

**ASSEMBLY, No. 4248**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED JUNE 13, 2022

**Sponsored by:**

**Assemblywoman KIM EULNER**

**District 11 (Monmouth)**

**Assemblywoman MARILYN PIPERNO**

**District 11 (Monmouth)**

**Assemblyman JAY WEBBER**

**District 26 (Essex, Morris and Passaic)**

**SYNOPSIS**

Establishes rebuttable presumption that person charged with motor vehicle theft be detained prior to trial; imposes mandatory sentencing for thefts involving motor vehicle.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 9/29/2022)

1 AN ACT concerning pretrial detention and mandatory sentencing for  
2 certain motor vehicle-related thefts and amending N.J.S.2C:43-6  
3 and P.L.2014, c.31.

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

7  
8 1. Section 4 of P.L.2014, c.31 (C.2A:162-18) is amended to  
9 read as follows:

10 4. a. (1) The court may order, before trial, the detention of an  
11 eligible defendant charged with any crime, or any offense involving  
12 domestic violence as defined in subsection a. of section 3 of  
13 P.L.1991, c.261 (C.2C:25-19), enumerated in subsection a. of  
14 section 5 of P.L.2014, c.31 (C.2A:162-19), if the prosecutor seeks  
15 the pretrial detention of the eligible defendant under section 5 of  
16 P.L.2014, c.31 (C.2A:162-19) and after a hearing pursuant to that  
17 section the court finds clear and convincing evidence that no  
18 amount of monetary bail, non-monetary conditions of pretrial  
19 release or combination of monetary bail and conditions would  
20 reasonably assure the eligible defendant's appearance in court when  
21 required, the protection of the safety of any other person or the  
22 community, and that the eligible defendant will not obstruct or  
23 attempt to obstruct the criminal justice process. The court may also  
24 order the pretrial detention of an eligible defendant when the  
25 prosecutor moves for a pretrial detention hearing and the eligible  
26 defendant fails to rebut a presumption of pretrial detention that may  
27 be established for the crimes enumerated under subsection b. of  
28 section 5 of P.L.2014, c.31 (C.2A:162-19).

29 (2) For purposes of ordering the pretrial detention of an eligible  
30 defendant pursuant to this section and section 5 of P.L.2014, c.31  
31 (C.2A:162-19) or pursuant to section 10 of P.L.2014, c.31  
32 (C.2A:162-24), when determining whether no amount of monetary  
33 bail, non-monetary conditions or combination of monetary bail and  
34 conditions would reasonably assure the eligible defendant's  
35 appearance in court when required, the protection of the safety of  
36 any other person or the community, or that the eligible defendant  
37 will not obstruct or attempt to obstruct the criminal justice process,  
38 the court may consider the amount of monetary bail only with  
39 respect to whether it will, by itself or in combination with non-  
40 monetary conditions, reasonably assure the eligible defendant's  
41 appearance in court when required.

42 b. Regarding the pretrial detention hearing moved for by the  
43 prosecutor, except for when an eligible defendant is charged with a  
44 crime set forth under paragraph (1) **[or]**, (2), or (3) of subsection b.  
45 of section 5 of P.L.2014, c.31 (C.2A:162-19), there shall be a

**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 rebuttable presumption that some amount of monetary bail, non-  
2 monetary conditions of pretrial release or combination of monetary  
3 bail and conditions would reasonably assure the eligible defendant's  
4 appearance in court when required, the protection of the safety of  
5 any other person or the community, and that the eligible defendant  
6 will not obstruct or attempt to obstruct the criminal justice process.

7 c. An eligible defendant may appeal an order of pretrial  
8 detention pursuant to the Rules of Court. The appeal shall be heard  
9 in an expedited manner. The eligible defendant shall be detained  
10 pending the disposition of the appeal.

11 d. If the court does not order the pretrial detention of an  
12 eligible defendant at the conclusion of the pretrial detention hearing  
13 under this section and section 5 of P.L.2014, c.31 (C.2A:162-19),  
14 the court shall order the release of the eligible defendant pursuant to  
15 section 3 of P.L.2014, c.31 (C.2A:162-17).

16 (cf: P.L.2014, c.31, s.4)

17  
18 2. Section 5 of P.L.2014, c.31 (C.2A:162-19) is amended to  
19 read as follows:

20 5. a. A prosecutor may file a motion with the court at any time,  
21 including any time before or after an eligible defendant's release  
22 pursuant to section 3 of P.L.2014, c.31 (C.2A:162-17), seeking the  
23 pretrial detention of an eligible defendant for:

24 (1) any crime of the first or second degree enumerated under  
25 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2);

26 (2) any crime for which the eligible defendant would be subject  
27 to an ordinary or extended term of life imprisonment;

28 (3) any crime if the eligible defendant has been convicted of two  
29 or more offenses under paragraph (1) or (2) of this subsection;

30 (4) any crime enumerated under paragraph (2) of subsection b.  
31 of section 2 of P.L.1994, c.133 (C.2C:7-2) or crime involving  
32 human trafficking pursuant to section 1 of P.L.2005, c.77 (C.2C:13-  
33 8) or P.L.2013, c.51 (C.52:17B-237 et al.) when the victim is a  
34 minor, or the crime of endangering the welfare of a child under  
35 N.J.S.2C:24-4;

36 (5) any crime enumerated under subsection c. of N.J.S.2C:43-6;

37 (6) any crime or offense involving domestic violence as defined  
38 in subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19); **[or]**

39 (7) any other crime for which the prosecutor believes there is a  
40 serious risk that:

41 (a) the eligible defendant will not appear in court as required;

42 (b) the eligible defendant will pose a danger to any other person  
43 or the community; or

44 (c) the eligible defendant will obstruct or attempt to obstruct  
45 justice, or threaten, injure, or intimidate, or attempt to threaten,  
46 injure or intimidate, a prospective witness or juror; or

47 (8) theft of a motor vehicle pursuant to N.J.S.2C:20-2.

1       b. When a motion for pretrial detention is filed pursuant to  
2 subsection a. of this section, there shall be a rebuttable presumption  
3 that the eligible defendant shall be detained pending trial because  
4 no amount of monetary bail, non-monetary condition or  
5 combination of monetary bail and conditions would reasonably  
6 assure the eligible defendant's appearance in court when required,  
7 the protection of the safety of any other person or the community,  
8 and that the eligible defendant will not obstruct or attempt to  
9 obstruct the criminal justice process, if the court finds probable  
10 cause that the eligible defendant committed :

11       (1) **[committed]** murder pursuant to N.J.S.2C:11-3; **[or]**

12       (2) **[committed]** any crime for which the eligible defendant  
13 would be subject to an ordinary or extended term of life  
14 imprisonment; or

15       (3) theft of a motor vehicle pursuant to N.J.S.2C:20-2.

16       c. A court shall hold a hearing to determine whether any  
17 amount of monetary bail or non-monetary conditions or  
18 combination of monetary bail and conditions, including those set  
19 forth under subsection b. of section 3 of P.L.2014, c.31 (C.2A:162-  
20 17) will reasonably assure the eligible defendant's appearance in  
21 court when required, the protection of the safety of any other person  
22 or the community, and that the eligible defendant will not obstruct  
23 or attempt to obstruct the criminal justice process.

24       d. (1) Except as otherwise provided in this subsection, the  
25 pretrial detention hearing shall be held no later than the eligible  
26 defendant's first appearance unless the eligible defendant, or the  
27 prosecutor, seeks a continuance. If a prosecutor files a motion for  
28 pretrial detention after the eligible defendant's first appearance has  
29 taken place or if no first appearance is required, the court shall  
30 schedule the pretrial detention hearing to take place within three  
31 working days of the date on which the prosecutor's motion was  
32 filed, unless the prosecutor or the eligible defendant seeks a  
33 continuance. Except for good cause, a continuance on motion of the  
34 eligible defendant may not exceed five days, not including any  
35 intermediate Saturday, Sunday, or legal holiday. Except for good  
36 cause, a continuance on motion of the prosecutor may not exceed  
37 three days, not including any intermediate Saturday, Sunday, or  
38 legal holiday.

39       (2) Upon the filing of a motion by the prosecutor seeking the  
40 pretrial detention of the eligible defendant and during any  
41 continuance that may be granted by the court, the eligible defendant  
42 shall be detained in jail, unless the eligible defendant was  
43 previously released from custody before trial, in which case the  
44 court shall issue a notice to appear to compel the appearance of the  
45 eligible defendant at the detention hearing. The court, on motion of  
46 the prosecutor or sua sponte, may order that, while in custody, an  
47 eligible defendant who appears to be a drug dependent person

1 receive an assessment to determine whether that eligible defendant  
2 is drug dependent.

3 e. (1) At the pretrial detention hearing, the eligible defendant  
4 has the right to be represented by counsel, and, if financially unable  
5 to obtain adequate representation, to have counsel appointed. The  
6 eligible defendant shall be afforded an opportunity to testify, to  
7 present witnesses, to cross-examine witnesses who appear at the  
8 hearing, and to present information by proffer or otherwise. The  
9 rules concerning admissibility of evidence in criminal trials shall  
10 not apply to the presentation and consideration of information at the  
11 hearing.

12 (2) In pretrial detention proceedings for which there is no  
13 indictment, the prosecutor shall establish probable cause that the  
14 eligible defendant committed the predicate offense. A presumption  
15 of pretrial detention as provided in subsection b. of this section may  
16 be rebutted by proof provided by the eligible defendant, the  
17 prosecutor, or from other materials submitted to the court. The  
18 standard of proof for a rebuttal of the presumption of pretrial  
19 detention shall be a preponderance of the evidence. If proof cannot  
20 be established to rebut the presumption, the court may order the  
21 eligible defendant's pretrial detention. If the presumption is rebutted  
22 by sufficient proof, the prosecutor shall have the opportunity to  
23 establish that the grounds for pretrial detention exist pursuant to this  
24 section.

25 (3) Except when an eligible defendant has failed to rebut a  
26 presumption of pretrial detention pursuant to subsection b. of this  
27 section, the court's finding to support an order of pretrial detention  
28 pursuant to section 4 of P.L.2014, c.31 (C.2A:162-18) that no  
29 amount of monetary bail, non-monetary conditions or combination  
30 of monetary bail and conditions will reasonably assure the eligible  
31 defendant's appearance in court when required, the protection of the  
32 safety of any other person or the community, and that the eligible  
33 defendant will not obstruct or attempt to obstruct the criminal  
34 justice process shall be supported by clear and convincing evidence.

35 f. The hearing may be reopened, before or after a  
36 determination by the court, at any time before trial, if the court  
37 finds that information exists that was not known to the prosecutor  
38 or the eligible defendant at the time of the hearing and that has a  
39 material bearing on the issue of whether there are conditions of  
40 release that will reasonably assure the eligible defendant's  
41 appearance in court when required, the protection of the safety of  
42 any other person or the community, or that the eligible defendant  
43 will not obstruct or attempt to obstruct the criminal justice process.  
44 (cf: P.L.2014, c.31, s.5)

45

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

47 2C:43-6. a. Except as otherwise provided, a person who has been  
48 convicted of a crime may be sentenced to imprisonment, as follows:

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

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

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

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

13 b. As part of a sentence for any crime, where the court is  
14 clearly convinced that the aggravating factors substantially  
15 outweigh the mitigating factors, as set forth in subsections a. and b.  
16 of 2C:44-1, or the court finds that the aggravating factor set forth in  
17 paragraph (5) of subsection a. of N.J.S.2C:44-1 applies, the court  
18 may fix a minimum term not to exceed one-half of the term set  
19 pursuant to subsection a., or one-half of the term set pursuant to a  
20 maximum period of incarceration for a crime set forth in any statute  
21 other than this code, during which the defendant shall not be  
22 eligible for parole; provided that no defendant shall be eligible for  
23 parole at a date earlier than otherwise provided by the law  
24 governing parole.

25 c. A person who has been convicted under subsection b. or d.  
26 of N.J.S.2C:39-3, subsection a. of N.J.S.2C:39-4, subsection a. of  
27 section 1 of P.L.1998, c.26 (C.2C:39-4.1), subsection a., b., c., or f.  
28 of N.J.S.2C:39-5, subsection a. or paragraph (2) or (3) of subsection  
29 b. of section 6 of P.L.1979, c.179 (C.2C:39-7), or subsection a., b.,  
30 e. or g. of N.J.S.2C:39-9, or of a crime under any of the following  
31 sections: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-  
32 3a., 2C:15-1, 2C:18-2, 2C:29-5, who, while in the course of  
33 committing or attempting to commit the crime, including the  
34 immediate flight therefrom, used or was in possession of a firearm  
35 as defined in 2C:39-1f., shall be sentenced to a term of  
36 imprisonment by the court. The term of imprisonment shall include  
37 the imposition of a minimum term. The minimum term shall be  
38 fixed at one-half of the sentence imposed by the court or 42 months,  
39 whichever is greater, or 18 months in the case of a fourth degree  
40 crime, during which the defendant shall be ineligible for parole.

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

45 A person who has been convicted of an offense enumerated by  
46 this subsection and who used or possessed a firearm during its  
47 commission, attempted commission or flight therefrom and who has  
48 been previously convicted of an offense involving the use or

1 possession of a firearm as defined in 2C:44-3d., shall be sentenced  
2 by the court to an extended term as authorized by 2C:43-7c.,  
3 notwithstanding that extended terms are ordinarily discretionary  
4 with the court.

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

15 (2) The court shall not impose a mandatory sentence pursuant to  
16 subsection c. of this section for a violation of paragraph (2) of  
17 subsection b. of N.J.S.2C:39-5; a violation of paragraph (2) of  
18 subsection c. of N.J.S.2C:39-5, if that rifle or shotgun is in the  
19 nature of an air gun, spring gun or pistol or other weapon of a  
20 similar nature in which the propelling force is a spring, elastic band,  
21 carbon dioxide, compressed or other gas or vapor, air or compressed  
22 air, or is ignited by compressed air, and ejecting a bullet or missile  
23 smaller than three-eighths of an inch in diameter, with sufficient  
24 force to injure a person; or a violation of paragraph (1) of  
25 subsection c. of N.J.S.2C:39-5.

26 e. A person convicted of a third or subsequent offense  
27 involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any  
28 other provision of this code, or under any of the provisions of Title  
29 54 of the Revised Statutes, or Title 54A of the New Jersey Statutes,  
30 as amended and supplemented, shall be sentenced to a term of  
31 imprisonment by the court. This shall not preclude an application  
32 for and imposition of an extended term of imprisonment under  
33 N.J.S.2C:44-3 if the provisions of that section are applicable to the  
34 offender.

35 f. A person convicted of manufacturing, distributing,  
36 dispensing or possessing with intent to distribute any dangerous  
37 substance or controlled substance analog under N.J.S.2C:35-5, of  
38 maintaining or operating a controlled dangerous substance  
39 production facility under N.J.S.2C:35-4, of employing a juvenile in  
40 a drug distribution scheme under N.J.S.2C:35-6, leader of a  
41 narcotics trafficking network under N.J.S.2C:35-3, or of  
42 distributing, dispensing or possessing with intent to distribute on or  
43 near school property or buses under section 1 of P.L.1987, c.101  
44 (C.2C:35-7), who has been previously convicted of manufacturing,  
45 distributing, dispensing or possessing with intent to distribute a  
46 controlled dangerous substance or controlled substance analog,  
47 shall upon application of the prosecuting attorney be sentenced by  
48 the court to an extended term as authorized by subsection c. of

1 N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily  
2 discretionary with the court. The term of imprisonment shall,  
3 except as may be provided in N.J.S.2C:35-12, include the  
4 imposition of a minimum term. The minimum term shall be fixed  
5 at, or between, one-third and one-half of the sentence imposed by  
6 the court or three years, whichever is greater, not less than seven  
7 years if the person is convicted of a violation of N.J.S.2C:35-6, or  
8 18 months in the case of a fourth degree crime, during which the  
9 defendant shall be ineligible for parole.

10 The court shall not impose an extended term pursuant to this  
11 subsection unless the ground therefor has been established at a  
12 hearing. At the hearing, which may occur at the time of sentencing,  
13 the prosecutor shall establish the ground therefor by a  
14 preponderance of the evidence. In making its finding, the court shall  
15 take judicial notice of any evidence, testimony or information  
16 adduced at the trial, plea hearing, or other court proceedings and  
17 shall also consider the presentence report and any other relevant  
18 information.

19 For the purpose of this subsection, a previous conviction exists  
20 where the actor has at any time been convicted under chapter 35 of  
21 this title or Title 24 of the Revised Statutes 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 N.J.S.2C:35-3,  
24 N.J.S.2C:35-4, N.J.S.2C:35-5, N.J.S.2C:35-6 or section 1 of  
25 P.L.1987, c.101 (C.2C:35-7).

26 g. Any person who has been convicted under subsection a. of  
27 N.J.S.2C:39-4 or of a crime under any of the following sections:  
28 N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:12-1b., N.J.S.2C:13-1,  
29 N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2,  
30 N.J.S.2C:29-5, N.J.S.2C:35-5 who, while in the course of  
31 committing or attempting to commit the crime, including the  
32 immediate flight therefrom, used or was in possession of a machine  
33 gun or assault firearm shall be sentenced to a term of imprisonment  
34 by the court. The term of imprisonment shall include the  
35 imposition of a minimum term. The minimum term shall be fixed at  
36 10 years for a crime of the first or second degree, five years for a  
37 crime of the third degree, or 18 months in the case of a fourth  
38 degree crime, during which the defendant shall be ineligible for  
39 parole.

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

44 A person who has been convicted of an offense enumerated in  
45 this subsection and who used or possessed a machine gun or assault  
46 firearm during its commission, attempted commission or flight  
47 therefrom and who has been previously convicted of an offense  
48 involving the use or possession of any firearm as defined in



1 subsection d. of N.J.S.2C:44-3, shall be sentenced by the court to an  
2 extended term as authorized by subsection d. of N.J.S.2C:43-7,  
3 notwithstanding that extended terms are ordinarily discretionary  
4 with the court.

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

15 i. A person who has been convicted under paragraph (6) of  
16 subsection b. of 2C:12-1 of causing bodily injury while eluding  
17 shall be sentenced to a term of imprisonment by the court. The  
18 term of imprisonment shall include the imposition of a minimum  
19 term. The minimum term shall be fixed at, or between one-third  
20 and one-half of the sentence imposed by the court. The minimum  
21 term established by this subsection shall not prevent the court from  
22 imposing a presumptive term of imprisonment pursuant to  
23 paragraph (1) of subsection f. of 2C:44-1.

24 j. A person convicted pursuant to paragraph (2) of subsection  
25 b. of N.J.S.2C:20-2 of theft of an automobile, or pursuant to  
26 subsections b. or c. of N.J.S.2C:20-10 shall be sentenced to a term  
27 of imprisonment by the court. The term of imprisonment shall  
28 include the imposition of a minimum term. The minimum term  
29 shall be fixed at, or between, one-third and one-half of the sentence  
30 imposed by the court. For a second conviction of a crime of the  
31 third degree, the minimum term shall be fixed at one-half of the  
32 sentence imposed by the court, or 30 months, whichever is greater.  
33 For a second conviction of a crime of the fourth degree, the  
34 minimum term shall be fixed at one-half of the sentence imposed by  
35 the court or nine months, whichever is greater. For a third or  
36 subsequent conviction, the minimum term shall be fixed at five  
37 years for a crime of the third degree, and 18 months for a crime of  
38 the fourth degree.

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

40  
41 4. This act shall take effect immediately.  
42  
43

#### 44 STATEMENT

45  
46 This bill establishes a rebuttable presumption that a person  
47 charged with theft of a motor vehicle is to be detained prior to trial,  
48 and imposes mandatory sentencing for motor vehicle theft under

1 N.J.S.2C:20-2, and unlawful taking of a means of conveyance, or  
2 “joyriding,” under N.J.S.2C:20-10.

3 Under current law, a person is guilty of theft of a motor vehicle  
4 if the person unlawfully takes, or exercises unlawful control over,  
5 another person’s motor vehicle with the purpose to deprive that  
6 person of the motor vehicle. Theft of a motor vehicle is a crime of  
7 the third degree ordinarily punishable by up to five years  
8 imprisonment, a fine of up to \$15,000, or both.

9 Under P.L.2014, c.31, also known as the “Criminal Justice  
10 Reform Law,” criminal courts are authorized to order the pretrial  
11 release of a defendant pending further proceedings, or order pretrial  
12 detention of defendants who are found to be a flight risk, a danger  
13 to another or the community, or likely to obstruct further criminal  
14 proceedings.

15 Under this bill, if a court finds probable cause that a defendant  
16 was guilty of theft of a motor vehicle, there would be a rebuttable  
17 presumption that the person is to be detained pending trial because  
18 no amount of monetary bail, non-monetary conditions of release, or  
19 combination thereof would reasonably assure the safety of any other  
20 person or the community. The presumption may be rebutted by the  
21 defendant upon a showing of a preponderance of the evidence in  
22 support of the defendant.

23 This rebuttable presumption applies under current law when a  
24 prosecutor makes a motion for the pretrial detention of a defendant  
25 charged with murder or any crime for which the defendant would be  
26 subject to an ordinary or extended term of life imprisonment.

27 The bill further imposes mandatory sentencing for motor vehicle  
28 theft under N.J.S.2C:20-2, and unlawful taking of a means of  
29 conveyance, or “joyriding,” under N.J.S.2C:20-10. Under the bill,  
30 the term of imprisonment is to include the imposition of a minimum  
31 term fixed at, or between, one-third and one-half of the sentence  
32 imposed by the court. For a second conviction under either statute,  
33 the minimum term is to be fixed at one-half of the sentence imposed  
34 by the court, or 30 months for a crime of the third degree,  
35 whichever is greater. For a second conviction of a crime of the  
36 fourth degree, a minimum term fixed at one half of the sentence  
37 imposed by the court or nine months, whichever is greater. For a  
38 third or subsequent conviction, the minimum term shall be fixed at  
39 five years, for a crime of the third degree, and 18 months for a  
40 crime of the fourth degree.

41 Under paragraph (2) of subsection b. of N.J.S.2C:20-2, theft of a  
42 motor vehicle is currently graded as a crime of the third degree  
43 which is ordinarily punishable by three to five years imprisonment,  
44 a fine of up to \$10,000 or both. Under N.J.S.2C:20-10 the unlawful  
45 taking of a motor vehicle is graded as a crime of the third or the  
46 fourth degree depending on the attendant circumstances. Under  
47 subsection e. of N.J.S.2C:44-1, theft of a motor vehicle and  
48 unlawful taking of a means of conveyance are presently excluded

1 from the presumption of non-imprisonment ordinarily applicable to  
2 a crime of the third or fourth degree, meaning there is no  
3 presumption either of imprisonment or non-imprisonment.

4 It is the sponsors' view that imposing mandatory sentencing for  
5 these crimes is necessary to eliminate the incentive to commit a  
6 motor vehicle theft offense with no risk of incarceration.