

2C:43-5

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:43-5

(Mandatory sentences for crime committed with firearms)

LAWS OF: 1983

CHAPTER: 92

Bill No: S1691

Sponsor(s): Graves, Hirkala and Bubba

Date Introduced: Sept. 16, 1982

Committee: Assembly: Judiciary, Law, Public Safety and Defense

Senate: Law, Public Safety and Defense

Amended during passage: Yes // Amendments during passage denoted by asterisks

Date of Passage: Assembly: Feb. 14, 1983

Senate: Nov. 8, 1982

Date of Approval: March 11, 1983

Following statements are attached if available:

Sponsor statement: Yes //

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: /// No

Following were printed:

Reports: /// No

Hearings: /// No

3-11-83

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SENATE, No. 1691

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 16, 1982

By Senators GRAVES, HIRKALA and BUBBA

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning mandatory minimum terms of imprisonment for commission of certain crimes with a firearm and amending N. J. S. 2C:43-5 ***[and N. J. S. 2C:43-6]***

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2C:43-5 is amended to read as follows:

2 2C:43-5. Young Adult Offenders. Any person who, at the time
3 of sentencing, is less than 26 years of age and who has been con-
4 victed of a crime ***[other than those enumerated in subsection c. of**
5 **N. J. S. 2C:43-6]*** may be sentenced to an indeterminate term at
6 the Youth Correctional Institution Complex in accordance with
7 R. S. 30:4-146 et seq. in the case of men, and to the Correctional
8 Institution for Women, in accordance with R. S. 30:4-153 et seq.,
9 in the case of women, instead of the sentences otherwise authorized
10 by the code. **This section shall not apply to any person less than*
11 *26 years of age at the time of sentencing who qualifies for a*
12 *mandatory minimum term of imprisonment without eligibility for*
13 *parole, pursuant to to subsection c. of N. J. S. 2C:43-6; however,*
14 *notwithstanding the provisions of subsection c. of N. J. S. 2C:43-6,*
15 *the mandatory minimum term may be served at the Youth Correc-*
16 *tional Institution Complex or the Correctional Institution for*
17 *Women.**

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

2 2C:43-6. Sentence of Imprisonment for Crime; Ordinary
3 Terms; Mandatory Terms.

4 a. Except at otherwise provided, a person who has been convicted
5 of a crime may be sentenced to imprisonment, as follows:

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 printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Senate committee amendments adopted October 18, 1982.**

49 been previously convicted of an offense involving the use or
50 possession of a firearm as defined in 2C:44-3d., shall be sentenced
51 by the court to an extended term as authorized by 2C:43-7c., not-
52 withstanding that extended terms are ordinarily discretionary
53 with the court.

54 d. The court shall not impose a mandatory sentence pursuant to
55 subsection c. of this section 2C:43-7c. or 2C:44-3d., unless the
56 ground therefor has been established at a hearing. At the hearing,
57 which may occur at the time of sentencing, the prosecutor shall
58 establish by a preponderance of the evidence that the weapon used
59 or possessed was a firearm. In making its finding, the court shall
60 take judicial notice of any evidence, testimony or information ad-
61 duced at the trial, plea hearing, or other court proceedings and shall
62 also consider the presentence report and any other relevant infor-
63 mation.】*

1 2. This act shall take effect immediately.

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO
SENATE, No. 1691

STATE OF NEW JERSEY

DATED: JANUARY 20, 1983

The purpose of this bill is to establish that adults under 26 years of age who have been convicted of committing any crime enumerated in N. J. S. 2C:43-6c. while in possession of a firearm are subject to the mandatory minimum sentences required by that statute.

According to N. J. S. 2C:43-5, persons under age 26 at the time of sentencing may be sentenced to indeterminate terms at the Youth Correctional Institution Complex or at the Correctional Institution for Women. The imposition of an indeterminate sentence precludes the imposition of a minimum term without eligibility for parole. Therefore, youthful offenders who would otherwise fall under the requirements of the mandatory sentencing law (N. J. S. 2C:43-6c.) may receive more lenient sentences.

This bill would require persons under age 26 who have committed one of the crimes enumerated in N. J. S. 2C:43-6c. while in possession of a firearm to be sentenced to a minimum term of imprisonment without eligibility for parole.

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SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO

SENATE, No. 1691

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 18, 1982

The purpose of this bill as amended by the committee, is to clarify that adults under 26 years of age who have been convicted of committing any crime enumerated in N. J. S. 2C:43-6c. while in possession of a firearm are subject to the mandatory minimum sentences required by that statute and that those sentences may be served at a youth correctional facility.

54 d. The court shall not impose a mandatory sentence pursuant to
55 subsection c. of this section 2C:43-7c. or 2C:44-3d., unless the
56 ground therefor has been established at a hearing. At the hearing,
57 which may occur at the time of sentencing, the prosecutor shall
58 establish by a preponderance of the evidence that the weapon used
59 or possessed was a firearm. In making its finding, the court shall
60 take judicial notice of any evidence, testimony or information ad-
61 duced at the trial, plea hearing, or other court proceedings and shall
62 also consider the presentence report and any other relevant infor-
63 mation.

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to establish that adults under 26 years of age who have been convicted of committing any crime enumerated in N. J. S. 2C:43-6c. while in possession of a firearm are subject to the mandatory minimum sentences required by that statute.

Under current law, persons under age 26 at the time of sentencing may be sentenced to indeterminate terms at the Youth Correctional Institution Complex or at the Correctional Institution for Women. Because the imposing of an indeterminate sentence precludes the imposition of a minimum term without eligibility for parole, youthful offenders who would otherwise fall under the requirements of N. J. S. 2C:43-6c. are receiving more lenient sentences.

This bill will eliminate a loophole in current law and further the State's effort to impose severe punishment on persons who use firearms to commit serious crimes.

51691 (1982)