

ASSEMBLY, No. 4248

STATE OF NEW JERSEY 220th LEGISLATURE

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.