

ASSEMBLY, No. 4595

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED SEPTEMBER 22, 2022

Sponsored by:

Assemblyman KEVIN J. ROONEY
District 40 (Bergen, Essex, Morris and Passaic)
Assemblyman RALPH R. CAPUTO
District 28 (Essex)
Assemblywoman KIM EULNER
District 11 (Monmouth)

Co-Sponsored by:

Assemblywomen Piperno, Flynn, Assemblyman S.Kean, Assemblywomen Sawyer, Dunn and Assemblyman Thomson

SYNOPSIS

Increases penalties for repeat conviction of certain motor vehicle related crimes; increases penalties for leader of auto theft trafficking network in certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/6/2023)

A4595 ROONEY, CAPUTO

2

1 AN ACT concerning motor vehicle theft and amending various parts
2 of the statutory law.

3

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

6

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

8 2C:43-6. a. Except as otherwise provided, a person who has
9 been convicted of a crime may be sentenced to imprisonment, as
10 follows:

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

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

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

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

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

35 c. A person who has been convicted under subsection b. or d.
36 of N.J.S.2C:39-3, subsection a. of N.J.S.2C:39-4, subsection a. of
37 section 1 of P.L.1998, c.26 (C.2C:39-4.1), subsection a., b., c., or f.
38 of N.J.S.2C:39-5, subsection a. or paragraph (2) or (3) of subsection
39 b. of section 6 of P.L.1979, c.179 (C.2C:39-7), or subsection a., b.,
40 e. or g. of N.J.S.2C:39-9, or of a crime under any of the following
41 sections: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-
42 3a., 2C:15-1, 2C:18-2, 2C:29-5, who, while in the course of
43 committing or attempting to commit the crime, including the
44 immediate flight therefrom, used or was in possession of a firearm
45 as defined in 2C:39-1f., shall be sentenced to a term of

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 imprisonment by the court. The term of imprisonment shall include
2 the imposition of a minimum term. The minimum term shall be
3 fixed at one-half of the sentence imposed by the court or 42 months,
4 whichever is greater, or 18 months in the case of a fourth degree
5 crime, during which the defendant shall be ineligible for parole.

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

10 A person who has been convicted of an offense enumerated by
11 this subsection and who used or possessed a firearm during its
12 commission, attempted commission or flight therefrom and who has
13 been previously convicted of an offense involving the use or
14 possession of a firearm as defined in 2C:44-3d., shall be sentenced
15 by the court to an extended term as authorized by 2C:43-7c.,
16 notwithstanding that extended terms are ordinarily discretionary
17 with the court.

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

28 (2) The court shall not impose a mandatory sentence pursuant to
29 subsection c. of this section for a violation of paragraph (2) of
30 subsection b. of N.J.S.2C:39-5; a violation of paragraph (2) of
31 subsection c. of N.J.S.2C:39-5, if that rifle or shotgun is in the
32 nature of an air gun, spring gun or pistol or other weapon of a
33 similar nature in which the propelling force is a spring, elastic band,
34 carbon dioxide, compressed or other gas or vapor, air or compressed
35 air, or is ignited by compressed air, and ejecting a bullet or missile
36 smaller than three-eighths of an inch in diameter, with sufficient
37 force to injure a person; or a violation of paragraph (1) of
38 subsection c. of N.J.S.2C:39-5.

39 e. A person convicted of a third or subsequent offense
40 involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any
41 other provision of this code, or under any of the provisions of Title
42 54 of the Revised Statutes, or Title 54A of the New Jersey Statutes,
43 as amended and supplemented, shall be sentenced to a term of
44 imprisonment by the court. This shall not preclude an application
45 for and imposition of an extended term of imprisonment under
46 N.J.S.2C:44-3 if the provisions of that section are applicable to the
47 offender.

1 f. A person convicted of manufacturing, distributing,
2 dispensing or possessing with intent to distribute any dangerous
3 substance or controlled substance analog under N.J.S.2C:35-5, of
4 maintaining or operating a controlled dangerous substance
5 production facility under N.J.S.2C:35-4, of employing a juvenile in
6 a drug distribution scheme under N.J.S.2C:35-6, leader of a
7 narcotics trafficking network under N.J.S.2C:35-3, or of
8 distributing, dispensing or possessing with intent to distribute on or
9 near school property or buses under section 1 of P.L.1987, c.101
10 (C.2C:35-7), who has been previously convicted of manufacturing,
11 distributing, dispensing or possessing with intent to distribute a
12 controlled dangerous substance or controlled substance analog,
13 shall upon application of the prosecuting attorney be sentenced by
14 the court to an extended term as authorized by subsection c. of
15 N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily
16 discretionary with the court. The term of imprisonment shall,
17 except as may be provided in N.J.S.2C:35-12, include the
18 imposition of a minimum term. The minimum term shall be fixed
19 at, or between, one-third and one-half of the sentence imposed by
20 the court or three years, whichever is greater, not less than seven
21 years if the person is convicted of a violation of N.J.S.2C:35-6, or
22 18 months in the case of a fourth degree crime, during which the
23 defendant shall be ineligible for parole.

24 The court shall not impose an extended term pursuant to this
25 subsection unless the ground therefor has been established at a
26 hearing. At the hearing, which may occur at the time of sentencing,
27 the prosecutor shall establish the ground therefor by a
28 preponderance of the evidence. In making its finding, the court shall
29 take judicial notice of any evidence, testimony or information
30 adduced at the trial, plea hearing, or other court proceedings and
31 shall also consider the presentence report and any other relevant
32 information.

33 For the purpose of this subsection, a previous conviction exists
34 where the actor has at any time been convicted under chapter 35 of
35 this title or Title 24 of the Revised Statutes or under any similar
36 statute of the United States, this State, or any other state for an
37 offense that is substantially equivalent to N.J.S.2C:35-3,
38 N.J.S.2C:35-4, N.J.S.2C:35-5, N.J.S.2C:35-6 or section 1 of
39 P.L.1987, c.101 (C.2C:35-7).

40 g. Any person who has been convicted under subsection a. of
41 N.J.S.2C:39-4 or of a crime under any of the following sections:
42 N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:12-1b., N.J.S.2C:13-1,
43 N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2,
44 N.J.S.2C:29-5, N.J.S.2C:35-5 who, while in the course of
45 committing or attempting to commit the crime, including the
46 immediate flight therefrom, used or was in possession of a machine
47 gun or assault firearm shall be sentenced to a term of imprisonment
48 by the court. The term of imprisonment shall include the

1 imposition of a minimum term. The minimum term shall be fixed at
2 10 years for a crime of the first or second degree, five years for a
3 crime of the third degree, or 18 months in the case of a fourth
4 degree crime, during which the defendant shall be ineligible for
5 parole.

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

10 A person who has been convicted of an offense enumerated in
11 this subsection and who used or possessed a machine gun or assault
12 firearm during its commission, attempted commission or flight
13 therefrom and who has been previously convicted of an offense
14 involving the use or possession of any firearm as defined in
15 subsection d. of N.J.S.2C:44-3, shall be sentenced by the court to an
16 extended term as authorized by subsection d. of N.J.S.2C:43-7,
17 notwithstanding that extended terms are ordinarily discretionary
18 with the court.

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

29 i. A person who has been convicted under paragraph (6) of
30 subsection b. of 2C:12-1 of causing bodily injury while eluding
31 shall be sentenced to a term of imprisonment by the court. The
32 term of imprisonment shall include the imposition of a minimum
33 term. The minimum term shall be fixed at, or between one-third
34 and one-half of the sentence imposed by the court. The minimum
35 term established by this subsection shall not prevent the court from
36 imposing a presumptive term of imprisonment pursuant to
37 paragraph (1) of subsection f. of 2C:44-1.

38 j. A person convicted of theft of a motor vehicle pursuant to
39 subparagraph (b) of paragraph (2) of subsection b. of N.J.S.2C:20-2
40 or receiving stolen property that is a motor vehicle pursuant to
41 N.J.S.2C:20-7, and who has been previously convicted of theft of a
42 motor vehicle or receiving stolen property that is a vehicle, shall,
43 upon application of the prosecuting attorney, be sentenced by the
44 court to an extended term of imprisonment as authorized by
45 subsection a. of N.J.S.2C:43-7, notwithstanding that extended terms
46 ordinarily are discretionary with the court.

47 The court shall not impose an extended term pursuant to this
48 subsection unless the ground therefor has been established at a

1 hearing. At the hearing, which may occur at the time of sentencing,
2 the prosecutor shall establish the ground therefor by a
3 preponderance of the evidence. In making its finding, the court
4 shall take judicial notice of any evidence, testimony or information
5 adduced at the trial, plea hearing, or other court proceeding and also
6 shall consider the presentence report and any other relevant
7 information.

8 For the purposes of this subsection, a previous conviction exists
9 where the actor has at any time been convicted or adjudicated
10 delinquent for motor vehicle theft or receiving stolen property that
11 is a vehicle under chapter 20 of this Title or under any similar
12 statute of the United States, this State, or any other state for an
13 offense that is substantially equivalent to N.J.S.2C:20-2 or
14 receiving stolen property that is a motor vehicle pursuant to
15 N.J.S.2C:20-7.

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

17

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

19 2C:44-1. a. In determining the appropriate sentence to be
20 imposed on a person who has been convicted of an offense, the
21 court shall consider the following aggravating circumstances:

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

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

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

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

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

40 (6) The extent of the defendant's prior criminal record and the
41 seriousness of the offenses of which the defendant has been
42 convicted;

43 (7) The defendant committed the offense pursuant to an
44 agreement to either pay or be paid for the commission of the
45 offense and the pecuniary incentive was beyond that inherent in the
46 offense itself;

47 (8) The defendant committed the offense against a police or
48 other law enforcement officer, correctional employee or firefighter,

1 acting in the performance of the officer, employee, or firefighter
2 duties while in uniform or exhibiting evidence of his authority; the
3 defendant committed the offense because of the status of the victim
4 as a public servant; or the defendant committed the offense against
5 a sports official, athletic coach or manager, acting in or immediately
6 following the performance of the person's duties or because of the
7 person's status as a sports official, coach or manager;

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

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

12 (11) The imposition of a fine, penalty, or order of restitution
13 without also imposing a term of imprisonment would be perceived
14 by the defendant or others merely as part of the cost of doing
15 business, or as an acceptable contingent business or operating
16 expense associated with the initial decision to resort to unlawful
17 practices;

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

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

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

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

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

35 (1) The defendant's conduct neither caused nor threatened
36 serious harm;

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

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

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

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

44 (6) The defendant has compensated or will compensate the
45 victim of the defendant's conduct for the damage or injury that the
46 victim sustained, or will participate in a program of community
47 service;

- 1 (7) The defendant has no history of prior delinquency or
2 criminal activity or has led a law-abiding life for a substantial
3 period of time before the commission of the present offense;
- 4 (8) The defendant's conduct was the result of circumstances
5 unlikely to recur;
- 6 (9) The character and attitude of the defendant indicate that the
7 defendant is unlikely to commit another offense;
- 8 (10) The defendant is particularly likely to respond affirmatively
9 to probationary treatment;
- 10 (11) The imprisonment of the defendant would entail excessive
11 hardship to the defendant or the defendant's dependents;
- 12 (12) The willingness of the defendant to cooperate with law
13 enforcement authorities;
- 14 (13) The conduct of a youthful defendant was substantially
15 influenced by another person more mature than the defendant; and
- 16 (14) The defendant was under 26 years of age at the time of the
17 commission of the offense.
- 18 c. (1) A plea of guilty by a defendant or failure to so plead
19 shall not be considered in withholding or imposing a sentence of
20 imprisonment.
- 21 (2) When imposing a sentence of imprisonment the court shall
22 consider the defendant's eligibility for release under the law
23 governing parole, including time credits awarded pursuant to Title
24 30 of the Revised Statutes, in determining the appropriate term of
25 imprisonment.
- 26 d. Presumption of imprisonment. The court shall deal with a
27 person who has been convicted of a crime of the first or second
28 degree, or a crime of the third degree where the court finds that the
29 aggravating factor in paragraph (5), (14), or (15) of subsection a. of
30 this section applies, by imposing a sentence of imprisonment unless,
31 having regard to the character and condition of the defendant, it is
32 of the opinion that the defendant's imprisonment would be a serious
33 injustice which overrides the need to deter such conduct by others.
34 Notwithstanding the provisions of subsection e. of this section, the
35 court shall deal with a person who has been convicted of theft of a
36 motor vehicle, **[or of the]** unlawful taking of a motor vehicle, or
37 receiving stolen property that is a motor vehicle and who has
38 previously been convicted of **[either offense]** one of these offenses
39 by imposing a sentence of imprisonment that is subject to an
40 extended term as authorized pursuant to subsection a. of
41 N.J.S.2C:43-7 and subsection j. of N.J.S.2C:43-6 unless, having
42 regard to the character and condition of the defendant, it is of the
43 opinion that imprisonment would be a serious injustice which
44 overrides the need to deter such conduct by others.
- 45 e. The court shall deal with a person convicted of an offense
46 other than a crime of the first or second degree, who has not
47 previously been convicted of an offense, without imposing a
48 sentence of imprisonment unless, having regard to the nature and

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

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

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

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

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

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

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

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

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

1 weighs in favor of a higher or lower term within the limits
2 authorized, sentences imposed pursuant to paragraph (2) of
3 subsection a. of N.J.S.2C:43-7 shall have a presumptive term of 50
4 years' imprisonment; sentences imposed pursuant to paragraph (3)
5 of subsection a. of N.J.S.2C:43-7 shall have a presumptive term of
6 15 years' imprisonment; and sentences imposed pursuant to
7 paragraph (4) of subsection a. of N.J.S.2C:43-7 shall have a
8 presumptive term of seven years' imprisonment.

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

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

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

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

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

37

38 3. Section 24 of P.L.1982, c.77 (C.2A:4A-43) is amended to
39 read as follows:

40 24. Disposition of delinquency cases. a. In determining the
41 appropriate disposition for a juvenile adjudicated delinquent the
42 court shall weigh the following factors:

43 (1) The nature and circumstances of the offense;

44 (2) The degree of injury to persons or damage to property
45 caused by the juvenile's offense;

46 (3) The juvenile's age, previous record, prior social service
47 received, and out-of-home placement history;

1 (4) Whether the disposition supports family strength,
2 responsibility, and unity and the well-being and physical safety of
3 the juvenile;

4 (5) Whether the disposition provides for reasonable
5 participation by the child's parent, guardian, or custodian, provided,
6 however, that the failure of a parent or parents to cooperate in the
7 disposition shall not be weighed against the juvenile in arriving at
8 an appropriate disposition;

9 (6) Whether the disposition recognizes and treats the unique
10 physical, psychological, and social characteristics and needs of the
11 child;

12 (7) Whether the disposition contributes to the developmental
13 needs of the child, including the academic and social needs of the
14 child where the child has intellectual disabilities or learning
15 disabilities;

16 (8) Any other circumstances related to the offense and the
17 juvenile's social history as deemed appropriate by the court;

18 (9) The impact of the offense on the victim or victims;

19 (10) The impact of the offense on the community; and

20 (11) The threat to the safety of the public or any individual posed
21 by the child.

22 b. If a juvenile is adjudged delinquent, and except to the extent
23 that an additional specific disposition is required pursuant to this
24 section, the court, in accordance with subsection i. of section 2 of
25 P.L.1982, c.77 (C.2A:4A-21), may order incarceration pursuant to
26 section 25 of P.L.1982, c.77 (C.2A:4A-44) or the court may order
27 any one or more of the following dispositions:

28 (1) Adjourn formal entry of disposition of the case for a period
29 not to exceed 12 months for the purpose of determining whether the
30 juvenile makes a satisfactory adjustment, and if during the period of
31 continuance the juvenile makes such an adjustment, dismiss the
32 complaint;

33 (2) Release the juvenile to the supervision of the juvenile's
34 parent or guardian;

35 (3) Place the juvenile on probation to the chief probation officer
36 of the county or to any other suitable person who agrees to accept
37 the duty of probation supervision for a period not to exceed three
38 years upon such written conditions as the court deems will aid
39 rehabilitation of the juvenile;

40 (4) Transfer custody of the juvenile to any relative or other
41 person determined by the court to be qualified to care for the
42 juvenile;

43 (5) Place the juvenile under the care and responsibility of the
44 Department of Children and Families so that the commissioner may
45 designate a division or organizational unit in the department
46 pursuant to P.L.1951, c.138 (C.30:4C-1 et seq.) for the purpose of
47 providing services in or out of the home. Within 14 days, unless for
48 good cause shown, but not later than 30 days, the Department of

1 Children and Families shall submit to the court a service plan,
2 which shall be presumed valid, detailing the specifics of any
3 disposition order. The plan shall be developed within the limits of
4 fiscal and other resources available to the department. If the court
5 determines that the service plan is inappropriate, given existing
6 resources, the department may request a hearing on that
7 determination;

8 (6) Place the juvenile under the care and custody of the
9 Commissioner of Children and Families for the purpose of
10 receiving the services of the Division of Children's System of Care
11 of that department, provided that the juvenile has been determined
12 to be eligible for those services under P.L.1965, c.59, s.16 (C.30:4-
13 25.4);

14 (7) Commit the juvenile, pursuant to applicable laws and the
15 Rules of Court governing civil commitment, to the Department of
16 Children and Families under the responsibility of the Division of
17 Children's System of Care for the purpose of placement in a suitable
18 public or private hospital or other residential facility for the
19 treatment of persons who are mentally ill, on the ground that the
20 juvenile is in need of involuntary commitment;

21 (8) (Deleted by amendment, P.L.2019, c.363)

22 (9) Order the juvenile to make restitution to a person or entity
23 who has suffered loss resulting from personal injuries or damage to
24 property as a result of the offense for which the juvenile has been
25 adjudicated delinquent. The court may determine the reasonable
26 amount, terms, and conditions of restitution. If the juvenile
27 participated in the offense with other persons, the participants shall
28 be jointly and severally responsible for the payment of restitution.
29 The court shall not require a juvenile to make full or partial
30 restitution if the juvenile reasonably satisfies the court that the
31 juvenile does not have the means to make restitution and could not
32 reasonably acquire the means to pay restitution;

33 (10) Order that the juvenile perform community services under
34 the supervision of a probation division or other agency or individual
35 deemed appropriate by the court. Such services shall be
36 compulsory and reasonable in terms of nature and duration. Such
37 services may be performed without compensation, provided that any
38 money earned by the juvenile from the performance of community
39 services may be applied towards any payment of restitution or fine
40 which the court has ordered the juvenile to pay;

41 (11) Order that the juvenile participate in work programs which
42 are designed to provide job skills and specific employment training
43 to enhance the employability of job participants. Such programs
44 may be without compensation, provided that any money earned by
45 the juvenile from participation in a work program may be applied
46 towards any payment of restitution or fine which the court has
47 ordered the juvenile to pay;

1 (12) Order that the juvenile participate in programs emphasizing
2 self-reliance, such as intensive outdoor programs teaching survival
3 skills, including but not limited to camping, hiking, and other
4 appropriate activities;

5 (13) Order that the juvenile participate in a program of academic
6 or vocational education or counseling, such as a youth service
7 bureau, requiring attendance at sessions designed to afford access to
8 opportunities for normal growth and development. This may
9 require attendance after school, evenings, and weekends;

10 (14) Place the juvenile in a suitable residential or nonresidential
11 program for the treatment of alcohol or narcotic abuse, provided
12 that the juvenile has been determined to be in need of such services;

13 (15) Order the parent or guardian of the juvenile to participate in
14 appropriate programs or services when the court has found either
15 that such person's omission or conduct was a significant
16 contributing factor towards the commission of the delinquent act,
17 or, under its authority to enforce litigant's rights, that such person's
18 omission or conduct has been a significant contributing factor
19 towards the ineffective implementation of a court order previously
20 entered in relation to the juvenile;

21 (16) (a) Place the juvenile in a nonresidential program operated
22 by a public or private agency, providing intensive services to
23 juveniles for specified hours, which may include education,
24 counseling to the juvenile and the juvenile's family if appropriate,
25 vocational training, employment counseling, work, or other
26 services;

27 (b) Place the juvenile under the custody of the Juvenile Justice
28 Commission established pursuant to section 2 of P.L.1995, c.284
29 (C.52:17B-170) for placement with any private group home or
30 private residential facility with which the commission has entered
31 into a purchase of service contract;

32 (17) Instead of or in addition to any disposition made according
33 to this section, the court may postpone, suspend, or revoke for a
34 period not to exceed two years the driver's license, registration
35 certificate, or both of any juvenile who used a motor vehicle in the
36 course of committing an act for which the juvenile was adjudicated
37 delinquent. In imposing this disposition and in deciding the duration
38 of the postponement, suspension, or revocation, the court shall
39 consider the circumstances of the act for which the juvenile was
40 adjudicated delinquent and the potential effect of the loss of driving
41 privileges on the juvenile's ability to be rehabilitated. Any
42 postponement, suspension, or revocation shall be imposed
43 consecutively with any custodial commitment;

44 (18) Order that the juvenile satisfy any other conditions
45 reasonably related to the rehabilitation of the juvenile;

46 (19) Order a parent or guardian who has failed or neglected to
47 exercise reasonable supervision or control of a juvenile who has
48 been adjudicated delinquent to make restitution to any person or

1 entity who has suffered a loss as a result of that offense. The court
2 may determine the reasonable amount, terms, and conditions of
3 restitution; or

4 (20) Place the juvenile, if eligible, in an appropriate juvenile
5 offender program established pursuant to P.L.1997, c.81 (C.30:8-61
6 et al.).

7 c. (1) If the county in which the juvenile has been adjudicated
8 delinquent has a juvenile detention facility meeting the physical and
9 program standards established pursuant to this subsection by the
10 Juvenile Justice Commission, the court may, in addition to any of
11 the dispositions not involving placement out of the home
12 enumerated in this section, incarcerate the juvenile in the youth
13 detention facility in that county for a term not to exceed 60
14 consecutive days. The decision by the court to incarcerate a
15 juvenile shall be made in accordance with subsection i. of section 2
16 of P.L.1982, c.77 (C.2A:4A-21). Counties which do not operate
17 their own juvenile detention facilities may contract for the use of
18 approved commitment programs with counties with which they
19 have established agreements for the use of pre-disposition juvenile
20 detention facilities. The Juvenile Justice Commission shall
21 promulgate such rules and regulations from time to time as deemed
22 necessary to establish minimum physical facility and program
23 standards for the use of juvenile detention facilities pursuant to this
24 subsection.

25 (2) A juvenile shall not be incarcerated in any county detention
26 facility unless the county has entered into an agreement with the
27 Juvenile Justice Commission concerning the use of the facility for
28 sentenced juveniles. Upon agreement with the county, the Juvenile
29 Justice Commission shall certify detention facilities which may
30 receive juveniles sentenced pursuant to this subsection and shall
31 specify the capacity of the facility that may be made available to
32 receive such juveniles; provided, however, that in no event shall the
33 number of juveniles incarcerated pursuant to this subsection exceed
34 50% of the maximum capacity of the facility.

35 (3) The court may fix a term of incarceration under this
36 subsection that is in accordance with subsection i. of section 2 of
37 P.L.1982, c.77 (C.2A:4A-21) and:

38 (a) The act for which the juvenile was adjudicated delinquent, if
39 committed by an adult, would have constituted a crime or repetitive
40 disorderly persons offense;

41 (b) Incarceration of the juvenile is consistent with the goals of
42 public safety, accountability, and rehabilitation and the court is
43 clearly convinced that the aggravating factors substantially
44 outweigh the mitigating factors as set forth in section 25 of
45 P.L.1982, c.77 (C.2A:4A-44); and

46 (c) The detention facility has been certified for admission of
47 adjudicated juveniles pursuant to paragraph (2).

1 (4) If as a result of incarceration of adjudicated juveniles
2 pursuant to this subsection, a county is required to transport a
3 predisposition juvenile to a juvenile detention facility in another
4 county, the costs of such transportation shall be borne by the
5 Juvenile Justice Commission.

6 d. Whenever the court imposes a disposition upon an
7 adjudicated delinquent which requires the juvenile to perform a
8 community service, restitution, or to participate in any other
9 program provided for in this section other than subsection c., the
10 duration of the juvenile's mandatory participation in such
11 alternative programs shall extend for a period consistent with the
12 program goal for the juvenile and shall in no event exceed one year
13 beyond the maximum duration permissible for the delinquent if the
14 juvenile had been committed to a term of incarceration.

15 e. In addition to any disposition the court may impose pursuant
16 to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the
17 following orders shall be included in dispositions of the
18 adjudications set forth below:

19 (1) An order to perform community service pursuant to
20 paragraph (10) of subsection b. of this section for a period of at
21 least 60 days, if the juvenile has been adjudicated delinquent for an
22 act which, if committed by an adult, would constitute the crime of
23 theft of a motor vehicle, receiving stolen property that is a motor
24 vehicle, or the crime of unlawful taking of a motor vehicle in
25 violation of subsection c. of N.J.S.2C:20-10, or the third degree
26 crime of eluding in violation of subsection b. of N.J.S.2C:29-2; and

27 (2) (Deleted by amendment, P.L.2019, c.363)

28 (3) An order to perform community service pursuant to
29 paragraph (10) of subsection b. of this section for a period of at
30 least 30 days, if the juvenile has been adjudicated delinquent for an
31 act which, if committed by an adult, would constitute the fourth
32 degree crime of unlawful taking of a motor vehicle in violation of
33 subsection b. of N.J.S.2C:20-10; and

34 (4) (Deleted by amendment, P.L.2019, c.363)

35 (5) An order of incarceration for a term of the duration
36 authorized pursuant to this section or section 25 of P.L.1982, c.77
37 (C.2A-4A-44) shall include a mandatory minimum term of 60 days
38 during which the juvenile shall be ineligible for parole if the
39 juvenile has been adjudicated delinquent for an act which, if
40 committed by an adult, would constitute the second degree crime of
41 eluding in violation of subsection b. of N.J.S.2C:29-2, theft of a
42 motor vehicle, or receiving stolen property that is a motor vehicle,
43 and the juvenile has previously been adjudicated delinquent for an
44 act, which if committed by an adult, would constitute unlawful
45 taking of a motor vehicle or theft of a motor vehicle or receiving
46 stolen property that is a motor vehicle.

47 f. (1) (Deleted by amendment, P.L.2019, c.363)

48 (2) (Deleted by amendment, P.L.2019, c.363)

1 (3) (Deleted by amendment, P.L.2019, c.363)

2 g. Whenever the court imposes a disposition upon an
3 adjudicated delinquent which requires the juvenile to perform a
4 community service, restitution, or to participate in any other
5 program provided for in this section, the order shall include
6 provisions which provide balanced attention to the protection of the
7 community, accountability for offenses committed, fostering
8 interaction and dialogue between the offender, victim, and
9 community and the development of competencies to enable the
10 child to become a responsible and productive member of the
11 community.

12 (cf: P.L.2021, c.342, s.1)

13

14 4. Section 1 of P.L.1991, c.82 (C.2C:20-18) is amended to read
15 as follows:

16 1. A person is a leader of an auto theft trafficking network if he
17 conspires with others as an organizer, supervisor, financier or
18 manager, to engage for profit in a scheme or course of conduct to
19 unlawfully take, dispose of, distribute, bring into or transport in this
20 State automobiles as stolen property.

21 a. Leader of auto theft trafficking network is a crime of the
22 second degree. Notwithstanding the provisions of subsection a. of
23 N.J.S.2C:43-3, the court may impose a fine not to exceed
24 \$250,000.00 or five times the retail value of the automobiles seized
25 at the time of the arrest, whichever is greater.

26 b. Leader of auto theft trafficking network is a crime of the
27 first degree if a person conspires with others including a person 17
28 years of age or younger as an organizer, supervisor, financier, or
29 manager, to engage for profit in a scheme or course of conduct to
30 unlawfully take, dispose of, distribute, bring into or transport in this
31 State automobiles as stolen property. It shall not be a defense to a
32 prosecution under this section that the actor mistakenly believed
33 that the person which the actor organized, supervised, financed, or
34 managed was older than 17 years of age, even if such mistaken
35 belief was reasonable. Notwithstanding the provision of subsection
36 a of N.J.S.2C:43-3, the court may impose a fine not to exceed
37 \$500,000 or five times the retail value of the automobiles seized at
38 the time of arrest, whichever is greater.

39 Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of
40 leader of auto theft trafficking network shall not merge with the
41 conviction for any offense which is the object of the conspiracy.
42 Nothing contained in this act shall prohibit the court from imposing
43 an extended term pursuant to N.J.S.2C:43-7; nor shall this act be
44 construed in any way to preclude or limit the prosecution or
45 conviction of any person for conspiracy under N.J.S.2C:5-2, or any
46 prosecution or conviction for any other offense.

47 It shall not be necessary in any prosecution under this act for the
48 State to prove that any intended profit was actually realized. The

1 trier of fact may infer that a particular scheme or course of conduct
2 was undertaken for profit from all of the attending circumstances,
3 including but not limited to the number of persons involved in the
4 scheme or course of conduct, the actor's net worth and his
5 expenditures in relation to his legitimate sources of income, the
6 number of automobiles involved, or the amount of cash or currency
7 involved.

8 It shall not be a defense to a prosecution under this act that the
9 automobile was brought into or transported in this State solely for
10 ultimate distribution in another jurisdiction; nor shall it be a defense
11 that any profit was intended to be made in another jurisdiction.

12 (cf: P.L.1991, c.82, s.1)

13

14 5. This act shall take effect immediately.

15

16

17

STATEMENT

18

19 This bill increases the time of incarceration an individual may
20 receive when committing motor vehicle crimes.

21 This bill enhances criminal penalties for repeat offenders of the
22 motor vehicle crimes of theft of a motor vehicle and receiving
23 stolen property that is a motor vehicle by subjecting these offenders
24 to extended terms of imprisonment. An extended term, upon
25 motion by the prosecutor, increases the term of imprisonment for
26 theft of a motor vehicle or receiving stolen property that is a motor
27 vehicle to five to 10 years, equivalent to a second-degree crime.
28 The court is required to establish the ground for an extended term
29 by a preponderance of the evidence.

30 The bill also amends N.J.S.A.2A:4A-43 to include receiving
31 stolen property that is a motor vehicle as a crime that requires a
32 juvenile to receive 60 days community service.

33 The bill requires a minimum 60 day period of incarceration for a
34 juvenile who commits the second degree crime of eluding, theft of
35 motor vehicle, or receiving stolen property that is a motor vehicle
36 and who has previously been adjudicated delinquent for an act of
37 motor vehicle theft or receiving stolen property that is a motor
38 vehicle.

39 Finally, the bill makes it a first degree crime for a leader of an
40 auto theft trafficking network to conspire with others including a
41 person 17 years of age or younger to engage for profit in a scheme
42 or course of conduct to unlawfully take, dispose of, distribute ,
43 bring into or transport in this State automobiles as stolen property.
44 In addition to imprisonment and a fine, the court may impose a fine
45 not to exceed \$500,000 or five times the retail value of the
46 automobiles seized at the time of arrest, whichever is greater. The
47 mistaken belief that the person was over 17 years of age is not a

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1 defense to the crime. A first-degree crime is punishable by 10 to 20
2 years imprisonment, a \$200,000 fine, or both.

3 It is the intent of the sponsor to contend with the growing issue
4 of car theft in the State and reduce the connected rise in violent
5 crime.