

[First Reprint]

**SENATE, No. 2008**

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# **STATE OF NEW JERSEY**

## **220th LEGISLATURE**

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INTRODUCED MARCH 3, 2022

**Sponsored by:**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

**Senator Polistina**

### **SYNOPSIS**

Establishes “Health Care Heroes Violence Prevention Act.”

### **CURRENT VERSION OF TEXT**

As reported by the Senate Health, Human Services and Senior Citizens Committee on May 12, 2022, with amendments.



**(Sponsorship Updated As Of: 9/22/2022)**

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

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

8  
 9 1. (New section) This act may be known and may be cited as  
 10 the “Health Care Heroes Violence Prevention Act.”

11  
 12 2. N.J.S.2C:44-1 is amended to read as follows:

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

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

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

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

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

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

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

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

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

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SHH committee amendments adopted May 12, 2022.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43

44       4. (New section) a. In addition to any fine imposed pursuant  
45 to N.J.S.2C:43-3 or any term of imprisonment pursuant to  
46 N.J.S.2C:43-6, the court may order any defendant who commits an

1 assault pursuant to N.J.S.2C:12-1 against any <sup>1</sup>【person employed  
2 by a health care facility, which is licensed by the Department of  
3 Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)】 health care  
4 professional, volunteer working for a health care professional or  
5 working at a health care facility, or employee of a health care  
6 professional or health care facility<sup>1</sup>, while <sup>1</sup>the health care  
7 professional, volunteer, or employee is<sup>1</sup> performing official duties  
8 <sup>1</sup><sub>2</sub><sup>1</sup> to satisfactorily complete an anger management course.

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

12 c. A defendant shall pay the enrollment cost of <sup>1</sup>【the ordered】  
13 an<sup>1</sup> anger management course <sup>1</sup>ordered pursuant to this section<sup>1</sup> .

14 d. A defendant sentenced to an anger management course  
15 <sup>1</sup>pursuant to this section<sup>1</sup> shall have one year to comply with the  
16 court order. Failure to satisfactorily complete the course within one  
17 year shall constitute a violation of the order. Any defendant who  
18 fails to comply with the court order requiring an anger management  
19 course may be subject to an additional penalty of up to \$500.

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

24 f. The Administrative Office of the Courts shall establish  
25 standards and procedures for certification of anger management  
26 courses required pursuant to this section.

27

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

39 b. The court may order the <sup>1</sup>【person】 defendant<sup>1</sup> to perform  
40 community service <sup>1</sup>pursuant to this section<sup>1</sup> in lieu of part of the  
41 <sup>1</sup>【person's】 defendant's<sup>1</sup> period of incarceration. The court  
42 <sup>1</sup>【shall】 may<sup>1</sup> impose a term of community service of up to 30  
43 days.

44 c. The Administrative Office of the Courts shall establish  
45 standards and procedures for <sup>1</sup>the<sup>1</sup> certification of community



1 service <sup>1</sup>["for any person"] organizations and providers to which a  
2 defendant may be<sup>1</sup> sentenced pursuant to this section.

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

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

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

26  
27 <sup>1</sup>7. (New section) a. A physician responsible for managing a  
28 professional physician practice shall prominently display a written  
29 notice in a conspicuous public location that contains the following  
30 or substantially similar statement: "It is a crime to assault a health  
31 care professional, any volunteer working for a health care  
32 professional or working at a health care facility, or any employee of  
33 a health care professional or a health care facility, while the health  
34 care professional, volunteer, or employee is performing official  
35 duties. Any person who assaults a health care professional,  
36 volunteer, or employee in violation of this prohibition shall be  
37 subject to a fine, imprisonment, or both under the New Jersey Code  
38 of Criminal Justice, N.J.S.2C:1-1 et seq."

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

43  
44 <sup>1</sup>["7.] 8.<sup>1</sup> This act shall take effect immediately.