>3</sup> or employee in the<sup>1</sup> performance of <sup>1</sup>the health care  
13 professional's, volunteer's, <sup>3</sup>supportive services staff member's, <sup>3</sup> or  
14 employee's <sup>2</sup>["performance of"]<sup>2</sup> official duties; or

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

18 b. For <sup>1</sup>the<sup>1</sup> purposes of this section:

19 (1) "health care professional" means a person licensed <sup>1</sup>["or<sup>1</sup>  
20 certified <sup>1</sup>[", registered, or otherwise authorized"] to practice a health  
21 care profession<sup>1</sup> pursuant to <sup>3</sup>Title 26,<sup>3</sup> Title 45 <sup>3,3</sup> or Title 52 of the  
22 Revised Statutes <sup>1</sup>[", or by any principal department of the Executive  
23 Branch of State government or any entity within any department or  
24 any other entity created to license or otherwise regulate a health care  
25 profession. "Health care professional" shall include, but shall not be  
26 limited to, health care professionals regulated by the following entities:  
27 the State Board of Medical Examiners, the New Jersey Board of  
28 Nursing, the New Jersey State Board of Dentistry, the New Jersey  
29 State Board of Optometrists, the Board of Pharmacy, the State Board  
30 of Chiropractic Examiners, the Acupuncture Examining Board, the  
31 State Board of Physical Therapy Examiners, the Orthotics and  
32 Prosthetics Board of Examiners, the State Board of Psychological  
33 Examiners, the State Board of Examiners of Ophthalmic Dispensers  
34 and Ophthalmic Technicians, the Audiology and Speech-Language  
35 Pathology Advisory Committee, the Occupational Therapy Advisory  
36 Council and the Certified Psychoanalysts Advisory Committee"]<sup>1</sup>.

37 (2) "health care facility" means a <sup>1</sup>["general or special hospital or  
38 nursing home licensed by the Department of Health pursuant to  
39 P.L.1971, c.136 (C.26:2H-1 et al.), a State or county psychiatric  
40 hospital, or a State developmental center"] health care facility licensed  
41 pursuant to P.L.1971, c.136 (C.26:2H-1 <sup>2</sup>["et seq."] et al.<sup>2</sup>), a State or  
42 county psychiatric hospital, a State developmental center, or a health  
43 care service firm registered by the Division of Consumer Affairs in the  
44 Department of Law and Public Safety pursuant to P.L.1960, c.39  
45 (C.56:8-1 et seq.)<sup>1</sup>.

1           4. (New section) a. In addition to any fine imposed pursuant to  
2 N.J.S.2C:43-3 or any term of imprisonment pursuant to N.J.S.2C:43-6,  
3 the court may order any defendant who commits an assault pursuant to  
4 N.J.S.2C:12-1 against any <sup>1</sup>【person employed by a health care facility,  
5 which is licensed by the Department of Health pursuant to P.L.1971,  
6 c.136 (C.26:2H-1 et seq.)】 health care professional, volunteer working  
7 for a health care professional or working at a health care facility,  
8 <sup>3</sup>supportive services staff member working for a health care  
9 professional or working at a health care facility,<sup>3</sup> or employee of a  
10 health care professional or health care facility<sup>1</sup>, while <sup>1</sup>the health care  
11 professional, volunteer, <sup>3</sup>supportive services staff member,<sup>3</sup> or  
12 employee is<sup>1</sup> performing official duties<sup>2,2</sup> to satisfactorily complete  
13 an anger management course.

14           b. The court may order a defendant to participate in an anger  
15 management course of up to 12 months <sup>1</sup>duration<sup>1</sup> <sup>2</sup>pursuant to this  
16 section<sup>2</sup>.

17           c. A defendant shall pay the enrollment cost of <sup>2</sup>【the ordered】 an<sup>2</sup>  
18 anger management course <sup>2</sup>ordered pursuant to this section<sup>2</sup>.

19           d. A defendant sentenced to an anger management course  
20 <sup>2</sup>pursuant to this section<sup>2</sup> shall have one year to comply with the court  
21 order. Failure to satisfactorily complete the course within one year  
22 shall constitute a violation of the order. Any defendant who fails to  
23 comply with the court order requiring an anger management course  
24 may be subject to an additional penalty of up to \$500.

25           e. The Administrative Office of the Courts shall develop and  
26 approve a list of eligible anger management courses that may provide  
27 anger management services to any person ordered to participate  
28 pursuant to this section.

29           f. The Administrative Office of the Courts shall establish  
30 standards and procedures for certification of anger management  
31 courses required pursuant to this section.

32  
33           5. (New section) a. Notwithstanding the term of imprisonment  
34 provided in N.J.S.2C:43-6 or any fine imposed pursuant to  
35 N.J.S.2C:43-3, <sup>2</sup>【any person】 a defendant<sup>2</sup> convicted of assault,  
36 pursuant to N.J.S.2C:12-1, against any <sup>1</sup>【person employed by a health  
37 care facility, which is licensed by the Department of Health pursuant  
38 to P.L.1971, c.136 (C.26:2H-1 et seq.)】 health care professional,  
39 volunteer working for a health care professional or working at a health  
40 care facility, <sup>3</sup>supportive services staff member working for a health  
41 care professional or working at a health care facility,<sup>3</sup> or employee of a  
42 health care professional or health care facility<sup>1</sup>, while <sup>1</sup>the health care  
43 professional, volunteer, <sup>3</sup>supportive services staff member,<sup>3</sup> or  
44 employee is<sup>1</sup> performing official duties<sup>2,2</sup> may be sentenced to  
45 community service.

46           b. The court may order the <sup>2</sup>【person】 defendant<sup>2</sup> to perform  
47 community service <sup>2</sup>pursuant to this section<sup>2</sup> in lieu of part of the



1 <sup>2</sup>**[person's]** defendant's<sup>2</sup> period of incarceration. The court <sup>2</sup>**[shall]**  
2 may<sup>2</sup> impose a term of community service of up to 30 days.

3 c. The Administrative Office of the Courts shall establish  
4 standards and procedures for <sup>2</sup>the<sup>2</sup> certification of community service  
5 <sup>2</sup>**[for any person]** organizations and providers to which a defendant  
6 may be<sup>2</sup> sentenced pursuant to this section.

7  
8 6. (New section) a. As used in this section, "health care facility"  
9 means <sup>1</sup>**[a general or special hospital or nursing home licensed by the**  
10 Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et al.), a  
11 State or county psychiatric hospital, or a State developmental center]  
12 the same as defined in subsection b. of section 3 of P.L. , c. (C. )  
13 (pending before the Legislature as this bill)<sup>1</sup>.

14 b. A health care facility shall prominently display a written notice  
15 in a conspicuous public location that contains the following or  
16 substantially similar statement: "It is a crime to assault a health care  
17 <sup>1</sup>**[worker]** professional, any volunteer working for a health care  
18 professional or working at a health care facility, <sup>3</sup>any supportive  
19 services staff member working for a health care professional or  
20 working at a health care facility, <sup>3</sup> or any employee of a health care  
21 professional or <sup>2</sup>**[working at]**<sup>2</sup> a health care facility while the health  
22 care professional, volunteer, <sup>3</sup>supportive services staff member, <sup>3</sup> or  
23 employee is performing official duties<sup>1</sup>. Any person who assaults a  
24 health care <sup>1</sup>**[worker]** professional, volunteer, <sup>3</sup>supportive services  
25 staff member, <sup>3</sup> or employee in violation of this prohibition<sup>1</sup> shall be  
26 subject to a fine, imprisonment, or both under the New Jersey Code of  
27 Criminal Justice, N.J.S.2C:1-1 et seq."

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

32  
33 <sup>1</sup>7. (New section) a. A physician responsible for managing a  
34 professional physician practice shall prominently display a written  
35 notice in a conspicuous public location that contains the following or  
36 substantially similar statement: "It is a crime to assault a health care  
37 professional, any volunteer working for a health care professional or  
38 working at a health care facility, <sup>3</sup>any supportive services staff  
39 member working for a health care professional or working at a health  
40 care facility, <sup>3</sup> or any employee of a health care professional or a health  
41 care facility, while the health care professional, volunteer, <sup>3</sup>supportive  
42 services staff member, <sup>3</sup> or employee is performing official duties.  
43 Any person who assaults a health care professional, volunteer,  
44 <sup>3</sup>supportive services staff member, <sup>3</sup> or employee in violation of this  
45 prohibition shall be subject to a fine, imprisonment, or both under the  
46 New Jersey Code of Criminal Justice, N.J.S.2C:1-1 et seq."

1        b. The Board of Medical Examiners may adopt rules and  
2 regulations, in accordance with the “Administrative Procedure Act,”  
3 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate the  
4 provisions of this section.<sup>1</sup>

5

6        <sup>1</sup>**[7.] 8.**<sup>1</sup> This act shall take effect immediately.