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CL/MM

P.L. 2024, CHAPTER 83, *approved October 18, 2024*
Senate Committee Substitute for
Senate, Nos. 3006 and 3204

1 **AN ACT** concerning burglary of residential dwellings,
2 supplementing Title 2C of the New Jersey Statutes, and
3 amending various parts of the statutory law.

4

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

7

8 1. (New section) a. A person is guilty of home invasion
9 burglary if, with purpose to commit an offense therein or thereon,
10 the person, without license or privilege to do so, enters or
11 surreptitiously remains in a residential dwelling or accommodation,
12 or a separately secured portion thereof, and in the course of
13 committing the offense, the person:

14 (1) Purposely, knowingly or recklessly inflicts, attempts to
15 inflict, or threatens to inflict bodily injury on anyone; or

16 (2) Is armed with or displays what appear to be explosives or a
17 deadly weapon.

18 An act shall be deemed “in the course of committing” an offense
19 if it occurs in an attempt to commit an offense or in immediate
20 flight after the attempt or commission.

21 b. Home invasion burglary is a crime of the first degree, subject
22 to section 2 of P.L.1997, c.117 (C.2C:43-7.2).

23

24 2. (New section) a. A person is guilty of residential burglary if,
25 with purpose to commit an offense therein or thereon, the person:

26 (1) Enters a residential dwelling or accommodation, or a
27 separately secured portion thereof, unless the actor is licensed or
28 privileged to enter; or

29 (2) Surreptitiously remains in a residential dwelling or
30 accommodation, or a separately secured portion thereof, knowing
31 that the actor is not licensed or privileged to do so.

32 b. For the purposes of subsection a. of this section, it is not an
33 element of the offense that the actor knew that any other person was
34 present in the residential dwelling or accommodation when the
35 actor entered or surreptitiously remained therein, and it shall not be
36 a defense that the actor did not know that any other person was
37 present in the residential dwelling or accommodation when the
38 actor entered or surreptitiously remained therein.

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 c. Residential burglary is a crime of the second degree, subject to
2 section 2 of P.L.1997, c.117 (C.2C:43-7.2), unless the actor
3 demonstrates by a preponderance of evidence that the actor
4 reasonably believed that no resident or any other person, other than
5 a person acting in concert with the actor, was present in the
6 residential dwelling or accommodation when the actor entered or
7 surreptitiously remained therein, in which case the offense is a
8 crime of the second degree, not subject to section 2 of P.L.1997,
9 c.117 (C.2C:43-7.2).

10
11 3. Section 1 of P.L.2015, c.89 (C.2A:4A-26.1) is amended to
12 read as follows:

13 1. a. A prosecutor seeking waiver of jurisdiction of a juvenile
14 delinquency case by the Superior Court, Chancery Division, Family
15 Part to an appropriate court and prosecuting authority without the
16 consent of the juvenile shall file a motion within 60 days after the
17 receipt of the complaint, which time may be extended for good
18 cause shown. The motion shall be accompanied by a written
19 statement of reasons clearly setting forth the facts used in assessing
20 all factors contained in paragraph (3) of subsection c. of this
21 section, together with an explanation as to how evaluation of those
22 facts support waiver for each particular juvenile.

23 b. At a hearing, the court shall receive the evidence offered by
24 the State and by the juvenile. The State shall provide proof to
25 satisfy the requirements set forth in paragraphs (1) and (2) of
26 subsection c. of this section. The court also shall review whether
27 the State considered the factors set forth in paragraph (3) of
28 subsection c. of this section.

29 c. Except as provided in paragraph (3) of this subsection, the
30 court shall waive jurisdiction of a juvenile delinquency case without
31 the juvenile's consent and shall refer the case to the appropriate
32 court and prosecuting authority having jurisdiction if:

33 (1) The juvenile was 15 years of age or older at the time of the
34 alleged delinquent act; and

35 (2) There is probable cause to believe that the juvenile
36 committed a delinquent act which if committed by an adult would
37 constitute:

38 (a) criminal homicide, other than death by auto;

39 (b) strict liability for drug-induced deaths;

40 (c) first degree robbery;

41 (d) carjacking;

42 (e) aggravated sexual assault;

43 (f) sexual assault;

44 (g) second degree aggravated assault;

45 (h) kidnapping;

46 (i) aggravated arson;

47 (j) possession of a firearm with a purpose to use it unlawfully
48 against the person of another under subsection a. of N.J.S.2C:39-4,

1 or possession of a firearm while committing or attempting to
2 commit, including the immediate flight therefrom, aggravated
3 assault, aggravated criminal sexual contact, burglary, home
4 invasion burglary, residential burglary, or escape;

5 (k) a violation of N.J.S.2C:35-3 (Leader of a Narcotics
6 Trafficking Network);

7 (l) a violation of N.J.S.2C:35-4 (Maintaining and Operating a
8 CDS Production Facility);

9 (m) a violation of section 1 of P.L.1998, c.26 (C.2C:39-4.1)
10 (Weapons Possession while Committing certain CDS Offenses);

11 (n) an attempt or conspiracy to commit any of the crimes
12 enumerated in subparagraphs (a) through (m) of this paragraph; or

13 (o) a crime committed at a time when the juvenile previously had
14 been sentenced and confined in an adult correctional facility.

15 (3) The court may deny a motion by the prosecutor to waive
16 jurisdiction of a juvenile delinquency case if it is clearly convinced
17 that the prosecutor abused his discretion in considering the
18 following factors in deciding whether to seek a waiver:

19 (a) The nature and circumstances of the offense charged;

20 (b) Whether the offense was against a person or property,
21 allocating more weight for crimes against the person;

22 (c) Degree of the juvenile's culpability;

23 (d) Age and maturity of the juvenile;

24 (e) Any classification that the juvenile is eligible for special
25 education to the extent this information is provided to the
26 prosecution by the juvenile or by the court;

27 (f) Degree of criminal sophistication exhibited by the juvenile;

28 (g) Nature and extent of any prior history of delinquency of the
29 juvenile and dispositions imposed for those adjudications;

30 (h) If the juvenile previously served a custodial disposition in a
31 State juvenile facility operated by the Juvenile Justice Commission,
32 and the response of the juvenile to the programs provided at the
33 facility to the extent this information is provided to the prosecution
34 by the Juvenile Justice Commission;

35 (i) Current or prior involvement of the juvenile with child
36 welfare agencies;

37 (j) Evidence of mental health concerns, substance use disorder,
38 or emotional instability of the juvenile to the extent this information
39 is provided to the prosecution by the juvenile or by the court; and

40 (k) If there is an identifiable victim, the input of the victim or
41 victim's family.

42 The Attorney General may develop for dissemination to the
43 county prosecutors those guidelines or directives deemed necessary
44 or appropriate to ensure the uniform application of this section
45 throughout the State.

46 d. An order waiving jurisdiction over a case and referring the
47 case to the appropriate court and prosecuting authority shall specify
48 the alleged act upon which the referral is based and all other

1 delinquent acts charged against the juvenile arising out of or related
2 to the same transaction.

3 e. Testimony of a juvenile at a hearing to determine referral
4 under this section shall not be admissible for any purpose in any
5 subsequent hearing to determine delinquency or guilt of any
6 offense.

7 f. Upon waiver of jurisdiction and referral to the appropriate
8 court and prosecuting authority having jurisdiction:

9 (1) The case shall proceed as if it originated in that court and
10 shall be subject to the sentencing provisions available to that court;
11 provided, however, upon conviction for any offense which is
12 subject to waiver pursuant to paragraph (2) of subsection c. of this
13 section, there shall be a presumption that the juvenile shall serve
14 any custodial sentence imposed in a State juvenile facility operated
15 by the Juvenile Justice Commission until the juvenile reaches the
16 age of 21, except that:

17 (a) a juvenile who has not reached the age of 21 may, in the
18 discretion of the Juvenile Justice Commission, be transferred to the
19 Department of Corrections in accordance with the plan established
20 pursuant to subsection e. of section 7 of P.L.1995, c.284 (C.52:17B-
21 175) and regulations adopted pursuant to that section; and

22 (b) a juvenile who has reached or exceeds the age of 21 may
23 continue to serve a sentence in a State juvenile facility operated by
24 the Juvenile Justice Commission in the discretion of the Juvenile
25 Justice Commission and if the juvenile so consents; otherwise the
26 juvenile shall serve the remainder of the custodial sentence in a
27 State correctional facility;

28 (2) If a juvenile is not convicted of an offense set forth in
29 paragraph (2) of subsection c. of this section, a conviction for any
30 other offense shall be deemed a juvenile adjudication and be
31 remanded to the Superior Court, Chancery Division, Family Part for
32 disposition, in accordance with the dispositional options available
33 to that court and all records related to the act of delinquency shall
34 be subject to the provisions of section 1 of P.L.1982, c.79
35 (C.2A:4A-60);

36 (3) With the consent of the defense and the prosecutor, at any
37 point in the proceedings subsequent to the decision ordering waiver
38 the court may remand to the Superior Court, Chancery Division,
39 Family Part if it appears that:

40 (a) the interests of the public and the best interests of the juvenile
41 require access to programs or procedures uniquely available to that
42 court; and

43 (b) the interests of the public are no longer served by waiver.

44 g. (1) The Juvenile Justice Commission, in consultation with the
45 Attorney General, shall establish a program to collect, record, and
46 analyze data regarding waiver of jurisdiction of a juvenile
47 delinquency case by the Superior Court, Chancery Division, Family
48 Part to an appropriate court and prosecuting authority. In

1 furtherance of this program, the Juvenile Justice Commission shall,
2 in cooperation with the Administrative Office of the Courts,
3 Attorney General, and county prosecutors, collect data related to the
4 decision to seek waiver of jurisdiction of a juvenile delinquency
5 case, which shall include but not be limited to data concerning:

6 (a) youth demographics, including age, gender, race, and
7 ethnicity;

8 (b) case characteristics, including the degree of the offense
9 waived, the degree of the offense convicted, and the final court
10 resolution;

11 (c) case processing times; and

12 (d) waiver rates by race and ethnicity.

13 (2) The commission shall prepare and publish on its Internet
14 website biennial reports summarizing the data collected, recorded,
15 and analyzed pursuant to paragraph (1) of this subsection.

16 (3) The commission shall, pursuant to section 2 of P.L. 1991,
17 c.164 (C.52:14-19.1), biennially prepare and transmit to the
18 Governor and the Legislature the reports required in paragraph (2)
19 of this subsection, along with any recommendations the commission
20 may have for legislation concerning waiver of jurisdiction of
21 juvenile delinquency cases.

22 (cf: P.L.2023, c.177, s.1)

23

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

25 2C:18-1. In this chapter, unless a different meaning plainly is
26 required:

27 “Structure” means any building, room, ship, vessel, car, vehicle
28 or airplane, and also means any place [adapted for overnight
29 accommodation of persons, or] for carrying on business therein,
30 whether or not a person is actually present.

31 “Utility Company Property” means property[;] (1) owned by a
32 public utility, as defined in R.S.48:2-13, or by a municipality,
33 county, water district, authority or other public agency[.]; and (2)
34 which is used for the purpose of providing electric, gas or water
35 utility service.

36 “Operational area” means any portion of a public airport, from
37 which access by the public is prohibited by fences or appropriate
38 signs, and includes runways, taxiways, all ramps, cargo ramps and
39 apron areas, aircraft parking and storage areas, fuel storage areas,
40 maintenance areas, and any other area of a public airport used or
41 intended to be used for landing, takeoff or surface maneuvering of
42 aircraft.

43 “Sterile area” means a portion of an airport, as set forth in an
44 airport security program approved by the Transportation Security
45 Administration, that provides passengers access to boarding aircraft
46 and to which the access generally is controlled by the
47 Transportation Security Administration, an aircraft operator

1 pursuant to 49 C.F.R. part 1544, or an air carrier pursuant to 49
2 C.F.R. part 1546, through the screening of persons and property.

3 “Residential dwelling or accommodation” means a permanent
4 structure intended as and currently being utilized as a residence by a
5 private person or persons, and any place adapted for overnight
6 accommodation of persons.

7 (cf: P.L.2013, c.138, s.1)

8

9 5. N.J.S.2C:18-2 is amended to read as follows:

10 2C:18-2. Burglary. a. Burglary defined. A person is guilty of
11 burglary if, with purpose to commit an offense therein or thereon,
12 **[he]** the person:

13 (1) Enters a research facility, structure other than a residential
14 dwelling, or a separately secured or occupied portion thereof unless
15 the structure was at the time open to the public or the actor is
16 licensed or privileged to enter;

17 (2) Surreptitiously remains in a research facility, structure other
18 than a residential dwelling, or a separately secured or occupied
19 portion thereof knowing that **[he]** the person is not licensed or
20 privileged to do so; or

21 (3) Trespasses in or upon utility company property where public
22 notice prohibiting trespass is given by conspicuous posting, or
23 fencing or other enclosure manifestly designed to exclude intruders.

24 b. Grading. Burglary is a crime of the second degree if in the
25 course of committing the offense, the actor:

26 (1) Purposely, knowingly or recklessly inflicts, attempts to inflict
27 or threatens to inflict bodily injury on anyone; or

28 (2) Is armed with or displays what appear to be explosives or a
29 deadly weapon.

30 Otherwise burglary is a crime of the third degree. An act shall
31 be deemed “in the course of committing” an offense if it occurs in
32 an attempt to commit an offense or in immediate flight after the
33 attempt or commission.

34 (cf: P.L.2009, c.283, s.2)

35

36 6. N.J.S.2C:35-14 is amended to read as follows:

37 2C:35-14. Rehabilitation Program for Persons with a Substance
38 Use Disorder Subject to a Presumption of Incarceration or a
39 Mandatory Minimum Period of Parole Ineligibility; Criteria for
40 Imposing Special Probation; Ineligible Offenders; Commitment to
41 Residential Treatment Facilities or Participation in a Nonresidential
42 Treatment Program; Presumption of Revocation; Brief Incarceration
43 in Lieu of Permanent Revocation.

44 a. Any person who is ineligible for probation due to a
45 conviction for a crime which is subject to a presumption of
46 incarceration or a mandatory minimum period of parole ineligibility
47 may be sentenced to a term of special probation in accordance with
48 this section, and may not apply for treatment for substance use

1 disorder pursuant to N.J.S.2C:45-1. Nothing in this section shall be
2 construed to prohibit a person who is eligible for probation in
3 accordance with N.J.S.2C:45-1 due to a conviction for an offense
4 which is not subject to a presumption of incarceration or a
5 mandatory minimum period of parole ineligibility from applying for
6 treatment for substance use disorder as a condition of probation
7 pursuant to N.J.S.2C:45-1; provided, however, that a person in need
8 of treatment as defined in subsection f. of section 2 of P.L.2012,
9 c.23 (C.2C:35-14.2) shall be sentenced in accordance with that
10 section. Notwithstanding the presumption of incarceration pursuant
11 to the provisions of subsection d. of N.J.S.2C:44-1, whenever a
12 person with a substance use disorder who is subject to sentencing
13 under this section is convicted of or adjudicated delinquent for an
14 offense, other than one described in subsection b. of this section,
15 the court, upon notice to the prosecutor, may, on motion of the
16 person, or on the court's own motion, place the person on special
17 probation, which shall be for a term of five years, provided that the
18 court finds on the record that:

19 (1) the person has undergone a professional diagnostic
20 assessment to determine whether and to what extent the person has
21 a substance use disorder and would benefit from treatment; and

22 (2) the person has a substance use disorder within the meaning
23 of N.J.S.2C:35-2 and was with a substance use disorder at the time
24 of the commission of the present offense; and

25 (3) the present offense was committed while the person was
26 under the influence of a controlled dangerous substance, controlled
27 substance analog or alcohol or was committed to acquire property
28 or monies in order to support the person's substance use disorder;
29 and

30 (4) substance use disorder treatment and monitoring will serve
31 to benefit the person by addressing the person's substance use
32 disorder and will thereby reduce the likelihood that the person will
33 thereafter commit another offense; and

34 (5) the person did not possess a firearm at the time of the
35 present offense and did not possess a firearm at the time of any
36 pending criminal charge; and

37 (6) the person has not been previously convicted on two or more
38 separate occasions of crimes of the first or second degree, other
39 than those listed in paragraph (7); or the person has not been
40 previously convicted on two or more separate occasions, where one
41 of the offenses is a crime of the third degree, other than crimes
42 defined in N.J.S.2C:35-10, and one of the offenses is a crime of the
43 first or second degree; and

44 (7) the person has not been previously convicted or adjudicated
45 delinquent for, and does not have a pending charge of murder,
46 aggravated manslaughter, manslaughter, kidnapping, aggravated

1 assault, aggravated sexual assault or sexual assault, or a similar
2 crime under the laws of any other state or the United States; and

3 (8) a suitable treatment facility licensed and approved by the
4 Division of Mental Health and Addiction Services in the
5 Department of Human Services is able and has agreed to provide
6 appropriate treatment services in accordance with the requirements
7 of this section; and

8 (9) no danger to the community will result from the person
9 being placed on special probation pursuant to this section.

10 In determining whether to sentence the person pursuant to this
11 section, the court shall consider all relevant circumstances, and
12 shall take judicial notice of any evidence, testimony or information
13 adduced at the trial, plea hearing or other court proceedings, and
14 shall also consider the presentence report and the results of the
15 professional diagnostic assessment to determine whether and to
16 what extent the person has a substance use disorder and would
17 benefit from treatment. The court shall give priority to a person
18 who has moved to be sentenced to special probation over a person
19 who is being considered for a sentence to special probation on the
20 court's own motion or in accordance with the provisions of section
21 2 of P.L.2012, c.23 (C.2C:35-14.2).

22 As a condition of special probation, the court shall order the
23 person to enter a residential treatment program at a facility licensed
24 and approved by the Division of Mental Health and Addiction
25 Services in the Department of Human Services or a program of
26 nonresidential treatment by a licensed and approved treatment
27 provider, which program may include the use of medication-
28 assisted treatment as defined in paragraph (7) of subsection f. of
29 this section, to comply with program rules and the requirements of
30 the course of treatment, to cooperate fully with the treatment
31 provider, and to comply with such other reasonable terms and
32 conditions as may be required by the court or by law, pursuant to
33 N.J.S.2C:45-1, and which shall include periodic urine testing for
34 drug or alcohol usage throughout the period of special probation. In
35 determining whether to order the person to participate in a
36 nonresidential rather than a residential treatment program, the court
37 shall follow the procedure set forth in subsection j. of this section.
38 Subject to the requirements of subsection d. of this section, the
39 conditions of special probation may include different methods and
40 levels of community-based or residential supervision.

41 b. A person shall not be eligible for special probation pursuant
42 to this section if the person is convicted of or adjudicated
43 delinquent for:

44 (1) a crime of the first degree;

45 (2) a crime of the first or second degree enumerated in
46 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), other

1 than a crime of the second degree involving N.J.S.2C:15-1
2 (robbery), **[or]** N.J.S.2C:18-2 (burglary), or section 2 of P.L. _____, c.
3 (C. _____) (pending before the Legislature as this bill), residential
4 burglary;

5 (3) a crime, other than that defined in section 1 of P.L.1987,
6 c.101 (C.2C:35-7), for which a mandatory minimum period of
7 incarceration is prescribed under chapter 35 of this Title or any
8 other law; or

9 (4) an offense that involved the distribution or the conspiracy or
10 attempt to distribute a controlled dangerous substance or controlled
11 substance analog to a juvenile near or on school property.

12 c. (Deleted by amendment, P.L.2012, c.23)

13 d. Except as otherwise provided in subsection j. of this section,
14 a person convicted of or adjudicated delinquent for a crime of the
15 second degree or of a violation of section 1 of P.L.1987, c.101
16 (C.2C:35-7), or who previously has been convicted of or
17 adjudicated delinquent for an offense under subsection a. of
18 N.J.S.2C:35-5 or a similar offense under any other law of this State,
19 any other state or the United States, who is placed on special
20 probation under this section shall be committed to the custody of a
21 residential substance use disorder treatment facility licensed and
22 approved by the Division of Mental Health and Addiction Services
23 in the Department of Human Services. Subject to the authority of
24 the court to temporarily suspend imposition of all or any portion of
25 the term of commitment to a residential treatment facility pursuant
26 to subsection j. of this section, the person shall be committed to the
27 residential treatment facility immediately, unless the facility cannot
28 accommodate the person, in which case the person shall be
29 incarcerated to await commitment to the residential treatment
30 facility. The term of such commitment shall be for a minimum of
31 six months, or until the court, upon recommendation of the
32 treatment provider, determines that the person has successfully
33 completed the residential treatment program, whichever is later,
34 except that no person shall remain in the custody of a residential
35 treatment facility pursuant to this section for a period in excess of
36 five years. Upon successful completion of the required residential
37 treatment program, the person shall complete the period of special
38 probation, as authorized by subsection a. of this section, with credit
39 for time served for any imprisonment served as a condition of
40 probation and credit for each day during which the person
41 satisfactorily complied with the terms and conditions of special
42 probation while committed pursuant to this section to a residential
43 treatment facility. Except as otherwise provided in subsection l. of
44 this section, the person shall not be eligible for early discharge of
45 special probation pursuant to N.J.S.2C:45-2, or any other provision
46 of the law. The court, in determining the number of credits for time

1 spent in residential treatment, shall consider the recommendations
2 of the treatment provider. A person placed into a residential
3 treatment facility pursuant to this section shall be deemed to be
4 subject to official detention for the purposes of N.J.S.2C:29-5
5 (escape).

6 e. The probation department or other appropriate agency
7 designated by the court to monitor or supervise the person's special
8 probation shall report periodically to the court as to the person's
9 progress in treatment and compliance with court-imposed terms and
10 conditions. The treatment provider shall promptly report to the
11 probation department or other appropriate agency all significant
12 failures by the person to comply with any court-imposed term or
13 condition of special probation or any requirements of the course of
14 treatment, including but not limited to a positive drug or alcohol
15 test, which shall only constitute a violation for a person using
16 medication-assisted treatment as defined in paragraph (7) of
17 subsection f. of this section if the positive test is unrelated to the
18 person's medication-assisted treatment, or the unexcused failure to
19 attend any session or activity, and shall immediately report any act
20 that would constitute an escape. The probation department or other
21 appropriate agency shall immediately notify the court and the
22 prosecutor in the event that the person refuses to submit to a
23 periodic drug or alcohol test or for any reason terminates the
24 person's participation in the course of treatment, or commits any act
25 that would constitute an escape.

26 f. (1) Upon a first violation of any term or condition of the
27 special probation authorized by this section or of any requirements
28 of the course of treatment, the court in its discretion may
29 permanently revoke the person's special probation.

30 (2) Upon a second or subsequent violation of any term or
31 condition of the special probation authorized by this section or of
32 any requirements of the course of treatment, the court shall, subject
33 only to the provisions of subsection g. of this section, permanently
34 revoke the person's special probation unless the court finds on the
35 record that there is a substantial likelihood that the person will
36 successfully complete the treatment program if permitted to
37 continue on special probation, and the court is clearly convinced,
38 considering the nature and seriousness of the violations, that no
39 danger to the community will result from permitting the person to
40 continue on special probation pursuant to this section. The court's
41 determination to permit the person to continue on special probation
42 following a second or subsequent violation pursuant to this
43 paragraph may be appealed by the prosecution.

44 (3) In making its determination whether to revoke special
45 probation, and whether to overcome the presumption of revocation
46 established in paragraph (2) of this subsection, the court shall

1 consider the nature and seriousness of the present infraction and any
2 past infractions in relation to the person's overall progress in the
3 course of treatment, and shall also consider the recommendations of
4 the treatment provider. The court shall give added weight to the
5 treatment provider's recommendation that the person's special
6 probation be permanently revoked, or to the treatment provider's
7 opinion that the person is not amenable to treatment or is not likely
8 to complete the treatment program successfully.

9 (4) If the court permanently revokes the person's special
10 probation pursuant to this subsection, the court shall impose any
11 sentence that might have been imposed, or that would have been
12 required to be imposed, originally for the offense for which the
13 person was convicted or adjudicated delinquent. The court shall
14 conduct a de novo review of any aggravating and mitigating factors
15 present at the time of both original sentencing and resentencing. If
16 the court determines or is required pursuant to any other provision
17 of this chapter or any other law to impose a term of imprisonment,
18 the person shall receive credit for any time served in custody
19 pursuant to N.J.S.2C:45-1 or while awaiting placement in a
20 treatment facility pursuant to this section, and for each day during
21 which the person satisfactorily complied with the terms and
22 conditions of special probation while committed pursuant to this
23 section to a residential treatment facility. The court, in determining
24 the number of credits for time spent in a residential treatment
25 facility, shall consider the recommendations of the treatment
26 provider.

27 (5) Following a violation, if the court permits the person to
28 continue on special probation pursuant to this section, the court
29 shall order the person to comply with such additional terms and
30 conditions, including but not limited to more frequent drug or
31 alcohol testing, as are necessary to deter and promptly detect any
32 further violation.

33 (6) Notwithstanding any other provision of this subsection, if
34 the person at any time refuses to undergo urine testing for drug or
35 alcohol usage as provided in subsection a. of this section, the court
36 shall, subject only to the provisions of subsection g. of this section,
37 permanently revoke the person's special probation.
38 Notwithstanding any other provision of this section, if the person at
39 any time while committed to the custody of a residential treatment
40 facility pursuant to this section commits an act that would constitute
41 an escape, the court shall forthwith permanently revoke the person's
42 special probation.

43 (7) An action for a violation under this section may be brought
44 by a probation officer or prosecutor or on the court's own motion.
45 Failure to complete successfully the required treatment program
46 shall constitute a violation of the person's special probation. In the

1 case of the temporary or continued management of a person's
2 substance use disorder by means of medication-assisted treatment as
3 defined herein, whenever supported by a report from the treatment
4 provider of existing satisfactory progress and reasonably
5 predictable long-term success with or without further medication-
6 assisted treatment, the person's use of the medication-assisted
7 treatment, even if continuing, shall not be the basis to constitute a
8 failure to complete successfully the treatment program. A person
9 who fails to comply with the terms of the person's special probation
10 pursuant to this section and is thereafter sentenced to imprisonment
11 in accordance with this subsection shall thereafter be ineligible for
12 entry into the Intensive Supervision Program, provided however
13 that this provision shall not affect the person's eligibility for entry
14 into the Intensive Supervision Program for a subsequent conviction.

15 As used in this section, the term "medication-assisted treatment"
16 means the use of any medications approved by the federal Food and
17 Drug Administration to treat substance use disorders, including
18 extended-release naltrexone, methadone, and buprenorphine, in
19 combination with counseling and behavioral therapies, to provide a
20 whole-patient approach to the treatment of substance use disorders.

21 g. When a person on special probation is subject to a
22 presumption of revocation on a second or subsequent violation
23 pursuant to paragraph (2) of subsection f. of this section, or when
24 the person refuses to undergo drug or alcohol testing pursuant to
25 paragraph (6) of subsection f. of this section, the court may, in lieu
26 of permanently revoking the person's special probation, impose a
27 term of incarceration for a period of not less than 30 days nor more
28 than six months, after which the person's term of special probation
29 pursuant to this section may be reinstated. In determining whether
30 to order a period of incarceration in lieu of permanent revocation
31 pursuant to this subsection, the court shall consider the
32 recommendations of the treatment provider with respect to the
33 likelihood that such confinement would serve to motivate the
34 person to make satisfactory progress in treatment once special
35 probation is reinstated. This disposition may occur only once with
36 respect to any person unless the court is clearly convinced that there
37 are compelling and extraordinary reasons to justify reimposing this
38 disposition with respect to the person. Any such determination by
39 the court to reimpose this disposition may be appealed by the
40 prosecution. Nothing in this subsection shall be construed to limit
41 the authority of the court at any time during the period of special
42 probation to order a person on special probation who is not subject
43 to a presumption of revocation pursuant to paragraph (2) of
44 subsection f. of this section to be incarcerated over the course of a
45 weekend, or for any other reasonable period of time, when the court

1 in its discretion determines that such incarceration would help to
2 motivate the person to make satisfactory progress in treatment.

3 h. The court, as a condition of its order, and after considering
4 the person's financial resources, shall require the person to pay that
5 portion of the costs associated with the person's participation in any
6 residential or nonresidential treatment program imposed pursuant to
7 this section which, in the opinion of the court, is consistent with the
8 person's ability to pay, taking into account the court's authority to
9 order payment or reimbursement to be made over time and in
10 installments.

11 i. The court shall impose, as a condition of the special
12 probation, any fine, penalty, fee or restitution applicable to the
13 offense for which the person was convicted or adjudicated
14 delinquent.

15 j. Where the court finds that a person has satisfied all of the
16 eligibility criteria for special probation and would otherwise be
17 required to be committed to the custody of a residential substance
18 use disorders treatment facility pursuant to the provisions of
19 subsection d. of this section, the court may temporarily suspend
20 imposition of all or any portion of the term of commitment to a
21 residential treatment facility and may instead order the person to
22 enter a nonresidential treatment program, provided that the court
23 finds on the record that:

24 (1) the person conducting the diagnostic assessment required
25 pursuant to paragraph (1) of subsection a. of this section has
26 recommended in writing that the proposed course of nonresidential
27 treatment services is clinically appropriate and adequate to address
28 the person's treatment needs; and

29 (2) no danger to the community would result from the person
30 participating in the proposed course of nonresidential treatment
31 services; and

32 (3) a suitable treatment provider is able and has agreed to
33 provide clinically appropriate nonresidential treatment services.

34 If the prosecutor objects to the court's decision to suspend the
35 commitment of the person to a residential treatment facility
36 pursuant to this subsection, the sentence of special probation
37 imposed pursuant to this section shall not become final for 10 days
38 in order to permit the appeal by the prosecution of the court's
39 decision.

40 After a period of six months of nonresidential treatment, if the
41 court, considering all available information including but not
42 limited to the recommendation of the treatment provider, finds that
43 the person has made satisfactory progress in treatment and that
44 there is a substantial likelihood that the person will successfully
45 complete the nonresidential treatment program and period of special
46 probation, the court, on notice to the prosecutor, may permanently

1 suspend the commitment of the person to the custody of a
2 residential treatment program, in which event the special
3 monitoring provisions set forth in subsection k. of this section shall
4 no longer apply.

5 Nothing in this subsection shall be construed to limit the
6 authority of the court at any time during the term of special
7 probation to order the person to be committed to a residential or
8 nonresidential treatment facility if the court determines that such
9 treatment is clinically appropriate and necessary to address the
10 person's present treatment needs.

11 k. (1) When the court temporarily suspends the commitment of
12 the person to a residential treatment facility pursuant to subsection
13 j. of this section, the court shall, in addition to ordering
14 participation in a prescribed course of nonresidential treatment and
15 any other appropriate terms or conditions authorized or required by
16 law, order the person to undergo urine testing for drug or alcohol
17 use not less than once per week unless otherwise ordered by the
18 court. The court-ordered testing shall be conducted by the
19 probation department or the treatment provider. The results of all
20 tests shall be reported promptly to the court and to the prosecutor.
21 If the person is involved with a program that is providing the person
22 medication-assisted treatment as defined in paragraph (7) of
23 subsection f. of this section, only a positive urine test for drug or
24 alcohol use unrelated to the medication-assisted treatment shall
25 constitute a violation of the terms and conditions of special
26 probation. In addition, the court shall impose appropriate curfews
27 or other restrictions on the person's movements, and may order the
28 person to wear electronic monitoring devices to enforce such
29 curfews or other restrictions as a condition of special probation.

30 (2) The probation department or other appropriate agency shall
31 immediately notify the court and the prosecutor in the event that the
32 person fails or refuses to submit to a drug or alcohol test, knowingly
33 defrauds the administration of a drug or alcohol test, terminates the
34 person's participation in the course of treatment, or commits any act
35 that would constitute absconding from parole. If the person at any
36 time while entered in a nonresidential treatment program pursuant
37 to subsection j. of this section knowingly defrauds the
38 administration of a drug or alcohol test, goes into hiding, or leaves
39 the State with a purpose of avoiding supervision, the court shall
40 permanently revoke the person's special probation.

41 l. If the court finds that the person has made exemplary
42 progress in the course of treatment, the court may, upon
43 recommendation of the person's supervising probation officer or on
44 the court's own motion, and upon notice to the prosecutor, grant
45 early discharge from a term of special probation provided that the
46 person: (1) has satisfactorily completed the treatment program

1 ordered by the court; (2) has served at least two years of special
2 probation; (3) within the preceding 12 months, did not commit a
3 substantial violation of any term or condition of special probation,
4 including but not limited to a positive urine test, which shall only
5 constitute a violation for a person using medication-assisted
6 treatment as defined in paragraph (7) of subsection f. of this section
7 if the positive test is unrelated to the person's medication-assisted
8 treatment; and (4) is not likely to relapse or commit an offense if
9 probation supervision and related services are discontinued.

10 m. (1) The Superior Court may order the expungement of all
11 records and information relating to all prior arrests, detentions,
12 convictions, and proceedings for any offense enumerated in Title
13 2C of the New Jersey Statutes upon successful discharge from a
14 term of special probation as provided in this section, regardless of
15 whether the person was sentenced to special probation under this
16 section, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-
17 1, if the person satisfactorily completed a substance use disorder
18 treatment program as ordered by the court and was not convicted of
19 any crime, or adjudged a disorderly person or petty disorderly
20 person, during the term of special probation. The provisions of
21 N.J.S.2C:52-7 through N.J.S.2C:52-14 shall not apply to an
22 expungement pursuant to this paragraph and no fee shall be charged
23 to a person eligible for relief pursuant to this paragraph. The court
24 shall grant the relief requested unless it finds that the need for the
25 availability of the records outweighs the desirability of having the
26 person freed from any disabilities associated with their availability,
27 or it finds that the person is otherwise ineligible for expungement
28 pursuant to paragraph (2) of this subsection. An expungement
29 under this paragraph shall proceed in accordance with rules and
30 procedures developed by the Supreme Court.

31 (2) A person shall not be eligible for expungement under
32 paragraph (1) of this subsection if the records include a conviction
33 for any offense barred from expungement pursuant to subsection b.
34 or c. of N.J.S.2C:52-2. It shall be the obligation of the prosecutor
35 to notify the court of any disqualifying convictions or any other
36 factors related to public safety that should be considered by the
37 court when deciding to grant an expungement under paragraph (1)
38 of this subsection.

39 (3) The Superior Court shall provide a copy of the expungement
40 order granted pursuant to paragraph (1) of this subsection to the
41 prosecutor and to the person and, if the person was represented by
42 the Public Defender, to the Public Defender. The person or, if the
43 person was represented by the Public Defender, the Public Defender
44 on behalf of the person, shall promptly distribute copies of the
45 expungement order to appropriate agencies who have custody and

1 control of the records specified in the order so that the agencies may
2 comply with the requirements of N.J.S.2C:52-15.

3 (4) If the person whose records are expunged pursuant to
4 paragraph (1) of this subsection is convicted of any crime following
5 discharge from special probation, the full record of arrests and
6 convictions may be restored to public access and no future
7 expungement shall be granted to such person.

8 (5) A person who, prior to the effective date of P.L.2015, c.261,
9 was successfully discharged from a term of special probation as
10 provided in this section, regardless of whether the person was
11 sentenced to special probation under this section, section 2 of
12 P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, may seek an
13 expungement of all records and information relating to all arrests,
14 detentions, convictions, and proceedings for any offense
15 enumerated in Title 2C of the New Jersey Statutes that existed at
16 the time of discharge from special probation by presenting an
17 application to the Superior Court in the county in which the person
18 was sentenced to special probation, which contains a duly verified
19 petition as provided in N.J.S.2C:52-7 for each crime or offense
20 sought to be expunged. The petition for expungement shall proceed
21 pursuant to N.J.S.2C:52-1 et seq. except that the requirements
22 related to the expiration of the time periods specified in
23 N.J.S.2C:52-2 through section 1 of P.L.1980, c.163 (C.2C:52-4.1)
24 shall not apply. A person who was convicted of any offense barred
25 from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2,
26 or who has been convicted of any crime or offense since the date of
27 discharge from special probation shall not be eligible to apply for
28 an expungement under this paragraph. In addition, no application
29 for expungement shall be considered until any pending charges are
30 disposed. It shall be the obligation of the prosecutor to notify the
31 court of any disqualifying convictions or any other factors related to
32 public safety that should be considered by the court when deciding
33 to grant an expungement under this paragraph. The Superior Court
34 shall consider the person's verified petition and may order the
35 expungement of all records and information relating to all arrests,
36 detentions, convictions, and proceedings of the person that existed
37 at the time of discharge from special probation as appropriate. The
38 court shall grant the relief requested unless it finds that the need for
39 the availability of the records outweighs the desirability of having
40 the person freed from any disabilities associated with their
41 availability, or it finds that the person is otherwise ineligible for
42 expungement pursuant to this paragraph. No fee shall be charged to
43 a person eligible for relief pursuant to this paragraph.

44 (6) (a) A person who is not eligible for expungement relief
45 pursuant to paragraph (1) or (5) of this subsection because of a
46 conviction occurring prior to, on, or after the effective date of

1 P.L.2021, c.460, for any offense set forth in paragraph (2) of
2 subsection a. of N.J.S.2C:24-4, involving endangering the welfare
3 of a child, which is barred from expungement pursuant to
4 subsection b. of N.J.S.2C:52-2 and therefore renders the person
5 ineligible under those paragraphs, may be eligible to seek
6 expungement relief pursuant to this paragraph. The person shall
7 have been successfully discharged from a term of special probation
8 as provided in this section, regardless of whether the person was
9 sentenced to special probation under this section, section 2 of
10 P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, for a period of at
11 least 10 years prior to seeking an expungement of all records and
12 information relating to all arrests, detentions, convictions, and
13 proceedings for any offense enumerated in Title 2C of the New
14 Jersey Statutes that existed at the time of discharge from special
15 probation. The person shall present an application to the Superior
16 Court in the county in which the person was sentenced to special
17 probation, which contains a duly verified petition as provided in
18 N.J.S.2C:52-7 for each crime or offense sought to be expunged.
19 The petition for expungement shall proceed pursuant to
20 N.J.S.2C:52-1 et seq. A person shall not be eligible to apply for an
21 expungement under this paragraph if that person was convicted of
22 any offense barred from expungement pursuant to subsection b. or
23 c. of N.J.S.2C:52-2, other than a conviction for endangering the
24 welfare of a child under paragraph (2) of subsection a. of
25 N.J.S.2C:24-4, which crime is also determined by the court, based
26 upon a review by the prosecutor in accordance with subparagraph
27 (b) of this paragraph, to have been nonviolent with respect to the
28 facts and elements of the criminal act, or if that person has been
29 convicted of any crime or offense since the date of discharge from
30 special probation. In addition, no application for expungement
31 shall be considered until any pending charges are disposed. It shall
32 be the obligation of the prosecutor to notify the court of any
33 disqualifying convictions, any conviction for endangering the
34 welfare of a child reviewed by the prosecutor and found to be
35 violent, or any other factors related to public safety that should be
36 considered by the court when deciding to grant an expungement
37 under this paragraph. The Superior Court shall consider the
38 person's verified petition and may order the expungement of all
39 records and information relating to all arrests, detentions,
40 convictions, and proceedings of the person that existed at the time
41 of discharge from special probation as appropriate. The court shall
42 grant the relief requested unless it finds that the need for the
43 availability of the records outweighs the desirability of having the
44 person freed from any disabilities associated with their availability,
45 or it finds that the person is otherwise ineligible for expungement

1 pursuant to this paragraph. No fee shall be charged to a person
2 eligible for relief pursuant to this paragraph.

3 (b) The prosecutor, when reviewing a conviction for
4 endangering the welfare of a child under paragraph (2) of
5 subsection a. of N.J.S.2C:24-4 as to whether the facts and elements
6 of the criminal act were nonviolent and therefore do not prevent, as
7 to this conviction, a person's eligibility for expungement relief
8 under this paragraph, shall consider any act which falls under the
9 following definitions to be violent acts, and render the person
10 ineligible for expungement relief:

11 any act of "abuse," as defined in R.S.9:6-1, that is specifically
12 listed in part (c) of the definition, employing or permitting a child to
13 be employed in any occupation, employment or vocation dangerous
14 to the morals of such child; part (e) of the definition, the performing
15 of any indecent, immoral or unlawful act or deed, in the presence of
16 a child, that may tend to debauch or endanger or degrade the morals
17 of the child; part (f) of the definition, permitting or allowing any
18 other person to perform any indecent, immoral or unlawful act in
19 the presence of the child that may tend to debauch or endanger the
20 morals of such child; or part (g) of the definition, using excessive
21 physical restraint on the child under circumstances which do not
22 indicate that the child's behavior is harmful to himself, others or
23 property;

24 any act of "cruelty," as defined in R.S.9:6-1; and

25 any act resulting in an "abused or neglected child," as defined by
26 subsection c. of section 1 of P.L.1974, c.119 (C.9:6-8.21), that is
27 specifically listed in paragraph (1) of the definition, inflicting or
28 allowing to be inflicted upon such child physical injury by other
29 than accidental means which causes or creates a substantial risk of
30 death, or serious or protracted disfigurement, or protracted
31 impairment of physical or emotional health or protracted loss or
32 impairment of the function of any bodily organ; paragraph (2) of the
33 definition, creating or allowing to be created a substantial or
34 ongoing risk of physical injury to such child by other than
35 accidental means which would be likely to cause death or serious or
36 protracted disfigurement, or protracted loss or impairment of the
37 function of any bodily organ; paragraph (3) of the definition,
38 committing or allowing to be committed an act of sexual abuse
39 against the child; subparagraph (b) of paragraph (4) of the
40 definition, solely as to a child whose physical, mental, or emotional
41 condition has been impaired or is in imminent danger of becoming
42 impaired as the result of the failure of the child's parent or guardian
43 to exercise a minimum degree of care in providing the child with
44 proper supervision or guardianship, by unreasonably inflicting or
45 allowing to be inflicted excessive corporal punishment, or the
46 substantial risk thereof; paragraph (6) of the definition, for a child

1 upon whom excessive physical restraint has been used under
2 circumstances which do not indicate that the child's behavior is
3 harmful to himself, others, or property; or paragraph (7) of the
4 definition, for a child who is in an institution and, pursuant to
5 subparagraph (a) of that paragraph, has been placed there
6 inappropriately for a continued period of time with the knowledge
7 that the placement has resulted or may continue to result in harm to
8 the child's mental or physical well-being or, pursuant to
9 subparagraph (b) of that paragraph, who has been willfully isolated
10 from ordinary social contact under circumstances which indicate
11 emotional or social deprivation.

12 (cf.: P.L.2023, c.177, s.7)

13

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

15 2C:43-6. a. Except as otherwise provided, a person who has
16 been convicted of a crime may be sentenced to imprisonment, as
17 follows:

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

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

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

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

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

42 c. A person who has been convicted under subsection b. or d.
43 of N.J.S.2C:39-3, subsection a. of N.J.S.2C:39-4, subsection a. of
44 section 1 of P.L.1998, c.26 (C.2C:39-4.1), subsection a., b., c., or f.
45 of N.J.S.2C:39-5, subsection a. or paragraph (2) or (3) of subsection
46 b. of section 6 of P.L.1979, c.179 (C.2C:39-7), or subsection a., b.,

1 e. or g. of N.J.S.2C:39-9, or of a crime under any of the following
2 sections: N.J.S.2C:11-3, N.J.S.2C:11-4, [2C:12-1b.] subsection b.
3 of N.J.S.2C:12-1, N.J.S.2C:13-1, [2C:14-2a., 2C:14-3a.] subsection
4 a of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3, N.J.S.2C:15-1,
5 N.J.S.2C:18-2, N.J.S.2C:29-5, section 1 of P.L. _____, c. _____ (C. _____)
6 (pending before the Legislature as this bill), or section 2 of P.L. _____,
7 c. _____ (C. _____) (pending before the Legislature as this bill), who,
8 while in the course of committing or attempting to commit the
9 crime, including the immediate flight therefrom, used or was in
10 possession of a firearm as defined in 2C:39-1f., shall be sentenced
11 to a term of imprisonment by the court. The term of imprisonment
12 shall include the imposition of a minimum term. The minimum
13 term shall be fixed at one-half of the sentence imposed by the court
14 or 42 months, whichever is greater, or 18 months in the case of a
15 fourth degree crime, during which the defendant shall be ineligible
16 for parole.

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

21 A person who has been convicted of an offense enumerated by
22 this subsection and who used or possessed a firearm during its
23 commission, attempted commission or flight therefrom and who has
24 been previously convicted of an offense involving the use or
25 possession of a firearm as defined in 2C:44-3d., shall be sentenced
26 by the court to an extended term as authorized by 2C:43-7c.,
27 notwithstanding that extended terms are ordinarily discretionary
28 with the court.

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

39 (2) The court shall not impose a mandatory sentence pursuant to
40 subsection c. of this section for a violation of paragraph (2) of
41 subsection b. of N.J.S.2C:39-5; a violation of paragraph (2) of
42 subsection c. of N.J.S.2C:39-5, if that rifle or shotgun is in the
43 nature of an air gun, spring gun or pistol or other weapon of a
44 similar nature in which the propelling force is a spring, elastic band,
45 carbon dioxide, compressed or other gas or vapor, air or compressed
46 air, or is ignited by compressed air, and ejecting a bullet or missile

1 smaller than three-eighths of an inch in diameter, with sufficient
2 force to injure a person; or a violation of paragraph (1) of
3 subsection c. of N.J.S.2C:39-5.

4 e. A person convicted of a third or subsequent offense
5 involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any
6 other provision of this code, or under any of the provisions of Title
7 54 of the Revised Statutes, or Title 54A of the New Jersey Statutes,
8 as amended and supplemented, shall be sentenced to a term of
9 imprisonment by the court. This shall not preclude an application
10 for and imposition of an extended term of imprisonment under
11 N.J.S.2C:44-3 if the provisions of that section are applicable to the
12 offender.

13 f. A person convicted of manufacturing, distributing,
14 dispensing or possessing with intent to distribute any dangerous
15 substance or controlled substance analog under N.J.S.2C:35-5, of
16 maintaining or operating a controlled dangerous substance
17 production facility under N.J.S.2C:35-4, of employing a juvenile in
18 a drug distribution scheme under N.J.S.2C:35-6, leader of a
19 narcotics trafficking network under N.J.S.2C:35-3, or of
20 distributing, dispensing or possessing with intent to distribute on or
21 near school property or buses under section 1 of P.L.1987, c.101
22 (C.2C:35-7), who has been previously convicted of manufacturing,
23 distributing, dispensing or possessing with intent to distribute a
24 controlled dangerous substance or controlled substance analog,
25 shall upon application of the prosecuting attorney be sentenced by
26 the court to an extended term as authorized by subsection c. of
27 N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily
28 discretionary with the court. The term of imprisonment shall,
29 except as may be provided in N.J.S.2C:35-12, include the
30 imposition of a minimum term. The minimum term shall be fixed
31 at, or between, one-third and one-half of the sentence imposed by
32 the court or three years, whichever is greater, not less than seven
33 years if the person is convicted of a violation of N.J.S.2C:35-6, or
34 18 months in the case of a fourth degree crime, during which the
35 defendant shall be ineligible for parole.

36 The court shall not impose an extended term pursuant to this
37 subsection unless the ground therefor has been established at a
38 hearing. At the hearing, which may occur at the time of sentencing,
39 the prosecutor shall establish the ground therefor by a
40 preponderance of the evidence. In making its finding, the court
41 shall take judicial notice of any evidence, testimony or information
42 adduced at the trial, plea hearing, or other court proceedings and
43 shall also consider the presentence report and any other relevant
44 information.

45 For the purpose of this subsection, a previous conviction exists
46 where the actor has at any time been convicted under chapter 35 of

1 this title or Title 24 of the Revised Statutes or under any similar
2 statute of the United States, this State, or any other state for an
3 offense that is substantially equivalent to N.J.S.2C:35-3,
4 N.J.S.2C:35-4, N.J.S.2C:35-5, N.J.S.2C:35-6 or section 1 of
5 P.L.1987, c.101 (C.2C:35-7).

6 g. Any person who has been convicted under subsection a. of
7 N.J.S.2C:39-4 or of a crime under any of the following sections:
8 N.J.S.2C:11-3, N.J.S.2C:11-4, **[N.J.S.2C:12-1b.]** subsection b. of
9 N.J.S.2C:12-1, N.J.S.2C:13-1, **[N.J.S.2C:14-2a., N.J.S.2C:14-3a.]**
10 subsection a of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3,
11 N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-5, N.J.S.2C:35-5,
12 section 1 of P.L. , c. (C.) (pending before the Legislature
13 as this bill), or section 2 of P.L. , c. (C.) (pending before
14 the Legislature as this bill), who, while in the course of committing
15 or attempting to commit the crime, including the immediate flight
16 therefrom, used or was in possession of a machine gun or assault
17 firearm shall be sentenced to a term of imprisonment by the court.
18 The term of imprisonment shall include the imposition of a
19 minimum term. The minimum term shall be fixed at 10 years for a
20 crime of the first or second degree, five years for a crime of the
21 third degree, or 18 months in the case of a fourth degree crime,
22 during which the defendant shall be ineligible for parole.

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

27 A person who has been convicted of an offense enumerated in
28 this subsection and who used or possessed a machine gun or assault
29 firearm during its commission, attempted commission or flight
30 therefrom and who has been previously convicted of an offense
31 involving the use or possession of any firearm as defined in
32 subsection d. of N.J.S.2C:44-3, shall be sentenced by the court to an
33 extended term as authorized by subsection d. of N.J.S.2C:43-7,
34 notwithstanding that extended terms are ordinarily discretionary
35 with the court.

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

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

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

11
12 8. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to
13 read as follows:

14 2. a. A court imposing a sentence of incarceration for a crime of
15 the first or second degree enumerated in subsection d. of this
16 section shall fix a minimum term of 85% of the sentence imposed,
17 during which the defendant shall not be eligible for parole.

18 b. The minimum term required by subsection a. of this section
19 shall be fixed as a part of every sentence of incarceration imposed
20 upon every conviction of a crime enumerated in subsection d. of
21 this section, whether the sentence of incarceration is determined
22 pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any
23 other provision of law, and shall be calculated based upon the
24 sentence of incarceration actually imposed. The provisions of
25 subsection a. of this section shall not be construed or applied to
26 reduce the time that must be served before eligibility for parole by
27 an inmate sentenced to a mandatory minimum period of
28 incarceration. Solely for the purpose of calculating the minimum
29 term of parole ineligibility pursuant to subsection a. of this section,
30 a sentence of life imprisonment shall be deemed to be 75 years.

31 c. Notwithstanding any other provision of law to the contrary
32 and in addition to any other sentence imposed, a court imposing a
33 minimum period of parole ineligibility of 85 percent of the sentence
34 pursuant to this section shall also impose a five-year term of parole
35 supervision if the defendant is being sentenced for a crime of the
36 first degree, or a three-year term of parole supervision if the
37 defendant is being sentenced for a crime of the second degree. The
38 term of parole supervision shall commence upon the completion of
39 the sentence of incarceration imposed by the court pursuant to
40 subsection a. of this section unless the defendant is serving a
41 sentence of incarceration for another crime at the time **[he]** the
42 defendant completes the sentence of incarceration imposed pursuant
43 to subsection a., in which case the term of parole supervision shall
44 commence immediately upon the defendant's release from
45 incarceration. During the term of parole supervision the defendant
46 shall remain in release status in the community in the legal custody
47 of the Commissioner of the Department of Corrections and shall be
48 supervised by the State Parole Board as if on parole and shall be

1 subject to the provisions and conditions of section 3 of P.L.1997,
2 c.117 (C.30:4-123.51b).

3 d. The court shall impose sentence pursuant to subsection a. of
4 this section upon conviction of the following crimes or an attempt
5 or conspiracy to commit any of these crimes:

- 6 (1) N.J.S.2C:11-3, murder;
- 7 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 8 (3) N.J.S.2C:11-5, vehicular homicide;
- 9 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 10 (5) subsection b. of section 1 of P.L.1996, c.14 (2C:12-11),
11 disarming a law enforcement officer;
- 12 (6) N.J.S.2C:13-1, kidnapping;
- 13 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 14 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of
15 subsection c. of N.J.S.2C:14-2, sexual assault;
- 16 (9) N.J.S.2C:15-1, robbery;
- 17 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
- 18 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
19 arson;
- 20 (12) N.J.S.2C:18-2, burglary;
- 21 (13) subsection a. of N.J.S.2C:20-5, extortion;
- 22 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
23 booby traps in manufacturing or distribution facilities;
- 24 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;
- 25 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;
- 26 (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or
27 possessing chemical weapons, biological agents or nuclear or
28 radiological devices;
- 29 (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first
30 degree~~[:]~~;
- 31 (19) subsection i. of N.J.S.2C:39-9, firearms trafficking; **[or]**
- 32 (20) paragraph (3) of subsection b. of N.J.S.2C:24-4, causing or
33 permitting a child to engage in a prohibited sexual act, knowing that
34 the act may be reproduced or reconstructed in any manner, or be
35 part of an exhibition or performance;
- 36 (21) section 1 of P.L. , c. (C.) (pending before the
37 Legislature as this bill), home invasion burglary; or
38 (22) section 2 of P.L. , c. (C.) (pending before the
39 Legislature as this bill), residential burglary.
- 40 e. (Deleted by amendment, P.L.2001, c.129).
- 41 (cf: P.L.2013, c.136, s.4)

42
43 9. N.J.S.2C:44-3 is amended to read as follows:

44 2C:44-3. The court may, upon application of the prosecuting
45 attorney, sentence a person who has been convicted of a crime of
46 the first, second or third degree to an extended term of
47 imprisonment if it finds one or more of the grounds specified in
48 subsection a., b., c., or f. of this section. If the grounds specified in

1 subsection d. are found, and the person is being sentenced for
2 commission of any of the offenses enumerated in **[N.J.S.2C:43-6c.**
3 **or N.J.S.2C:43-6g.]** subsections c. or g. of N.J.S.2C:43-6, the court
4 shall sentence the defendant to an extended term as required by
5 **[N.J.S.2C:43-6c. or N.J.S.2C:43-6g.]** subsections c. or g. of
6 N.J.S.2C:43-6, and application by the prosecutor shall not be
7 required. The court shall, upon application of the prosecuting
8 attorney, sentence a person who has been convicted of a crime
9 under N.J.S.2C:14-2 or N.J.S.2C:14-3 to an extended term of
10 imprisonment if the grounds specified in subsection g. of this
11 section are found. The court shall, upon application of the
12 prosecuting attorney, sentence a person to an extended term if the
13 imposition of such term is required pursuant to the provisions of
14 section 2 of P.L.1994, c.130 (C.2C:43-6.4). The finding of the
15 court shall be incorporated in the record.

16 a. The defendant has been convicted of a crime of the first,
17 second or third degree and is a persistent offender. A persistent
18 offender is a person who at the time of the commission of the crime
19 is 21 years of age or over, who has been previously convicted on at
20 least two separate occasions of two crimes, committed at different
21 times, when he was at least 18 years of age, if the latest in time of
22 these crimes or the date of the defendant's last release from
23 confinement, whichever is later, is within 10 years of the date of the
24 crime for which the defendant is being sentenced.

25 b. The defendant has been convicted of a crime of the first,
26 second or third degree and is a professional criminal. A
27 professional criminal is a person who committed a crime as part of
28 a continuing criminal activity in concert with two or more persons,
29 and the circumstances of the crime show he has knowingly devoted
30 himself to criminal activity as a major source of livelihood.

31 c. The defendant has been convicted of a crime of the first,
32 second or third degree and committed the crime as consideration for
33 the receipt, or in expectation of the receipt, of anything of pecuniary
34 value the amount of which was unrelated to the proceeds of the
35 crime or he procured the commission of the offense by payment or
36 promise of payment of anything of pecuniary value.

37 d. Second offender with a firearm. The defendant is at least 18
38 years of age and has been previously convicted of any of the
39 following crimes: N.J.S.2C:11-3, N.J.S.2C:11-4, **[2C:12-1b.]**
40 subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, **[2C:14-2a., 2C:14-**
41 **3a.]** subsection a. of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3,
42 N.J.S.2C:15-1, N.J.S.2C:18-2, section 1 of P.L. _____, c. _____
43 (pending before the Legislature as this bill), N.J.S.2C:29-5, **[2C:39-**
44 **4a.]** subsection a. of N.J.S.2C:39-4, or has been previously
45 convicted of an offense under Title 2A of the New Jersey Statutes
46 or under any statute of the United States or any other state which is
47 substantially equivalent to the offenses enumerated in this
48 subsection and he used or possessed a firearm, as defined in

1 **【2C:39-1f.】** N.J.S.2C:39-1, in the course of committing or
 2 attempting to commit any of these crimes, including the immediate
 3 flight therefrom.

4 e. (Deleted by amendment, P.L.2001, c.443).

5 f. The defendant has been convicted of a crime under any of the
 6 following sections: N.J.S.2C:11-4, **【N.J.S.2C:12-1b.】** subsection b.
 7 of N.J.S.2C:12-1, N.J.S.2C:13-1, **【N.J.S.2C:14-2a., N.J.S.2C:14-**
 8 **3a.】** subsection a. of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3,
 9 N.J.S.2C:15-1, N.J.S.2C:18-2, section 1 of P.L. , c. (C.)
 10 (pending before the Legislature as this bill), section 2 of P.L. , c.
 11 (C.) (pending before the Legislature as this bill), **【N.J.S.2C:29-**
 12 **2b.】** subsection b. of N.J.S.2C:29-2, N.J.S.2C:29-5, N.J.S.2C:35-5,
 13 and in the course of committing or attempting to commit the crime,
 14 including the immediate flight therefrom, the defendant used or was
 15 in possession of a stolen motor vehicle.

16 g. The defendant has been convicted of a crime under
 17 N.J.S.2C:14-2 or N.J.S.2C:14-3 involving violence or the threat of
 18 violence and the victim of the crime was 16 years of age or less.

19 For purposes of this subsection, a crime involves violence or the
 20 threat of violence if the victim sustains serious bodily injury as
 21 defined in subsection b. of N.J.S.2C:11-1, or the actor is armed with
 22 and uses a deadly weapon or threatens by word or gesture to use a
 23 deadly weapon as defined in subsection c. of N.J.S.2C:11-1, or
 24 threatens to inflict serious bodily injury.

25 h. (Deleted by amendment, P.L.2007, c.341).

26 (cf: P.L.2007, c.341, s.8)

27

28 10. Section 3 of P.L.1989, c.331 (C.34:8-44) is amended to read
 29 as follows:

30 3. In addition to any other procedure, condition or information
 31 required by this act:

32 a. Every applicant shall file a disclosure statement with the chief
 33 stating whether or not the applicant has been convicted of any
 34 crime, which for the purposes of this act shall mean a violation of
 35 any of the following provisions of the “New Jersey Code of
 36 Criminal Justice,” Title 2C of the New Jersey Statutes as amended
 37 and supplemented, or the equivalent under the laws of any other
 38 jurisdiction:

39 (1) Any crime of the first degree;

40 (2) Any crime which is a second or third degree crime and is a
 41 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;
 42 or

43 (3) Any other crime which is a violation of N.J.S.2C:5-1,
 44 N.J.S.2C:5-2, N.J.S.2C:11-2 through N.J.S.2C:11-4, N.J.S.2C:12-1,
 45 N.J.S.2C:12-3, N.J.S.2C:13-1, N.J.S.2C:14-2, N.J.S.2C:15-1,
 46 subsection a. or b. of N.J.S.2C:17-1, subsection a. or b. of
 47 N.J.S.2C:17-2, N.J.S.2C:18-2, section 1 of P.L. , c. (C.)
 48 (pending before the Legislature as this bill), section 2 of P.L. , c.

1 (C. _____) (pending before the Legislature as this bill), N.J.S.2C:20-1,
2 N.J.S.2C:20-2, N.J.S.2C:20-4, N.J.S.2C:20-5, N.J.S.2C:20-7,
3 section 1 or 2 of P.L.2023, c.101 (C.2C:20-10.1 or C.2C:20-10.2),
4 N.J.S.2C:20-9, N.J.S.2C:21-2 through N.J.S.2C:21-4, N.J.S.2C:21-
5 6, N.J.S.2C:21-7, N.J.S.2C:21-12, N.J.S.2C:21-14, N.J.S.2C:21-15,
6 or N.J.S.2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey
7 Statutes, N.J.S.2C:30-2, N.J.S.2C:30-3, N.J.S.2C:35-5,
8 N.J.S.2C:35-10, or N.J.S.2C:37-1 through N.J.S.2C:37-4.

9 b. Each disclosure statement may be reviewed and used by the
10 director as grounds for denying licensure or registration, except that
11 in cases in which the provisions of P.L.1968, c.282 (C.2A:168A-1
12 et seq.) apply, the director shall comply with the requirements of
13 that act.

14 c. An applicant who is denied licensure or registration pursuant
15 to this section shall, upon a written request transmitted to the
16 director within 30 calendar days of the denial, be afforded an
17 opportunity for a hearing in the manner provided for contested
18 cases pursuant to the “Administrative Procedure Act,” P.L.1968,
19 c.410 (C.52:14B-1 et seq.).

20 d. An applicant shall have the continuing duty to provide any
21 assistance or information requested by the director, and to cooperate
22 in any inquiry, investigation, or hearing conducted by the director.

23 e. If any of the information required to be included in the
24 disclosure statement changes, or if any additional information
25 should be added after the filing of the statement, the applicant shall
26 provide that information to the chief, in writing, within 30 calendar
27 days of the change or addition.

28 (cf: P.L.2023, c.101, s.6)

29

30 11. This act shall take effect immediately.

31

32

33

34

35 Establishes crimes of home invasion burglary and residential
36 burglary.

CHAPTER 83

AN ACT concerning burglary of residential dwellings, supplementing Title 2C of the New Jersey Statutes, and amending various parts of the statutory law.

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

C.2C:18-2.1 Home invasion burglary defined.

1. a. A person is guilty of home invasion burglary if, with purpose to commit an offense therein or thereon, the person, without license or privilege to do so, enters or surreptitiously remains in a residential dwelling or accommodation, or a separately secured portion thereof, and in the course of committing the offense, the person:

(1) Purposely, knowingly, or recklessly inflicts, attempts to inflict, or threatens to inflict bodily injury on anyone; or

(2) Is armed with or displays what appear to be explosives or a deadly weapon.

An act shall be deemed “in the course of committing” an offense if it occurs in an attempt to commit an offense or in immediate flight after the attempt or commission.

b. Home invasion burglary is a crime of the first degree, subject to section 2 of P.L.1997, c.117 (C.2C:43-7.2).

C.2C:18-2.2 Residential burglary defined.

2. a. A person is guilty of residential burglary if, with purpose to commit an offense therein or thereon, the person:

(1) Enters a residential dwelling or accommodation, or a separately secured portion thereof, unless the actor is licensed or privileged to enter; or

(2) Surreptitiously remains in a residential dwelling or accommodation, or a separately secured portion thereof, knowing that the actor is not licensed or privileged to do so.

b. For the purposes of subsection a. of this section, it is not an element of the offense that the actor knew that any other person was present in the residential dwelling or accommodation when the actor entered or surreptitiously remained therein, and it shall not be a defense that the actor did not know that any other person was present in the residential dwelling or accommodation when the actor entered or surreptitiously remained therein.

c. Residential burglary is a crime of the second degree, subject to section 2 of P.L.1997, c.117 (C.2C:43-7.2), unless the actor demonstrates by a preponderance of evidence that the actor reasonably believed that no resident or any other person, other than a person acting in concert with the actor, was present in the residential dwelling or accommodation when the actor entered or surreptitiously remained therein, in which case the offense is a crime of the second degree, not subject to section 2 of P.L.1997, c.117 (C.2C:43-7.2).

3. Section 1 of P.L.2015, c.89 (C.2A:4A-26.1) is amended to read as follows:

C.2A:4A-26.1 Filing motion seeking waiver of jurisdiction; hearing.

1. a. A prosecutor seeking waiver of jurisdiction of a juvenile delinquency case by the Superior Court, Chancery Division, Family Part to an appropriate court and prosecuting authority without the consent of the juvenile shall file a motion within 60 days after the receipt of the complaint, which time may be extended for good cause shown. The motion shall be accompanied by a written statement of reasons clearly setting forth the facts used in assessing all factors contained in paragraph (3) of subsection c. of this section, together with an explanation as to how evaluation of those facts support waiver for each particular juvenile.

b. At a hearing, the court shall receive the evidence offered by the State and by the juvenile. The State shall provide proof to satisfy the requirements set forth in paragraphs (1)

and (2) of subsection c. of this section. The court also shall review whether the State considered the factors set forth in paragraph (3) of subsection c. of this section.

c. Except as provided in paragraph (3) of this subsection, the court shall waive jurisdiction of a juvenile delinquency case without the juvenile's consent and shall refer the case to the appropriate court and prosecuting authority having jurisdiction if:

(1) The juvenile was 15 years of age or older at the time of the alleged delinquent act; and
(2) There is probable cause to believe that the juvenile committed a delinquent act which if committed by an adult would constitute:

- (a) criminal homicide, other than death by auto;
- (b) strict liability for drug-induced deaths;
- (c) first degree robbery;
- (d) carjacking;
- (e) aggravated sexual assault;
- (f) sexual assault;
- (g) second degree aggravated assault;
- (h) kidnapping;
- (i) aggravated arson;
- (j) possession of a firearm with a purpose to use it unlawfully against the person of another under subsection a. of N.J.S.2C:39-4, or possession of a firearm while committing or attempting to commit, including the immediate flight therefrom, aggravated assault, aggravated criminal sexual contact, burglary, home invasion burglary, residential burglary, or escape;
- (k) a violation of N.J.S.2C:35-3 (Leader of a Narcotics Trafficking Network);
- (l) a violation of N.J.S.2C:35-4 (Maintaining and Operating a CDS Production Facility);
- (m) a violation of section 1 of P.L.1998, c.26 (C.2C:39-4.1) (Weapons Possession while Committing certain CDS Offenses);
- (n) an attempt or conspiracy to commit any of the crimes enumerated in subparagraphs (a) through (m) of this paragraph; or
- (o) a crime committed at a time when the juvenile previously had been sentenced and confined in an adult correctional facility.

(3) The court may deny a motion by the prosecutor to waive jurisdiction of a juvenile delinquency case if it is clearly convinced that the prosecutor abused his discretion in considering the following factors in deciding whether to seek a waiver:

- (a) The nature and circumstances of the offense charged;
- (b) Whether the offense was against a person or property, allocating more weight for crimes against the person;
- (c) Degree of the juvenile's culpability;
- (d) Age and maturity of the juvenile;
- (e) Any classification that the juvenile is eligible for special education to the extent this information is provided to the prosecution by the juvenile or by the court;
- (f) Degree of criminal sophistication exhibited by the juvenile;
- (g) Nature and extent of any prior history of delinquency of the juvenile and dispositions imposed for those adjudications;
- (h) If the juvenile previously served a custodial disposition in a State juvenile facility operated by the Juvenile Justice Commission, and the response of the juvenile to the programs provided at the facility to the extent this information is provided to the prosecution by the Juvenile Justice Commission;
- (i) Current or prior involvement of the juvenile with child welfare agencies;
- (j) Evidence of mental health concerns, substance use disorder, or emotional instability of the juvenile to the extent this information is provided to the prosecution by the juvenile or by the court; and

(k) If there is an identifiable victim, the input of the victim or victim's family.

The Attorney General may develop for dissemination to the county prosecutors those guidelines or directives deemed necessary or appropriate to ensure the uniform application of this section throughout the State.

d. An order waiving jurisdiction over a case and referring the case to the appropriate court and prosecuting authority shall specify the alleged act upon which the referral is based and all other delinquent acts charged against the juvenile arising out of or related to the same transaction.

e. Testimony of a juvenile at a hearing to determine referral under this section shall not be admissible for any purpose in any subsequent hearing to determine delinquency or guilt of any offense.

f. Upon waiver of jurisdiction and referral to the appropriate court and prosecuting authority having jurisdiction:

(1) The case shall proceed as if it originated in that court and shall be subject to the sentencing provisions available to that court; provided, however, upon conviction for any offense which is subject to waiver pursuant to paragraph (2) of subsection c. of this section, there shall be a presumption that the juvenile shall serve any custodial sentence imposed in a State juvenile facility operated by the Juvenile Justice Commission until the juvenile reaches the age of 21, except that:

(a) a juvenile who has not reached the age of 21 may, in the discretion of the Juvenile Justice Commission, be transferred to the Department of Corrections in accordance with the plan established pursuant to subsection e. of section 7 of P.L.1995, c.284 (C.52:17B-175) and regulations adopted pursuant to that section; and

(b) a juvenile who has reached or exceeds the age of 21 may continue to serve a sentence in a State juvenile facility operated by the Juvenile Justice Commission in the discretion of the Juvenile Justice Commission and if the juvenile so consents; otherwise the juvenile shall serve the remainder of the custodial sentence in a State correctional facility;

(2) If a juvenile is not convicted of an offense set forth in paragraph (2) of subsection c. of this section, a conviction for any other offense shall be deemed a juvenile adjudication and be remanded to the Superior Court, Chancery Division, Family Part for disposition, in accordance with the dispositional options available to that court and all records related to the act of delinquency shall be subject to the provisions of section 1 of P.L.1982, c.79 (C.2A:4A-60);

(3) With the consent of the defense and the prosecutor, at any point in the proceedings subsequent to the decision ordering waiver the court may remand to the Superior Court, Chancery Division, Family Part if it appears that:

(a) the interests of the public and the best interests of the juvenile require access to programs or procedures uniquely available to that court; and

(b) the interests of the public are no longer served by waiver.

g. (1) The Juvenile Justice Commission, in consultation with the Attorney General, shall establish a program to collect, record, and analyze data regarding waiver of jurisdiction of a juvenile delinquency case by the Superior Court, Chancery Division, Family Part to an appropriate court and prosecuting authority. In furtherance of this program, the Juvenile Justice Commission shall, in cooperation with the Administrative Office of the Courts, Attorney General, and county prosecutors, collect data related to the decision to seek waiver of jurisdiction of a juvenile delinquency case, which shall include but not be limited to data concerning:

(a) youth demographics, including age, gender, race, and ethnicity;

(b) case characteristics, including the degree of the offense waived, the degree of the offense convicted, and the final court resolution;

(c) case processing times; and

(d) waiver rates by race and ethnicity.

(2) The commission shall prepare and publish on its Internet website biennial reports summarizing the data collected, recorded, and analyzed pursuant to paragraph (1) of this subsection.

(3) The commission shall, pursuant to section 2 of P.L. 1991, c.164 (C.52:14-19.1), biennially prepare and transmit to the Governor and the Legislature the reports required in paragraph (2) of this subsection, along with any recommendations the commission may have for legislation concerning waiver of jurisdiction of juvenile delinquency cases.

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

Definitions.

2C:18-1. In this chapter, unless a different meaning plainly is required:

“Structure” means any building, room, ship, vessel, car, vehicle, or airplane and also means any place for carrying on business therein, whether or not a person is actually present.

“Utility Company Property” means property owned by a public utility, as defined in R.S.48:2-13, or by a municipality, county, water district, authority, or other public agency and which is used for the purpose of providing electric, gas or water utility service.

“Operational area” means any portion of a public airport, from which access by the public is prohibited by fences or appropriate signs, and includes runways, taxiways, all ramps, cargo ramps and apron areas, aircraft parking and storage areas, fuel storage areas, maintenance areas, and any other area of a public airport used or intended to be used for landing, takeoff or surface maneuvering of aircraft.

“Sterile area” means a portion of an airport, as set forth in an airport security program approved by the Transportation Security Administration, that provides passengers access to boarding aircraft and to which the access generally is controlled by the Transportation Security Administration, an aircraft operator pursuant to 49 C.F.R. part 1544, or an air carrier pursuant to 49 C.F.R. part 1546, through the screening of persons and property.

“Residential dwelling or accommodation” means a permanent structure intended as and currently being utilized as a residence by a private person or persons and any place adapted for overnight accommodation of persons.

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

Burglary.

2C:18-2. Burglary. a. Burglary defined. A person is guilty of burglary if, with purpose to commit an offense therein or thereon, the person:

(1) Enters a research facility, structure other than a residential dwelling, or a separately secured or occupied portion thereof unless the structure was at the time open to the public or the actor is licensed or privileged to enter;

(2) Surreptitiously remains in a research facility, structure other than a residential dwelling, or a separately secured or occupied portion thereof knowing that the person is not licensed or privileged to do so; or

(3) Trespasses in or upon utility company property where public notice prohibiting trespass is given by conspicuous posting, fencing, or other enclosure manifestly designed to exclude intruders.

b. Grading. Burglary is a crime of the second degree if in the course of committing the offense, the actor:

(1) Purposely, knowingly or recklessly inflicts, attempts to inflict or threatens to inflict bodily injury on anyone; or

(2) Is armed with or displays what appear to be explosives or a deadly weapon.

Otherwise burglary is a crime of the third degree. An act shall be deemed “in the course of committing” an offense if it occurs in an attempt to commit an offense or in immediate flight after the attempt or commission.

6. N.J.S.2C:35-14 is amended to read as follows:

Rehabilitation program for persons with a substance use disorder.

2C:35-14. Rehabilitation Program for Persons with a Substance Use Disorder Subject to a Presumption of Incarceration or a Mandatory Minimum Period of Parole Ineligibility; Criteria for Imposing Special Probation; Ineligible Offenders; Commitment to Residential Treatment Facilities or Participation in a Nonresidential Treatment Program; Presumption of Revocation; Brief Incarceration in Lieu of Permanent Revocation.

a. Any person who is ineligible for probation due to a conviction for a crime which is subject to a presumption of incarceration or a mandatory minimum period of parole ineligibility may be sentenced to a term of special probation in accordance with this section, and may not apply for treatment for substance use disorder pursuant to N.J.S.2C:45-1. Nothing in this section shall be construed to prohibit a person who is eligible for probation in accordance with N.J.S.2C:45-1 due to a conviction for an offense which is not subject to a presumption of incarceration or a mandatory minimum period of parole ineligibility from applying for treatment for substance use disorder as a condition of probation pursuant to N.J.S.2C:45-1; provided, however, that a person in need of treatment as defined in subsection f. of section 2 of P.L.2012, c.23 (C.2C:35-14.2) shall be sentenced in accordance with that section. Notwithstanding the presumption of incarceration pursuant to the provisions of subsection d. of N.J.S.2C:44-1, whenever a person with a substance use disorder who is subject to sentencing under this section is convicted of or adjudicated delinquent for an offense, other than one described in subsection b. of this section, the court, upon notice to the prosecutor, may, on motion of the person, or on the court’s own motion, place the person on special probation, which shall be for a term of five years, provided that the court finds on the record that:

(1) the person has undergone a professional diagnostic assessment to determine whether and to what extent the person has a substance use disorder and would benefit from treatment; and

(2) the person has a substance use disorder within the meaning of N.J.S.2C:35-2 and was with a substance use disorder at the time of the commission of the present offense; and

(3) the present offense was committed while the person was under the influence of a controlled dangerous substance, controlled substance analog or alcohol or was committed to acquire property or monies in order to support the person’s substance use disorder; and

(4) substance use disorder treatment and monitoring will serve to benefit the person by addressing the person's substance use disorder and will thereby reduce the likelihood that the person will thereafter commit another offense; and

(5) the person did not possess a firearm at the time of the present offense and did not possess a firearm at the time of any pending criminal charge; and

(6) the person has not been previously convicted on two or more separate occasions of crimes of the first or second degree, other than those listed in paragraph (7); or the person has not been previously convicted on two or more separate occasions, where one of the offenses is a crime of the third degree, other than crimes defined in N.J.S.2C:35-10, and one of the offenses is a crime of the first or second degree; and

(7) the person has not been previously convicted or adjudicated delinquent for, and does not have a pending charge of murder, aggravated manslaughter, manslaughter, kidnapping,

aggravated assault, aggravated sexual assault or sexual assault, or a similar crime under the laws of any other state or the United States; and

(8) a suitable treatment facility licensed and approved by the Division of Mental Health and Addiction Services in the Department of Human Services is able and has agreed to provide appropriate treatment services in accordance with the requirements of this section; and

(9) no danger to the community will result from the person being placed on special probation pursuant to this section.

In determining whether to sentence the person pursuant to this section, the court shall consider all relevant circumstances, and shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing or other court proceedings, and shall also consider the presentence report and the results of the professional diagnostic assessment to determine whether and to what extent the person has a substance use disorder and would benefit from treatment. The court shall give priority to a person who has moved to be sentenced to special probation over a person who is being considered for a sentence to special probation on the court's own motion or in accordance with the provisions of section 2 of P.L.2012, c.23 (C.2C:35-14.2).

As a condition of special probation, the court shall order the person to enter a residential treatment program at a facility licensed and approved by the Division of Mental Health and Addiction Services in the Department of Human Services or a program of nonresidential treatment by a licensed and approved treatment provider, which program may include the use of medication-assisted treatment as defined in paragraph (7) of subsection f. of this section, to comply with program rules and the requirements of the course of treatment, to cooperate fully with the treatment provider, and to comply with such other reasonable terms and conditions as may be required by the court or by law, pursuant to N.J.S.2C:45-1, and which shall include periodic urine testing for drug or alcohol usage throughout the period of special probation. In determining whether to order the person to participate in a nonresidential rather than a residential treatment program, the court shall follow the procedure set forth in subsection j. of this section. Subject to the requirements of subsection d. of this section, the conditions of special probation may include different methods and levels of community-based or residential supervision.

b. A person shall not be eligible for special probation pursuant to this section if the person is convicted of or adjudicated delinquent for:

(1) a crime of the first degree;

(2) a crime of the first or second degree enumerated in subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), other than a crime of the second degree involving N.J.S.2C:15-1, robbery, N.J.S.2C:18-2, burglary, or section 2 of P.L.2024, c.83 (C.2C:18-2.2), residential burglary;

(3) a crime, other than that defined in section 1 of P.L.1987, c.101 (C.2C:35-7), for which a mandatory minimum period of incarceration is prescribed under chapter 35 of this Title or any other law; or

(4) an offense that involved the distribution or the conspiracy or attempt to distribute a controlled dangerous substance or controlled substance analog to a juvenile near or on school property.

c. (Deleted by amendment, P.L.2012, c.23)

d. Except as otherwise provided in subsection j. of this section, a person convicted of or adjudicated delinquent for a crime of the second degree or of a violation of section 1 of P.L.1987, c.101 (C.2C:35-7), or who previously has been convicted of or adjudicated delinquent for an offense under subsection a. of N.J.S.2C:35-5 or a similar offense under any other law of this State, any other state or the United States, who is placed on special probation under this section shall be committed to the custody of a residential substance use disorder treatment facility licensed and approved by the Division of Mental Health and Addiction

Services in the Department of Human Services. Subject to the authority of the court to temporarily suspend imposition of all or any portion of the term of commitment to a residential treatment facility pursuant to subsection j. of this section, the person shall be committed to the residential treatment facility immediately, unless the facility cannot accommodate the person, in which case the person shall be incarcerated to await commitment to the residential treatment facility. The term of such commitment shall be for a minimum of six months, or until the court, upon recommendation of the treatment provider, determines that the person has successfully completed the residential treatment program, whichever is later, except that no person shall remain in the custody of a residential treatment facility pursuant to this section for a period in excess of five years. Upon successful completion of the required residential treatment program, the person shall complete the period of special probation, as authorized by subsection a. of this section, with credit for time served for any imprisonment served as a condition of probation and credit for each day during which the person satisfactorily complied with the terms and conditions of special probation while committed pursuant to this section to a residential treatment facility. Except as otherwise provided in subsection l. of this section, the person shall not be eligible for early discharge of special probation pursuant to N.J.S.2C:45-2, or any other provision of the law. The court, in determining the number of credits for time spent in residential treatment, shall consider the recommendations of the treatment provider. A person placed into a residential treatment facility pursuant to this section shall be deemed to be subject to official detention for the purposes of N.J.S.2C:29-5 (escape).

e. The probation department or other appropriate agency designated by the court to monitor or supervise the person's special probation shall report periodically to the court as to the person's progress in treatment and compliance with court-imposed terms and conditions. The treatment provider shall promptly report to the probation department or other appropriate agency all significant failures by the person to comply with any court-imposed term or condition of special probation or any requirements of the course of treatment, including but not limited to a positive drug or alcohol test, which shall only constitute a violation for a person using medication-assisted treatment as defined in paragraph (7) of subsection f. of this section if the positive test is unrelated to the person's medication-assisted treatment, or the unexcused failure to attend any session or activity, and shall immediately report any act that would constitute an escape. The probation department or other appropriate agency shall immediately notify the court and the prosecutor in the event that the person refuses to submit to a periodic drug or alcohol test or for any reason terminates the person's participation in the course of treatment, or commits any act that would constitute an escape.

f. (1) Upon a first violation of any term or condition of the special probation authorized by this section or of any requirements of the course of treatment, the court in its discretion may permanently revoke the person's special probation.

(2) Upon a second or subsequent violation of any term or condition of the special probation authorized by this section or of any requirements of the course of treatment, the court shall, subject only to the provisions of subsection g. of this section, permanently revoke the person's special probation unless the court finds on the record that there is a substantial likelihood that the person will successfully complete the treatment program if permitted to continue on special probation, and the court is clearly convinced, considering the nature and seriousness of the violations, that no danger to the community will result from permitting the person to continue on special probation pursuant to this section. The court's determination to permit the person to continue on special probation following a second or subsequent violation pursuant to this paragraph may be appealed by the prosecution.

(3) In making its determination whether to revoke special probation, and whether to overcome the presumption of revocation established in paragraph (2) of this subsection, the court shall consider the nature and seriousness of the present infraction and any past infractions in relation to the person's overall progress in the course of treatment, and shall also consider the recommendations of the treatment provider. The court shall give added weight to the treatment provider's recommendation that the person's special probation be permanently revoked, or to the treatment provider's opinion that the person is not amenable to treatment or is not likely to complete the treatment program successfully.

(4) If the court permanently revokes the person's special probation pursuant to this subsection, the court shall impose any sentence that might have been imposed, or that would have been required to be imposed, originally for the offense for which the person was convicted or adjudicated delinquent. The court shall conduct a de novo review of any aggravating and mitigating factors present at the time of both original sentencing and resentencing. If the court determines or is required pursuant to any other provision of this chapter or any other law to impose a term of imprisonment, the person shall receive credit for any time served in custody pursuant to N.J.S.2C:45-1 or while awaiting placement in a treatment facility pursuant to this section, and for each day during which the person satisfactorily complied with the terms and conditions of special probation while committed pursuant to this section to a residential treatment facility. The court, in determining the number of credits for time spent in a residential treatment facility, shall consider the recommendations of the treatment provider.

(5) Following a violation, if the court permits the person to continue on special probation pursuant to this section, the court shall order the person to comply with such additional terms and conditions, including but not limited to more frequent drug or alcohol testing, as are necessary to deter and promptly detect any further violation.

(6) Notwithstanding any other provision of this subsection, if the person at any time refuses to undergo urine testing for drug or alcohol usage as provided in subsection a. of this section, the court shall, subject only to the provisions of subsection g. of this section, permanently revoke the person's special probation. Notwithstanding any other provision of this section, if the person at any time while committed to the custody of a residential treatment facility pursuant to this section commits an act that would constitute an escape, the court shall forthwith permanently revoke the person's special probation.

(7) An action for a violation under this section may be brought by a probation officer or prosecutor or on the court's own motion. Failure to complete successfully the required treatment program shall constitute a violation of the person's special probation. In the case of the temporary or continued management of a person's substance use disorder by means of medication-assisted treatment as defined herein, whenever supported by a report from the treatment provider of existing satisfactory progress and reasonably predictable long-term success with or without further medication-assisted treatment, the person's use of the medication-assisted treatment, even if continuing, shall not be the basis to constitute a failure to complete successfully the treatment program. A person who fails to comply with the terms of the person's special probation pursuant to this section and is thereafter sentenced to imprisonment in accordance with this subsection shall thereafter be ineligible for entry into the Intensive Supervision Program, provided however that this provision shall not affect the person's eligibility for entry into the Intensive Supervision Program for a subsequent conviction.

As used in this section, the term "medication-assisted treatment" means the use of any medications approved by the federal Food and Drug Administration to treat substance use disorders, including extended-release naltrexone, methadone, and buprenorphine, in

combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders.

g. When a person on special probation is subject to a presumption of revocation on a second or subsequent violation pursuant to paragraph (2) of subsection f. of this section, or when the person refuses to undergo drug or alcohol testing pursuant to paragraph (6) of subsection f. of this section, the court may, in lieu of permanently revoking the person's special probation, impose a term of incarceration for a period of not less than 30 days nor more than six months, after which the person's term of special probation pursuant to this section may be reinstated. In determining whether to order a period of incarceration in lieu of permanent revocation pursuant to this subsection, the court shall consider the recommendations of the treatment provider with respect to the likelihood that such confinement would serve to motivate the person to make satisfactory progress in treatment once special probation is reinstated. This disposition may occur only once with respect to any person unless the court is clearly convinced that there are compelling and extraordinary reasons to justify reimposing this disposition with respect to the person. Any such determination by the court to reimpose this disposition may be appealed by the prosecution. Nothing in this subsection shall be construed to limit the authority of the court at any time during the period of special probation to order a person on special probation who is not subject to a presumption of revocation pursuant to paragraph (2) of subsection f. of this section to be incarcerated over the course of a weekend, or for any other reasonable period of time, when the court in its discretion determines that such incarceration would help to motivate the person to make satisfactory progress in treatment.

h. The court, as a condition of its order, and after considering the person's financial resources, shall require the person to pay that portion of the costs associated with the person's participation in any residential or nonresidential treatment program imposed pursuant to this section which, in the opinion of the court, is consistent with the person's ability to pay, taking into account the court's authority to order payment or reimbursement to be made over time and in installments.

i. The court shall impose, as a condition of the special probation, any fine, penalty, fee or restitution applicable to the offense for which the person was convicted or adjudicated delinquent.

j. Where the court finds that a person has satisfied all of the eligibility criteria for special probation and would otherwise be required to be committed to the custody of a residential substance use disorders treatment facility pursuant to the provisions of subsection d. of this section, the court may temporarily suspend imposition of all or any portion of the term of commitment to a residential treatment facility and may instead order the person to enter a nonresidential treatment program, provided that the court finds on the record that:

(1) the person conducting the diagnostic assessment required pursuant to paragraph (1) of subsection a. of this section has recommended in writing that the proposed course of nonresidential treatment services is clinically appropriate and adequate to address the person's treatment needs; and

(2) no danger to the community would result from the person participating in the proposed course of nonresidential treatment services; and

(3) a suitable treatment provider is able and has agreed to provide clinically appropriate nonresidential treatment services.

If the prosecutor objects to the court's decision to suspend the commitment of the person to a residential treatment facility pursuant to this subsection, the sentence of special probation imposed pursuant to this section shall not become final for 10 days in order to permit the appeal by the prosecution of the court's decision.

After a period of six months of nonresidential treatment, if the court, considering all available information including but not limited to the recommendation of the treatment provider, finds that the person has made satisfactory progress in treatment and that there is a substantial likelihood that the person will successfully complete the nonresidential treatment program and period of special probation, the court, on notice to the prosecutor, may permanently suspend the commitment of the person to the custody of a residential treatment program, in which event the special monitoring provisions set forth in subsection k. of this section shall no longer apply.

Nothing in this subsection shall be construed to limit the authority of the court at any time during the term of special probation to order the person to be committed to a residential or nonresidential treatment facility if the court determines that such treatment is clinically appropriate and necessary to address the person's present treatment needs.

k. (1) When the court temporarily suspends the commitment of the person to a residential treatment facility pursuant to subsection j. of this section, the court shall, in addition to ordering participation in a prescribed course of nonresidential treatment and any other appropriate terms or conditions authorized or required by law, order the person to undergo urine testing for drug or alcohol use not less than once per week unless otherwise ordered by the court. The court-ordered testing shall be conducted by the probation department or the treatment provider. The results of all tests shall be reported promptly to the court and to the prosecutor. If the person is involved with a program that is providing the person medication-assisted treatment as defined in paragraph (7) of subsection f. of this section, only a positive urine test for drug or alcohol use unrelated to the medication-assisted treatment shall constitute a violation of the terms and conditions of special probation. In addition, the court shall impose appropriate curfews or other restrictions on the person's movements, and may order the person to wear electronic monitoring devices to enforce such curfews or other restrictions as a condition of special probation.

(2) The probation department or other appropriate agency shall immediately notify the court and the prosecutor in the event that the person fails or refuses to submit to a drug or alcohol test, knowingly defrauds the administration of a drug or alcohol test, terminates the person's participation in the course of treatment, or commits any act that would constitute absconding from parole. If the person at any time while entered in a nonresidential treatment program pursuant to subsection j. of this section knowingly defrauds the administration of a drug or alcohol test, goes into hiding, or leaves the State with a purpose of avoiding supervision, the court shall permanently revoke the person's special probation.

l. If the court finds that the person has made exemplary progress in the course of treatment, the court may, upon recommendation of the person's supervising probation officer or on the court's own motion, and upon notice to the prosecutor, grant early discharge from a term of special probation provided that the person: (1) has satisfactorily completed the treatment program ordered by the court; (2) has served at least two years of special probation; (3) within the preceding 12 months, did not commit a substantial violation of any term or condition of special probation, including but not limited to a positive urine test, which shall only constitute a violation for a person using medication-assisted treatment as defined in paragraph (7) of subsection f. of this section if the positive test is unrelated to the person's medication-assisted treatment; and (4) is not likely to relapse or commit an offense if probation supervision and related services are discontinued.

m. (1) The Superior Court may order the expungement of all records and information relating to all prior arrests, detentions, convictions, and proceedings for any offense enumerated in Title 2C of the New Jersey Statutes upon successful discharge from a term of

special probation as provided in this section, regardless of whether the person was sentenced to special probation under this section, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, if the person satisfactorily completed a substance use disorder treatment program as ordered by the court and was not convicted of any crime, or adjudged a disorderly person or petty disorderly person, during the term of special probation. The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14 shall not apply to an expungement pursuant to this paragraph and no fee shall be charged to a person eligible for relief pursuant to this paragraph. The court shall grant the relief requested unless it finds that the need for the availability of the records outweighs the desirability of having the person freed from any disabilities associated with their availability, or it finds that the person is otherwise ineligible for expungement pursuant to paragraph (2) of this subsection. An expungement under this paragraph shall proceed in accordance with rules and procedures developed by the Supreme Court.

(2) A person shall not be eligible for expungement under paragraph (1) of this subsection if the records include a conviction for any offense barred from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2. It shall be the obligation of the prosecutor to notify the court of any disqualifying convictions or any other factors related to public safety that should be considered by the court when deciding to grant an expungement under paragraph (1) of this subsection.

(3) The Superior Court shall provide a copy of the expungement order granted pursuant to paragraph (1) of this subsection to the prosecutor and to the person and, if the person was represented by the Public Defender, to the Public Defender. The person or, if the person was represented by the Public Defender, the Public Defender on behalf of the person, shall promptly distribute copies of the expungement order to appropriate agencies who have custody and control of the records specified in the order so that the agencies may comply with the requirements of N.J.S.2C:52-15.

(4) If the person whose records are expunged pursuant to paragraph (1) of this subsection is convicted of any crime following discharge from special probation, the full record of arrests and convictions may be restored to public access and no future expungement shall be granted to such person.

(5) A person who, prior to the effective date of P.L.2015, c.261, was successfully discharged from a term of special probation as provided in this section, regardless of whether the person was sentenced to special probation under this section, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, may seek an expungement of all records and information relating to all arrests, detentions, convictions, and proceedings for any offense enumerated in Title 2C of the New Jersey Statutes that existed at the time of discharge from special probation by presenting an application to the Superior Court in the county in which the person was sentenced to special probation, which contains a duly verified petition as provided in N.J.S.2C:52-7 for each crime or offense sought to be expunged. The petition for expungement shall proceed pursuant to N.J.S.2C:52-1 et seq. except that the requirements related to the expiration of the time periods specified in N.J.S.2C:52-2 through section 1 of P.L.1980, c.163 (C.2C:52-4.1) shall not apply. A person who was convicted of any offense barred from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2, or who has been convicted of any crime or offense since the date of discharge from special probation shall not be eligible to apply for an expungement under this paragraph. In addition, no application for expungement shall be considered until any pending charges are disposed. It shall be the obligation of the prosecutor to notify the court of any disqualifying convictions or any other factors related to public safety that should be considered by the court when deciding to grant an expungement under this paragraph. The Superior Court shall consider the person's verified petition and may order the expungement of all records and information relating to all arrests, detentions,

convictions, and proceedings of the person that existed at the time of discharge from special probation as appropriate. The court shall grant the relief requested unless it finds that the need for the availability of the records outweighs the desirability of having the person freed from any disabilities associated with their availability, or it finds that the person is otherwise ineligible for expungement pursuant to this paragraph. No fee shall be charged to a person eligible for relief pursuant to this paragraph.

(6) (a) A person who is not eligible for expungement relief pursuant to paragraph (1) or (5) of this subsection because of a conviction occurring prior to, on, or after the effective date of P.L.2021, c.460, for any offense set forth in paragraph (2) of subsection a. of N.J.S.2C:24-4, involving endangering the welfare of a child, which is barred from expungement pursuant to subsection b. of N.J.S.2C:52-2 and therefore renders the person ineligible under those paragraphs, may be eligible to seek expungement relief pursuant to this paragraph. The person shall have been successfully discharged from a term of special probation as provided in this section, regardless of whether the person was sentenced to special probation under this section, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, for a period of at least 10 years prior to seeking an expungement of all records and information relating to all arrests, detentions, convictions, and proceedings for any offense enumerated in Title 2C of the New Jersey Statutes that existed at the time of discharge from special probation. The person shall present an application to the Superior Court in the county in which the person was sentenced to special probation, which contains a duly verified petition as provided in N.J.S.2C:52-7 for each crime or offense sought to be expunged. The petition for expungement shall proceed pursuant to N.J.S.2C:52-1 et seq. A person shall not be eligible to apply for an expungement under this paragraph if that person was convicted of any offense barred from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2, other than a conviction for endangering the welfare of a child under paragraph (2) of subsection a. of N.J.S.2C:24-4, which crime is also determined by the court, based upon a review by the prosecutor in accordance with subparagraph (b) of this paragraph, to have been nonviolent with respect to the facts and elements of the criminal act, or if that person has been convicted of any crime or offense since the date of discharge from special probation. In addition, no application for expungement shall be considered until any pending charges are disposed. It shall be the obligation of the prosecutor to notify the court of any disqualifying convictions, any conviction for endangering the welfare of a child reviewed by the prosecutor and found to be violent, or any other factors related to public safety that should be considered by the court when deciding to grant an expungement under this paragraph. The Superior Court shall consider the person's verified petition and may order the expungement of all records and information relating to all arrests, detentions, convictions, and proceedings of the person that existed at the time of discharge from special probation as appropriate. The court shall grant the relief requested unless it finds that the need for the availability of the records outweighs the desirability of having the person freed from any disabilities associated with their availability, or it finds that the person is otherwise ineligible for expungement pursuant to this paragraph. No fee shall be charged to a person eligible for relief pursuant to this paragraph.

(b) The prosecutor, when reviewing a conviction for endangering the welfare of a child under paragraph (2) of subsection a. of N.J.S.2C:24-4 as to whether the facts and elements of the criminal act were nonviolent and therefore do not prevent, as to this conviction, a person's eligibility for expungement relief under this paragraph, shall consider any act which falls under the following definitions to be violent acts, and render the person ineligible for expungement relief:

any act of "abuse," as defined in R.S.9:6-1, that is specifically listed in part (c) of the definition, employing or permitting a child to be employed in any occupation, employment or

vocation dangerous to the morals of such child; part (e) of the definition, the performing of any indecent, immoral or unlawful act or deed, in the presence of a child, that may tend to debauch or endanger or degrade the morals of the child; part (f) of the definition, permitting or allowing any other person to perform any indecent, immoral or unlawful act in the presence of the child that may tend to debauch or endanger the morals of such child; or part (g) of the definition, using excessive physical restraint on the child under circumstances which do not indicate that the child's behavior is harmful to himself, others or property;

any act of "cruelty," as defined in R.S.9:6-1; and

any act resulting in an "abused or neglected child," as defined by subsection c. of section 1 of P.L.1974, c.119 (C.9:6-8.21), that is specifically listed in paragraph (1) of the definition, inflicting or allowing to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; paragraph (2) of the definition, creating or allowing to be created a substantial or ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ; paragraph (3) of the definition, committing or allowing to be committed an act of sexual abuse against the child; subparagraph (b) of paragraph (4) of the definition, solely as to a child whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of the child's parent or guardian to exercise a minimum degree of care in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted excessive corporal punishment, or the substantial risk thereof; paragraph (6) of the definition, for a child upon whom excessive physical restraint has been used under circumstances which do not indicate that the child's behavior is harmful to himself, others, or property; or paragraph (7) of the definition, for a child who is in an institution and, pursuant to subparagraph (a) of that paragraph, has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being or, pursuant to subparagraph (b) of that paragraph, who has been willfully isolated from ordinary social contact under circumstances which indicate emotional or social deprivation.

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

Sentence of imprisonment for crime; ordinary terms; mandatory terms.

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

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

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

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

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

b. As part of a sentence for any crime, where the court is clearly convinced that the aggravating factors substantially outweigh the mitigating factors, as set forth in subsections a. and b. of 2C:44-1, or the court finds that the aggravating factor set forth in paragraph (5) of

subsection a. of N.J.S.2C:44-1 applies, the court may fix a minimum term not to exceed one-half of the term set pursuant to subsection a., or one-half of the term set pursuant to a maximum period of incarceration for a crime set forth in any statute other than this code, during which the defendant shall not be eligible for parole; provided that no defendant shall be eligible for parole at a date earlier than otherwise provided by the law governing parole.

c. A person who has been convicted under subsection b. or d. of N.J.S.2C:39-3, subsection a. of N.J.S.2C:39-4, subsection a. of section 1 of P.L.1998, c.26 (C.2C:39-4.1), subsection a., b., c., or f. of N.J.S.2C:39-5, subsection a. or paragraph (2) or (3) of subsection b. of section 6 of P.L.1979, c.179 (C.2C:39-7), or subsection a., b., e. or g. of N.J.S.2C:39-9, or of a crime under any of the following sections: N.J.S.2C:11-3, N.J.S.2C:11-4, subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, subsection a. of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3, N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-5, section 1 of P.L.2024, c.83 (C.2C:18-2.1), or section 2 of P.L.2024, c.83 (C.2C:18-2.2), who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a firearm as defined in subsection f. of N.J.S.2C:39-1, shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at one-half of the sentence imposed by the court or 42 months, whichever is greater, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

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

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

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

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

e. A person convicted of a third or subsequent offense involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any other provision of this code, or under any of the provisions of Title 54 of the Revised Statutes, or Title 54A of the New Jersey Statutes, as amended and supplemented, shall be sentenced to a term of imprisonment by the court. This shall not

preclude an application for and imposition of an extended term of imprisonment under N.J.S.2C:44-3 if the provisions of that section are applicable to the offender.

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

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

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

g. Any person who has been convicted under subsection a. of N.J.S.2C:39-4 or of a crime under any of the following sections: N.J.S.2C:11-3, N.J.S.2C:11-4, subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, subsection a of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3, N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-5, N.J.S.2C:35-5, section 1 of P.L.2024, c.83 (C.2C:18-2.1), or section 2 of P.L.2024, c.83 (C.2C:18-2.2), who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a machine gun or assault firearm shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at 10 years for a crime of the first or second degree, five years for a crime of the third degree, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

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

A person who has been convicted of an offense enumerated in this subsection and who used or possessed a machine gun or assault firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of any firearm as defined in subsection d. of N.J.S.2C:44-3, shall be sentenced by

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

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

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

8. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to read as follows:

C.2C:43-7.2 Mandatory service of 85 percent of sentence for certain offenses.

2. a. A court imposing a sentence of incarceration for a crime of the first or second degree enumerated in subsection d. of this section shall fix a minimum term of 85% of the sentence imposed, during which the defendant shall not be eligible for parole.

b. The minimum term required by subsection a. of this section shall be fixed as a part of every sentence of incarceration imposed upon every conviction of a crime enumerated in subsection d. of this section, whether the sentence of incarceration is determined pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3, or any other provision of law, and shall be calculated based upon the sentence of incarceration actually imposed. The provisions of subsection a. of this section shall not be construed or applied to reduce the time that must be served before eligibility for parole by an inmate sentenced to a mandatory minimum period of incarceration. Solely for the purpose of calculating the minimum term of parole ineligibility pursuant to subsection a. of this section, a sentence of life imprisonment shall be deemed to be 75 years.

c. Notwithstanding any other provision of law to the contrary and in addition to any other sentence imposed, a court imposing a minimum period of parole ineligibility of 85 percent of the sentence pursuant to this section shall also impose a five-year term of parole supervision if the defendant is being sentenced for a crime of the first degree, or a three-year term of parole supervision if the defendant is being sentenced for a crime of the second degree. The term of parole supervision shall commence upon the completion of the sentence of incarceration imposed by the court pursuant to subsection a. of this section unless the defendant is serving a sentence of incarceration for another crime at the time the defendant completes the sentence of incarceration imposed pursuant to subsection a., in which case the term of parole supervision shall commence immediately upon the defendant's release from incarceration. During the term of parole supervision the defendant shall remain in release status in the community in the legal custody of the Commissioner of the Department of Corrections and shall be supervised by the State Parole Board as if on parole and shall be subject to the provisions and conditions of section 3 of P.L.1997, c.117 (C.30:4-123.51b).

d. The court shall impose sentence pursuant to subsection a. of this section upon conviction of the following crimes or an attempt or conspiracy to commit any of these crimes:

- (1) N.J.S.2C:11-3, murder;
- (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- (3) N.J.S.2C:11-5, vehicular homicide;

- (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
 - (5) subsection b. of section 1 of P.L.1996, c.14 (2C:12-11), disarming a law enforcement officer;
 - (6) N.J.S.2C:13-1, kidnapping;
 - (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
 - (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of subsection c. of N.J.S.2C:14-2, sexual assault;
 - (9) N.J.S.2C:15-1, robbery;
 - (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
 - (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated arson;
 - (12) N.J.S.2C:18-2, burglary;
 - (13) subsection a. of N.J.S.2C:20-5, extortion;
 - (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1), booby traps in manufacturing or distribution facilities;
 - (15) N.J.S.2C:35-9, strict liability for drug induced deaths;
 - (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;
 - (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or possessing chemical weapons, biological agents or nuclear or radiological devices;
 - (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first degree;
 - (19) subsection i. of N.J.S.2C:39-9, firearms trafficking;
 - (20) paragraph (3) of subsection b. of N.J.S.2C:24-4, causing or permitting a child to engage in a prohibited sexual act, knowing that the act may be reproduced or reconstructed in any manner, or be part of an exhibition or performance;
 - (21) section 1 of P.L.2024, c.83 (C.2C:18-2.1), home invasion burglary; or
 - (22) section 2 of P.L.2024, c.83 (C.2C:18-2.2), residential burglary.
- e. (Deleted by amendment, P.L.2001, c.129).

9. N.J.S.2C:44-3 is amended to read as follows:

Criteria for sentence of extended term of imprisonment.

2C:44-3. The court may, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime of the first, second or third degree to an extended term of imprisonment if it finds one or more of the grounds specified in subsection a., b., c., or f. of this section. If the grounds specified in subsection d. are found, and the person is being sentenced for commission of any of the offenses enumerated in subsection c. or g. of N.J.S.2C:43-6, the court shall sentence the defendant to an extended term as required by subsection c. or g. of N.J.S.2C:43-6, and application by the prosecutor shall not be required. The court shall, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime under N.J.S.2C:14-2 or N.J.S.2C:14-3 to an extended term of imprisonment if the grounds specified in subsection g. of this section are found. The court shall, upon application of the prosecuting attorney, sentence a person to an extended term if the imposition of such term is required pursuant to the provisions of section 2 of P.L.1994, c.130 (C.2C:43-6.4). The finding of the court shall be incorporated in the record.

a. The defendant has been convicted of a crime of the first, second or third degree and is a persistent offender. A persistent offender is a person who at the time of the commission of the crime is 21 years of age or over, who has been previously convicted on at least two separate occasions of two crimes, committed at different times, when he was at least 18 years of age, if the latest in time of these crimes or the date of the defendant's last release from confinement, whichever is later, is within 10 years of the date of the crime for which the defendant is being sentenced.

b. The defendant has been convicted of a crime of the first, second or third degree and is a professional criminal. A professional criminal is a person who committed a crime as part of a continuing criminal activity in concert with two or more persons, and the circumstances of the crime show he has knowingly devoted himself to criminal activity as a major source of livelihood.

c. The defendant has been convicted of a crime of the first, second or third degree and committed the crime as consideration for the receipt, or in expectation of the receipt, of anything of pecuniary value the amount of which was unrelated to the proceeds of the crime or he procured the commission of the offense by payment or promise of payment of anything of pecuniary value.

d. Second offender with a firearm. The defendant is at least 18 years of age and has been previously convicted of any of the following crimes: N.J.S.2C:11-3, N.J.S.2C:11-4, subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, subsection a. of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3, N.J.S.2C:15-1, N.J.S.2C:18-2, section 1 of P.L.2024, c.83 (C.2C:18-2.1), N.J.S.2C:29-5, subsection a. of N.J.S.2C:39-4, or has been previously convicted of an offense under Title 2A of the New Jersey Statutes or under any statute of the United States or any other state which is substantially equivalent to the offenses enumerated in this subsection and he used or possessed a firearm, as defined in N.J.S.2C:39-1, in the course of committing or attempting to commit any of these crimes, including the immediate flight therefrom.

e. (Deleted by amendment, P.L.2001, c.443).

f. The defendant has been convicted of a crime under any of the following sections: N.J.S.2C:11-4, subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, subsection a. of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3, N.J.S.2C:15-1, N.J.S.2C:18-2, section 1 of P.L.2024, c.83 (C.2C:18-2.1), section 2 of P.L.2024, c.83 (C.2C:18-2.2), subsection b. of N.J.S.2C:29-2, N.J.S.2C:29-5, N.J.S.2C:35-5, and in the course of committing or attempting to commit the crime, including the immediate flight therefrom, the defendant used or was in possession of a stolen motor vehicle.

g. The defendant has been convicted of a crime under N.J.S.2C:14-2 or N.J.S.2C:14-3 involving violence or the threat of violence and the victim of the crime was 16 years of age or less.

For purposes of this subsection, a crime involves violence or the threat of violence if the victim sustains serious bodily injury as defined in subsection b. of N.J.S.2C:11-1, or the actor is armed with and uses a deadly weapon or threatens by word or gesture to use a deadly weapon as defined in subsection c. of N.J.S.2C:11-1, or threatens to inflict serious bodily injury.

h. (Deleted by amendment, P.L.2007, c.341).

10. Section 3 of P.L.1989, c.331 (C.34:8-44) is amended to read as follows:

C.34:8-44 Disclosure statement; hearing after denial of registration, license; notification, change, disclosure statement.

3. In addition to any other procedure, condition or information required by this act:

a. Every applicant shall file a disclosure statement with the chief stating whether or not the applicant has been convicted of any crime, which for the purposes of this act shall mean a violation of any of the following provisions of the "New Jersey Code of Criminal Justice," Title 2C of the New Jersey Statutes as amended and supplemented, or the equivalent under the laws of any other jurisdiction:

(1) Any crime of the first degree;

(2) Any crime which is a second or third degree crime and is a violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes; or

(3) Any other crime which is a violation of N.J.S.2C:5-1, N.J.S.2C:5-2, N.J.S.2C:11-2 through 2C:11-4, N.J.S.2C:12-1, N.J.S.2C:12-3, N.J.S.2C:13-1, N.J.S.2C:14-2, N.J.S.2C:15-1, subsection a. or b. of N.J.S.2C:17-1, subsection a. or b. of N.J.S.2C:17-2, N.J.S.2C:18-2,

section 1 of P.L.2024, c.83 (C.2C:18-2.1), section 2 of P.L.2024, c.83 (C.2C:18-2.2), N.J.S.2C:20-1, N.J.S.2C:20-2, N.J.S.2C:20-4, N.J.S.2C:20-5, N.J.S.2C:20-7, section 1 or 2 of P.L.2023, c.101 (C.2C:20-10.1 or C.2C:20-10.2), N.J.S.2C:20-9, N.J.S.2C:21-2 through 2C:21-4, N.J.S.2C:21-6, N.J.S.2C:21-7, N.J.S.2C:21-12, N.J.S.2C:21-14, N.J.S.2C:21-15, or N.J.S.2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, N.J.S.2C:30-3, N.J.S.2C:35-5, N.J.S.2C:35-10, or N.J.S.2C:37-1 through 2C:37-4.

b. Each disclosure statement may be reviewed and used by the director as grounds for denying licensure or registration, except that in cases in which the provisions of P.L.1968, c.282 (C.2A:168A-1 et seq.) apply, the director shall comply with the requirements of that act.

c. An applicant who is denied licensure or registration pursuant to this section shall, upon a written request transmitted to the director within 30 calendar days of the denial, be afforded an opportunity for a hearing in the manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. An applicant shall have the continuing duty to provide any assistance or information requested by the director, and to cooperate in any inquiry, investigation, or hearing conducted by the director.

e. If any of the information required to be included in the disclosure statement changes, or if any additional information should be added after the filing of the statement, the applicant shall provide that information to the chief, in writing, within 30 calendar days of the change or addition.

11. This act shall take effect immediately.

Approved October 18, 2024.

SENATE, No. 3006

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 18, 2024

Sponsored by:

Senator ANTHONY M. BUCCO

District 25 (Morris and Passaic)

Senator BRIAN P. STACK

District 33 (Hudson)

SYNOPSIS

Upgrades burglary of residence to crime of second degree; upgrades burglary to crime of first degree if committed while armed.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 4/11/2024)

1 AN ACT concerning burglary and amending N.J.S.2C:18-2 and
2 P.L.1997, c.117.

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:18-2 is amended to read as follows:

8 2C:18-2. Burglary. a. Burglary defined. A person is guilty of
9 burglary if, with purpose to commit an offense therein or thereon
10 **[he]** the actor:

11 (1) Enters a research facility, structure, or a separately secured
12 or occupied portion thereof unless the structure was at the time
13 open to the public or the actor is licensed or privileged to enter;

14 (2) Surreptitiously remains in a research facility, structure, or a
15 separately secured or occupied portion thereof knowing that **[he]**
16 the actor is not licensed or privileged to do so; or

17 (3) Trespasses in or upon utility company property where public
18 notice prohibiting trespass is given by conspicuous posting, or
19 fencing or other enclosure manifestly designed to exclude intruders.

20 b. **[Grading.]** Burglary is a crime of the second degree if in the
21 course of committing the offense, the actor:

22 (1) Purposely, knowingly or recklessly inflicts, attempts to
23 inflict or threatens to inflict bodily injury on anyone; or

24 (2) **[Is armed with or displays what appear to be explosives or a**
25 **deadly weapon]** (deleted by amendment) (P.L. , c.) (pending
26 before the Legislature as this bill); or

27 (3) Unlawfully enters or surreptitiously remains in a dwelling or
28 other structure adapted for overnight accommodation of persons,
29 whether or not a person is actually present.

30 c. Burglary is a crime of the first degree if the actor unlawfully
31 enters or surreptitiously remains in a dwelling or other structure
32 adapted for overnight accommodation of persons, whether or not a
33 person is actually present, and is armed with or displays what
34 appear to be explosives or a deadly weapon, or commits any crime
35 of the first or second degree.

36 d. Otherwise burglary is a crime of the third degree.

37 e. An act shall be deemed “in the course of committing” an
38 offense if it occurs in an attempt to commit an offense or in
39 immediate flight after the attempt or commission.

40 (cf: P.L.2009, c.283, s.2)

41

42 2. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to
43 read as follows:

44 2. a. A court imposing a sentence of incarceration for a crime
45 of the first or second degree enumerated in subsection d. of this

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 section shall fix a minimum term of 85% of the sentence imposed,
2 during which the defendant shall not be eligible for parole.

3 b. The minimum term required by subsection a. of this section
4 shall be fixed as a part of every sentence of incarceration imposed
5 upon every conviction of a crime enumerated in subsection d. of
6 this section, whether the sentence of incarceration is determined
7 pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any
8 other provision of law, and shall be calculated based upon the
9 sentence of incarceration actually imposed. The provisions of
10 subsection a. of this section shall not be construed or applied to
11 reduce the time that must be served before eligibility for parole by
12 an inmate sentenced to a mandatory minimum period of
13 incarceration. Solely for the purpose of calculating the minimum
14 term of parole ineligibility pursuant to subsection a. of this section,
15 a sentence of life imprisonment shall be deemed to be 75 years.

16 c. Notwithstanding any other provision of law to the contrary
17 and in addition to any other sentence imposed, a court imposing a
18 minimum period of parole ineligibility of 85 percent of the sentence
19 pursuant to this section shall also impose a five-year term of parole
20 supervision if the defendant is being sentenced for a crime of the
21 first degree, or a three-year term of parole supervision if the
22 defendant is being sentenced for a crime of the second degree. The
23 term of parole supervision shall commence upon the completion of
24 the sentence of incarceration imposed by the court pursuant to
25 subsection a. of this section unless the defendant is serving a
26 sentence of incarceration for another crime at the time he completes
27 the sentence of incarceration imposed pursuant to subsection a., in
28 which case the term of parole supervision shall commence
29 immediately upon the defendant's release from incarceration.
30 During the term of parole supervision the defendant shall remain in
31 release status in the community in the legal custody of the
32 Commissioner of the Department of Corrections and shall be
33 supervised by the State Parole Board as if on parole and shall be
34 subject to the provisions and conditions of section 3 of P.L.1997,
35 c.117 (C.30:4-123.51b).

36 d. The court shall impose sentence pursuant to subsection a. of
37 this section upon conviction of the following crimes or an attempt
38 or conspiracy to commit any of these crimes:

- 39 (1) N.J.S.2C:11-3, murder;
- 40 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 41 (3) N.J.S.2C:11-5, vehicular homicide;
- 42 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 43 (5) subsection b. of section 1 of P.L.1996, c.14 (C.2C:12-11),
44 disarming a law enforcement officer;
- 45 (6) N.J.S.2C:13-1, kidnapping;
- 46 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 47 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of
48 subsection c. of N.J.S.2C:14-2, sexual assault;

- 1 (9) N.J.S.2C:15-1, robbery;
2 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
3 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
4 arson;
5 (12) N.J.S.2C:18-2, burglary, when it is a crime of the first or
6 second degree;
7 (13) subsection a. of N.J.S.2C:20-5, extortion;
8 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
9 booby traps in manufacturing or distribution facilities;
10 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;
11 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;
12 (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or
13 possessing chemical weapons, biological agents or nuclear or
14 radiological devices;
15 (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first
16 degree;
17 (19) subsection i. of N.J.S.2C:39-9, firearms trafficking; or
18 (20) paragraph (3) of subsection b. of N.J.S.2C:24-4, causing or
19 permitting a child to engage in a prohibited sexual act, knowing that
20 the act may be reproduced or reconstructed in any manner, or be
21 part of an exhibition or performance.
22 e. (Deleted by amendment, P.L.2001, c.129).
23 (cf: P.L.2013, c.136, s.4)

24
25 3. This act shall take effect immediately
26
27

28 STATEMENT
29

30 This bill upgrades the crime of burglary of a residence.
31 Specifically, the bill makes it a crime of the second degree to
32 unlawfully enter or surreptitiously remain in a dwelling or other
33 structure adapted for overnight accommodation of persons, whether
34 or not a person is actually present. Burglary of a residence is
35 upgraded to a crime of the first degree under the bill if the person is
36 armed with or displays what appears to be an explosive or a deadly
37 weapon while committing the burglary, or if the burglary is
38 committed in connection with another crime of the first or second
39 degree.

40 Presently, burglary is punishable as a crime of the second degree
41 if the defendant either was armed or inflicted, attempted to inflict or
42 threatened, bodily injury during the course of the offense. In all
43 other circumstances, burglary is a crime of the third degree. A
44 crime of the third degree is punishable by a term of imprisonment
45 of three to five years, a fine not to exceed \$15,000, or both. A
46 crime of the second degree is punishable by a term of imprisonment
47 of five to 10 years, a fine not to exceed \$150,000, or both. A crime
48 of the first degree is punishable by a term of imprisonment of 10 to

S3006 A.M.BUCCO, STACK

5

1 20 years, a fine not to exceed \$200,000, or both.

2 This bill provides that a person who commits first or second
3 degree burglary of a residence under the bill would be sentenced
4 under the No Early Release Act (NERA). Under NERA, persons
5 convicted of certain enumerated violent crimes of the first or second
6 degree are required to serve a minimum term of at least 85% of the
7 sentence imposed without eligibility for parole.

[First Reprint]

SENATE, No. 3006

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED MARCH 18, 2024

Sponsored by:

Senator ANTHONY M. BUCCO

District 25 (Morris and Passaic)

Senator BRIAN P. STACK

District 33 (Hudson)

Co-Sponsored by:

Senators Space, O'Scanlon and Sarlo

SYNOPSIS

Upgrades burglary of residence to crime of second degree; upgrades burglary to crime of first degree if committed while armed.

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee on May 16, 2024, with amendments.



(Sponsorship Updated As Of: 6/24/2024)

1 AN ACT concerning burglary and amending N.J.S.2C:18-2 and
2 P.L.1997, c.117.

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:18-2 is amended to read as follows:

8 2C:18-2. Burglary. a. Burglary defined. A person is guilty of
9 burglary if, with purpose to commit an offense therein or thereon
10 **[he]** the actor:

11 (1) Enters a research facility, structure, or a separately secured
12 or occupied portion thereof unless the structure was at the time
13 open to the public or the actor is licensed or privileged to enter;

14 (2) Surreptitiously remains in a research facility, structure, or a
15 separately secured or occupied portion thereof knowing that **[he]**
16 the actor is not licensed or privileged to do so; or

17 (3) Trespasses in or upon utility company property where public
18 notice prohibiting trespass is given by conspicuous posting, or
19 fencing or other enclosure manifestly designed to exclude intruders.

20 b. **[Grading.]** Burglary is a crime of the second degree if in the
21 course of committing the offense, the actor:

22 (1) Purposely, knowingly or recklessly inflicts, attempts to
23 inflict or threatens to inflict bodily injury on anyone; ¹**[or]**¹

24 (2) **[Is armed with or displays what appear to be explosives or a**
25 **deadly weapon]** ¹**[(deleted by amendment) (P.L. _____, c. _____)**
26 **(pending before the Legislature as this bill)]** Is armed with or
27 displays what appear to be explosives or a deadly weapon, unless the
28 actor is armed with or displays what appear to be explosives or a
29 deadly weapon while in the course of committing the offense pursuant
30 to subsection c. of this section¹; or

31 (3) Unlawfully enters or surreptitiously remains in a dwelling or
32 other structure adapted for overnight accommodation of persons,
33 whether or not a person is actually present.

34 c. Burglary is a crime of the first degree if ¹in the course of
35 committing the offense,¹ the actor unlawfully enters or
36 surreptitiously remains in a dwelling or other structure adapted for
37 overnight accommodation of persons, whether or not a person is
38 actually present, and is armed with or displays what appear to be
39 explosives or a deadly weapon, or commits any crime of the first or
40 second degree.

41 d. Otherwise burglary is a crime of the third degree.

42 e. An act shall be deemed “in the course of committing” an
43 offense if it occurs in an attempt to commit an offense or in
44 immediate flight after the attempt or commission.

45 (cf: P.L.2009, c.283, s.2)

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:

¹Senate SJU committee amendments adopted May 16, 2024.

1 ¹[2. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to
2 read as follows:

3 2. a. A court imposing a sentence of incarceration for a crime
4 of the first or second degree enumerated in subsection d. of this
5 section shall fix a minimum term of 85% of the sentence imposed,
6 during which the defendant shall not be eligible for parole.

7 b. The minimum term required by subsection a. of this section
8 shall be fixed as a part of every sentence of incarceration imposed
9 upon every conviction of a crime enumerated in subsection d. of
10 this section, whether the sentence of incarceration is determined
11 pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any
12 other provision of law, and shall be calculated based upon the
13 sentence of incarceration actually imposed. The provisions of
14 subsection a. of this section shall not be construed or applied to
15 reduce the time that must be served before eligibility for parole by
16 an inmate sentenced to a mandatory minimum period of
17 incarceration. Solely for the purpose of calculating the minimum
18 term of parole ineligibility pursuant to subsection a. of this section,
19 a sentence of life imprisonment shall be deemed to be 75 years.

20 c. Notwithstanding any other provision of law to the contrary
21 and in addition to any other sentence imposed, a court imposing a
22 minimum period of parole ineligibility of 85 percent of the sentence
23 pursuant to this section shall also impose a five-year term of parole
24 supervision if the defendant is being sentenced for a crime of the
25 first degree, or a three-year term of parole supervision if the
26 defendant is being sentenced for a crime of the second degree. The
27 term of parole supervision shall commence upon the completion of
28 the sentence of incarceration imposed by the court pursuant to
29 subsection a. of this section unless the defendant is serving a
30 sentence of incarceration for another crime at the time he completes
31 the sentence of incarceration imposed pursuant to subsection a., in
32 which case the term of parole supervision shall commence
33 immediately upon the defendant's release from incarceration.
34 During the term of parole supervision the defendant shall remain in
35 release status in the community in the legal custody of the
36 Commissioner of the Department of Corrections and shall be
37 supervised by the State Parole Board as if on parole and shall be
38 subject to the provisions and conditions of section 3 of P.L.1997,
39 c.117 (C.30:4-123.51b).

40 d. The court shall impose sentence pursuant to subsection a. of
41 this section upon conviction of the following crimes or an attempt
42 or conspiracy to commit any of these crimes:

- 43 (1) N.J.S.2C:11-3, murder;
- 44 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 45 (3) N.J.S.2C:11-5, vehicular homicide;
- 46 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 47 (5) subsection b. of section 1 of P.L.1996, c.14 (C.2C:12-11),
48 disarming a law enforcement officer;

- 1 (6) N.J.S.2C:13-1, kidnapping;
2 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
3 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of
4 subsection c. of N.J.S.2C:14-2, sexual assault;
5 (9) N.J.S.2C:15-1, robbery;
6 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
7 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
8 arson;
9 (12) N.J.S.2C:18-2, burglary, when it is a crime of the first or
10 second degree;
11 (13) subsection a. of N.J.S.2C:20-5, extortion;
12 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
13 booby traps in manufacturing or distribution facilities;
14 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;
15 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;
16 (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or
17 possessing chemical weapons, biological agents or nuclear or
18 radiological devices;
19 (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first
20 degree:
21 (19) subsection i. of N.J.S.2C:39-9, firearms trafficking; or
22 (20) paragraph (3) of subsection b. of N.J.S.2C:24-4, causing or
23 permitting a child to engage in a prohibited sexual act, knowing that
24 the act may be reproduced or reconstructed in any manner, or be
25 part of an exhibition or performance.
26 e. (Deleted by amendment, P.L.2001, c.129).
27 (cf: P.L.2013, c.136, s.4)]¹

28
29 ¹**[3.] 2.**¹ This act shall take effect immediately.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 3006 and 3204

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED JUNE 26, 2024

Sponsored by:

Senator ANTHONY M. BUCCO

District 25 (Morris and Passaic)

Senator BRIAN P. STACK

District 33 (Hudson)

Senator VIN GOPAL

District 11 (Monmouth)

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman ALEXANDER "AVI" SCHNALL

District 30 (Monmouth and Ocean)

Co-Sponsored by:

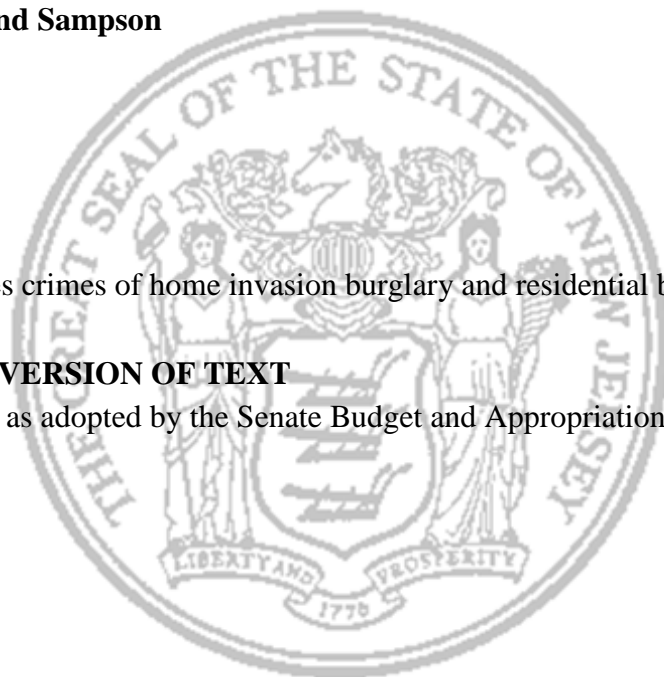
**Senators Space, O'Scanlon, Sarlo, Diegnan, Turner, McKeon, Moriarty,
Testa, Steinhardt, Amato, Assemblymen Bailey, Hutchison, Miller,
Wimberly and Sampson**

SYNOPSIS

Establishes crimes of home invasion burglary and residential burglary.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Budget and Appropriations Committee.



(Sponsorship Updated As Of: 9/26/2024)

1 **AN ACT** concerning burglary of residential dwellings,
2 supplementing Title 2C of the New Jersey Statutes, and
3 amending various parts of the statutory law.

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

7
8 1. (New section) a. A person is guilty of home invasion
9 burglary if, with purpose to commit an offense therein or thereon,
10 the person, without license or privilege to do so, enters or
11 surreptitiously remains in a residential dwelling or accommodation,
12 or a separately secured portion thereof, and in the course of
13 committing the offense, the person:

14 (1) Purposely, knowingly or recklessly inflicts, attempts to
15 inflict, or threatens to inflict bodily injury on anyone; or

16 (2) Is armed with or displays what appear to be explosives or a
17 deadly weapon.

18 An act shall be deemed “in the course of committing” an offense
19 if it occurs in an attempt to commit an offense or in immediate
20 flight after the attempt or commission.

21 b. Home invasion burglary is a crime of the first degree, subject
22 to section 2 of P.L.1997, c.117 (C.2C:43-7.2).

23
24 2. (New section) a. A person is guilty of residential burglary if,
25 with purpose to commit an offense therein or thereon, the person:

26 (1) Enters a residential dwelling or accommodation, or a
27 separately secured portion thereof, unless the actor is licensed or
28 privileged to enter; or

29 (2) Surreptitiously remains in a residential dwelling or
30 accommodation, or a separately secured portion thereof, knowing
31 that the actor is not licensed or privileged to do so.

32 b. For the purposes of subsection a. of this section, it is not an
33 element of the offense that the actor knew that any other person was
34 present in the residential dwelling or accommodation when the
35 actor entered or surreptitiously remained therein, and it shall not be
36 a defense that the actor did not know that any other person was
37 present in the residential dwelling or accommodation when the
38 actor entered or surreptitiously remained therein.

39 c. Residential burglary is a crime of the second degree, subject to
40 section 2 of P.L.1997, c.117 (C.2C:43-7.2), unless the actor
41 demonstrates by a preponderance of evidence that the actor
42 reasonably believed that no resident or any other person, other than
43 a person acting in concert with the actor, was present in the
44 residential dwelling or accommodation when the actor entered or
45 surreptitiously remained therein, in which case the offense is 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 crime of the second degree, not subject to section 2 of P.L.1997,
2 c.117 (C.2C:43-7.2).

3

4 3. Section 1 of P.L.2015, c.89 (C.2A:4A-26.1) is amended to
5 read as follows:

6 1. a. A prosecutor seeking waiver of jurisdiction of a juvenile
7 delinquency case by the Superior Court, Chancery Division, Family
8 Part to an appropriate court and prosecuting authority without the
9 consent of the juvenile shall file a motion within 60 days after the
10 receipt of the complaint, which time may be extended for good
11 cause shown. The motion shall be accompanied by a written
12 statement of reasons clearly setting forth the facts used in assessing
13 all factors contained in paragraph (3) of subsection c. of this
14 section, together with an explanation as to how evaluation of those
15 facts support waiver for each particular juvenile.

16 b. At a hearing, the court shall receive the evidence offered by
17 the State and by the juvenile. The State shall provide proof to
18 satisfy the requirements set forth in paragraphs (1) and (2) of
19 subsection c. of this section. The court also shall review whether
20 the State considered the factors set forth in paragraph (3) of
21 subsection c. of this section.

22 c. Except as provided in paragraph (3) of this subsection, the
23 court shall waive jurisdiction of a juvenile delinquency case without
24 the juvenile's consent and shall refer the case to the appropriate
25 court and prosecuting authority having jurisdiction if:

26 (1) The juvenile was 15 years of age or older at the time of the
27 alleged delinquent act; and

28 (2) There is probable cause to believe that the juvenile
29 committed a delinquent act which if committed by an adult would
30 constitute:

31 (a) criminal homicide, other than death by auto;

32 (b) strict liability for drug-induced deaths;

33 (c) first degree robbery;

34 (d) carjacking;

35 (e) aggravated sexual assault;

36 (f) sexual assault;

37 (g) second degree aggravated assault;

38 (h) kidnapping;

39 (i) aggravated arson;

40 (j) possession of a firearm with a purpose to use it unlawfully
41 against the person of another under subsection a. of N.J.S.2C:39-4,
42 or possession of a firearm while committing or attempting to
43 commit, including the immediate flight therefrom, aggravated
44 assault, aggravated criminal sexual contact, burglary, home
45 invasion burglary, residential burglary, or escape;

46 (k) a violation of N.J.S.2C:35-3 (Leader of a Narcotics
47 Trafficking Network);

48 (l) a violation of N.J.S.2C:35-4 (Maintaining and Operating a
49 CDS Production Facility);

- 1 (m) a violation of section 1 of P.L.1998, c.26 (C.2C:39-4.1)
2 (Weapons Possession while Committing certain CDS Offenses);
3 (n) an attempt or conspiracy to commit any of the crimes
4 enumerated in subparagraphs (a) through (m) of this paragraph; or
5 (o) a crime committed at a time when the juvenile previously had
6 been sentenced and confined in an adult correctional facility.
- 7 (3) The court may deny a motion by the prosecutor to waive
8 jurisdiction of a juvenile delinquency case if it is clearly convinced
9 that the prosecutor abused his discretion in considering the
10 following factors in deciding whether to seek a waiver:
- 11 (a) The nature and circumstances of the offense charged;
12 (b) Whether the offense was against a person or property,
13 allocating more weight for crimes against the person;
14 (c) Degree of the juvenile's culpability;
15 (d) Age and maturity of the juvenile;
16 (e) Any classification that the juvenile is eligible for special
17 education to the extent this information is provided to the
18 prosecution by the juvenile or by the court;
19 (f) Degree of criminal sophistication exhibited by the juvenile;
20 (g) Nature and extent of any prior history of delinquency of the
21 juvenile and dispositions imposed for those adjudications;
22 (h) If the juvenile previously served a custodial disposition in a
23 State juvenile facility operated by the Juvenile Justice Commission,
24 and the response of the juvenile to the programs provided at the
25 facility to the extent this information is provided to the prosecution
26 by the Juvenile Justice Commission;
27 (i) Current or prior involvement of the juvenile with child
28 welfare agencies;
29 (j) Evidence of mental health concerns, substance use disorder,
30 or emotional instability of the juvenile to the extent this information
31 is provided to the prosecution by the juvenile or by the court; and
32 (k) If there is an identifiable victim, the input of the victim or
33 victim's family.
- 34 The Attorney General may develop for dissemination to the
35 county prosecutors those guidelines or directives deemed necessary
36 or appropriate to ensure the uniform application of this section
37 throughout the State.
- 38 d. An order waiving jurisdiction over a case and referring the
39 case to the appropriate court and prosecuting authority shall specify
40 the alleged act upon which the referral is based and all other
41 delinquent acts charged against the juvenile arising out of or related
42 to the same transaction.
- 43 e. Testimony of a juvenile at a hearing to determine referral
44 under this section shall not be admissible for any purpose in any
45 subsequent hearing to determine delinquency or guilt of any
46 offense.
- 47 f. Upon waiver of jurisdiction and referral to the appropriate
48 court and prosecuting authority having jurisdiction:

1 (1) The case shall proceed as if it originated in that court and
2 shall be subject to the sentencing provisions available to that court;
3 provided, however, upon conviction for any offense which is
4 subject to waiver pursuant to paragraph (2) of subsection c. of this
5 section, there shall be a presumption that the juvenile shall serve
6 any custodial sentence imposed in a State juvenile facility operated
7 by the Juvenile Justice Commission until the juvenile reaches the
8 age of 21, except that:

9 (a) a juvenile who has not reached the age of 21 may, in the
10 discretion of the Juvenile Justice Commission, be transferred to the
11 Department of Corrections in accordance with the plan established
12 pursuant to subsection e. of section 7 of P.L.1995, c.284 (C.52:17B-
13 175) and regulations adopted pursuant to that section; and

14 (b) a juvenile who has reached or exceeds the age of 21 may
15 continue to serve a sentence in a State juvenile facility operated by
16 the Juvenile Justice Commission in the discretion of the Juvenile
17 Justice Commission and if the juvenile so consents; otherwise the
18 juvenile shall serve the remainder of the custodial sentence in a
19 State correctional facility;

20 (2) If a juvenile is not convicted of an offense set forth in
21 paragraph (2) of subsection c. of this section, a conviction for any
22 other offense shall be deemed a juvenile adjudication and be
23 remanded to the Superior Court, Chancery Division, Family Part for
24 disposition, in accordance with the dispositional options available
25 to that court and all records related to the act of delinquency shall
26 be subject to the provisions of section 1 of P.L.1982, c.79
27 (C.2A:4A-60);

28 (3) With the consent of the defense and the prosecutor, at any
29 point in the proceedings subsequent to the decision ordering waiver
30 the court may remand to the Superior Court, Chancery Division,
31 Family Part if it appears that:

32 (a) the interests of the public and the best interests of the juvenile
33 require access to programs or procedures uniquely available to that
34 court; and

35 (b) the interests of the public are no longer served by waiver.

36 g. (1) The Juvenile Justice Commission, in consultation with the
37 Attorney General, shall establish a program to collect, record, and
38 analyze data regarding waiver of jurisdiction of a juvenile
39 delinquency case by the Superior Court, Chancery Division, Family
40 Part to an appropriate court and prosecuting authority. In
41 furtherance of this program, the Juvenile Justice Commission shall,
42 in cooperation with the Administrative Office of the Courts,
43 Attorney General, and county prosecutors, collect data related to the
44 decision to seek waiver of jurisdiction of a juvenile delinquency
45 case, which shall include but not be limited to data concerning:

46 (a) youth demographics, including age, gender, race, and
47 ethnicity;

1 (b) case characteristics, including the degree of the offense
2 waived, the degree of the offense convicted, and the final court
3 resolution;

4 (c) case processing times; and

5 (d) waiver rates by race and ethnicity.

6 (2) The commission shall prepare and publish on its Internet
7 website biennial reports summarizing the data collected, recorded,
8 and analyzed pursuant to paragraph (1) of this subsection.

9 (3) The commission shall, pursuant to section 2 of P.L. 1991,
10 c.164 (C.52:14-19.1), biennially prepare and transmit to the
11 Governor and the Legislature the reports required in paragraph (2)
12 of this subsection, along with any recommendations the commission
13 may have for legislation concerning waiver of jurisdiction of
14 juvenile delinquency cases.

15 (cf: P.L.2023, c.177, s.1)

16
17 4. N.J.S.2C:18-1 is amended to read as follows:

18 2C:18-1. In this chapter, unless a different meaning plainly is
19 required:

20 “Structure” means any building, room, ship, vessel, car, vehicle
21 or airplane, and also means any place [adapted for overnight
22 accommodation of persons, or] for carrying on business therein,
23 whether or not a person is actually present.

24 “Utility Company Property” means property[;] (1) owned by a
25 public utility, as defined in R.S.48:2-13, or by a municipality,
26 county, water district, authority or other public agency[.]; and (2)
27 which is used for the purpose of providing electric, gas or water
28 utility service.

29 “Operational area” means any portion of a public airport, from
30 which access by the public is prohibited by fences or appropriate
31 signs, and includes runways, taxiways, all ramps, cargo ramps and
32 apron areas, aircraft parking and storage areas, fuel storage areas,
33 maintenance areas, and any other area of a public airport used or
34 intended to be used for landing, takeoff or surface maneuvering of
35 aircraft.

36 “Sterile area” means a portion of an airport, as set forth in an
37 airport security program approved by the Transportation Security
38 Administration, that provides passengers access to boarding aircraft
39 and to which the access generally is controlled by the
40 Transportation Security Administration, an aircraft operator
41 pursuant to 49 C.F.R. part 1544, or an air carrier pursuant to 49
42 C.F.R. part 1546, through the screening of persons and property.

43 “Residential dwelling or accommodation” means a permanent
44 structure intended as and currently being utilized as a residence by a
45 private person or persons, and any place adapted for overnight
46 accommodation of persons.

47 (cf: P.L.2013, c.138, s.1)

48
49 5. N.J.S.2C:18-2 is amended to read as follows:

1 2C:18-2. Burglary. a. Burglary defined. A person is guilty of
2 burglary if, with purpose to commit an offense therein or thereon,
3 **[he] the person**:
4 (1) Enters a research facility, structure other than a residential
5 dwelling, or a separately secured or occupied portion thereof unless
6 the structure was at the time open to the public or the actor is
7 licensed or privileged to enter;
8 (2) Surreptitiously remains in a research facility, structure other
9 than a residential dwelling, or a separately secured or occupied
10 portion thereof knowing that **[he] the person** is not licensed or
11 privileged to do so; or
12 (3) Trespasses in or upon utility company property where public
13 notice prohibiting trespass is given by conspicuous posting, or
14 fencing or other enclosure manifestly designed to exclude intruders.
15 b. Grading. Burglary is a crime of the second degree if in the
16 course of committing the offense, the actor:
17 (1) Purposely, knowingly or recklessly inflicts, attempts to inflict
18 or threatens to inflict bodily injury on anyone; or
19 (2) Is armed with or displays what appear to be explosives or a
20 deadly weapon.
21 Otherwise burglary is a crime of the third degree. An act shall
22 be deemed “in the course of committing” an offense if it occurs in
23 an attempt to commit an offense or in immediate flight after the
24 attempt or commission.
25 (cf: P.L.2009, c.283, s.2)
26
27 6. N.J.S.2C:35-14 is amended to read as follows:
28 2C:35-14. Rehabilitation Program for Persons with a Substance
29 Use Disorder Subject to a Presumption of Incarceration or a
30 Mandatory Minimum Period of Parole Ineligibility; Criteria for
31 Imposing Special Probation; Ineligible Offenders; Commitment to
32 Residential Treatment Facilities or Participation in a Nonresidential
33 Treatment Program; Presumption of Revocation; Brief Incarceration
34 in Lieu of Permanent Revocation.
35 a. Any person who is ineligible for probation due to a
36 conviction for a crime which is subject to a presumption of
37 incarceration or a mandatory minimum period of parole ineligibility
38 may be sentenced to a term of special probation in accordance with
39 this section, and may not apply for treatment for substance use
40 disorder pursuant to N.J.S.2C:45-1. Nothing in this section shall be
41 construed to prohibit a person who is eligible for probation in
42 accordance with N.J.S.2C:45-1 due to a conviction for an offense
43 which is not subject to a presumption of incarceration or a
44 mandatory minimum period of parole ineligibility from applying for
45 treatment for substance use disorder as a condition of probation
46 pursuant to N.J.S.2C:45-1; provided, however, that a person in need
47 of treatment as defined in subsection f. of section 2 of P.L.2012,
48 c.23 (C.2C:35-14.2) shall be sentenced in accordance with that

1 section. Notwithstanding the presumption of incarceration pursuant
2 to the provisions of subsection d. of N.J.S.2C:44-1, whenever a
3 person with a substance use disorder who is subject to sentencing
4 under this section is convicted of or adjudicated delinquent for an
5 offense, other than one described in subsection b. of this section,
6 the court, upon notice to the prosecutor, may, on motion of the
7 person, or on the court's own motion, place the person on special
8 probation, which shall be for a term of five years, provided that the
9 court finds on the record that:

10 (1) the person has undergone a professional diagnostic
11 assessment to determine whether and to what extent the person has
12 a substance use disorder and would benefit from treatment; and

13 (2) the person has a substance use disorder within the meaning
14 of N.J.S.2C:35-2 and was with a substance use disorder at the time
15 of the commission of the present offense; and

16 (3) the present offense was committed while the person was
17 under the influence of a controlled dangerous substance, controlled
18 substance analog or alcohol or was committed to acquire property
19 or monies in order to support the person's substance use disorder;
20 and

21 (4) substance use disorder treatment and monitoring will serve
22 to benefit the person by addressing the person's substance use
23 disorder and will thereby reduce the likelihood that the person will
24 thereafter commit another offense; and

25 (5) the person did not possess a firearm at the time of the
26 present offense and did not possess a firearm at the time of any
27 pending criminal charge; and

28 (6) the person has not been previously convicted on two or more
29 separate occasions of crimes of the first or second degree, other
30 than those listed in paragraph (7); or the person has not been
31 previously convicted on two or more separate occasions, where one
32 of the offenses is a crime of the third degree, other than crimes
33 defined in N.J.S.2C:35-10, and one of the offenses is a crime of the
34 first or second degree; and

35 (7) the person has not been previously convicted or adjudicated
36 delinquent for, and does not have a pending charge of murder,
37 aggravated manslaughter, manslaughter, kidnapping, aggravated
38 assault, aggravated sexual assault or sexual assault, or a similar
39 crime under the laws of any other state or the United States; and

40 (8) a suitable treatment facility licensed and approved by the
41 Division of Mental Health and Addiction Services in the
42 Department of Human Services is able and has agreed to provide
43 appropriate treatment services in accordance with the requirements
44 of this section; and

45 (9) no danger to the community will result from the person
46 being placed on special probation pursuant to this section.

1 In determining whether to sentence the person pursuant to this
2 section, the court shall consider all relevant circumstances, and
3 shall take judicial notice of any evidence, testimony or information
4 adduced at the trial, plea hearing or other court proceedings, and
5 shall also consider the presentence report and the results of the
6 professional diagnostic assessment to determine whether and to
7 what extent the person has a substance use disorder and would
8 benefit from treatment. The court shall give priority to a person
9 who has moved to be sentenced to special probation over a person
10 who is being considered for a sentence to special probation on the
11 court's own motion or in accordance with the provisions of section
12 2 of P.L.2012, c.23 (C.2C:35-14.2).

13 As a condition of special probation, the court shall order the
14 person to enter a residential treatment program at a facility licensed
15 and approved by the Division of Mental Health and Addiction
16 Services in the Department of Human Services or a program of
17 nonresidential treatment by a licensed and approved treatment
18 provider, which program may include the use of medication-
19 assisted treatment as defined in paragraph (7) of subsection f. of
20 this section, to comply with program rules and the requirements of
21 the course of treatment, to cooperate fully with the treatment
22 provider, and to comply with such other reasonable terms and
23 conditions as may be required by the court or by law, pursuant to
24 N.J.S.2C:45-1, and which shall include periodic urine testing for
25 drug or alcohol usage throughout the period of special probation. In
26 determining whether to order the person to participate in a
27 nonresidential rather than a residential treatment program, the court
28 shall follow the procedure set forth in subsection j. of this section.
29 Subject to the requirements of subsection d. of this section, the
30 conditions of special probation may include different methods and
31 levels of community-based or residential supervision.

32 b. A person shall not be eligible for special probation pursuant
33 to this section if the person is convicted of or adjudicated
34 delinquent for:

35 (1) a crime of the first degree;

36 (2) a crime of the first or second degree enumerated in
37 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), other
38 than a crime of the second degree involving N.J.S.2C:15-1
39 (robbery), **[or]** N.J.S.2C:18-2 (burglary), or section 2 of P.L. , c.
40 (C.) (pending before the Legislature as this bill), residential
41 burglary;

42 (3) a crime, other than that defined in section 1 of P.L.1987,
43 c.101 (C.2C:35-7), for which a mandatory minimum period of
44 incarceration is prescribed under chapter 35 of this Title or any
45 other law; or

1 (4) an offense that involved the distribution or the conspiracy or
2 attempt to distribute a controlled dangerous substance or controlled
3 substance analog to a juvenile near or on school property.

4 c. (Deleted by amendment, P.L.2012, c.23)

5 d. Except as otherwise provided in subsection j. of this section,
6 a person convicted of or adjudicated delinquent for a crime of the
7 second degree or of a violation of section 1 of P.L.1987, c.101
8 (C.2C:35-7), or who previously has been convicted of or
9 adjudicated delinquent for an offense under subsection a. of
10 N.J.S.2C:35-5 or a similar offense under any other law of this State,
11 any other state or the United States, who is placed on special
12 probation under this section shall be committed to the custody of a
13 residential substance use disorder treatment facility licensed and
14 approved by the Division of Mental Health and Addiction Services
15 in the Department of Human Services. Subject to the authority of
16 the court to temporarily suspend imposition of all or any portion of
17 the term of commitment to a residential treatment facility pursuant
18 to subsection j. of this section, the person shall be committed to the
19 residential treatment facility immediately, unless the facility cannot
20 accommodate the person, in which case the person shall be
21 incarcerated to await commitment to the residential treatment
22 facility. The term of such commitment shall be for a minimum of
23 six months, or until the court, upon recommendation of the
24 treatment provider, determines that the person has successfully
25 completed the residential treatment program, whichever is later,
26 except that no person shall remain in the custody of a residential
27 treatment facility pursuant to this section for a period in excess of
28 five years. Upon successful completion of the required residential
29 treatment program, the person shall complete the period of special
30 probation, as authorized by subsection a. of this section, with credit
31 for time served for any imprisonment served as a condition of
32 probation and credit for each day during which the person
33 satisfactorily complied with the terms and conditions of special
34 probation while committed pursuant to this section to a residential
35 treatment facility. Except as otherwise provided in subsection l. of
36 this section, the person shall not be eligible for early discharge of
37 special probation pursuant to N.J.S.2C:45-2, or any other provision
38 of the law. The court, in determining the number of credits for time
39 spent in residential treatment, shall consider the recommendations
40 of the treatment provider. A person placed into a residential
41 treatment facility pursuant to this section shall be deemed to be
42 subject to official detention for the purposes of N.J.S.2C:29-5
43 (escape).

44 e. The probation department or other appropriate agency
45 designated by the court to monitor or supervise the person's special
46 probation shall report periodically to the court as to the person's
47 progress in treatment and compliance with court-imposed terms and

1 conditions. The treatment provider shall promptly report to the
2 probation department or other appropriate agency all significant
3 failures by the person to comply with any court-imposed term or
4 condition of special probation or any requirements of the course of
5 treatment, including but not limited to a positive drug or alcohol
6 test, which shall only constitute a violation for a person using
7 medication-assisted treatment as defined in paragraph (7) of
8 subsection f. of this section if the positive test is unrelated to the
9 person's medication-assisted treatment, or the unexcused failure to
10 attend any session or activity, and shall immediately report any act
11 that would constitute an escape. The probation department or other
12 appropriate agency shall immediately notify the court and the
13 prosecutor in the event that the person refuses to submit to a
14 periodic drug or alcohol test or for any reason terminates the
15 person's participation in the course of treatment, or commits any act
16 that would constitute an escape.

17 f. (1) Upon a first violation of any term or condition of the
18 special probation authorized by this section or of any requirements
19 of the course of treatment, the court in its discretion may
20 permanently revoke the person's special probation.

21 (2) Upon a second or subsequent violation of any term or
22 condition of the special probation authorized by this section or of
23 any requirements of the course of treatment, the court shall, subject
24 only to the provisions of subsection g. of this section, permanently
25 revoke the person's special probation unless the court finds on the
26 record that there is a substantial likelihood that the person will
27 successfully complete the treatment program if permitted to
28 continue on special probation, and the court is clearly convinced,
29 considering the nature and seriousness of the violations, that no
30 danger to the community will result from permitting the person to
31 continue on special probation pursuant to this section. The court's
32 determination to permit the person to continue on special probation
33 following a second or subsequent violation pursuant to this
34 paragraph may be appealed by the prosecution.

35 (3) In making its determination whether to revoke special
36 probation, and whether to overcome the presumption of revocation
37 established in paragraph (2) of this subsection, the court shall
38 consider the nature and seriousness of the present infraction and any
39 past infractions in relation to the person's overall progress in the
40 course of treatment, and shall also consider the recommendations of
41 the treatment provider. The court shall give added weight to the
42 treatment provider's recommendation that the person's special
43 probation be permanently revoked, or to the treatment provider's
44 opinion that the person is not amenable to treatment or is not likely
45 to complete the treatment program successfully.

46 (4) If the court permanently revokes the person's special
47 probation pursuant to this subsection, the court shall impose any

1 sentence that might have been imposed, or that would have been
2 required to be imposed, originally for the offense for which the
3 person was convicted or adjudicated delinquent. The court shall
4 conduct a de novo review of any aggravating and mitigating factors
5 present at the time of both original sentencing and resentencing. If
6 the court determines or is required pursuant to any other provision
7 of this chapter or any other law to impose a term of imprisonment,
8 the person shall receive credit for any time served in custody
9 pursuant to N.J.S.2C:45-1 or while awaiting placement in a
10 treatment facility pursuant to this section, and for each day during
11 which the person satisfactorily complied with the terms and
12 conditions of special probation while committed pursuant to this
13 section to a residential treatment facility. The court, in determining
14 the number of credits for time spent in a residential treatment
15 facility, shall consider the recommendations of the treatment
16 provider.

17 (5) Following a violation, if the court permits the person to
18 continue on special probation pursuant to this section, the court
19 shall order the person to comply with such additional terms and
20 conditions, including but not limited to more frequent drug or
21 alcohol testing, as are necessary to deter and promptly detect any
22 further violation.

23 (6) Notwithstanding any other provision of this subsection, if
24 the person at any time refuses to undergo urine testing for drug or
25 alcohol usage as provided in subsection a. of this section, the court
26 shall, subject only to the provisions of subsection g. of this section,
27 permanently revoke the person's special probation.
28 Notwithstanding any other provision of this section, if the person at
29 any time while committed to the custody of a residential treatment
30 facility pursuant to this section commits an act that would constitute
31 an escape, the court shall forthwith permanently revoke the person's
32 special probation.

33 (7) An action for a violation under this section may be brought
34 by a probation officer or prosecutor or on the court's own motion.
35 Failure to complete successfully the required treatment program
36 shall constitute a violation of the person's special probation. In the
37 case of the temporary or continued management of a person's
38 substance use disorder by means of medication-assisted treatment as
39 defined herein, whenever supported by a report from the treatment
40 provider of existing satisfactory progress and reasonably
41 predictable long-term success with or without further medication-
42 assisted treatment, the person's use of the medication-assisted
43 treatment, even if continuing, shall not be the basis to constitute a
44 failure to complete successfully the treatment program. A person
45 who fails to comply with the terms of the person's special probation
46 pursuant to this section and is thereafter sentenced to imprisonment
47 in accordance with this subsection shall thereafter be ineligible for

1 entry into the Intensive Supervision Program, provided however
2 that this provision shall not affect the person's eligibility for entry
3 into the Intensive Supervision Program for a subsequent conviction.

4 As used in this section, the term "medication-assisted treatment"
5 means the use of any medications approved by the federal Food and
6 Drug Administration to treat substance use disorders, including
7 extended-release naltrexone, methadone, and buprenorphine, in
8 combination with counseling and behavioral therapies, to provide a
9 whole-patient approach to the treatment of substance use disorders.

10 g. When a person on special probation is subject to a
11 presumption of revocation on a second or subsequent violation
12 pursuant to paragraph (2) of subsection f. of this section, or when
13 the person refuses to undergo drug or alcohol testing pursuant to
14 paragraph (6) of subsection f. of this section, the court may, in lieu
15 of permanently revoking the person's special probation, impose a
16 term of incarceration for a period of not less than 30 days nor more
17 than six months, after which the person's term of special probation
18 pursuant to this section may be reinstated. In determining whether
19 to order a period of incarceration in lieu of permanent revocation
20 pursuant to this subsection, the court shall consider the
21 recommendations of the treatment provider with respect to the
22 likelihood that such confinement would serve to motivate the
23 person to make satisfactory progress in treatment once special
24 probation is reinstated. This disposition may occur only once with
25 respect to any person unless the court is clearly convinced that there
26 are compelling and extraordinary reasons to justify reimposing this
27 disposition with respect to the person. Any such determination by
28 the court to reimpose this disposition may be appealed by the
29 prosecution. Nothing in this subsection shall be construed to limit
30 the authority of the court at any time during the period of special
31 probation to order a person on special probation who is not subject
32 to a presumption of revocation pursuant to paragraph (2) of
33 subsection f. of this section to be incarcerated over the course of a
34 weekend, or for any other reasonable period of time, when the court
35 in its discretion determines that such incarceration would help to
36 motivate the person to make satisfactory progress in treatment.

37 h. The court, as a condition of its order, and after considering
38 the person's financial resources, shall require the person to pay that
39 portion of the costs associated with the person's participation in any
40 residential or nonresidential treatment program imposed pursuant to
41 this section which, in the opinion of the court, is consistent with the
42 person's ability to pay, taking into account the court's authority to
43 order payment or reimbursement to be made over time and in
44 installments.

45 i. The court shall impose, as a condition of the special
46 probation, any fine, penalty, fee or restitution applicable to the

1 offense for which the person was convicted or adjudicated
2 delinquent.

3 j. Where the court finds that a person has satisfied all of the
4 eligibility criteria for special probation and would otherwise be
5 required to be committed to the custody of a residential substance
6 use disorders treatment facility pursuant to the provisions of
7 subsection d. of this section, the court may temporarily suspend
8 imposition of all or any portion of the term of commitment to a
9 residential treatment facility and may instead order the person to
10 enter a nonresidential treatment program, provided that the court
11 finds on the record that:

12 (1) the person conducting the diagnostic assessment required
13 pursuant to paragraph (1) of subsection a. of this section has
14 recommended in writing that the proposed course of nonresidential
15 treatment services is clinically appropriate and adequate to address
16 the person's treatment needs; and

17 (2) no danger to the community would result from the person
18 participating in the proposed course of nonresidential treatment
19 services; and

20 (3) a suitable treatment provider is able and has agreed to
21 provide clinically appropriate nonresidential treatment services.

22 If the prosecutor objects to the court's decision to suspend the
23 commitment of the person to a residential treatment facility
24 pursuant to this subsection, the sentence of special probation
25 imposed pursuant to this section shall not become final for 10 days
26 in order to permit the appeal by the prosecution of the court's
27 decision.

28 After a period of six months of nonresidential treatment, if the
29 court, considering all available information including but not
30 limited to the recommendation of the treatment provider, finds that
31 the person has made satisfactory progress in treatment and that
32 there is a substantial likelihood that the person will successfully
33 complete the nonresidential treatment program and period of special
34 probation, the court, on notice to the prosecutor, may permanently
35 suspend the commitment of the person to the custody of a
36 residential treatment program, in which event the special
37 monitoring provisions set forth in subsection k. of this section shall
38 no longer apply.

39 Nothing in this subsection shall be construed to limit the
40 authority of the court at any time during the term of special
41 probation to order the person to be committed to a residential or
42 nonresidential treatment facility if the court determines that such
43 treatment is clinically appropriate and necessary to address the
44 person's present treatment needs.

45 k. (1) When the court temporarily suspends the commitment of
46 the person to a residential treatment facility pursuant to subsection
47 j. of this section, the court shall, in addition to ordering

1 participation in a prescribed course of nonresidential treatment and
2 any other appropriate terms or conditions authorized or required by
3 law, order the person to undergo urine testing for drug or alcohol
4 use not less than once per week unless otherwise ordered by the
5 court. The court-ordered testing shall be conducted by the
6 probation department or the treatment provider. The results of all
7 tests shall be reported promptly to the court and to the prosecutor.
8 If the person is involved with a program that is providing the person
9 medication-assisted treatment as defined in paragraph (7) of
10 subsection f. of this section, only a positive urine test for drug or
11 alcohol use unrelated to the medication-assisted treatment shall
12 constitute a violation of the terms and conditions of special
13 probation. In addition, the court shall impose appropriate curfews
14 or other restrictions on the person's movements, and may order the
15 person to wear electronic monitoring devices to enforce such
16 curfews or other restrictions as a condition of special probation.

17 (2) The probation department or other appropriate agency shall
18 immediately notify the court and the prosecutor in the event that the
19 person fails or refuses to submit to a drug or alcohol test, knowingly
20 defrauds the administration of a drug or alcohol test, terminates the
21 person's participation in the course of treatment, or commits any act
22 that would constitute absconding from parole. If the person at any
23 time while entered in a nonresidential treatment program pursuant
24 to subsection j. of this section knowingly defrauds the
25 administration of a drug or alcohol test, goes into hiding, or leaves
26 the State with a purpose of avoiding supervision, the court shall
27 permanently revoke the person's special probation.

28 1. If the court finds that the person has made exemplary
29 progress in the course of treatment, the court may, upon
30 recommendation of the person's supervising probation officer or on
31 the court's own motion, and upon notice to the prosecutor, grant
32 early discharge from a term of special probation provided that the
33 person: (1) has satisfactorily completed the treatment program
34 ordered by the court; (2) has served at least two years of special
35 probation; (3) within the preceding 12 months, did not commit a
36 substantial violation of any term or condition of special probation,
37 including but not limited to a positive urine test, which shall only
38 constitute a violation for a person using medication-assisted
39 treatment as defined in paragraph (7) of subsection f. of this section
40 if the positive test is unrelated to the person's medication-assisted
41 treatment; and (4) is not likely to relapse or commit an offense if
42 probation supervision and related services are discontinued.

43 m. (1) The Superior Court may order the expungement of all
44 records and information relating to all prior arrests, detentions,
45 convictions, and proceedings for any offense enumerated in Title
46 2C of the New Jersey Statutes upon successful discharge from a
47 term of special probation as provided in this section, regardless of

1 whether the person was sentenced to special probation under this
2 section, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-
3 1, if the person satisfactorily completed a substance use disorder
4 treatment program as ordered by the court and was not convicted of
5 any crime, or adjudged a disorderly person or petty disorderly
6 person, during the term of special probation. The provisions of
7 N.J.S.2C:52-7 through N.J.S.2C:52-14 shall not apply to an
8 expungement pursuant to this paragraph and no fee shall be charged
9 to a person eligible for relief pursuant to this paragraph. The court
10 shall grant the relief requested unless it finds that the need for the
11 availability of the records outweighs the desirability of having the
12 person freed from any disabilities associated with their availability,
13 or it finds that the person is otherwise ineligible for expungement
14 pursuant to paragraph (2) of this subsection. An expungement
15 under this paragraph shall proceed in accordance with rules and
16 procedures developed by the Supreme Court.

17 (2) A person shall not be eligible for expungement under
18 paragraph (1) of this subsection if the records include a conviction
19 for any offense barred from expungement pursuant to subsection b.
20 or c. of N.J.S.2C:52-2. It shall be the obligation of the prosecutor
21 to notify the court of any disqualifying convictions or any other
22 factors related to public safety that should be considered by the
23 court when deciding to grant an expungement under paragraph (1)
24 of this subsection.

25 (3) The Superior Court shall provide a copy of the expungement
26 order granted pursuant to paragraph (1) of this subsection to the
27 prosecutor and to the person and, if the person was represented by
28 the Public Defender, to the Public Defender. The person or, if the
29 person was represented by the Public Defender, the Public Defender
30 on behalf of the person, shall promptly distribute copies of the
31 expungement order to appropriate agencies who have custody and
32 control of the records specified in the order so that the agencies may
33 comply with the requirements of N.J.S.2C:52-15.

34 (4) If the person whose records are expunged pursuant to
35 paragraph (1) of this subsection is convicted of any crime following
36 discharge from special probation, the full record of arrests and
37 convictions may be restored to public access and no future
38 expungement shall be granted to such person.

39 (5) A person who, prior to the effective date of P.L.2015, c.261,
40 was successfully discharged from a term of special probation as
41 provided in this section, regardless of whether the person was
42 sentenced to special probation under this section, section 2 of
43 P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, may seek an
44 expungement of all records and information relating to all arrests,
45 detentions, convictions, and proceedings for any offense
46 enumerated in Title 2C of the New Jersey Statutes that existed at
47 the time of discharge from special probation by presenting an

1 application to the Superior Court in the county in which the person
2 was sentenced to special probation, which contains a duly verified
3 petition as provided in N.J.S.2C:52-7 for each crime or offense
4 sought to be expunged. The petition for expungement shall proceed
5 pursuant to N.J.S.2C:52-1 et seq. except that the requirements
6 related to the expiration of the time periods specified in
7 N.J.S.2C:52-2 through section 1 of P.L.1980, c.163 (C.2C:52-4.1)
8 shall not apply. A person who was convicted of any offense barred
9 from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2,
10 or who has been convicted of any crime or offense since the date of
11 discharge from special probation shall not be eligible to apply for
12 an expungement under this paragraph. In addition, no application
13 for expungement shall be considered until any pending charges are
14 disposed. It shall be the obligation of the prosecutor to notify the
15 court of any disqualifying convictions or any other factors related to
16 public safety that should be considered by the court when deciding
17 to grant an expungement under this paragraph. The Superior Court
18 shall consider the person's verified petition and may order the
19 expungement of all records and information relating to all arrests,
20 detentions, convictions, and proceedings of the person that existed
21 at the time of discharge from special probation as appropriate. The
22 court shall grant the relief requested unless it finds that the need for
23 the availability of the records outweighs the desirability of having
24 the person freed from any disabilities associated with their
25 availability, or it finds that the person is otherwise ineligible for
26 expungement pursuant to this paragraph. No fee shall be charged to
27 a person eligible for relief pursuant to this paragraph.

28 (6) (a) A person who is not eligible for expungement relief
29 pursuant to paragraph (1) or (5) of this subsection because of a
30 conviction occurring prior to, on, or after the effective date of
31 P.L.2021, c.460, for any offense set forth in paragraph (2) of
32 subsection a. of N.J.S.2C:24-4, involving endangering the welfare
33 of a child, which is barred from expungement pursuant to
34 subsection b. of N.J.S.2C:52-2 and therefore renders the person
35 ineligible under those paragraphs, may be eligible to seek
36 expungement relief pursuant to this paragraph. The person shall
37 have been successfully discharged from a term of special probation
38 as provided in this section, regardless of whether the person was
39 sentenced to special probation under this section, section 2 of
40 P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, for a period of at
41 least 10 years prior to seeking an expungement of all records and
42 information relating to all arrests, detentions, convictions, and
43 proceedings for any offense enumerated in Title 2C of the New
44 Jersey Statutes that existed at the time of discharge from special
45 probation. The person shall present an application to the Superior
46 Court in the county in which the person was sentenced to special
47 probation, which contains a duly verified petition as provided in

1 N.J.S.2C:52-7 for each crime or offense sought to be expunged.
2 The petition for expungement shall proceed pursuant to
3 N.J.S.2C:52-1 et seq. A person shall not be eligible to apply for an
4 expungement under this paragraph if that person was convicted of
5 any offense barred from expungement pursuant to subsection b. or
6 c. of N.J.S.2C:52-2, other than a conviction for endangering the
7 welfare of a child under paragraph (2) of subsection a. of
8 N.J.S.2C:24-4, which crime is also determined by the court, based
9 upon a review by the prosecutor in accordance with subparagraph
10 (b) of this paragraph, to have been nonviolent with respect to the
11 facts and elements of the criminal act, or if that person has been
12 convicted of any crime or offense since the date of discharge from
13 special probation. In addition, no application for expungement
14 shall be considered until any pending charges are disposed. It shall
15 be the obligation of the prosecutor to notify the court of any
16 disqualifying convictions, any conviction for endangering the
17 welfare of a child reviewed by the prosecutor and found to be
18 violent, or any other factors related to public safety that should be
19 considered by the court when deciding to grant an expungement
20 under this paragraph. The Superior Court shall consider the
21 person's verified petition and may order the expungement of all
22 records and information relating to all arrests, detentions,
23 convictions, and proceedings of the person that existed at the time
24 of discharge from special probation as appropriate. The court shall
25 grant the relief requested unless it finds that the need for the
26 availability of the records outweighs the desirability of having the
27 person freed from any disabilities associated with their availability,
28 or it finds that the person is otherwise ineligible for expungement
29 pursuant to this paragraph. No fee shall be charged to a person
30 eligible for relief pursuant to this paragraph.

31 (b) The prosecutor, when reviewing a conviction for
32 endangering the welfare of a child under paragraph (2) of
33 subsection a. of N.J.S.2C:24-4 as to whether the facts and elements
34 of the criminal act were nonviolent and therefore do not prevent, as
35 to this conviction, a person's eligibility for expungement relief
36 under this paragraph, shall consider any act which falls under the
37 following definitions to be violent acts, and render the person
38 ineligible for expungement relief:

39 any act of "abuse," as defined in R.S.9:6-1, that is specifically
40 listed in part (c) of the definition, employing or permitting a child to
41 be employed in any occupation, employment or vocation dangerous
42 to the morals of such child; part (e) of the definition, the performing
43 of any indecent, immoral or unlawful act or deed, in the presence of
44 a child, that may tend to debauch or endanger or degrade the morals
45 of the child; part (f) of the definition, permitting or allowing any
46 other person to perform any indecent, immoral or unlawful act in
47 the presence of the child that may tend to debauch or endanger the

1 morals of such child; or part (g) of the definition, using excessive
2 physical restraint on the child under circumstances which do not
3 indicate that the child's behavior is harmful to himself, others or
4 property;
5 any act of "cruelty," as defined in R.S.9:6-1; and
6 any act resulting in an "abused or neglected child," as defined by
7 subsection c. of section 1 of P.L.1974, c.119 (C.9:6-8.21), that is
8 specifically listed in paragraph (1) of the definition, inflicting or
9 allowing to be inflicted upon such child physical injury by other
10 than accidental means which causes or creates a substantial risk of
11 death, or serious or protracted disfigurement, or protracted
12 impairment of physical or emotional health or protracted loss or
13 impairment of the function of any bodily organ; paragraph (2) of the
14 definition, creating or allowing to be created a substantial or
15 ongoing risk of physical injury to such child by other than
16 accidental means which would be likely to cause death or serious or
17 protracted disfigurement, or protracted loss or impairment of the
18 function of any bodily organ; paragraph (3) of the definition,
19 committing or allowing to be committed an act of sexual abuse
20 against the child; subparagraph (b) of paragraph (4) of the
21 definition, solely as to a child whose physical, mental, or emotional
22 condition has been impaired or is in imminent danger of becoming
23 impaired as the result of the failure of the child's parent or guardian
24 to exercise a minimum degree of care in providing the child with
25 proper supervision or guardianship, by unreasonably inflicting or
26 allowing to be inflicted excessive corporal punishment, or the
27 substantial risk thereof; paragraph (6) of the definition, for a child
28 upon whom excessive physical restraint has been used under
29 circumstances which do not indicate that the child's behavior is
30 harmful to himself, others, or property; or paragraph (7) of the
31 definition, for a child who is in an institution and, pursuant to
32 subparagraph (a) of that paragraph, has been placed there
33 inappropriately for a continued period of time with the knowledge
34 that the placement has resulted or may continue to result in harm to
35 the child's mental or physical well-being or, pursuant to
36 subparagraph (b) of that paragraph, who has been willfully isolated
37 from ordinary social contact under circumstances which indicate
38 emotional or social deprivation.
39 (cf.: P.L.2023, c.177, s.7)

40

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

42 2C:43-6. a. Except as otherwise provided, a person who has
43 been convicted of a crime may be sentenced to imprisonment, as
44 follows:45 (1) In the case of a crime of the first degree, for a specific term
46 of years which shall be fixed by the court and shall be between 10
47 years and 20 years;

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

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

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

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

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

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

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

9 d. (1) The court shall not impose a mandatory sentence
10 pursuant to subsection c. of this section, 2C:43-7c. or 2C:44-3d.,
11 unless the ground therefor has been established at a hearing. At the
12 hearing, which may occur at the time of sentencing, the prosecutor
13 shall establish by a preponderance of the evidence that the weapon
14 used or possessed was a firearm. In making its finding, the court
15 shall 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 (2) The court shall not impose a mandatory sentence pursuant to
20 subsection c. of this section for a violation of paragraph (2) of
21 subsection b. of N.J.S.2C:39-5; a violation of paragraph (2) of
22 subsection c. of N.J.S.2C:39-5, if that rifle or shotgun is in the
23 nature of an air gun, spring gun or pistol or other weapon of a
24 similar nature in which the propelling force is a spring, elastic band,
25 carbon dioxide, compressed or other gas or vapor, air or compressed
26 air, or is ignited by compressed air, and ejecting a bullet or missile
27 smaller than three-eighths of an inch in diameter, with sufficient
28 force to injure a person; or a violation of paragraph (1) of
29 subsection c. of N.J.S.2C:39-5.

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

39 f. A person convicted of manufacturing, distributing,
40 dispensing or possessing with intent to distribute any dangerous
41 substance or controlled substance analog under N.J.S.2C:35-5, of
42 maintaining or operating a controlled dangerous substance
43 production facility under N.J.S.2C:35-4, of employing a juvenile in
44 a drug distribution scheme under N.J.S.2C:35-6, leader of a
45 narcotics trafficking network under N.J.S.2C:35-3, or of
46 distributing, dispensing or possessing with intent to distribute on or
47 near school property or buses under section 1 of P.L.1987, c.101

1 (C.2C:35-7), who has been previously convicted of manufacturing,
2 distributing, dispensing or possessing with intent to distribute a
3 controlled dangerous substance or controlled substance analog,
4 shall upon application of the prosecuting attorney be sentenced by
5 the court to an extended term as authorized by subsection c. of
6 N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily
7 discretionary with the court. The term of imprisonment shall,
8 except as may be provided in N.J.S.2C:35-12, include the
9 imposition of a minimum term. The minimum term shall be fixed
10 at, or between, one-third and one-half of the sentence imposed by
11 the court or three years, whichever is greater, not less than seven
12 years if the person is convicted of a violation of N.J.S.2C:35-6, or
13 18 months in the case of a fourth degree crime, during which the
14 defendant shall be ineligible for parole.

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

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

31 g. Any person who has been convicted under subsection a. of
32 N.J.S.2C:39-4 or of a crime under any of the following sections:
33 N.J.S.2C:11-3, N.J.S.2C:11-4, **[N.J.S.2C:12-1b.]** subsection b. of
34 N.J.S.2C:12-1, N.J.S.2C:13-1, **[N.J.S.2C:14-2a., N.J.S.2C:14-3a.]**
35 subsection a of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3,
36 N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-5, N.J.S.2C:35-5,
37 section 1 of P.L. , c. (C.) (pending before the Legislature
38 as this bill), or section 2 of P.L. , c. (C.) (pending before
39 the Legislature as this bill), who, while in the course of committing
40 or attempting to commit the crime, including the immediate flight
41 therefrom, used or was in possession of a machine gun or assault
42 firearm shall be sentenced to a term of imprisonment by the court.
43 The term of imprisonment shall include the imposition of a
44 minimum term. The minimum term shall be fixed at 10 years for a
45 crime of the first or second degree, five years for a crime of the
46 third degree, or 18 months in the case of a fourth degree crime,
47 during which the defendant shall be ineligible for parole.

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

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

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

24 i. A person who has been convicted under paragraph (6) of
25 subsection b. of 2C:12-1 of causing bodily injury while eluding
26 shall be sentenced to a term of imprisonment by the court. The
27 term of imprisonment shall include the imposition of a minimum
28 term. The minimum term shall be fixed at, or between one-third
29 and one-half of the sentence imposed by the court. The minimum
30 term established by this subsection shall not prevent the court from
31 imposing a presumptive term of imprisonment pursuant to
32 paragraph (1) of subsection f. of 2C:44-1.
33 (cf.: P.L.2013, c.113, s.2)

34
35 8. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to
36 read as follows:

37 2. a. A court imposing a sentence of incarceration for a crime of
38 the first or second degree enumerated in subsection d. of this
39 section shall fix a minimum term of 85% of the sentence imposed,
40 during which the defendant shall not be eligible for parole.

41 b. The minimum term required by subsection a. of this section
42 shall be fixed as a part of every sentence of incarceration imposed
43 upon every conviction of a crime enumerated in subsection d. of
44 this section, whether the sentence of incarceration is determined
45 pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any
46 other provision of law, and shall be calculated based upon the
47 sentence of incarceration actually imposed. The provisions of
48 subsection a. of this section shall not be construed or applied to

1 reduce the time that must be served before eligibility for parole by
2 an inmate sentenced to a mandatory minimum period of
3 incarceration. Solely for the purpose of calculating the minimum
4 term of parole ineligibility pursuant to subsection a. of this section,
5 a sentence of life imprisonment shall be deemed to be 75 years.

6 c. Notwithstanding any other provision of law to the contrary
7 and in addition to any other sentence imposed, a court imposing a
8 minimum period of parole ineligibility of 85 percent of the sentence
9 pursuant to this section shall also impose a five-year term of parole
10 supervision if the defendant is being sentenced for a crime of the
11 first degree, or a three-year term of parole supervision if the
12 defendant is being sentenced for a crime of the second degree. The
13 term of parole supervision shall commence upon the completion of
14 the sentence of incarceration imposed by the court pursuant to
15 subsection a. of this section unless the defendant is serving a
16 sentence of incarceration for another crime at the time **[he]** the
17 defendant completes the sentence of incarceration imposed pursuant
18 to subsection a., in which case the term of parole supervision shall
19 commence immediately upon the defendant's release from
20 incarceration. During the term of parole supervision the defendant
21 shall remain in release status in the community in the legal custody
22 of the Commissioner of the Department of Corrections and shall be
23 supervised by the State Parole Board as if on parole and shall be
24 subject to the provisions and conditions of section 3 of P.L.1997,
25 c.117 (C.30:4-123.51b).

26 d. The court shall impose sentence pursuant to subsection a. of
27 this section upon conviction of the following crimes or an attempt
28 or conspiracy to commit any of these crimes:

- 29 (1) N.J.S.2C:11-3, murder;
- 30 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 31 (3) N.J.S.2C:11-5, vehicular homicide;
- 32 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 33 (5) subsection b. of section 1 of P.L.1996, c.14 (2C:12-11),
34 disarming a law enforcement officer;
- 35 (6) N.J.S.2C:13-1, kidnapping;
- 36 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 37 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of
38 subsection c. of N.J.S.2C:14-2, sexual assault;
- 39 (9) N.J.S.2C:15-1, robbery;
- 40 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
- 41 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
42 arson;
- 43 (12) N.J.S.2C:18-2, burglary;
- 44 (13) subsection a. of N.J.S.2C:20-5, extortion;
- 45 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
46 booby traps in manufacturing or distribution facilities;
- 47 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;
- 48 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;

- 1 (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or
2 possessing chemical weapons, biological agents or nuclear or
3 radiological devices;
- 4 (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first
5 degree~~[:]~~;
- 6 (19) subsection i. of N.J.S.2C:39-9, firearms trafficking; **[or]**
- 7 (20) paragraph (3) of subsection b. of N.J.S.2C:24-4, causing or
8 permitting a child to engage in a prohibited sexual act, knowing that
9 the act may be reproduced or reconstructed in any manner, or be
10 part of an exhibition or performance;
- 11 (21) section 1 of P.L. , c. (C.) (pending before the
12 Legislature as this bill), home invasion burglary; or
- 13 (22) section 2 of P.L. , c. (C.) (pending before the
14 Legislature as this bill), residential burglary.
- 15 e. (Deleted by amendment, P.L.2001, c.129).
16 (cf: P.L.2013, c.136, s.4)
17
- 18 9. N.J.S.2C:44-3 is amended to read as follows:
19 2C:44-3. The court may, upon application of the prosecuting
20 attorney, sentence a person who has been convicted of a crime of
21 the first, second or third degree to an extended term of
22 imprisonment if it finds one or more of the grounds specified in
23 subsection a., b., c., or f. of this section. If the grounds specified in
24 subsection d. are found, and the person is being sentenced for
25 commission of any of the offenses enumerated in **[N.J.S.2C:43-6c.**
26 **or N.J.S.2C:43-6g.]** subsections c. or g. of N.J.S.2C:43-6, the court
27 shall sentence the defendant to an extended term as required by
28 **[N.J.S.2C:43-6c. or N.J.S.2C:43-6g.]** subsections c. or g. of
29 N.J.S.2C:43-6, and application by the prosecutor shall not be
30 required. The court shall, upon application of the prosecuting
31 attorney, sentence a person who has been convicted of a crime
32 under N.J.S.2C:14-2 or N.J.S.2C:14-3 to an extended term of
33 imprisonment if the grounds specified in subsection g. of this
34 section are found. The court shall, upon application of the
35 prosecuting attorney, sentence a person to an extended term if the
36 imposition of such term is required pursuant to the provisions of
37 section 2 of P.L.1994, c.130 (C.2C:43-6.4). The finding of the
38 court shall be incorporated in the record.
- 39 a. The defendant has been convicted of a crime of the first,
40 second or third degree and is a persistent offender. A persistent
41 offender is a person who at the time of the commission of the crime
42 is 21 years of age or over, who has been previously convicted on at
43 least two separate occasions of two crimes, committed at different
44 times, when he was at least 18 years of age, if the latest in time of
45 these crimes or the date of the defendant's last release from
46 confinement, whichever is later, is within 10 years of the date of the
47 crime for which the defendant is being sentenced.

1 b. The defendant has been convicted of a crime of the first,
2 second or third degree and is a professional criminal. A
3 professional criminal is a person who committed a crime as part of
4 a continuing criminal activity in concert with two or more persons,
5 and the circumstances of the crime show he has knowingly devoted
6 himself to criminal activity as a major source of livelihood.

7 c. The defendant has been convicted of a crime of the first,
8 second or third degree and committed the crime as consideration for
9 the receipt, or in expectation of the receipt, of anything of pecuniary
10 value the amount of which was unrelated to the proceeds of the
11 crime or he procured the commission of the offense by payment or
12 promise of payment of anything of pecuniary value.

13 d. Second offender with a firearm. The defendant is at least 18
14 years of age and has been previously convicted of any of the
15 following crimes: N.J.S.2C:11-3, N.J.S.2C:11-4, **【2C:12-1b.】**
16 **subsection b. of N.J.S.2C:12-1**, N.J.S.2C:13-1, **【2C:14-2a., 2C:14-**
17 **3a.】** **subsection a. of N.J.S.2C:14-2**, **subsection a. of N.J.S.2C:14-3**,
18 N.J.S.2C:15-1, N.J.S.2C:18-2, section 1 of P.L. _____, c. _____
19 (pending before the Legislature as this bill), N.J.S.2C:29-5, **【2C:39-**
20 **4a.】** **subsection a. of N.J.S.2C:39-4**, or has been previously
21 convicted of an offense under Title 2A of the New Jersey Statutes
22 or under any statute of the United States or any other state which is
23 substantially equivalent to the offenses enumerated in this
24 subsection and he used or possessed a firearm, as defined in
25 **【2C:39-1f.】** N.J.S.2C:39-1, in the course of committing or
26 attempting to commit any of these crimes, including the immediate
27 flight therefrom.

28 e. (Deleted by amendment, P.L.2001, c.443).

29 f. The defendant has been convicted of a crime under any of the
30 following sections: N.J.S.2C:11-4, **【N.J.S.2C:12-1b.】** **subsection b.**
31 **of N.J.S.2C:12-1**, N.J.S.2C:13-1, **【N.J.S.2C:14-2a., N.J.S.2C:14-**
32 **3a.】** **subsection a. of N.J.S.2C:14-2**, **subsection a. of N.J.S.2C:14-3**,
33 N.J.S.2C:15-1, N.J.S.2C:18-2, section 1 of P.L. _____, c. _____
34 (pending before the Legislature as this bill), section 2 of P.L. _____, c.
35 (C. _____) (pending before the Legislature as this bill), **【N.J.S.2C:29-**
36 **2b.】** **subsection b. of N.J.S.2C:29-2**, N.J.S.2C:29-5, N.J.S.2C:35-5,
37 and in the course of committing or attempting to commit the crime,
38 including the immediate flight therefrom, the defendant used or was
39 in possession of a stolen motor vehicle.

40 g. The defendant has been convicted of a crime under
41 N.J.S.2C:14-2 or N.J.S.2C:14-3 involving violence or the threat of
42 violence and the victim of the crime was 16 years of age or less.

43 For purposes of this subsection, a crime involves violence or the
44 threat of violence if the victim sustains serious bodily injury as
45 defined in subsection b. of N.J.S.2C:11-1, or the actor is armed with
46 and uses a deadly weapon or threatens by word or gesture to use a
47 deadly weapon as defined in subsection c. of N.J.S.2C:11-1, or
48 threatens to inflict serious bodily injury.

1 h. (Deleted by amendment, P.L.2007, c.341).
2 (cf: P.L.2007, c.341, s.8)

3
4 10. Section 3 of P.L.1989, c.331 (C.34:8-44) is amended to read
5 as follows:

6 3. In addition to any other procedure, condition or information
7 required by this act:

8 a. Every applicant shall file a disclosure statement with the chief
9 stating whether or not the applicant has been convicted of any
10 crime, which for the purposes of this act shall mean a violation of
11 any of the following provisions of the “New Jersey Code of
12 Criminal Justice,” Title 2C of the New Jersey Statutes as amended
13 and supplemented, or the equivalent under the laws of any other
14 jurisdiction:

15 (1) Any crime of the first degree;

16 (2) Any crime which is a second or third degree crime and is a
17 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;
18 or

19 (3) Any other crime which is a violation of N.J.S.2C:5-1,
20 N.J.S.2C:5-2, N.J.S.2C:11-2 through N.J.S.2C:11-4, N.J.S.2C:12-1,
21 N.J.S.2C:12-3, N.J.S.2C:13-1, N.J.S.2C:14-2, N.J.S.2C:15-1,
22 subsection a. or b. of N.J.S.2C:17-1, subsection a. or b. of
23 N.J.S.2C:17-2, N.J.S.2C:18-2, section 1 of P.L. _____, c. _____
24 (pending before the Legislature as this bill), section 2 of P.L. _____, c.
25 (C. _____) (pending before the Legislature as this bill), N.J.S.2C:20-1,
26 N.J.S.2C:20-2, N.J.S.2C:20-4, N.J.S.2C:20-5, N.J.S.2C:20-7,
27 section 1 or 2 of P.L.2023, c.101 (C.2C:20-10.1 or C.2C:20-10.2),
28 N.J.S.2C:20-9, N.J.S.2C:21-2 through N.J.S.2C:21-4, N.J.S.2C:21-
29 6, N.J.S.2C:21-7, N.J.S.2C:21-12, N.J.S.2C:21-14, N.J.S.2C:21-15,
30 or N.J.S.2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey
31 Statutes, N.J.S.2C:30-2, N.J.S.2C:30-3, N.J.S.2C:35-5,
32 N.J.S.2C:35-10, or N.J.S.2C:37-1 through N.J.S.2C:37-4.

33 b. Each disclosure statement may be reviewed and used by the
34 director as grounds for denying licensure or registration, except that
35 in cases in which the provisions of P.L.1968, c.282 (C.2A:168A-1
36 et seq.) apply, the director shall comply with the requirements of
37 that act.

38 c. An applicant who is denied licensure or registration pursuant
39 to this section shall, upon a written request transmitted to the
40 director within 30 calendar days of the denial, be afforded an
41 opportunity for a hearing in the manner provided for contested
42 cases pursuant to the “Administrative Procedure Act,” P.L.1968,
43 c.410 (C.52:14B-1 et seq.).

44 d. An applicant shall have the continuing duty to provide any
45 assistance or information requested by the director, and to cooperate
46 in any inquiry, investigation, or hearing conducted by the director.

47 e. If any of the information required to be included in the
48 disclosure statement changes, or if any additional information
49 should be added after the filing of the statement, the applicant shall

1 provide that information to the chief, in writing, within 30 calendar
2 days of the change or addition.
3 (cf: P.L.2023, c.101, s.6)

4

5 11. This act shall take effect immediately.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 3006 and 3204

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2024

The Assembly State and Local Government Committee reports favorably Senate Bill Nos. 3006 and 3204 SCS.

This committee substitute establishes the crimes of home invasion burglary and residential burglary.

Under the substitute, a person is guilty of the crime of home invasion burglary if the person enters or surreptitiously remains in a residential dwelling, without license or privilege to do so, and with purpose to commit an offense therein or thereon and, in the course of committing the offense, purposely, knowingly, or recklessly inflicts bodily injury, or is armed with a deadly weapon. Home invasion burglary is a crime of the first degree.

A person is guilty of the crime of residential burglary if the person enters or surreptitiously remains in a residential dwelling, without license or privilege to do so, and with purpose to commit an offense therein or thereon. Residential burglary is a crime of the second degree.

A “residential dwelling” is defined as “a permanent structure intended as and currently being utilized as a residence by a private person or persons, and any place adapted for overnight accommodation of persons.” By contrast, a non-residential “structure” is defined as “any building, room, ship, vessel, car, vehicle or airplane, and also means any place for carrying on business therein, whether or not a person is actually present.”

A crime of the first degree is punishable by a term of imprisonment of between 10 to 20 years, a fine of up to \$200,000, or both. A crime of the second degree is punishable by a term of imprisonment of between 5 to 10 years, a fine of up to \$150,000, or both. Additionally, home invasion burglary is subject to the “No Early Release Act,” which requires a person convicted of certain crimes to serve at least 85% of term of incarceration imposed before becoming eligible for parole. Residential burglary is also subject to the “No Early Release Act,” unless the defendant demonstrates by a preponderance of evidence a reasonable belief that no other person was present in the residence. Under the substitute, convictions for home invasion burglary or residential burglary, where the defendant used or possessed

a firearm, or where the defendant used or possessed a stolen motor vehicle, are also subject to extended terms of imprisonment.

Notwithstanding the inclusion of residential burglary under the “No Early Release Act,” the substitute provides that a person charged with residential burglary may nevertheless still be eligible for entry into special probation, also known as Recovery Court.

The substitute further provides that a juvenile charged with home invasion burglary or residential burglary, while in possession of a firearm, may be waived from the Family Part of the Superior Court to the Law Division to be tried as an adult.

Finally, the substitute provides that a conviction for home invasion burglary or residential burglary may serve as grounds to deny a professional license from the Division of Consumer Affairs in the Department of Law and Public Safety.

As reported by the committee, Senate Bill Nos. 3006/3204 (SCS) is identical to Assembly Bill No. 4299, which was amended and reported by the committee on this date.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 3006

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 16, 2024

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 3006.

This bill upgrades the crime of burglary of a residence, or any other dwelling or structure adapted for overnight accommodation of persons.

Specifically, the bill would make it a crime of the second degree to unlawfully enter or surreptitiously remain in a dwelling or other structure adapted for overnight accommodation of persons, whether or not a person is actually present. The crime involving such a dwelling or other structure is currently graded as a third-degree crime, which is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both, unless there are additional factors regarding the burglary to upgrade it, such as the actor inflicting or attempting to inflict bodily injury on anyone in the dwelling or other structure. See N.J.S.2C:18-1, subsection b. The bill's proposed upgrade to a second-degree crime, without any needed consideration of additional factors, would make the burglary of the dwelling or other structure punishable by a term of imprisonment of five to 10 years, a fine of up to \$150,000, or both.

The bill would additionally upgrade the burglary of a dwelling or other structure adapted for overnight accommodation of persons to a first-degree crime if the actor is also armed with or displays what appear to be explosives or a deadly weapon, or commits any first- or second-degree crime. The additional factor concerning explosives or a deadly weapon already upgrades a third-degree burglary of any facility or structure to a second-degree crime, but this factor, or the commission of any first- or second-degree crime, combined with the burglary taking place in a residence, or any other dwelling or structure adapted for overnight accommodation of persons, would further the upgrade to a first-degree crime, which is punishable by a term of imprisonment of 10 to 20 years, a fine of up to \$200,000, or both.

The committee amendments to the bill:

- reestablish, per the current law, that a burglary occurring in any facility, dwelling, or other structure is graded as a second-degree crime when the actor is additionally armed with or displays what appear to

be explosives or a deadly weapon, and clarify how a burglary of only a dwelling or other structure adapted for overnight accommodation with this additional factor is upgraded to a first-degree crime; and

- omit section 2 of the bill, which would have specified that only a burglary graded as a crime of the first- or second-degree would be subject to a mandatory minimum term of imprisonment under section 2 of the “No Early Release Act” (NERA) P.L.1997, c.117 (C.2C:43-7.2); that addition to the statutory law is unnecessary because NERA currently only applies to crimes graded and sentenced as first- or second-degree that appear on an enumerated list, which includes burglary.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 3006 and 3204**

STATE OF NEW JERSEY

DATED: JUNE 26, 2024

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill Nos. 3006 and 3204.

This committee substitute establishes the crimes of home invasion burglary and residential burglary.

Under the substitute, a person is guilty of the crime of home invasion burglary if the person enters or surreptitiously remains in a residential dwelling, without license or privilege to do so, and with purpose to commit an offense therein or thereon and, in the course of committing the offense, purposely, knowingly, or recklessly inflicts bodily injury, or is armed with a deadly weapon. Home invasion burglary is a crime of the first degree.

A person is guilty of the crime of residential burglary if the person enters or surreptitiously remains in a residential dwelling, without license or privilege to do so, and with purpose to commit an offense therein or thereon. Residential burglary is a crime of the second degree.

A “residential dwelling” is defined as “a permanent structure intended as and currently being utilized as a residence by a private person or persons, and any place adapted for overnight accommodation of persons.” By contrast, a non-residential “structure” is defined as “any building, room, ship, vessel, car, vehicle or airplane, and also means any place for carrying on business therein, whether or not a person is actually present.”

A crime of the first degree is punishable by a term of imprisonment of between 10 to 20 years, a fine of up to \$200,000, or both. A crime of the second degree is punishable by a term of imprisonment of between 5 to 10 years, a fine of up to \$150,000, or both. Additionally, home invasion burglary is subject to the “No Early Release Act,” which requires a person convicted of certain crimes to serve at least 85% of term of incarceration imposed before becoming eligible for parole. Residential burglary is also subject to the “No Early Release Act,” unless the defendant demonstrates by a preponderance of evidence a reasonable belief that no other person was present in the residence. Under the substitute, convictions for home invasion burglary or residential burglary, where the defendant used or possessed

a firearm, or where the defendant used or possessed a stolen motor vehicle, are also subject to extended terms of imprisonment.

Notwithstanding the inclusion of residential burglary under the “No Early Release Act,” the substitute provides that a person charged with residential burglary may nevertheless still be eligible for entry into special probation, also known as Recovery Court.

The substitute further provides that a juvenile charged with home invasion burglary or residential burglary, while in possession of a firearm, may be waived from the Family Part of the Superior Court to the Law Division to be tried as an adult.

Finally, the substitute provides that a conviction for home invasion burglary or residential burglary may serve as grounds to deny a professional license from the Division of Consumer Affairs in the Department of Law and Public Safety.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that that this bill may result in indeterminate annual State cost and revenue increases. This bill establishes criminal penalties for the creation of the crimes of home invasion burglary, a crime of the first degree, and residential burglary, a crime of the second degree.

A crime of the first degree is punishable by a term of imprisonment of between 10 to 20 years, a fine of up to \$200,000, or both. A crime of the second degree is punishable by a term of imprisonment of between 5 to 10 years, a fine of up to \$150,000, or both. Additionally, these new crimes, under certain circumstances, may be subject to extended terms of imprisonment under the No Early Release Act, which requires a person convicted of certain crimes to serve at least 85 percent of term of incarceration imposed before becoming eligible for parole; therefore, there may be lengthier terms of incarceration and increased costs. However, the bill requires that eligible defendants charged with residential burglary may nevertheless still be eligible for entry into special probation, also known as Recovery Court, which carries a presumption of non-incarceration, as a diversionary program, provided that defendant completes the conditions of the program. The bill would also provide for a juvenile charged with home invasion burglary or residential burglary, while in possession of a firearm, to be waived from the Family Court to be tried as an adult.

These factors in the trial procedures and sentencing of defendants may result in the Department of Law and Public Safety prosecuting additional cases; the Judiciary adjudicating additional cases; the Office of the Public Defender representing additional indigent criminal offenders; the Department of Corrections housing offenders convicted under the bill; and the State Parole Board supervising the return to society of any additional incarcerated persons. The OLS cannot quantify the exact fiscal impact since the number of cases, convictions, and terms of imprisonment resulting from the bill’s provisions cannot be known.

RACIAL AND ETHNIC COMMUNITY CRIMINAL JUSTICE AND PUBLIC SAFETY IMPACT STATEMENT SENATE COMMITTEE SUBSTITUTE FOR SENATE, Nos. 3006 and 3204 STATE OF NEW JERSEY

SUMMARY

Synopsis: Establishes crimes of home invasion burglary and residential burglary.

INTRODUCTION

The Office of Legislative Services does not develop or maintain source data concerning the criminal justice system in the State. The Office of Legislative Services makes reasonable efforts to obtain data from Executive Branch Departments and the Judiciary. This statement may reflect information provided by the United States Census Bureau, the Administrative Office of the Courts within the Judiciary, the New Jersey Department of Corrections, the New Jersey Office of the Attorney General, and the Juvenile Justice Commission in the New Jersey Department of Law and Public Safety. The publicly available data and the data provided by the responding departments and agencies contained within this statement allows for a general overview of the frequencies of events of interest (i.e. arrests, charges, and convictions) for racial and ethnic minorities for the crimes identified herein. This statement does not provide for an in-depth analysis of that data.

Additional data concerning recidivism rates and incarceration rates for the specific crimes addressed within this statement sorted by race and ethnicity is needed in order to make a conclusion on the impacts on racial and ethnic minorities. Additional data concerning the deterrent effects of similar laws of this type is needed to determine the impact on community criminal justice and public safety. It should be noted that the data needed may not currently be collected by the responding departments or agencies or may not exist.¹

BILL DESCRIPTION

The Senate committee substitute for Senate Bill Nos. 3006 and 3204 establishes the crimes of home invasion burglary and residential burglary.

Under the bill, a person is guilty of the crime of home invasion burglary if the person enters or surreptitiously remains in a residential dwelling, without license or privilege to do so, and with purpose to commit an offense therein or thereon and, in the course of committing the offense, purposely, knowingly, or recklessly inflicts bodily injury, or is armed with a deadly weapon. Home invasion burglary is a crime of the first degree.

¹ *This racial and ethnic community criminal justice and public safety impact statement has been produced by the Office of Legislative Services pursuant to section 2 of P.L.2017, c.286 (C.52:11-57.1). Although impact statements are considered a tool for policymaking, the Office of Legislative Services does not take a policy position in preparing a racial and ethnic community criminal justice and public safety impact statement. The role of the Office of Legislative Services is to gather and present data for legislators to review. This statement may reflect information provided by the United States Census Bureau, Office of Juvenile Justice and Delinquency Prevention in the United States Department of Justice, New Jersey Department of Corrections, and Juvenile Justice Commission in the New Jersey Department of Law and Public Safety.*

A person is guilty of the crime of residential burglary if the person enters or surreptitiously remains in a residential dwelling, without license or privilege to do so, and with purpose to commit an offense therein or thereon. Residential burglary is a crime of the second degree.

A “residential dwelling” is defined as “a permanent structure intended as and currently being utilized as a residence by a private person or persons, and any place adapted for overnight accommodation of persons.” By contrast, a “non-residential structure” is defined as “any building, room, ship, vessel, car, vehicle or airplane, and also means any place for carrying on business therein, whether or not a person is actually present.”

A crime of the first degree is punishable by a term of imprisonment of between 10 to 20 years, a fine of up to \$200,000, or both. A crime of the second degree is punishable by a term of imprisonment of between 5 to 10 years, a fine of up to \$150,000, or both. Additionally, home invasion burglary is subject to the “No Early Release Act,” which requires a person convicted of certain crimes to serve at least 85 percent of term of incarceration imposed before becoming eligible for parole. Residential burglary is also subject to the “No Early Release Act,” unless the defendant demonstrates by a preponderance of evidence a reasonable belief that no other person was present in the residence. Under the bill, convictions for home invasion burglary or residential burglary, where the defendant used or possessed a firearm, or where the defendant used or possessed a stolen motor vehicle, are also subject to extended terms of imprisonment.

Notwithstanding the inclusion of residential burglary under the “No Early Release Act,” the bill provides that a person charged with residential burglary may nevertheless still be eligible for entry into special probation, also known as Recovery Court.

The bill further provides that a juvenile charged with home invasion burglary or residential burglary, while in possession of a firearm, may be waived from the Family Part of the Superior Court to the Law Division to be tried as an adult.

Finally, the bill provides that a conviction for home invasion burglary or residential burglary may serve as grounds to deny a professional license from the Division of Consumer Affairs in the Department of Law and Public Safety.

Federal and State Census Information²

	Population	Caucasian	African American	Native American/Alaska Native	Asian	Native Hawaiian/ Other Pacific Islander	Hispanic	Two or More Races/Other
National Census Estimate	331,450,000	59.3%	13.6%	1.3%	6.1%	0.3%	18.9%	2.9%
State Census Estimate	9,289,000	53.5%	15.3%	0.7%	10.3%	0.1%	21.5%	2.4%

Federal and State Inmate Population Data

	Population	Caucasian	African American	Native American/Alaska Native	Asian	Native Hawaiian/ Other Pacific Islander	Hispanic	Two or More Races/Other
Actual Federal Adult Inmate Population ³	156,241	56.9%	38.8%	2.8%	1.5%	N/A	29.2%	N/A
Actual State Adult Inmate Population ⁴	12,978	22%	60.8%	0.0%	1%	N/A	17%	N/A

State Census and State Inmate Population Data

	Population	Caucasian	African American	Native American/Alaska Native	Asian	Native Hawaiian/ Other Pacific Islander	Hispanic	Two or More Races/Other
State Census Estimate	9,289,000	53.5%	15.3%	0.7%	10.3%	0.1%	21.5%	2.4%
Actual State Adult Inmate Population ⁵	12,978	22%	60.8%	0.0%	1%	N/A	17%	N/A

DATA PROVIDED BY THE EXECUTIVE BRANCH

The following data was provided, as a part of the submission, from the Office of the Attorney General:

² Publicly available data obtained from the federal census for national and State populations as of April 1, 2020.

³ Publicly available data of federally sentenced persons in custody of the Federal Bureau of Prisons, as of June 1, 2024.

⁴ Publicly available data produced by the New Jersey Department of Corrections concerning the State inmate population on January 1, 2024. It has been reported by the New Jersey Department of Corrections that the Fiscal Year 2024 average daily population was 12,490. However, that number has not been sorted by race or ethnicity.

⁵ Publicly available data produced by the New Jersey Department of Corrections concerning the State inmate population on January 1, 2024. It has been reported by the New Jersey Department of Corrections that the Fiscal Year 2024 average daily population was 12,490. However, that number has not been sorted by race or ethnicity.

The below displays the number of arrest events (a specific arrest date for a unique defendant) with any paragraph of the enumerated charges below displayed by race/ethnicity for all arrests between January 1, 2017 to June 30, 2024.

<i>STATUTE</i>	<i>STATUTE DESCRIPTION</i>	<i>DEGREE</i>	<i>WHITE (INCL. HISPANIC ORIGIN)</i>	<i>BLACK</i>	<i>ASIAN/PAC. ISLANDER</i>	<i>AM. INDIAN/ALASKA NATIVE</i>	<i>UNKNOWN/NOT PROVIDED</i>
2C:18-2	BURGLARY	2nd or 3rd	13	20			8
2C:18-2A	BURGLARY	2nd or 3rd	2	4			1
2C:18-2A(1)	BURGLARY-ENTERING STRUCTURE ETC.	2nd or 3rd	11,076	9,254	190	28	970
2C:18-2A(2)	BURGLARY-REMAIN IN STRUCTURE ETC.	2nd or 3rd	536	504	10	2	58
2C:18-2A(3)	BURGLARY-TRESPASS ON UTILITY CO PROPERTY	2nd or 3rd	64	31		2	3
2C:18-2B		2nd or 3rd			1		
2C:18-2B(1)	BURGLARY INFLICT/ ATTEMPT TO INFLICT BI	2nd	197	216	10	1	13
2C:18-2B(2)	BURGLARY – ARMED	2nd	1	3			3

The below displays the number of Unique Defendants with a Guilty Outcome (based on State Bureau of Identification Number) charged with any paragraph of the enumerated charges below displayed by race/ethnicity for all arrests between January 1, 2017 to June 30, 2024.

<i>STATUTE</i>	<i>STATUTE DESCRIPTION</i>	<i>DEGREE</i>	<i>WHITE (INCL. HISPANIC ORIGIN)</i>	<i>BLACK</i>	<i>ASIAN /PAC. ISLANDER</i>	<i>AM. INDIAN/ALASKA NATIVE</i>	<i>UNKNOWN/NOT PROVIDED</i>
2C:18-2	BURGLARY	2nd or 3rd	5	7			4
2C:18-2A	BURGLARY	2nd or 3rd					
2C:18-2A(1)	BURGLARY-ENTERING STRUCTURE ETC.	2nd or 3rd	2,853	2,353	34	7	256
2C:18-2A(2)	BURGLARY-REMAIN IN STRUCTURE ETC.	2nd or 3rd	108	103	1		14
2C:18-2A(3)	BURGLARY-TRESPASS ON UTILITY CO PROPERTY	2nd or 3rd	12	11			
2C:18-2B	BURGLARY	2nd or 3rd					
2C:18-2B(1)	BURGLARY INFLICT/ ATTEMPT TO INFLICT BI	2nd	5	6			
2C:18-2B(2)	BURGLARY – ARMED	2nd					

The following response was provided by the Juvenile Justice Commission:

The Juvenile Justice Commission (JJC) does not maintain or have direct access to detailed data on youth arrests, prosecutions, or adjudications (i.e. convictions). The JJC is not a prosecutorial agency. The JJC does not keep racial and ethnic data segregated by crimes for arrests, prosecutions, or adjudications for the juveniles committed to its care.

The Department of Corrections has made available to the public statistical data concerning the State inmate population categorized by race and ethnicity for 2024, which are reflected in the charts on page 3, and offenders by base offense for 2022, 2023, and 2024 in the following charts:

Offenders by Base Offense for 2022

Base Offense	Total		Male Offenders in Other Facilities		Youth Offenders		Adult Diagnostic Treatment Center (ADTC)		Edna Mahan		Halfway Houses, County Jails, St. Francis Hospital	
	#	%	#	%	#	%	#	%	#	%	#	%
TOTAL OFFENDERS	12,492	100%	9,442	100%	1,139	100%	410	100%	408	100%	1,093	100%
Property Offenses	526	4%	375	4%	57	5%	0	0%	36	9%	58	5%

Offenders by Base Offense for 2023

Base Offense	Total		Male Offenders in Other Facilities		Youth Offenders		Adult Diagnostic Treatment Center (ADTC)		Edna Mahan		Halfway Houses, County Jails, St. Francis Hospital	
	#	%	#	%	#	%	#	%	#	%	#	%
TOTAL OFFENDERS	13,196	100%	9,133	100%	1,174	100%	402	100%	356	100%	2,131	100%
Property Offenses	525	4%	324	4%	55	5%	0	0%	31	9%	115	5%

Offenders by Base Offense for 2024

Base Offense	Total		Male Incarcerated Persons		Edna Mahan		Residential Community Release Program (RCRP), County Jails, Central Medical Unit (CHR)		Interstate Corrections Compact	
	#	%	#	%	#	%	#	%	#	%
Total Offenders	12,978	100%	11,176	100%	386	100%	1,140	100%	276	100%
Property Offenses	472	4%	382	3%	38	10%	39	4%	13	5%

Note: Property offenses include burglary, arson, theft, forgery, embezzlement, and receiving/possessing stolen property.

DATA PROVIDED BY THE JUDICIARY

The following data was provided, as a part of the submission, from the Judiciary:

FAMILY (FACTS) JUVENILE DATA FOR CHARGES FILED IN COURT YEARS 2023 AND 2024

2C:18-2 BURGLARY

County	Degree 2			Degree 3					Total	
	Black/Afr	Hispanic	White	Amr Ind/Alsk	Asian	Black/Afr	Hispanic	Not Stated	White	Total
Atlantic	8	1	4	0	0	133	0	1	87	234
Bergen	3	0	2	0	2	49	3	3	36	98
Burlington	4	0	1	0	0	58	0	0	13	76
Camden	4	1	4	0	0	73	0	0	38	120
Cape May	0	0	2	0	0	3	0	1	10	16
Cumberland	14	0	1	0	0	51	0	0	16	82
Essex	22	0	0	1	0	395	3	1	70	492
Gloucester	2	0	0	0	0	20	0	0	4	26
Hudson	8	0	11	0	0	75	2	2	47	145
Hunterdon	0	0	0	0	0	3	0	0	1	4
Mercer	1	0	0	0	6	58	1	0	7	73
Middlesex	7	0	1	0	6	80	1	0	117	212
Monmouth	5	0	3	0	0	64	0	1	16	89
Morris	0	0	2	0	0	23	0	2	16	43
Ocean	1	1	2	0	0	17	0	0	31	52
Passaic	1	0	1	0	0	24	6	1	39	72
Salem	2	0	0	0	0	5	0	0	4	11
Somerset	3	0	1	0	0	19	1	0	9	33
Sussex	0	0	0	0	0	0	0	0	3	3
Union	7	0	0	0	0	95	0	1	30	133
Warren	1	0	0	0	0	3	0	0	5	9
Total	93	3	35	1	14	1248	17	13	599	2023

Count of Probation clients in each category of crime-degree (FY23 & FY24 consolidated)

		Race																	
		AM. INDIAN OR ALASKA NATIVE			ASIAN			BLACK/AFRICAN AMERICAN			NAT. HAWAIIAN/OTHER PACIFIC ISLANDER		UNKNOWN			WHITE			
		Ethnicity			Ethnicity			Ethnicity			Ethnicity		Ethnicity			Ethnicity			
		Non-Hispanic	Unknown	Hispanic	Non-Hispanic	Unknown	Hispanic	Non-Hispanic	Unknown	Hispanic	Non-Hispanic	Unknown	Non-Hispanic	Unknown	Hispanic	Non-Hispanic	Unknown	Hispanic	
		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
Statute	degree																		
2C:18-2	1	1	1
	2	.	.	.	3	.	.	27	7	4	.	.	.	1	1	14	3	14	
	3	1	1	1	20	2	.	787	124	46	.	.	14	19	48	593	176	379	
	4	.	.	.	.	.	.	5	2	1	.	.	.	1	.	2	3	4
	DP	.	.	.	.	.	.	13	2	1	.	.	1	3	1	7	3	5
	PDP	.	.	.	.	.	.	2	.	.	.	.	.	.	.	1	.	.
Tot. counts by crime-deg.		1	1	1	23	2	0	834	135	52	0	0	15	24	50	617	186	403	

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 3006 and 3204
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JULY 3, 2024

SUMMARY

- Synopsis:** Establishes crimes of home invasion burglary and residential burglary.
- Type of Impact:** Annual State expenditure and revenue increases.
- Agencies Affected:** The Judiciary; Department of Law and Public Safety; Office of the Public Defender; Department of Corrections; State Parole Board.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that this bill would result in an indeterminate annual State expenditure increase. The following State agencies would incur caseload and expenditure increases: a) the Department of Law and Public Safety prosecuting additional cases; b) the Judiciary adjudicating additional offenders and monitoring additional probationers; c) the Office of the Public Defender representing additional low-income criminal defendants; d) the Department of Corrections housing offenders convicted under the bill; and e) the State Parole Board supervising the return to society of any additional incarcerated persons.
- This bill establishes criminal penalties for the creation of the crimes of home invasion burglary, a crime of the first degree, and residential burglary, a crime of the second degree. These new crimes, under certain circumstances, may be subject to extended terms of imprisonment under the No Early Release Act, which requires a person convicted of certain crimes to serve at least 85 percent of term of incarceration imposed before becoming eligible for parole; therefore, there may be lengthier terms of incarceration and increased costs. However, the bill also provides for eligible defendants charged with residential burglary to be accepted into special probation, also known as Recovery Court, which carries a presumption of non-incarceration, as a diversionary program, provided that defendant completes the conditions of the program.

- The OLS finds that the State may receive indeterminate revenues from court filing fees, fines, and penalties for the crimes established under the bill. However, the State's ability to collect criminal fines and penalties has historically been limited.

BILL DESCRIPTION

This bill establishes the crimes of home invasion burglary and residential burglary. Home invasion burglary is a crime of the first degree. Residential burglary is a crime of the second degree.

A crime of the first degree is punishable by a term of imprisonment of between 10 to 20 years, a fine of up to \$200,000, or both. A crime of the second degree is punishable by a term of imprisonment of between 5 to 10 years, a fine of up to \$150,000, or both. Additionally, home invasion burglary is subject to the No Early Release Act, which requires a person convicted of certain crimes to serve at least 85 percent of term of incarceration imposed before becoming eligible for parole. Residential burglary is also subject to the No Early Release Act, under certain circumstances. Under the bill, convictions for home invasion burglary or residential burglary, where the defendant used or possessed a firearm or a stolen motor vehicle, are also subject to extended terms of imprisonment.

Notwithstanding the inclusion of residential burglary under the No Early Release Act, the bill provides that a person charged with residential burglary may still be eligible for entry into special probation, also known as Recovery Court.

The bill further provides that a juvenile charged with home invasion burglary or residential burglary, while in possession of a firearm, may be waived from the Family Part of the Superior Court to the Law Division to be tried as an adult.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that this bill would result in indeterminate annual State expenditure and revenue increases. The OLS lacks sufficient information to quantify the fiscal impact of this bill on the State, as it is not possible to know how many individuals are likely to commit the new criminal offenses established by the bill.

This bill establishes criminal penalties for the creation of the crimes of home invasion burglary, a crime of the first degree, and residential burglary, a crime of the second degree. A crime of the first degree is punishable by a term of imprisonment of between 10 to 20 years, a fine of up to \$200,000, or both. A crime of the second degree is punishable by a term of imprisonment of between 5 to 10 years, a fine of up to \$150,000, or both. The bill would also provide for a juvenile charged with home invasion burglary or residential burglary, while in possession of a firearm, to be waived from the Family Court to be tried as an adult. Additionally, these new crimes, under certain circumstances, may be subject to extended terms of imprisonment under the No Early Release Act, which requires a person convicted of certain crimes to serve at least 85 percent of

term of incarceration imposed before becoming eligible for parole; therefore, there may be lengthier terms of incarceration and increased costs. However, the bill also provides for eligible defendants charged with residential burglary to be accepted into special probation, also known as Recovery Court, which carries a presumption of non-incarceration, as a diversionary program, provided that defendant completes the conditions of the program.

These factors in the trial procedures and sentencing of defendants may result in the Department of Law and Public Safety prosecuting additional cases; the Judiciary adjudicating additional cases; the Office of the Public Defender representing additional indigent criminal offenders; the Department of Corrections housing offenders convicted under the bill; and the State Parole Board supervising the return to society of any additional incarcerated persons. The OLS cannot quantify the exact fiscal impact since the number of cases, convictions, and terms of imprisonment resulting from the bill's provisions cannot be known.

The OLS also finds that the State may receive indeterminate revenues from court filing fees, fines, and penalties for the crimes established under the bill. However, the State's ability to collect criminal fines and penalties has historically been limited.

Section: Judiciary
Analyst: Sheree D. Henderson
Section Chief
Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 4299

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MAY 6, 2024

Sponsored by:

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Co-Sponsored by:

Assemblymen Bailey, Hutchison and Miller

SYNOPSIS

Creates second degree crime of home invasion burglary as No Early Release Act offense; creates third degree crime of residential burglary; permits waiver of juvenile with firearm during burglary of residence.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/19/2024)

1 AN ACT concerning burglary of residential dwellings,
2 supplementing Title 2C of the Revised Statutes, and amending
3 various parts of the statutory law.

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

7
8 1. (New section) a. A person is guilty of home invasion
9 burglary if, with purpose to commit an offense therein or thereon,
10 the person, without license or privilege to do so, enters or
11 surreptitiously remains in a residential dwelling or accommodation,
12 or a separately secured portion thereof, and in the course of
13 committing the offense, the person:

14 (1) purposely, knowingly, or recklessly inflicts, attempts to
15 inflict, or threatens to inflict bodily injury on anyone; or

16 (2) is armed with or displays what appear to be explosives or a
17 deadly weapon.

18 b. Home invasion burglary is a crime of the second degree,
19 subject to sentencing pursuant to P.L.1997, c.117 (C.2C:43-7.2 et
20 al.).

21 c. An act shall be deemed “in the course of committing” an
22 offense if it occurs in an attempt to commit an offense or in
23 immediate flight after the attempt or commission.

24
25 2. (New section) a. A person is guilty of residential burglary if,
26 with purpose to commit an offense therein or thereon, the person:

27 (1) enters a residential dwelling or accommodation, or a
28 separately secured portion thereof, unless the actor is licensed or
29 privileged to enter; or

30 (2) surreptitiously remains in a residential dwelling or
31 accommodation, or a separately secured portion thereof, knowing
32 that the actor is not licensed or privileged to do so.

33 b. Residential burglary is a crime of the third degree.

34 c. For the purposes of subsection a. of this section, it shall not
35 be an element of the offense that the actor knew that any other
36 person was present in the residential dwelling or accommodation
37 when the actor entered or surreptitiously remained therein, and it
38 shall not be a defense that the actor did not know that any other
39 person was present in the residential dwelling or accommodation
40 when the actor entered or surreptitiously remained therein.

41
42 3. Section 1 of P.L.2015, c.89 (C.2A:4A-26.1) is amended to
43 read as follows:

44 1. a. A prosecutor seeking waiver of jurisdiction of a juvenile
45 delinquency case by the Superior Court, Chancery Division, Family
46 Part to an appropriate court and prosecuting authority without the

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 consent of the juvenile shall file a motion within 60 days after the
2 receipt of the complaint, which time may be extended for good
3 cause shown. The motion shall be accompanied by a written
4 statement of reasons clearly setting forth the facts used in assessing
5 all factors contained in paragraph (3) of subsection c. of this
6 section, together with an explanation as to how evaluation of those
7 facts support waiver for each particular juvenile.

8 b. At a hearing, the court shall receive the evidence offered by
9 the State and by the juvenile. The State shall provide proof to
10 satisfy the requirements set forth in paragraphs (1) and (2) of
11 subsection c. of this section. The court also shall review whether the
12 State considered the factors set forth in paragraph (3) of subsection
13 c. of this section.

14 c. Except as provided in paragraph (3) of this subsection, the
15 court shall waive jurisdiction of a juvenile delinquency case without
16 the juvenile's consent and shall refer the case to the appropriate
17 court and prosecuting authority having jurisdiction if:

18 (1) The juvenile was 15 years of age or older at the time of the
19 alleged delinquent act; and

20 (2) There is probable cause to believe that the juvenile
21 committed a delinquent act which if committed by an adult would
22 constitute:

23 (a) criminal homicide, other than death by auto;

24 (b) strict liability for drug-induced deaths;

25 (c) first degree robbery;

26 (d) carjacking;

27 (e) aggravated sexual assault;

28 (f) sexual assault;

29 (g) second degree aggravated assault;

30 (h) kidnapping;

31 (i) aggravated arson;

32 (j) possession of a firearm with a purpose to use it unlawfully
33 against the person of another under subsection a. of N.J.S.2C:39-4,
34 or possession of a firearm while committing or attempting to
35 commit, including the immediate flight therefrom, aggravated
36 assault, aggravated criminal sexual contact, burglary, home
37 invasion burglary, residential burglary, or escape;

38 (k) a violation of N.J.S.2C:35-3 (Leader of a Narcotics
39 Trafficking Network);

40 (l) a violation of N.J.S.2C:35-4 (Maintaining and Operating a
41 CDS Production Facility);

42 (m) a violation of section 1 of P.L.1998, c.26 (C.2C:39-4.1)
43 (Weapons Possession while Committing certain CDS Offenses);

44 (n) an attempt or conspiracy to commit any of the crimes
45 enumerated in subparagraphs (a) through (m) of this paragraph; or

46 (o) a crime committed at a time when the juvenile previously
47 had been sentenced and confined in an adult correctional facility.

48 (3) The court may deny a motion by the prosecutor to waive
49 jurisdiction of a juvenile delinquency case if it is clearly convinced

1 that the prosecutor abused his discretion in considering the
2 following factors in deciding whether to seek a waiver:

- 3 (a) The nature and circumstances of the offense charged;
- 4 (b) Whether the offense was against a person or property,
5 allocating more weight for crimes against the person;
- 6 (c) Degree of the juvenile's culpability;
- 7 (d) Age and maturity of the juvenile;
- 8 (e) Any classification that the juvenile is eligible for special
9 education to the extent this information is provided to the
10 prosecution by the juvenile or by the court;
- 11 (f) Degree of criminal sophistication exhibited by the juvenile;
- 12 (g) Nature and extent of any prior history of delinquency of the
13 juvenile and dispositions imposed for those adjudications;
- 14 (h) If the juvenile previously served a custodial disposition in a
15 State juvenile facility operated by the Juvenile Justice Commission,
16 and the response of the juvenile to the programs provided at the
17 facility to the extent this information is provided to the prosecution
18 by the Juvenile Justice Commission;
- 19 (i) Current or prior involvement of the juvenile with child
20 welfare agencies;
- 21 (j) Evidence of mental health concerns, substance use disorder,
22 or emotional instability of the juvenile to the extent this information
23 is provided to the prosecution by the juvenile or by the court; and
- 24 (k) If there is an identifiable victim, the input of the victim or
25 victim's family.

26 The Attorney General may develop for dissemination to the
27 county prosecutors those guidelines or directives deemed necessary
28 or appropriate to ensure the uniform application of this section
29 throughout the State.

30 d. An order waiving jurisdiction over a case and referring the
31 case to the appropriate court and prosecuting authority shall specify
32 the alleged act upon which the referral is based and all other
33 delinquent acts charged against the juvenile arising out of or related
34 to the same transaction.

35 e. Testimony of a juvenile at a hearing to determine referral
36 under this section shall not be admissible for any purpose in any
37 subsequent hearing to determine delinquency or guilt of any
38 offense.

39 f. Upon waiver of jurisdiction and referral to the appropriate
40 court and prosecuting authority having jurisdiction:

41 (1) The case shall proceed as if it originated in that court and
42 shall be subject to the sentencing provisions available to that court;
43 provided, however, upon conviction for any offense which is
44 subject to waiver pursuant to paragraph (2) of subsection c. of this
45 section, there shall be a presumption that the juvenile shall serve
46 any custodial sentence imposed in a State juvenile facility operated
47 by the Juvenile Justice Commission until the juvenile reaches the
48 age of 21, except that:

49 (a) a juvenile who has not reached the age of 21 may, in the
50 discretion of the Juvenile Justice Commission, be transferred to the

1 Department of Corrections in accordance with the plan established
2 pursuant to subsection e. of section 7 of P.L.1995, c.284 (C.52:17B-
3 175) and regulations adopted pursuant to that section; and

4 (b) a juvenile who has reached or exceeds the age of 21 may
5 continue to serve a sentence in a State juvenile facility operated by
6 the Juvenile Justice Commission in the discretion of the Juvenile
7 Justice Commission and if the juvenile so consents; otherwise the
8 juvenile shall serve the remainder of the custodial sentence in a
9 State correctional facility;

10 (2) If a juvenile is not convicted of an offense set forth in
11 paragraph (2) of subsection c. of this section, a conviction for any
12 other offense shall be deemed a juvenile adjudication and be
13 remanded to the Superior Court, Chancery Division, Family Part for
14 disposition, in accordance with the dispositional options available
15 to that court and all records related to the act of delinquency shall
16 be subject to the provisions of section 1 of P.L.1982, c.79
17 (C.2A:4A-60);

18 (3) With the consent of the defense and the prosecutor, at any
19 point in the proceedings subsequent to the decision ordering waiver
20 the court may remand to the Superior Court, Chancery Division,
21 Family Part if it appears that:

22 (a) the interests of the public and the best interests of the
23 juvenile require access to programs or procedures uniquely
24 available to that court; and

25 (b) the interests of the public are no longer served by waiver.

26 g. (1) The Juvenile Justice Commission, in consultation with the
27 Attorney General, shall establish a program to collect, record, and
28 analyze data regarding waiver of jurisdiction of a juvenile
29 delinquency case by the Superior Court, Chancery Division, Family
30 Part to an appropriate court and prosecuting authority. In
31 furtherance of this program, the Juvenile Justice Commission shall,
32 in cooperation with the Administrative Office of the Courts,
33 Attorney General, and county prosecutors, collect data related to the
34 decision to seek waiver of jurisdiction of a juvenile delinquency
35 case, which shall include but not be limited to data concerning:

36 (a) youth demographics, including age, gender, race, and
37 ethnicity;

38 (b) case characteristics, including the degree of the offense
39 waived, the degree of the offense convicted, and the final court
40 resolution;

41 (c) case processing times; and

42 (d) waiver rates by race and ethnicity.

43 (2) The commission shall prepare and publish on its Internet
44 website biennial reports summarizing the data collected, recorded,
45 and analyzed pursuant to paragraph (1) of this subsection.

46 (3) The commission shall, pursuant to section 2 of P.L.1991,
47 c.164 (C.52:14-19.1), biennially prepare and transmit to the
48 Governor and the Legislature the reports required in paragraph (2)

1 of this subsection, along with any recommendations the commission
2 may have for legislation concerning waiver of jurisdiction of
3 juvenile delinquency cases.
4 (cf: P.L.2023, c.177, s.1)

5

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

7 2C:18-1. In this chapter, unless a different meaning plainly is
8 required:

9 "Structure" means any building, room, ship, vessel, car, vehicle
10 or airplane, and also means any place adapted for overnight
11 accommodation of persons, or for carrying on business therein,
12 whether or not a person is actually present.

13 "Utility Company Property" means property; (1) owned by a
14 public utility, as defined in R.S.48:2-13, or by a municipality,
15 county, water district, authority or other public agency, and (2)
16 which is used for the purpose of providing electric, gas or water
17 utility service.

18 "Operational area" means any portion of a public airport, from
19 which access by the public is prohibited by fences or appropriate
20 signs, and includes runways, taxiways, all ramps, cargo ramps and
21 apron areas, aircraft parking and storage areas, fuel storage areas,
22 maintenance areas, and any other area of a public airport used or
23 intended to be used for landing, takeoff or surface maneuvering of
24 aircraft.

25 "Sterile area" means a portion of an airport, as set forth in an
26 airport security program approved by the Transportation Security
27 Administration, that provides passengers access to boarding aircraft
28 and to which the access generally is controlled by the
29 Transportation Security Administration, an aircraft operator
30 pursuant to 49 C.F.R. part 1544, or an air carrier pursuant to 49
31 C.F.R. part 1546, through the screening of persons and property.

32 "Residential dwelling or accommodation" means a permanent
33 structure intended as and currently being utilized as a residence by a
34 private person or persons, and any place adapted for overnight
35 accommodation of persons.

36 (cf: P.L.2013, c.138, s.1)

37

38 5. N.J.S.2C:18-2 is amended to read as follows:

39 2C:18-2. Burglary. a. Burglary defined. A person is guilty of
40 burglary if, with purpose to commit an offense therein or thereon
41 **[he]** the person:

42 (1) Enters a research facility, structure other than a residential
43 dwelling or accommodation, or a separately secured or occupied
44 portion thereof unless the structure was at the time open to the
45 public or the actor is licensed or privileged to enter;

46 (2) Surreptitiously remains in a research facility, structure other
47 than a residential dwelling or accommodation, or a separately

1 secured or occupied portion thereof knowing that **[he]** the person is
2 not licensed or privileged to do so; or

3 (3) Trespasses in or upon utility company property where public
4 notice prohibiting trespass is given by conspicuous posting, or
5 fencing or other enclosure manifestly designed to exclude intruders.

6 b. Grading. Burglary is a crime of the second degree if in the
7 course of committing the offense, the actor:

8 (1) Purposely, knowingly or recklessly inflicts, attempts to
9 inflict or threatens to inflict bodily injury on anyone; or

10 (2) Is armed with or displays what appear to be explosives or a
11 deadly weapon.

12 Otherwise burglary is a crime of the third degree. An act shall
13 be deemed "in the course of committing" an offense if it occurs in
14 an attempt to commit an offense or in immediate flight after the
15 attempt or commission.

16 (cf: P.L.2009, c.283, s.2)

17

18 6. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to
19 read as follows:

20 2. a. A court imposing a sentence of incarceration for a crime
21 of the first or second degree enumerated in subsection d. of this
22 section shall fix a minimum term of 85% of the sentence imposed,
23 during which the defendant shall not be eligible for parole.

24 b. The minimum term required by subsection a. of this section
25 shall be fixed as a part of every sentence of incarceration imposed
26 upon every conviction of a crime enumerated in subsection d. of
27 this section, whether the sentence of incarceration is determined
28 pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any
29 other provision of law, and shall be calculated based upon the
30 sentence of incarceration actually imposed. The provisions of
31 subsection a. of this section shall not be construed or applied to
32 reduce the time that must be served before eligibility for parole by
33 an inmate sentenced to a mandatory minimum period of
34 incarceration. Solely for the purpose of calculating the minimum
35 term of parole ineligibility pursuant to subsection a. of this section,
36 a sentence of life imprisonment shall be deemed to be 75 years.

37 c. Notwithstanding any other provision of law to the contrary
38 and in addition to any other sentence imposed, a court imposing a
39 minimum period of parole ineligibility of 85 percent of the sentence
40 pursuant to this section shall also impose a five-year term of parole
41 supervision if the defendant is being sentenced for a crime of the
42 first degree, or a three-year term of parole supervision if the
43 defendant is being sentenced for a crime of the second degree. The
44 term of parole supervision shall commence upon the completion of
45 the sentence of incarceration imposed by the court pursuant to
46 subsection a. of this section unless the defendant is serving a
47 sentence of incarceration for another crime at the time he completes
48 the sentence of incarceration imposed pursuant to subsection a., in

1 which case the term of parole supervision shall commence
2 immediately upon the defendant's release from incarceration.
3 During the term of parole supervision the defendant shall remain in
4 release status in the community in the legal custody of the
5 Commissioner of the Department of Corrections and shall be
6 supervised by the State Parole Board as if on parole and shall be
7 subject to the provisions and conditions of section 3 of P.L.1997,
8 c.117 (C.30:4-123.51b).

9 d. The court shall impose sentence pursuant to subsection a. of
10 this section upon conviction of the following crimes or an attempt
11 or conspiracy to commit any of these crimes:

- 12 (1) N.J.S.2C:11-3, murder;
- 13 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 14 (3) N.J.S.2C:11-5, vehicular homicide;
- 15 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 16 (5) subsection b. of section 1 of P.L.1996, c.14 (C.2C:12-11),
17 disarming a law enforcement officer;
- 18 (6) N.J.S.2C:13-1, kidnapping;
- 19 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 20 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of
21 subsection c. of N.J.S.2C:14-2, sexual assault;
- 22 (9) N.J.S.2C:15-1, robbery;
- 23 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
- 24 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
25 arson;
- 26 (12) N.J.S.2C:18-2, burglary;
- 27 (13) subsection a. of N.J.S.2C:20-5, extortion;
- 28 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
29 booby traps in manufacturing or distribution facilities;
- 30 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;
- 31 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;
- 32 (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or
33 possessing chemical weapons, biological agents or nuclear or
34 radiological devices;
- 35 (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first
36 degree;
- 37 (19) subsection i. of N.J.S.2C:39-9, firearms trafficking; or
- 38 (20) paragraph (3) of subsection b. of N.J.S.2C:24-4, causing or
39 permitting a child to engage in a prohibited sexual act, knowing that
40 the act may be reproduced or reconstructed in any manner, or be
41 part of an exhibition or performance; or
- 42 (21) section 1 of P.L. , c. (C.) (pending before the
43 Legislature as this bill), home invasion burglary.
- 44 e. (Deleted by amendment, P.L.2001, c.129).
- 45 (cf: P.L.2013, c.136, s.4)

1 7. N.J.S.2C:44-3 is amended to read as follows:

2 2C:44-3. The court may, upon application of the prosecuting
3 attorney, sentence a person who has been convicted of a crime of
4 the first, second or third degree to an extended term of
5 imprisonment if it finds one or more of the grounds specified in
6 subsection a., b., c., or f. of this section. If the grounds specified in
7 subsection d. are found, and the person is being sentenced for
8 commission of any of the offenses enumerated in N.J.S.2C:43-6c.
9 or N.J.S.2C:43-6g., the court shall sentence the defendant to an
10 extended term as required by N.J.S.2C:43-6c. or N.J.S.2C:43-6g.,
11 and application by the prosecutor shall not be required. The court
12 shall, upon application of the prosecuting attorney, sentence a
13 person who has been convicted of a crime under N.J.S.2C:14-2 or
14 N.J.S.2C:14-3 to an extended term of imprisonment if the grounds
15 specified in subsection g. of this section are found. The court shall,
16 upon application of the prosecuting attorney, sentence a person to
17 an extended term if the imposition of such term is required pursuant
18 to the provisions of section 2 of P.L.1994, c.130 (C.2C:43-6.4).
19 The finding of the court shall be incorporated in the record.

20 a. The defendant has been convicted of a crime of the first,
21 second or third degree and is a persistent offender. A persistent
22 offender is a person who at the time of the commission of the crime
23 is 21 years of age or over, who has been previously convicted on at
24 least two separate occasions of two crimes, committed at different
25 times, when he was at least 18 years of age, if the latest in time of
26 these crimes or the date of the defendant's last release from
27 confinement, whichever is later, is within 10 years of the date of the
28 crime for which the defendant is being sentenced.

29 b. The defendant has been convicted of a crime of the first,
30 second or third degree and is a professional criminal. A
31 professional criminal is a person who committed a crime as part of
32 a continuing criminal activity in concert with two or more persons,
33 and the circumstances of the crime show he has knowingly devoted
34 himself to criminal activity as a major source of livelihood.

35 c. The defendant has been convicted of a crime of the first,
36 second or third degree and committed the crime as consideration for
37 the receipt, or in expectation of the receipt, of anything of pecuniary
38 value the amount of which was unrelated to the proceeds of the
39 crime or he procured the commission of the offense by payment or
40 promise of payment of anything of pecuniary value.

41 d. Second offender with a firearm. The defendant is at least 18
42 years of age and has been previously convicted of any of the
43 following crimes: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-
44 2a., 2C:14-3a., 2C:15-1, 2C:18-2, section 1 of
45 P.L. , c. (C.)(pending before the Legislature as this bill),
46 2C:29-5, 2C:39-4a., or has been previously convicted of an offense
47 under Title 2A of the New Jersey Statutes or under any statute of
48 the United States or any other state which is substantially equivalent

1 to the offenses enumerated in this subsection and he used or
2 possessed a firearm, as defined in 2C:39-1f., in the course of
3 committing or attempting to commit any of these crimes, including
4 the immediate flight therefrom.

5 e. (Deleted by amendment, P.L.2001, c.443).

6 f. The defendant has been convicted of a crime under any of
7 the following sections: N.J.S.2C:11-4, N.J.S.2C:12-1b.,
8 N.J.S.2C:13-1, N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1,
9 N.J.S.2C:18-2, section 1 of P.L. , c. (C.)(pending before the
10 Legislature as this bill), section 2 of P.L. , c. (C.)(pending
11 before the Legislature as this bill), N.J.S.2C:29-2b., N.J.S.2C:29-5,
12 N.J.S.2C:35-5, and in the course of committing or attempting to
13 commit the crime, including the immediate flight therefrom, the
14 defendant used or was in possession of a stolen motor vehicle.

15 g. The defendant has been convicted of a crime under
16 N.J.S.2C:14-2 or N.J.S.2C:14-3 involving violence or the threat of
17 violence and the victim of the crime was 16 years of age or less.

18 For purposes of this subsection, a crime involves violence or the
19 threat of violence if the victim sustains serious bodily injury as
20 defined in subsection b. of N.J.S.2C:11-1, or the actor is armed with
21 and uses a deadly weapon or threatens by word or gesture to use a
22 deadly weapon as defined in subsection c. of N.J.S.2C:11-1, or
23 threatens to inflict serious bodily injury.

24 h. (Deleted by amendment, P.L.2007, c.341).

25 (cf: P.L.2007, c.341, s.8)

26

27 8. Section 3 of P.L.1989, c.331 (C.34:8-44) is amended to read
28 as follows:

29 3. In addition to any other procedure, condition or information
30 required by this act:

31 a. Every applicant shall file a disclosure statement with the
32 chief stating whether or not the applicant has been convicted of any
33 crime, which for the purposes of this act shall mean a violation of
34 any of the following provisions of the "New Jersey Code of
35 Criminal Justice," Title 2C of the New Jersey Statutes as amended
36 and supplemented, or the equivalent under the laws of any other
37 jurisdiction:

38 (1) Any crime of the first degree;

39 (2) Any crime which is a second or third degree crime and is a
40 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;
41 or

42 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2,
43 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,
44 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of
45 2C:17-2, 2C:18-2, section 1 of P.L. , c. (C.)(pending before
46 the Legislature as this bill), section 2 of P.L. , c. (C.)(pending
47 before the Legislature as this bill), 2C:20-1, 2C:20-2, 2C:20-4,
48 2C:20-5, 2C:20-7, section 1 or 2 of P.L.2023, c.101 (C.2C:20-10.1

1 or 2C:20-10.2), 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6,
2 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27 or
3 28 of Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, 2C:30-3,
4 2C:35-5, 2C:35-10, or 2C:37-1 through 2C:37-4.

5 b. Each disclosure statement may be reviewed and used by the
6 director as grounds for denying licensure or registration, except that
7 in cases in which the provisions of P.L.1968, c.282 (C.2A:168A-1
8 et seq.) apply, the director shall comply with the requirements of
9 that act.

10 c. An applicant who is denied licensure or registration pursuant
11 to this section shall, upon a written request transmitted to the
12 director within 30 calendar days of the denial, be afforded an
13 opportunity for a hearing in the manner provided for contested
14 cases pursuant to the "Administrative Procedure Act," P.L.1968,
15 c.410 (C.52:14B-1 et seq.).

16 d. An applicant shall have the continuing duty to provide any
17 assistance or information requested by the director, and to cooperate
18 in any inquiry, investigation, or hearing conducted by the director.

19 e. If any of the information required to be included in the
20 disclosure statement changes, or if any additional information
21 should be added after the filing of the statement, the applicant shall
22 provide that information to the chief, in writing, within 30 calendar
23 days of the change or addition.

24 (cf: P.L.2023, c.101, s.6)

25

26 9. This act shall take effect immediately.

27

28

29

STATEMENT

30

31 This bill creates the second degree crime of home invasion
32 burglary, subject to the No Early Release Act (NERA), and the third
33 degree crime of residential burglary, which would not be subject to
34 the NERA. Additionally, it allows for the waiver of juveniles to
35 adult criminal court for crimes related to the burglary of residential
36 dwellings and clarifies statutory definitions.

37 Specifically, under the provisions of this bill, a person commits
38 the crime of home invasion burglary if the person enters or remains
39 surreptitiously in a residential dwelling without license or
40 permission to do so and: 1) purposely, knowingly, or recklessly
41 inflicts bodily injury on anyone; 2) attempts to inflict or threatens to
42 inflict bodily injury on anyone; or 3) is armed with or displays what
43 appear to be explosives or a deadly weapon.

44 As a second degree crime, home invasion burglary would be
45 penalized by a mandatory term of imprisonment between five to 10
46 years. Additionally, the convicted offender would be required to
47 serve 85 percent of the sentence imposed, without the possibility of
48 parole since the bill includes the crime of home invasion burglary

1 under the NERA. A convicted offender could also be subject to a
2 fine of up to \$150,000 (the ordinary fine amount applicable to
3 second degree crimes).

4 Under the provisions of this bill, a person commits the crime of
5 residential burglary if the person enters or remains surreptitiously in
6 a residential dwelling without a license or permission to do so. As a
7 third degree crime, the term of imprisonment for a residential
8 burglary is between three to five years, a fine of up to \$15,000, or
9 both.

10 In addition, this bill provides for the waiver of a juvenile to adult
11 criminal court if a home invasion burglary or residential burglary is
12 committed while the juvenile is in possession of a firearm. The bill
13 also clarifies the definition of residential dwelling and the statutory
14 definition of burglary.

15 The provisions of this bill provide that a person who is at least
16 18 years old and has a prior conviction for a home invasion
17 burglary in which the person used or possessed a firearm during the
18 commission of the crime would be subject to an extended term of
19 imprisonment.

20 Additionally, under the provisions of this bill, a person convicted
21 of a home invasion burglary or a residential burglary who, in the
22 course of committing or attempting to commit the crime, used or
23 was in possession of a stolen vehicle, would be subject to an
24 extended term of imprisonment.

25 Finally, this bill would require a person applying for certain
26 employment opportunities to file a disclosure statement stating
27 whether or not the applicant has been convicted of home invasion
28 burglary or residential burglary.

[First Reprint]

ASSEMBLY, No. 4299

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED MAY 6, 2024

Sponsored by:

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman ALEXANDER "AVI" SCHNALL

District 30 (Monmouth and Ocean)

Co-Sponsored by:

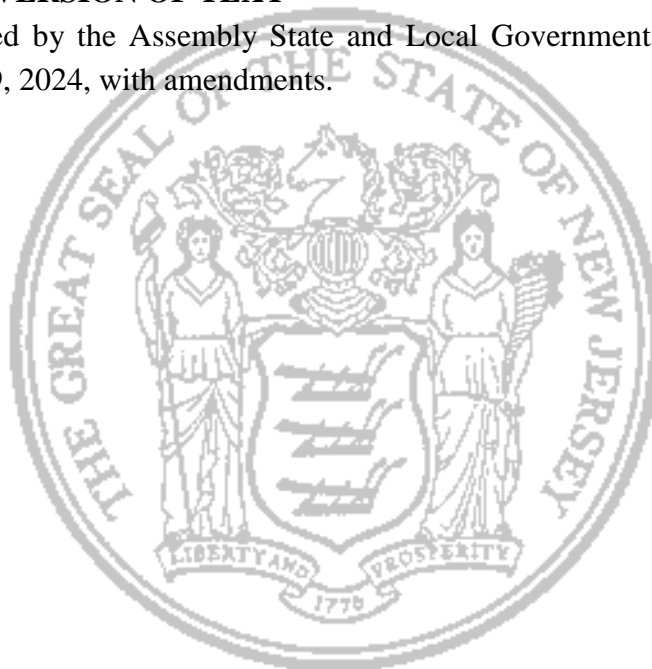
Assemblymen Bailey, Hutchison, Miller, Wimberly and Sampson

SYNOPSIS

Establishes crimes of home invasion burglary and residential burglary.

CURRENT VERSION OF TEXT

As reported by the Assembly State and Local Government Committee on September 19, 2024, with amendments.



(Sponsorship Updated As Of: 9/26/2024)

1 AN ACT concerning burglary of residential dwellings,
2 supplementing Title 2C of the ¹**[Revised]** New Jersey¹ Statutes,
3 and amending various parts of the statutory law.

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

7
8 ¹**[1.** (New section) a. A person is guilty of home invasion
9 burglary if, with purpose to commit an offense therein or thereon,
10 the person, without license or privilege to do so, enters or
11 surreptitiously remains in a residential dwelling or accommodation,
12 or a separately secured portion thereof, and in the course of
13 committing the offense, the person:

14 (1) purposely, knowingly, or recklessly inflicts, attempts to
15 inflict, or threatens to inflict bodily injury on anyone; or

16 (2) is armed with or displays what appear to be explosives or a
17 deadly weapon.

18 b. Home invasion burglary is a crime of the second degree,
19 subject to sentencing pursuant to P.L.1997, c.117 (C.2C:43-7.2 et
20 al.).

21 c. An act shall be deemed “in the course of committing” an
22 offense if it occurs in an attempt to commit an offense or in
23 immediate flight after the attempt or commission. **]¹**

24
25 ¹**[2.** (New section) a. A person is guilty of residential burglary
26 if, with purpose to commit an offense therein or thereon, the person:

27 (1) enters a residential dwelling or accommodation, or a
28 separately secured portion thereof, unless the actor is licensed or
29 privileged to enter; or

30 (2) surreptitiously remains in a residential dwelling or
31 accommodation, or a separately secured portion thereof, knowing
32 that the actor is not licensed or privileged to do so.

33 b. Residential burglary is a crime of the third degree.

34 c. For the purposes of subsection a. of this section, it shall not
35 be an element of the offense that the actor knew that any other
36 person was present in the residential dwelling or accommodation
37 when the actor entered or surreptitiously remained therein, and it
38 shall not be a defense that the actor did not know that any other
39 person was present in the residential dwelling or accommodation
40 when the actor entered or surreptitiously remained therein. **]¹**

41
42 ¹**[3.** Section 1 of P.L.2015, c.89 (C.2A:4A-26.1) is amended to
43 read as follows:

44 1. a. A prosecutor seeking waiver of jurisdiction of a juvenile
45 delinquency case by the Superior Court, Chancery Division, Family

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:

¹Assembly ASL committee amendments adopted September 19, 2024.

1 Part to an appropriate court and prosecuting authority without the
2 consent of the juvenile shall file a motion within 60 days after the
3 receipt of the complaint, which time may be extended for good
4 cause shown. The motion shall be accompanied by a written
5 statement of reasons clearly setting forth the facts used in assessing
6 all factors contained in paragraph (3) of subsection c. of this
7 section, together with an explanation as to how evaluation of those
8 facts support waiver for each particular juvenile.

9 b. At a hearing, the court shall receive the evidence offered by
10 the State and by the juvenile. The State shall provide proof to
11 satisfy the requirements set forth in paragraphs (1) and (2) of
12 subsection c. of this section. The court also shall review whether the
13 State considered the factors set forth in paragraph (3) of subsection
14 c. of this section.

15 c. Except as provided in paragraph (3) of this subsection, the
16 court shall waive jurisdiction of a juvenile delinquency case without
17 the juvenile's consent and shall refer the case to the appropriate
18 court and prosecuting authority having jurisdiction if:

19 (1) The juvenile was 15 years of age or older at the time of the
20 alleged delinquent act; and

21 (2) There is probable cause to believe that the juvenile
22 committed a delinquent act which if committed by an adult would
23 constitute:

24 (a) criminal homicide, other than death by auto;

25 (b) strict liability for drug-induced deaths;

26 (c) first degree robbery;

27 (d) carjacking;

28 (e) aggravated sexual assault;

29 (f) sexual assault;

30 (g) second degree aggravated assault;

31 (h) kidnapping;

32 (i) aggravated arson;

33 (j) possession of a firearm with a purpose to use it unlawfully
34 against the person of another under subsection a. of N.J.S.2C:39-4,
35 or possession of a firearm while committing or attempting to
36 commit, including the immediate flight therefrom, aggravated
37 assault, aggravated criminal sexual contact, burglary, home
38 invasion burglary, residential burglary, or escape;

39 (k) a violation of N.J.S.2C:35-3 (Leader of a Narcotics
40 Trafficking Network);

41 (l) a violation of N.J.S.2C:35-4 (Maintaining and Operating a
42 CDS Production Facility);

43 (m) a violation of section 1 of P.L.1998, c.26 (C.2C:39-4.1)
44 (Weapons Possession while Committing certain CDS Offenses);

45 (n) an attempt or conspiracy to commit any of the crimes
46 enumerated in subparagraphs (a) through (m) of this paragraph; or

47 (o) a crime committed at a time when the juvenile previously
48 had been sentenced and confined in an adult correctional facility.

49 (3) The court may deny a motion by the prosecutor to waive
50 jurisdiction of a juvenile delinquency case if it is clearly convinced

1 that the prosecutor abused his discretion in considering the
2 following factors in deciding whether to seek a waiver:

- 3 (a) The nature and circumstances of the offense charged;
- 4 (b) Whether the offense was against a person or property,
5 allocating more weight for crimes against the person;
- 6 (c) Degree of the juvenile's culpability;
- 7 (d) Age and maturity of the juvenile;
- 8 (e) Any classification that the juvenile is eligible for special
9 education to the extent this information is provided to the
10 prosecution by the juvenile or by the court;
- 11 (f) Degree of criminal sophistication exhibited by the juvenile;
- 12 (g) Nature and extent of any prior history of delinquency of the
13 juvenile and dispositions imposed for those adjudications;
- 14 (h) If the juvenile previously served a custodial disposition in a
15 State juvenile facility operated by the Juvenile Justice Commission,
16 and the response of the juvenile to the programs provided at the
17 facility to the extent this information is provided to the prosecution
18 by the Juvenile Justice Commission;
- 19 (i) Current or prior involvement of the juvenile with child
20 welfare agencies;
- 21 (j) Evidence of mental health concerns, substance use disorder,
22 or emotional instability of the juvenile to the extent this information
23 is provided to the prosecution by the juvenile or by the court; and
- 24 (k) If there is an identifiable victim, the input of the victim or
25 victim's family.

26 The Attorney General may develop for dissemination to the
27 county prosecutors those guidelines or directives deemed necessary
28 or appropriate to ensure the uniform application of this section
29 throughout the State.

30 d. An order waiving jurisdiction over a case and referring the
31 case to the appropriate court and prosecuting authority shall specify
32 the alleged act upon which the referral is based and all other
33 delinquent acts charged against the juvenile arising out of or related
34 to the same transaction.

35 e. Testimony of a juvenile at a hearing to determine referral
36 under this section shall not be admissible for any purpose in any
37 subsequent hearing to determine delinquency or guilt of any
38 offense.

39 f. Upon waiver of jurisdiction and referral to the appropriate
40 court and prosecuting authority having jurisdiction:

41 (1) The case shall proceed as if it originated in that court and
42 shall be subject to the sentencing provisions available to that court;
43 provided, however, upon conviction for any offense which is
44 subject to waiver pursuant to paragraph (2) of subsection c. of this
45 section, there shall be a presumption that the juvenile shall serve
46 any custodial sentence imposed in a State juvenile facility operated
47 by the Juvenile Justice Commission until the juvenile reaches the
48 age of 21, except that:

49 (a) a juvenile who has not reached the age of 21 may, in the
50 discretion of the Juvenile Justice Commission, be transferred to the

1 Department of Corrections in accordance with the plan established
2 pursuant to subsection e. of section 7 of P.L.1995, c.284 (C.52:17B-
3 175) and regulations adopted pursuant to that section; and

4 (b) a juvenile who has reached or exceeds the age of 21 may
5 continue to serve a sentence in a State juvenile facility operated by
6 the Juvenile Justice Commission in the discretion of the Juvenile
7 Justice Commission and if the juvenile so consents; otherwise the
8 juvenile shall serve the remainder of the custodial sentence in a
9 State correctional facility;

10 (2) If a juvenile is not convicted of an offense set forth in
11 paragraph (2) of subsection c. of this section, a conviction for any
12 other offense shall be deemed a juvenile adjudication and be
13 remanded to the Superior Court, Chancery Division, Family Part for
14 disposition, in accordance with the dispositional options available
15 to that court and all records related to the act of delinquency shall
16 be subject to the provisions of section 1 of P.L.1982, c.79
17 (C.2A:4A-60);

18 (3) With the consent of the defense and the prosecutor, at any
19 point in the proceedings subsequent to the decision ordering waiver
20 the court may remand to the Superior Court, Chancery Division,
21 Family Part if it appears that:

22 (a) the interests of the public and the best interests of the
23 juvenile require access to programs or procedures uniquely
24 available to that court; and

25 (b) the interests of the public are no longer served by waiver.

26 g. (1) The Juvenile Justice Commission, in consultation with the
27 Attorney General, shall establish a program to collect, record, and
28 analyze data regarding waiver of jurisdiction of a juvenile
29 delinquency case by the Superior Court, Chancery Division, Family
30 Part to an appropriate court and prosecuting authority. In
31 furtherance of this program, the Juvenile Justice Commission shall,
32 in cooperation with the Administrative Office of the Courts,
33 Attorney General, and county prosecutors, collect data related to the
34 decision to seek waiver of jurisdiction of a juvenile delinquency
35 case, which shall include but not be limited to data concerning:

36 (a) youth demographics, including age, gender, race, and
37 ethnicity;

38 (b) case characteristics, including the degree of the offense
39 waived, the degree of the offense convicted, and the final court
40 resolution;

41 (c) case processing times; and

42 (d) waiver rates by race and ethnicity.

43 (2) The commission shall prepare and publish on its Internet
44 website biennial reports summarizing the data collected, recorded,
45 and analyzed pursuant to paragraph (1) of this subsection.

46 (3) The commission shall, pursuant to section 2 of P.L.1991,
47 c.164 (C.52:14-19.1), biennially prepare and transmit to the
48 Governor and the Legislature the reports required in paragraph (2)

1 of this subsection, along with any recommendations the commission
2 may have for legislation concerning waiver of jurisdiction of
3 juvenile delinquency cases.
4 (cf: P.L.2023, c.177, s.1)】¹

5

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

7 2C:18-1. In this chapter, unless a different meaning plainly is
8 required:

9 "Structure" means any building, room, ship, vessel, car, vehicle
10 or airplane, and also means any place adapted for overnight
11 accommodation of persons, or for carrying on business therein,
12 whether or not a person is actually present.

13 "Utility Company Property" means property; (1) owned by a
14 public utility, as defined in R.S.48:2-13, or by a municipality,
15 county, water district, authority or other public agency, and (2)
16 which is used for the purpose of providing electric, gas or water
17 utility service.

18 "Operational area" means any portion of a public airport, from
19 which access by the public is prohibited by fences or appropriate
20 signs, and includes runways, taxiways, all ramps, cargo ramps and
21 apron areas, aircraft parking and storage areas, fuel storage areas,
22 maintenance areas, and any other area of a public airport used or
23 intended to be used for landing, takeoff or surface maneuvering of
24 aircraft.

25 "Sterile area" means a portion of an airport, as set forth in an
26 airport security program approved by the Transportation Security
27 Administration, that provides passengers access to boarding aircraft
28 and to which the access generally is controlled by the
29 Transportation Security Administration, an aircraft operator
30 pursuant to 49 C.F.R. part 1544, or an air carrier pursuant to 49
31 C.F.R. part 1546, through the screening of persons and property.

32 "Residential dwelling or accommodation" means a permanent
33 structure intended as and currently being utilized as a residence by a
34 private person or persons, and any place adapted for overnight
35 accommodation of persons.

36 (cf: P.L.2013, c.138, s.1)】¹

37

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

39 2C:18-2. Burglary. a. Burglary defined. A person is guilty of
40 burglary if, with purpose to commit an offense therein or thereon
41 **【he】** the person:

42 (1) Enters a research facility, structure other than a residential
43 dwelling or accommodation, or a separately secured or occupied
44 portion thereof unless the structure was at the time open to the
45 public or the actor is licensed or privileged to enter;

46 (2) Surreptitiously remains in a research facility, structure other
47 than a residential dwelling or accommodation, or a separately

1 secured or occupied portion thereof knowing that **【he】** the person is
2 not licensed or privileged to do so; or

3 (3) Trespasses in or upon utility company property where public
4 notice prohibiting trespass is given by conspicuous posting, or
5 fencing or other enclosure manifestly designed to exclude intruders.

6 b. Grading. Burglary is a crime of the second degree if in the
7 course of committing the offense, the actor:

8 (1) Purposely, knowingly or recklessly inflicts, attempts to
9 inflict or threatens to inflict bodily injury on anyone; or

10 (2) Is armed with or displays what appear to be explosives or a
11 deadly weapon.

12 Otherwise burglary is a crime of the third degree. An act shall
13 be deemed "in the course of committing" an offense if it occurs in
14 an attempt to commit an offense or in immediate flight after the
15 attempt or commission.

16 (cf: P.L.2009, c.283, s.2)】¹

17

18 ¹【6. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to
19 read as follows:

20 2. a. A court imposing a sentence of incarceration for a crime
21 of the first or second degree enumerated in subsection d. of this
22 section shall fix a minimum term of 85% of the sentence imposed,
23 during which the defendant shall not be eligible for parole.

24 b. The minimum term required by subsection a. of this section
25 shall be fixed as a part of every sentence of incarceration imposed
26 upon every conviction of a crime enumerated in subsection d. of
27 this section, whether the sentence of incarceration is determined
28 pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any
29 other provision of law, and shall be calculated based upon the
30 sentence of incarceration actually imposed. The provisions of
31 subsection a. of this section shall not be construed or applied to
32 reduce the time that must be served before eligibility for parole by
33 an inmate sentenced to a mandatory minimum period of
34 incarceration. Solely for the purpose of calculating the minimum
35 term of parole ineligibility pursuant to subsection a. of this section,
36 a sentence of life imprisonment shall be deemed to be 75 years.

37 c. Notwithstanding any other provision of law to the contrary
38 and in addition to any other sentence imposed, a court imposing a
39 minimum period of parole ineligibility of 85 percent of the sentence
40 pursuant to this section shall also impose a five-year term of parole
41 supervision if the defendant is being sentenced for a crime of the
42 first degree, or a three-year term of parole supervision if the
43 defendant is being sentenced for a crime of the second degree. The
44 term of parole supervision shall commence upon the completion of
45 the sentence of incarceration imposed by the court pursuant to
46 subsection a. of this section unless the defendant is serving a
47 sentence of incarceration for another crime at the time he completes
48 the sentence of incarceration imposed pursuant to subsection a., in

1 which case the term of parole supervision shall commence
2 immediately upon the defendant's release from incarceration.
3 During the term of parole supervision the defendant shall remain in
4 release status in the community in the legal custody of the
5 Commissioner of the Department of Corrections and shall be
6 supervised by the State Parole Board as if on parole and shall be
7 subject to the provisions and conditions of section 3 of P.L.1997,
8 c.117 (C.30:4-123.51b).

9 d. The court shall impose sentence pursuant to subsection a. of
10 this section upon conviction of the following crimes or an attempt
11 or conspiracy to commit any of these crimes:

- 12 (1) N.J.S.2C:11-3, murder;
- 13 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 14 (3) N.J.S.2C:11-5, vehicular homicide;
- 15 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 16 (5) subsection b. of section 1 of P.L.1996, c.14 (C.2C:12-11),
17 disarming a law enforcement officer;
- 18 (6) N.J.S.2C:13-1, kidnapping;
- 19 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 20 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of
21 subsection c. of N.J.S.2C:14-2, sexual assault;
- 22 (9) N.J.S.2C:15-1, robbery;
- 23 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
- 24 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
25 arson;
- 26 (12) N.J.S.2C:18-2, burglary;
- 27 (13) subsection a. of N.J.S.2C:20-5, extortion;
- 28 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
29 booby traps in manufacturing or distribution facilities;
- 30 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;
- 31 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;
- 32 (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or
33 possessing chemical weapons, biological agents or nuclear or
34 radiological devices;
- 35 (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first
36 degree;
- 37 (19) subsection i. of N.J.S.2C:39-9, firearms trafficking; or
- 38 (20) paragraph (3) of subsection b. of N.J.S.2C:24-4, causing or
39 permitting a child to engage in a prohibited sexual act, knowing that
40 the act may be reproduced or reconstructed in any manner, or be
41 part of an exhibition or performance; or
- 42 (21) section 1 of P.L. , c. (C.) (pending before the
43 Legislature as this bill), home invasion burglary.

44 e. (Deleted by amendment, P.L.2001, c.129).

45 (cf: P.L.2013, c.136, s.4)]¹

46

47 ¹[7. N.J.S.2C:44-3 is amended to read as follows:

1 2C:44-3. The court may, upon application of the prosecuting
2 attorney, sentence a person who has been convicted of a crime of
3 the first, second or third degree to an extended term of
4 imprisonment if it finds one or more of the grounds specified in
5 subsection a., b., c., or f. of this section. If the grounds specified in
6 subsection d. are found, and the person is being sentenced for
7 commission of any of the offenses enumerated in N.J.S.2C:43-6c.
8 or N.J.S.2C:43-6g., the court shall sentence the defendant to an
9 extended term as required by N.J.S.2C:43-6c. or N.J.S.2C:43-6g.,
10 and application by the prosecutor shall not be required. The court
11 shall, upon application of the prosecuting attorney, sentence a
12 person who has been convicted of a crime under N.J.S.2C:14-2 or
13 N.J.S.2C:14-3 to an extended term of imprisonment if the grounds
14 specified in subsection g. of this section are found. The court shall,
15 upon application of the prosecuting attorney, sentence a person to
16 an extended term if the imposition of such term is required pursuant
17 to the provisions of section 2 of P.L.1994, c.130 (C.2C:43-6.4).
18 The finding of the court shall be incorporated in the record.

19 a. The defendant has been convicted of a crime of the first,
20 second or third degree and is a persistent offender. A persistent
21 offender is a person who at the time of the commission of the crime
22 is 21 years of age or over, who has been previously convicted on at
23 least two separate occasions of two crimes, committed at different
24 times, when he was at least 18 years of age, if the latest in time of
25 these crimes or the date of the defendant's last release from
26 confinement, whichever is later, is within 10 years of the date of the
27 crime for which the defendant is being sentenced.

28 b. The defendant has been convicted of a crime of the first,
29 second or third degree and is a professional criminal. A
30 professional criminal is a person who committed a crime as part of
31 a continuing criminal activity in concert with two or more persons,
32 and the circumstances of the crime show he has knowingly devoted
33 himself to criminal activity as a major source of livelihood.

34 c. The defendant has been convicted of a crime of the first,
35 second or third degree and committed the crime as consideration for
36 the receipt, or in expectation of the receipt, of anything of pecuniary
37 value the amount of which was unrelated to the proceeds of the
38 crime or he procured the commission of the offense by payment or
39 promise of payment of anything of pecuniary value.

40 d. Second offender with a firearm. The defendant is at least 18
41 years of age and has been previously convicted of any of the
42 following crimes: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-
43 2a., 2C:14-3a., 2C:15-1, 2C:18-2, section 1 of
44 P.L. ,c. (C.)(pending before the Legislature as this bill),
45 2C:29-5, 2C:39-4a., or has been previously convicted of an offense
46 under Title 2A of the New Jersey Statutes or under any statute of
47 the United States or any other state which is substantially equivalent
48 to the offenses enumerated in this subsection and he used or

1 possessed a firearm, as defined in 2C:39-1f., in the course of
2 committing or attempting to commit any of these crimes, including
3 the immediate flight therefrom.

4 e. (Deleted by amendment, P.L.2001, c.443).

5 f. The defendant has been convicted of a crime under any of
6 the following sections: N.J.S.2C:11-4, N.J.S.2C:12-1b.,
7 N.J.S.2C:13-1, N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1,
8 N.J.S.2C:18-2, section 1 of P.L. , c. (C.)(pending before the
9 Legislature as this bill), section 2 of P.L. , c. (C.)(pending
10 before the Legislature as this bill), N.J.S.2C:29-2b., N.J.S.2C:29-5,
11 N.J.S.2C:35-5, and in the course of committing or attempting to
12 commit the crime, including the immediate flight therefrom, the
13 defendant used or was in possession of a stolen motor vehicle.

14 g. The defendant has been convicted of a crime under
15 N.J.S.2C:14-2 or N.J.S.2C:14-3 involving violence or the threat of
16 violence and the victim of the crime was 16 years of age or less.

17 For purposes of this subsection, a crime involves violence or the
18 threat of violence if the victim sustains serious bodily injury as
19 defined in subsection b. of N.J.S.2C:11-1, or the actor is armed with
20 and uses a deadly weapon or threatens by word or gesture to use a
21 deadly weapon as defined in subsection c. of N.J.S.2C:11-1, or
22 threatens to inflict serious bodily injury.

23 h. (Deleted by amendment, P.L.2007, c.341).

24 (cf: P.L.2007, c.341, s.8)]¹

25

26 ¹[8. Section 3 of P.L.1989, c.331 (C.34:8-44) is amended to
27 read as follows:

28 3. In addition to any other procedure, condition or information
29 required by this act:

30 a. Every applicant shall file a disclosure statement with the
31 chief stating whether or not the applicant has been convicted of any
32 crime, which for the purposes of this act shall mean a violation of
33 any of the following provisions of the "New Jersey Code of
34 Criminal Justice," Title 2C of the New Jersey Statutes as amended
35 and supplemented, or the equivalent under the laws of any other
36 jurisdiction:

37 (1) Any crime of the first degree;

38 (2) Any crime which is a second or third degree crime and is a
39 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;
40 or

41 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2,
42 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,
43 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of
44 2C:17-2, 2C:18-2, section 1 of P.L. , c. (C.)(pending before
45 the Legislature as this bill), section 2 of P.L. , c. (C.)(pending
46 before the Legislature as this bill), 2C:20-1, 2C:20-2, 2C:20-4,
47 2C:20-5, 2C:20-7, section 1 or 2 of P.L.2023, c.101 (C.2C:20-10.1
48 or 2C:20-10.2), 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6,

1 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27 or
2 28 of Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, 2C:30-3,
3 2C:35-5, 2C:35-10, or 2C:37-1 through 2C:37-4.

4 b. Each disclosure statement may be reviewed and used by the
5 director as grounds for denying licensure or registration, except that
6 in cases in which the provisions of P.L.1968, c.282 (C.2A:168A-1
7 et seq.) apply, the director shall comply with the requirements of
8 that act.

9 c. An applicant who is denied licensure or registration pursuant
10 to this section shall, upon a written request transmitted to the
11 director within 30 calendar days of the denial, be afforded an
12 opportunity for a hearing in the manner provided for contested
13 cases pursuant to the "Administrative Procedure Act," P.L.1968,
14 c.410 (C.52:14B-1 et seq.).

15 d. An applicant shall have the continuing duty to provide any
16 assistance or information requested by the director, and to cooperate
17 in any inquiry, investigation, or hearing conducted by the director.

18 e. If any of the information required to be included in the
19 disclosure statement changes, or if any additional information
20 should be added after the filing of the statement, the applicant shall
21 provide that information to the chief, in writing, within 30 calendar
22 days of the change or addition.

23 (cf: P.L.2023, c.101, s.6)]¹

24
25 ¹1. (New section) a. A person is guilty of home invasion
26 burglary if, with purpose to commit an offense therein or thereon,
27 the person, without license or privilege to do so, enters or
28 surreptitiously remains in a residential dwelling or accommodation,
29 or a separately secured portion thereof, and in the course of
30 committing the offense, the person:

31 (1) Purposely, knowingly or recklessly inflicts, attempts to
32 inflict, or threatens to inflict bodily injury on anyone; or

33 (2) Is armed with or displays what appear to be explosives or a
34 deadly weapon.

35 An act shall be deemed "in the course of committing" an offense
36 if it occurs in an attempt to commit an offense or in immediate
37 flight after the attempt or commission.

38 b. Home invasion burglary is a crime of the first degree, subject
39 to section 2 of P.L.1997, c.117 (C.2C:43-7.2).¹

40
41 ¹2. (New section) a. A person is guilty of residential burglary
42 if, with purpose to commit an offense therein or thereon, the person:

43 (1) Enters a residential dwelling or accommodation, or a
44 separately secured portion thereof, unless the actor is licensed or
45 privileged to enter; or

46 (2) Surreptitiously remains in a residential dwelling or
47 accommodation, or a separately secured portion thereof, knowing
48 that the actor is not licensed or privileged to do so.

1 b. For the purposes of subsection a. of this section, it is not an
2 element of the offense that the actor knew that any other person was
3 present in the residential dwelling or accommodation when the
4 actor entered or surreptitiously remained therein, and it shall not be
5 a defense that the actor did not know that any other person was
6 present in the residential dwelling or accommodation when the
7 actor entered or surreptitiously remained therein.

8 c. Residential burglary is a crime of the second degree, subject to
9 section 2 of P.L.1997, c.117 (C.2C:43-7.2), unless the actor
10 demonstrates by a preponderance of evidence that the actor
11 reasonably believed that no resident or any other person, other than
12 a person acting in concert with the actor, was present in the
13 residential dwelling or accommodation when the actor entered or
14 surreptitiously remained therein, in which case the offense is a
15 crime of the second degree, not subject to section 2 of P.L.1997,
16 c.117 (C.2C:43-7.2).¹

17
18 ¹3. Section 1 of P.L.2015, c.89 (C.2A:4A-26.1) is amended to
19 read as follows:

20 1. a. A prosecutor seeking waiver of jurisdiction of a juvenile
21 delinquency case by the Superior Court, Chancery Division, Family
22 Part to an appropriate court and prosecuting authority without the
23 consent of the juvenile shall file a motion within 60 days after the
24 receipt of the complaint, which time may be extended for good
25 cause shown. The motion shall be accompanied by a written
26 statement of reasons clearly setting forth the facts used in assessing
27 all factors contained in paragraph (3) of subsection c. of this
28 section, together with an explanation as to how evaluation of those
29 facts support waiver for each particular juvenile.

30 b. At a hearing, the court shall receive the evidence offered by
31 the State and by the juvenile. The State shall provide proof to
32 satisfy the requirements set forth in paragraphs (1) and (2) of
33 subsection c. of this section. The court also shall review whether
34 the State considered the factors set forth in paragraph (3) of
35 subsection c. of this section.

36 c. Except as provided in paragraph (3) of this subsection, the
37 court shall waive jurisdiction of a juvenile delinquency case without
38 the juvenile's consent and shall refer the case to the appropriate
39 court and prosecuting authority having jurisdiction if:

40 (1) The juvenile was 15 years of age or older at the time of the
41 alleged delinquent act; and

42 (2) There is probable cause to believe that the juvenile
43 committed a delinquent act which if committed by an adult would
44 constitute:

45 (a) criminal homicide, other than death by auto;

46 (b) strict liability for drug-induced deaths;

47 (c) first degree robbery;

48 (d) carjacking;

49 (e) aggravated sexual assault;

50 (f) sexual assault;

- 1 (g) second degree aggravated assault;
- 2 (h) kidnapping;
- 3 (i) aggravated arson;
- 4 (j) possession of a firearm with a purpose to use it unlawfully
- 5 against the person of another under subsection a. of N.J.S.2C:39-4,
- 6 or possession of a firearm while committing or attempting to
- 7 commit, including the immediate flight therefrom, aggravated
- 8 assault, aggravated criminal sexual contact, burglary, home
- 9 invasion burglary, residential burglary, or escape;
- 10 (k) a violation of N.J.S.2C:35-3 (Leader of a Narcotics
- 11 Trafficking Network);
- 12 (l) a violation of N.J.S.2C:35-4 (Maintaining and Operating a
- 13 CDS Production Facility);
- 14 (m) a violation of section 1 of P.L.1998, c.26 (C.2C:39-4.1)
- 15 (Weapons Possession while Committing certain CDS Offenses);
- 16 (n) an attempt or conspiracy to commit any of the crimes
- 17 enumerated in subparagraphs (a) through (m) of this paragraph; or
- 18 (o) a crime committed at a time when the juvenile previously had
- 19 been sentenced and confined in an adult correctional facility.
- 20 (3) The court may deny a motion by the prosecutor to waive
- 21 jurisdiction of a juvenile delinquency case if it is clearly convinced
- 22 that the prosecutor abused his discretion in considering the
- 23 following factors in deciding whether to seek a waiver:
- 24 (a) The nature and circumstances of the offense charged;
- 25 (b) Whether the offense was against a person or property,
- 26 allocating more weight for crimes against the person;
- 27 (c) Degree of the juvenile's culpability;
- 28 (d) Age and maturity of the juvenile;
- 29 (e) Any classification that the juvenile is eligible for special
- 30 education to the extent this information is provided to the
- 31 prosecution by the juvenile or by the court;
- 32 (f) Degree of criminal sophistication exhibited by the juvenile;
- 33 (g) Nature and extent of any prior history of delinquency of the
- 34 juvenile and dispositions imposed for those adjudications;
- 35 (h) If the juvenile previously served a custodial disposition in a
- 36 State juvenile facility operated by the Juvenile Justice Commission,
- 37 and the response of the juvenile to the programs provided at the
- 38 facility to the extent this information is provided to the prosecution
- 39 by the Juvenile Justice Commission;
- 40 (i) Current or prior involvement of the juvenile with child
- 41 welfare agencies;
- 42 (j) Evidence of mental health concerns, substance use disorder,
- 43 or emotional instability of the juvenile to the extent this information
- 44 is provided to the prosecution by the juvenile or by the court; and
- 45 (k) If there is an identifiable victim, the input of the victim or
- 46 victim's family.
- 47 The Attorney General may develop for dissemination to the
- 48 county prosecutors those guidelines or directives deemed necessary
- 49 or appropriate to ensure the uniform application of this section
- 50 throughout the State.

1 d. An order waiving jurisdiction over a case and referring the
2 case to the appropriate court and prosecuting authority shall specify
3 the alleged act upon which the referral is based and all other
4 delinquent acts charged against the juvenile arising out of or related
5 to the same transaction.

6 e. Testimony of a juvenile at a hearing to determine referral
7 under this section shall not be admissible for any purpose in any
8 subsequent hearing to determine delinquency or guilt of any
9 offense.

10 f. Upon waiver of jurisdiction and referral to the appropriate
11 court and prosecuting authority having jurisdiction:

12 (1) The case shall proceed as if it originated in that court and
13 shall be subject to the sentencing provisions available to that court;
14 provided, however, upon conviction for any offense which is
15 subject to waiver pursuant to paragraph (2) of subsection c. of this
16 section, there shall be a presumption that the juvenile shall serve
17 any custodial sentence imposed in a State juvenile facility operated
18 by the Juvenile Justice Commission until the juvenile reaches the
19 age of 21, except that:

20 (a) a juvenile who has not reached the age of 21 may, in the
21 discretion of the Juvenile Justice Commission, be transferred to the
22 Department of Corrections in accordance with the plan established
23 pursuant to subsection e. of section 7 of P.L.1995, c.284 (C.52:17B-
24 175) and regulations adopted pursuant to that section; and

25 (b) a juvenile who has reached or exceeds the age of 21 may
26 continue to serve a sentence in a State juvenile facility operated by
27 the Juvenile Justice Commission in the discretion of the Juvenile
28 Justice Commission and if the juvenile so consents; otherwise the
29 juvenile shall serve the remainder of the custodial sentence in a
30 State correctional facility;

31 (2) If a juvenile is not convicted of an offense set forth in
32 paragraph (2) of subsection c. of this section, a conviction for any
33 other offense shall be deemed a juvenile adjudication and be
34 remanded to the Superior Court, Chancery Division, Family Part for
35 disposition, in accordance with the dispositional options available
36 to that court and all records related to the act of delinquency shall
37 be subject to the provisions of section 1 of P.L.1982, c.79
38 (C.2A:4A-60);

39 (3) With the consent of the defense and the prosecutor, at any
40 point in the proceedings subsequent to the decision ordering waiver
41 the court may remand to the Superior Court, Chancery Division,
42 Family Part if it appears that:

43 (a) the interests of the public and the best interests of the juvenile
44 require access to programs or procedures uniquely available to that
45 court; and

46 (b) the interests of the public are no longer served by waiver.

47 g. (1) The Juvenile Justice Commission, in consultation with the
48 Attorney General, shall establish a program to collect, record, and
49 analyze data regarding waiver of jurisdiction of a juvenile
50 delinquency case by the Superior Court, Chancery Division, Family

1 Part to an appropriate court and prosecuting authority. In
2 furtherance of this program, the Juvenile Justice Commission shall,
3 in cooperation with the Administrative Office of the Courts,
4 Attorney General, and county prosecutors, collect data related to the
5 decision to seek waiver of jurisdiction of a juvenile delinquency
6 case, which shall include but not be limited to data concerning:

7 (a) youth demographics, including age, gender, race, and
8 ethnicity;

9 (b) case characteristics, including the degree of the offense
10 waived, the degree of the offense convicted, and the final court
11 resolution;

12 (c) case processing times; and

13 (d) waiver rates by race and ethnicity.

14 (2) The commission shall prepare and publish on its Internet
15 website biennial reports summarizing the data collected, recorded,
16 and analyzed pursuant to paragraph (1) of this subsection.

17 (3) The commission shall, pursuant to section 2 of P.L. 1991,
18 c.164 (C.52:14-19.1), biennially prepare and transmit to the
19 Governor and the Legislature the reports required in paragraph (2)
20 of this subsection, along with any recommendations the commission
21 may have for legislation concerning waiver of jurisdiction of
22 juvenile delinquency cases.¹

23 (cf: P.L.2023, c.177, s.1)

24

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

26 2C:18-1. In this chapter, unless a different meaning plainly is
27 required:

28 “Structure” means any building, room, ship, vessel, car, vehicle
29 or airplane, and also means any place [adapted for overnight
30 accommodation of persons, or] for carrying on business therein,
31 whether or not a person is actually present.

32 “Utility Company Property” means property[;] (1) owned by a
33 public utility, as defined in R.S.48:2-13, or by a municipality,
34 county, water district, authority or other public agency[.]; and (2)
35 which is used for the purpose of providing electric, gas or water
36 utility service.

37 “Operational area” means any portion of a public airport, from
38 which access by the public is prohibited by fences or appropriate
39 signs, and includes runways, taxiways, all ramps, cargo ramps and
40 apron areas, aircraft parking and storage areas, fuel storage areas,
41 maintenance areas, and any other area of a public airport used or
42 intended to be used for landing, takeoff or surface maneuvering of
43 aircraft.

44 “Sterile area” means a portion of an airport, as set forth in an
45 airport security program approved by the Transportation Security
46 Administration, that provides passengers access to boarding aircraft
47 and to which the access generally is controlled by the
48 Transportation Security Administration, an aircraft operator

1 pursuant to 49 C.F.R. part 1544, or an air carrier pursuant to 49
2 C.F.R. part 1546, through the screening of persons and property.

3 “Residential dwelling or accommodation” means a permanent
4 structure intended as and currently being utilized as a residence by a
5 private person or persons, and any place adapted for overnight
6 accommodation of persons.¹

7 (cf: P.L.2013, c.138, s.1)

8

9 ^{15.} N.J.S.2C:18-2 is amended to read as follows:

10 2C:18-2. Burglary. a. Burglary defined. A person is guilty of
11 burglary if, with purpose to commit an offense therein or thereon,
12 **[he]** the person:

13 (1) Enters a research facility, structure other than a residential
14 dwelling, or a separately secured or occupied portion thereof unless
15 the structure was at the time open to the public or the actor is
16 licensed or privileged to enter;

17 (2) Surreptitiously remains in a research facility, structure other
18 than a residential dwelling, or a separately secured or occupied
19 portion thereof knowing that **[he]** the person is not licensed or
20 privileged to do so; or

21 (3) Trespasses in or upon utility company property where public
22 notice prohibiting trespass is given by conspicuous posting, or
23 fencing or other enclosure manifestly designed to exclude intruders.

24 b. Grading. Burglary is a crime of the second degree if in the
25 course of committing the offense, the actor:

26 (1) Purposely, knowingly or recklessly inflicts, attempts to inflict
27 or threatens to inflict bodily injury on anyone; or

28 (2) Is armed with or displays what appear to be explosives or a
29 deadly weapon.

30 Otherwise burglary is a crime of the third degree. An act shall
31 be deemed “in the course of committing” an offense if it occurs in
32 an attempt to commit an offense or in immediate flight after the
33 attempt or commission.¹

34 (cf: P.L.2009, c.283, s.2)

35

36 ^{16.} N.J.S.2C:35-14 is amended to read as follows:

37 2C:35-14. Rehabilitation Program for Persons with a Substance
38 Use Disorder Subject to a Presumption of Incarceration or a
39 Mandatory Minimum Period of Parole Ineligibility; Criteria for
40 Imposing Special Probation; Ineligible Offenders; Commitment to
41 Residential Treatment Facilities or Participation in a Nonresidential
42 Treatment Program; Presumption of Revocation; Brief Incarceration
43 in Lieu of Permanent Revocation.

44 a. Any person who is ineligible for probation due to a
45 conviction for a crime which is subject to a presumption of
46 incarceration or a mandatory minimum period of parole ineligibility
47 may be sentenced to a term of special probation in accordance with
48 this section, and may not apply for treatment for substance use
49 disorder pursuant to N.J.S.2C:45-1. Nothing in this section shall be

1 construed to prohibit a person who is eligible for probation in
2 accordance with N.J.S.2C:45-1 due to a conviction for an offense
3 which is not subject to a presumption of incarceration or a
4 mandatory minimum period of parole ineligibility from applying for
5 treatment for substance use disorder as a condition of probation
6 pursuant to N.J.S.2C:45-1; provided, however, that a person in need
7 of treatment as defined in subsection f. of section 2 of P.L.2012,
8 c.23 (C.2C:35-14.2) shall be sentenced in accordance with that
9 section. Notwithstanding the presumption of incarceration pursuant
10 to the provisions of subsection d. of N.J.S.2C:44-1, whenever a
11 person with a substance use disorder who is subject to sentencing
12 under this section is convicted of or adjudicated delinquent for an
13 offense, other than one described in subsection b. of this section,
14 the court, upon notice to the prosecutor, may, on motion of the
15 person, or on the court's own motion, place the person on special
16 probation, which shall be for a term of five years, provided that the
17 court finds on the record that:

18 (1) the person has undergone a professional diagnostic
19 assessment to determine whether and to what extent the person has
20 a substance use disorder and would benefit from treatment; and

21 (2) the person has a substance use disorder within the meaning
22 of N.J.S.2C:35-2 and was with a substance use disorder at the time
23 of the commission of the present offense; and

24 (3) the present offense was committed while the person was
25 under the influence of a controlled dangerous substance, controlled
26 substance analog or alcohol or was committed to acquire property
27 or monies in order to support the person's substance use disorder;
28 and

29 (4) substance use disorder treatment and monitoring will serve
30 to benefit the person by addressing the person's substance use
31 disorder and will thereby reduce the likelihood that the person will
32 thereafter commit another offense; and

33 (5) the person did not possess a firearm at the time of the
34 present offense and did not possess a firearm at the time of any
35 pending criminal charge; and

36 (6) the person has not been previously convicted on two or more
37 separate occasions of crimes of the first or second degree, other
38 than those listed in paragraph (7); or the person has not been
39 previously convicted on two or more separate occasions, where one
40 of the offenses is a crime of the third degree, other than crimes
41 defined in N.J.S.2C:35-10, and one of the offenses is a crime of the
42 first or second degree; and

43 (7) the person has not been previously convicted or adjudicated
44 delinquent for, and does not have a pending charge of murder,
45 aggravated manslaughter, manslaughter, kidnapping, aggravated
46 assault, aggravated sexual assault or sexual assault, or a similar
47 crime under the laws of any other state or the United States; and

1 (8) a suitable treatment facility licensed and approved by the
2 Division of Mental Health and Addiction Services in the
3 Department of Human Services is able and has agreed to provide
4 appropriate treatment services in accordance with the requirements
5 of this section; and

6 (9) no danger to the community will result from the person
7 being placed on special probation pursuant to this section.

8 In determining whether to sentence the person pursuant to this
9 section, the court shall consider all relevant circumstances, and
10 shall take judicial notice of any evidence, testimony or information
11 adduced at the trial, plea hearing or other court proceedings, and
12 shall also consider the presentence report and the results of the
13 professional diagnostic assessment to determine whether and to
14 what extent the person has a substance use disorder and would
15 benefit from treatment. The court shall give priority to a person
16 who has moved to be sentenced to special probation over a person
17 who is being considered for a sentence to special probation on the
18 court's own motion or in accordance with the provisions of section
19 2 of P.L.2012, c.23 (C.2C:35-14.2).

20 As a condition of special probation, the court shall order the
21 person to enter a residential treatment program at a facility licensed
22 and approved by the Division of Mental Health and Addiction
23 Services in the Department of Human Services or a program of
24 nonresidential treatment by a licensed and approved treatment
25 provider, which program may include the use of medication-
26 assisted treatment as defined in paragraph (7) of subsection f. of
27 this section, to comply with program rules and the requirements of
28 the course of treatment, to cooperate fully with the treatment
29 provider, and to comply with such other reasonable terms and
30 conditions as may be required by the court or by law, pursuant to
31 N.J.S.2C:45-1, and which shall include periodic urine testing for
32 drug or alcohol usage throughout the period of special probation. In
33 determining whether to order the person to participate in a
34 nonresidential rather than a residential treatment program, the court
35 shall follow the procedure set forth in subsection j. of this section.
36 Subject to the requirements of subsection d. of this section, the
37 conditions of special probation may include different methods and
38 levels of community-based or residential supervision.

39 b. A person shall not be eligible for special probation pursuant
40 to this section if the person is convicted of or adjudicated
41 delinquent for:

42 (1) a crime of the first degree;

43 (2) a crime of the first or second degree enumerated in
44 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), other
45 than a crime of the second degree involving N.J.S.2C:15-1
46 (robbery), **[or]** N.J.S.2C:18-2 (burglary), or section 2 of P.L. , c.
47 (C.) (pending before the Legislature as this bill), residential
48 burglary;

1 (3) a crime, other than that defined in section 1 of P.L.1987,
2 c.101 (C.2C:35-7), for which a mandatory minimum period of
3 incarceration is prescribed under chapter 35 of this Title or any
4 other law; or
5 (4) an offense that involved the distribution or the conspiracy or
6 attempt to distribute a controlled dangerous substance or controlled
7 substance analog to a juvenile near or on school property.
8 c. (Deleted by amendment, P.L.2012, c.23)
9 d. Except as otherwise provided in subsection j. of this section,
10 a person convicted of or adjudicated delinquent for a crime of the
11 second degree or of a violation of section 1 of P.L.1987, c.101
12 (C.2C:35-7), or who previously has been convicted of or
13 adjudicated delinquent for an offense under subsection a. of
14 N.J.S.2C:35-5 or a similar offense under any other law of this State,
15 any other state or the United States, who is placed on special
16 probation under this section shall be committed to the custody of a
17 residential substance use disorder treatment facility licensed and
18 approved by the Division of Mental Health and Addiction Services
19 in the Department of Human Services. Subject to the authority of
20 the court to temporarily suspend imposition of all or any portion of
21 the term of commitment to a residential treatment facility pursuant
22 to subsection j. of this section, the person shall be committed to the
23 residential treatment facility immediately, unless the facility cannot
24 accommodate the person, in which case the person shall be
25 incarcerated to await commitment to the residential treatment
26 facility. The term of such commitment shall be for a minimum of
27 six months, or until the court, upon recommendation of the
28 treatment provider, determines that the person has successfully
29 completed the residential treatment program, whichever is later,
30 except that no person shall remain in the custody of a residential
31 treatment facility pursuant to this section for a period in excess of
32 five years. Upon successful completion of the required residential
33 treatment program, the person shall complete the period of special
34 probation, as authorized by subsection a. of this section, with credit
35 for time served for any imprisonment served as a condition of
36 probation and credit for each day during which the person
37 satisfactorily complied with the terms and conditions of special
38 probation while committed pursuant to this section to a residential
39 treatment facility. Except as otherwise provided in subsection l. of
40 this section, the person shall not be eligible for early discharge of
41 special probation pursuant to N.J.S.2C:45-2, or any other provision
42 of the law. The court, in determining the number of credits for time
43 spent in residential treatment, shall consider the recommendations
44 of the treatment provider. A person placed into a residential
45 treatment facility pursuant to this section shall be deemed to be
46 subject to official detention for the purposes of N.J.S.2C:29-5
47 (escape).

1 e. The probation department or other appropriate agency
2 designated by the court to monitor or supervise the person's special
3 probation shall report periodically to the court as to the person's
4 progress in treatment and compliance with court-imposed terms and
5 conditions. The treatment provider shall promptly report to the
6 probation department or other appropriate agency all significant
7 failures by the person to comply with any court-imposed term or
8 condition of special probation or any requirements of the course of
9 treatment, including but not limited to a positive drug or alcohol
10 test, which shall only constitute a violation for a person using
11 medication-assisted treatment as defined in paragraph (7) of
12 subsection f. of this section if the positive test is unrelated to the
13 person's medication-assisted treatment, or the unexcused failure to
14 attend any session or activity, and shall immediately report any act
15 that would constitute an escape. The probation department or other
16 appropriate agency shall immediately notify the court and the
17 prosecutor in the event that the person refuses to submit to a
18 periodic drug or alcohol test or for any reason terminates the
19 person's participation in the course of treatment, or commits any act
20 that would constitute an escape.

21 f. (1) Upon a first violation of any term or condition of the
22 special probation authorized by this section or of any requirements
23 of the course of treatment, the court in its discretion may
24 permanently revoke the person's special probation.

25 (2) Upon a second or subsequent violation of any term or
26 condition of the special probation authorized by this section or of
27 any requirements of the course of treatment, the court shall, subject
28 only to the provisions of subsection g. of this section, permanently
29 revoke the person's special probation unless the court finds on the
30 record that there is a substantial likelihood that the person will
31 successfully complete the treatment program if permitted to
32 continue on special probation, and the court is clearly convinced,
33 considering the nature and seriousness of the violations, that no
34 danger to the community will result from permitting the person to
35 continue on special probation pursuant to this section. The court's
36 determination to permit the person to continue on special probation
37 following a second or subsequent violation pursuant to this
38 paragraph may be appealed by the prosecution.

39 (3) In making its determination whether to revoke special
40 probation, and whether to overcome the presumption of revocation
41 established in paragraph (2) of this subsection, the court shall
42 consider the nature and seriousness of the present infraction and any
43 past infractions in relation to the person's overall progress in the
44 course of treatment, and shall also consider the recommendations of
45 the treatment provider. The court shall give added weight to the
46 treatment provider's recommendation that the person's special
47 probation be permanently revoked, or to the treatment provider's

1 opinion that the person is not amenable to treatment or is not likely
2 to complete the treatment program successfully.

3 (4) If the court permanently revokes the person's special
4 probation pursuant to this subsection, the court shall impose any
5 sentence that might have been imposed, or that would have been
6 required to be imposed, originally for the offense for which the
7 person was convicted or adjudicated delinquent. The court shall
8 conduct a de novo review of any aggravating and mitigating factors
9 present at the time of both original sentencing and resentencing. If
10 the court determines or is required pursuant to any other provision
11 of this chapter or any other law to impose a term of imprisonment,
12 the person shall receive credit for any time served in custody
13 pursuant to N.J.S.2C:45-1 or while awaiting placement in a
14 treatment facility pursuant to this section, and for each day during
15 which the person satisfactorily complied with the terms and
16 conditions of special probation while committed pursuant to this
17 section to a residential treatment facility. The court, in determining
18 the number of credits for time spent in a residential treatment
19 facility, shall consider the recommendations of the treatment
20 provider.

21 (5) Following a violation, if the court permits the person to
22 continue on special probation pursuant to this section, the court
23 shall order the person to comply with such additional terms and
24 conditions, including but not limited to more frequent drug or
25 alcohol testing, as are necessary to deter and promptly detect any
26 further violation.

27 (6) Notwithstanding any other provision of this subsection, if
28 the person at any time refuses to undergo urine testing for drug or
29 alcohol usage as provided in subsection a. of this section, the court
30 shall, subject only to the provisions of subsection g. of this section,
31 permanently revoke the person's special probation. Notwithstanding any other provision of this section, if the person at
32 any time while committed to the custody of a residential treatment
33 facility pursuant to this section commits an act that would constitute
34 an escape, the court shall forthwith permanently revoke the person's
35 special probation.

37 (7) An action for a violation under this section may be brought
38 by a probation officer or prosecutor or on the court's own motion.
39 Failure to complete successfully the required treatment program
40 shall constitute a violation of the person's special probation. In the
41 case of the temporary or continued management of a person's
42 substance use disorder by means of medication-assisted treatment as
43 defined herein, whenever supported by a report from the treatment
44 provider of existing satisfactory progress and reasonably
45 predictable long-term success with or without further medication-
46 assisted treatment, the person's use of the medication-assisted
47 treatment, even if continuing, shall not be the basis to constitute a
48 failure to complete successfully the treatment program. A person

1 who fails to comply with the terms of the person's special probation
2 pursuant to this section and is thereafter sentenced to imprisonment
3 in accordance with this subsection shall thereafter be ineligible for
4 entry into the Intensive Supervision Program, provided however
5 that this provision shall not affect the person's eligibility for entry
6 into the Intensive Supervision Program for a subsequent conviction.

7 As used in this section, the term "medication-assisted treatment"
8 means the use of any medications approved by the federal Food and
9 Drug Administration to treat substance use disorders, including
10 extended-release naltrexone, methadone, and buprenorphine, in
11 combination with counseling and behavioral therapies, to provide a
12 whole-patient approach to the treatment of substance use disorders.

13 g. When a person on special probation is subject to a
14 presumption of revocation on a second or subsequent violation
15 pursuant to paragraph (2) of subsection f. of this section, or when
16 the person refuses to undergo drug or alcohol testing pursuant to
17 paragraph (6) of subsection f. of this section, the court may, in lieu
18 of permanently revoking the person's special probation, impose a
19 term of incarceration for a period of not less than 30 days nor more
20 than six months, after which the person's term of special probation
21 pursuant to this section may be reinstated. In determining whether
22 to order a period of incarceration in lieu of permanent revocation
23 pursuant to this subsection, the court shall consider the
24 recommendations of the treatment provider with respect to the
25 likelihood that such confinement would serve to motivate the
26 person to make satisfactory progress in treatment once special
27 probation is reinstated. This disposition may occur only once with
28 respect to any person unless the court is clearly convinced that there
29 are compelling and extraordinary reasons to justify reimposing this
30 disposition with respect to the person. Any such determination by
31 the court to reimpose this disposition may be appealed by the
32 prosecution. Nothing in this subsection shall be construed to limit
33 the authority of the court at any time during the period of special
34 probation to order a person on special probation who is not subject
35 to a presumption of revocation pursuant to paragraph (2) of
36 subsection f. of this section to be incarcerated over the course of a
37 weekend, or for any other reasonable period of time, when the court
38 in its discretion determines that such incarceration would help to
39 motivate the person to make satisfactory progress in treatment.

40 h. The court, as a condition of its order, and after considering
41 the person's financial resources, shall require the person to pay that
42 portion of the costs associated with the person's participation in any
43 residential or nonresidential treatment program imposed pursuant to
44 this section which, in the opinion of the court, is consistent with the
45 person's ability to pay, taking into account the court's authority to
46 order payment or reimbursement to be made over time and in
47 installments.

1 i. The court shall impose, as a condition of the special
2 probation, any fine, penalty, fee or restitution applicable to the
3 offense for which the person was convicted or adjudicated
4 delinquent.

5 j. Where the court finds that a person has satisfied all of the
6 eligibility criteria for special probation and would otherwise be
7 required to be committed to the custody of a residential substance
8 use disorders treatment facility pursuant to the provisions of
9 subsection d. of this section, the court may temporarily suspend
10 imposition of all or any portion of the term of commitment to a
11 residential treatment facility and may instead order the person to
12 enter a nonresidential treatment program, provided that the court
13 finds on the record that:

14 (1) the person conducting the diagnostic assessment required
15 pursuant to paragraph (1) of subsection a. of this section has
16 recommended in writing that the proposed course of nonresidential
17 treatment services is clinically appropriate and adequate to address
18 the person's treatment needs; and

19 (2) no danger to the community would result from the person
20 participating in the proposed course of nonresidential treatment
21 services; and

22 (3) a suitable treatment provider is able and has agreed to
23 provide clinically appropriate nonresidential treatment services.

24 If the prosecutor objects to the court's decision to suspend the
25 commitment of the person to a residential treatment facility
26 pursuant to this subsection, the sentence of special probation
27 imposed pursuant to this section shall not become final for 10 days
28 in order to permit the appeal by the prosecution of the court's
29 decision.

30 After a period of six months of nonresidential treatment, if the
31 court, considering all available information including but not
32 limited to the recommendation of the treatment provider, finds that
33 the person has made satisfactory progress in treatment and that
34 there is a substantial likelihood that the person will successfully
35 complete the nonresidential treatment program and period of special
36 probation, the court, on notice to the prosecutor, may permanently
37 suspend the commitment of the person to the custody of a
38 residential treatment program, in which event the special
39 monitoring provisions set forth in subsection k. of this section shall
40 no longer apply.

41 Nothing in this subsection shall be construed to limit the
42 authority of the court at any time during the term of special
43 probation to order the person to be committed to a residential or
44 nonresidential treatment facility if the court determines that such
45 treatment is clinically appropriate and necessary to address the
46 person's present treatment needs.

47 k. (1) When the court temporarily suspends the commitment of
48 the person to a residential treatment facility pursuant to subsection

1 j. of this section, the court shall, in addition to ordering
2 participation in a prescribed course of nonresidential treatment and
3 any other appropriate terms or conditions authorized or required by
4 law, order the person to undergo urine testing for drug or alcohol
5 use not less than once per week unless otherwise ordered by the
6 court. The court-ordered testing shall be conducted by the
7 probation department or the treatment provider. The results of all
8 tests shall be reported promptly to the court and to the prosecutor.
9 If the person is involved with a program that is providing the person
10 medication-assisted treatment as defined in paragraph (7) of
11 subsection f. of this section, only a positive urine test for drug or
12 alcohol use unrelated to the medication-assisted treatment shall
13 constitute a violation of the terms and conditions of special
14 probation. In addition, the court shall impose appropriate curfews
15 or other restrictions on the person's movements, and may order the
16 person to wear electronic monitoring devices to enforce such
17 curfews or other restrictions as a condition of special probation.

18 (2) The probation department or other appropriate agency shall
19 immediately notify the court and the prosecutor in the event that the
20 person fails or refuses to submit to a drug or alcohol test, knowingly
21 defrauds the administration of a drug or alcohol test, terminates the
22 person's participation in the course of treatment, or commits any act
23 that would constitute absconding from parole. If the person at any
24 time while entered in a nonresidential treatment program pursuant
25 to subsection j. of this section knowingly defrauds the
26 administration of a drug or alcohol test, goes into hiding, or leaves
27 the State with a purpose of avoiding supervision, the court shall
28 permanently revoke the person's special probation.

29 1. If the court finds that the person has made exemplary
30 progress in the course of treatment, the court may, upon
31 recommendation of the person's supervising probation officer or on
32 the court's own motion, and upon notice to the prosecutor, grant
33 early discharge from a term of special probation provided that the
34 person: (1) has satisfactorily completed the treatment program
35 ordered by the court; (2) has served at least two years of special
36 probation; (3) within the preceding 12 months, did not commit a
37 substantial violation of any term or condition of special probation,
38 including but not limited to a positive urine test, which shall only
39 constitute a violation for a person using medication-assisted
40 treatment as defined in paragraph (7) of subsection f. of this section
41 if the positive test is unrelated to the person's medication-assisted
42 treatment; and (4) is not likely to relapse or commit an offense if
43 probation supervision and related services are discontinued.

44 m. (1) The Superior Court may order the expungement of all
45 records and information relating to all prior arrests, detentions,
46 convictions, and proceedings for any offense enumerated in Title
47 2C of the New Jersey Statutes upon successful discharge from a
48 term of special probation as provided in this section, regardless of

1 whether the person was sentenced to special probation under this
2 section, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-
3 1, if the person satisfactorily completed a substance use disorder
4 treatment program as ordered by the court and was not convicted of
5 any crime, or adjudged a disorderly person or petty disorderly
6 person, during the term of special probation. The provisions of
7 N.J.S.2C:52-7 through N.J.S.2C:52-14 shall not apply to an
8 expungement pursuant to this paragraph and no fee shall be charged
9 to a person eligible for relief pursuant to this paragraph. The court
10 shall grant the relief requested unless it finds that the need for the
11 availability of the records outweighs the desirability of having the
12 person freed from any disabilities associated with their availability,
13 or it finds that the person is otherwise ineligible for expungement
14 pursuant to paragraph (2) of this subsection. An expungement
15 under this paragraph shall proceed in accordance with rules and
16 procedures developed by the Supreme Court.

17 (2) A person shall not be eligible for expungement under
18 paragraph (1) of this subsection if the records include a conviction
19 for any offense barred from expungement pursuant to subsection b.
20 or c. of N.J.S.2C:52-2. It shall be the obligation of the prosecutor
21 to notify the court of any disqualifying convictions or any other
22 factors related to public safety that should be considered by the
23 court when deciding to grant an expungement under paragraph (1)
24 of this subsection.

25 (3) The Superior Court shall provide a copy of the expungement
26 order granted pursuant to paragraph (1) of this subsection to the
27 prosecutor and to the person and, if the person was represented by
28 the Public Defender, to the Public Defender. The person or, if the
29 person was represented by the Public Defender, the Public Defender
30 on behalf of the person, shall promptly distribute copies of the
31 expungement order to appropriate agencies who have custody and
32 control of the records specified in the order so that the agencies may
33 comply with the requirements of N.J.S.2C:52-15.

34 (4) If the person whose records are expunged pursuant to
35 paragraph (1) of this subsection is convicted of any crime following
36 discharge from special probation, the full record of arrests and
37 convictions may be restored to public access and no future
38 expungement shall be granted to such person.

39 (5) A person who, prior to the effective date of P.L.2015, c.261,
40 was successfully discharged from a term of special probation as
41 provided in this section, regardless of whether the person was
42 sentenced to special probation under this section, section 2 of
43 P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, may seek an
44 expungement of all records and information relating to all arrests,
45 detentions, convictions, and proceedings for any offense
46 enumerated in Title 2C of the New Jersey Statutes that existed at
47 the time of discharge from special probation by presenting an
48 application to the Superior Court in the county in which the person

1 was sentenced to special probation, which contains a duly verified
2 petition as provided in N.J.S.2C:52-7 for each crime or offense
3 sought to be expunged. The petition for expungement shall proceed
4 pursuant to N.J.S.2C:52-1 et seq. except that the requirements
5 related to the expiration of the time periods specified in
6 N.J.S.2C:52-2 through section 1 of P.L.1980, c.163 (C.2C:52-4.1)
7 shall not apply. A person who was convicted of any offense barred
8 from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2,
9 or who has been convicted of any crime or offense since the date of
10 discharge from special probation shall not be eligible to apply for
11 an expungement under this paragraph. In addition, no application
12 for expungement shall be considered until any pending charges are
13 disposed. It shall be the obligation of the prosecutor to notify the
14 court of any disqualifying convictions or any other factors related to
15 public safety that should be considered by the court when deciding
16 to grant an expungement under this paragraph. The Superior Court
17 shall consider the person's verified petition and may order the
18 expungement of all records and information relating to all arrests,
19 detentions, convictions, and proceedings of the person that existed
20 at the time of discharge from special probation as appropriate. The
21 court shall grant the relief requested unless it finds that the need for
22 the availability of the records outweighs the desirability of having
23 the person freed from any disabilities associated with their
24 availability, or it finds that the person is otherwise ineligible for
25 expungement pursuant to this paragraph. No fee shall be charged to
26 a person eligible for relief pursuant to this paragraph.

27 (6) (a) A person who is not eligible for expungement relief
28 pursuant to paragraph (1) or (5) of this subsection because of a
29 conviction occurring prior to, on, or after the effective date of
30 P.L.2021, c.460, for any offense set forth in paragraph (2) of
31 subsection a. of N.J.S.2C:24-4, involving endangering the welfare
32 of a child, which is barred from expungement pursuant to
33 subsection b. of N.J.S.2C:52-2 and therefore renders the person
34 ineligible under those paragraphs, may be eligible to seek
35 expungement relief pursuant to this paragraph. The person shall
36 have been successfully discharged from a term of special probation
37 as provided in this section, regardless of whether the person was
38 sentenced to special probation under this section, section 2 of
39 P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, for a period of at
40 least 10 years prior to seeking an expungement of all records and
41 information relating to all arrests, detentions, convictions, and
42 proceedings for any offense enumerated in Title 2C of the New
43 Jersey Statutes that existed at the time of discharge from special
44 probation. The person shall present an application to the Superior
45 Court in the county in which the person was sentenced to special
46 probation, which contains a duly verified petition as provided in
47 N.J.S.2C:52-7 for each crime or offense sought to be expunged.
48 The petition for expungement shall proceed pursuant to

1 N.J.S.2C:52-1 et seq. A person shall not be eligible to apply for an
2 expungement under this paragraph if that person was convicted of
3 any offense barred from expungement pursuant to subsection b. or
4 c. of N.J.S.2C:52-2, other than a conviction for endangering the
5 welfare of a child under paragraph (2) of subsection a. of
6 N.J.S.2C:24-4, which crime is also determined by the court, based
7 upon a review by the prosecutor in accordance with subparagraph
8 (b) of this paragraph, to have been nonviolent with respect to the
9 facts and elements of the criminal act, or if that person has been
10 convicted of any crime or offense since the date of discharge from
11 special probation. In addition, no application for expungement
12 shall be considered until any pending charges are disposed. It shall
13 be the obligation of the prosecutor to notify the court of any
14 disqualifying convictions, any conviction for endangering the
15 welfare of a child reviewed by the prosecutor and found to be
16 violent, or any other factors related to public safety that should be
17 considered by the court when deciding to grant an expungement
18 under this paragraph. The Superior Court shall consider the
19 person's verified petition and may order the expungement of all
20 records and information relating to all arrests, detentions,
21 convictions, and proceedings of the person that existed at the time
22 of discharge from special probation as appropriate. The court shall
23 grant the relief requested unless it finds that the need for the
24 availability of the records outweighs the desirability of having the
25 person freed from any disabilities associated with their availability,
26 or it finds that the person is otherwise ineligible for expungement
27 pursuant to this paragraph. No fee shall be charged to a person
28 eligible for relief pursuant to this paragraph.

29 (b) The prosecutor, when reviewing a conviction for
30 endangering the welfare of a child under paragraph (2) of
31 subsection a. of N.J.S.2C:24-4 as to whether the facts and elements
32 of the criminal act were nonviolent and therefore do not prevent, as
33 to this conviction, a person's eligibility for expungement relief
34 under this paragraph, shall consider any act which falls under the
35 following definitions to be violent acts, and render the person
36 ineligible for expungement relief:

37 any act of "abuse," as defined in R.S.9:6-1, that is specifically
38 listed in part (c) of the definition, employing or permitting a child to
39 be employed in any occupation, employment or vocation dangerous
40 to the morals of such child; part (e) of the definition, the performing
41 of any indecent, immoral or unlawful act or deed, in the presence of
42 a child, that may tend to debauch or endanger or degrade the morals
43 of the child; part (f) of the definition, permitting or allowing any
44 other person to perform any indecent, immoral or unlawful act in
45 the presence of the child that may tend to debauch or endanger the
46 morals of such child; or part (g) of the definition, using excessive
47 physical restraint on the child under circumstances which do not

1 indicate that the child’s behavior is harmful to himself, others or
2 property;
3 any act of “cruelty,” as defined in R.S.9:6-1; and
4 any act resulting in an “abused or neglected child,” as defined by
5 subsection c. of section 1 of P.L.1974, c.119 (C.9:6-8.21), that is
6 specifically listed in paragraph (1) of the definition, inflicting or
7 allowing to be inflicted upon such child physical injury by other
8 than accidental means which causes or creates a substantial risk of
9 death, or serious or protracted disfigurement, or protracted
10 impairment of physical or emotional health or protracted loss or
11 impairment of the function of any bodily organ; paragraph (2) of the
12 definition, creating or allowing to be created a substantial or
13 ongoing risk of physical injury to such child by other than
14 accidental means which would be likely to cause death or serious or
15 protracted disfigurement, or protracted loss or impairment of the
16 function of any bodily organ; paragraph (3) of the definition,
17 committing or allowing to be committed an act of sexual abuse
18 against the child; subparagraph (b) of paragraph (4) of the
19 definition, solely as to a child whose physical, mental, or emotional
20 condition has been impaired or is in imminent danger of becoming
21 impaired as the result of the failure of the child’s parent or guardian
22 to exercise a minimum degree of care in providing the child with
23 proper supervision or guardianship, by unreasonably inflicting or
24 allowing to be inflicted excessive corporal punishment, or the
25 substantial risk thereof; paragraph (6) of the definition, for a child
26 upon whom excessive physical restraint has been used under
27 circumstances which do not indicate that the child’s behavior is
28 harmful to himself, others, or property; or paragraph (7) of the
29 definition, for a child who is in an institution and, pursuant to
30 subparagraph (a) of that paragraph, has been placed there
31 inappropriately for a continued period of time with the knowledge
32 that the placement has resulted or may continue to result in harm to
33 the child’s mental or physical well-being or, pursuant to
34 subparagraph (b) of that paragraph, who has been willfully isolated
35 from ordinary social contact under circumstances which indicate
36 emotional or social deprivation.¹

37 (cf: P.L.2023, c.177, s.7)

38

39 ^{17.} N.J.S.2C:43-6 is amended to read as follows:

40 2C:43-6. a. Except as otherwise provided, a person who has
41 been convicted of a crime may be sentenced to imprisonment, as
42 follows:

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

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

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

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

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

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

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

44 A person who has been convicted of an offense enumerated by
45 this subsection and who used or possessed a firearm during its
46 commission, attempted commission or flight therefrom and who has
47 been previously convicted of an offense involving the use or
48 possession of a firearm as defined in 2C:44-3d., shall be sentenced

1 by the court to an extended term as authorized by 2C:43-7c.,
2 notwithstanding that extended terms are ordinarily discretionary
3 with the court.

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

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

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

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

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

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

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

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

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

46 A person who has been convicted of an offense enumerated in
47 this subsection and who used or possessed a machine gun or assault
48 firearm during its commission, attempted commission or flight

1 therefrom and who has been previously convicted of an offense
2 involving the use or possession of any firearm as defined in
3 subsection d. of N.J.S.2C:44-3, shall be sentenced by the court to an
4 extended term as authorized by subsection d. of N.J.S.2C:43-7,
5 notwithstanding that extended terms are ordinarily discretionary
6 with the court.

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

17 i. A person who has been convicted under paragraph (6) of
18 subsection b. of 2C:12-1 of causing bodily injury while eluding
19 shall be sentenced to a term of imprisonment by the court. The
20 term of imprisonment shall include the imposition of a minimum
21 term. The minimum term shall be fixed at, or between one-third
22 and one-half of the sentence imposed by the court. The minimum
23 term established by this subsection shall not prevent the court from
24 imposing a presumptive term of imprisonment pursuant to
25 paragraph (1) of subsection f. of 2C:44-1.¹

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

27

28 ¹8. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to
29 read as follows:

30 2. a. A court imposing a sentence of incarceration for a crime of
31 the first or second degree enumerated in subsection d. of this
32 section shall fix a minimum term of 85% of the sentence imposed,
33 during which the defendant shall not be eligible for parole.

34 b. The minimum term required by subsection a. of this section
35 shall be fixed as a part of every sentence of incarceration imposed
36 upon every conviction of a crime enumerated in subsection d. of
37 this section, whether the sentence of incarceration is determined
38 pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any
39 other provision of law, and shall be calculated based upon the
40 sentence of incarceration actually imposed. The provisions of
41 subsection a. of this section shall not be construed or applied to
42 reduce the time that must be served before eligibility for parole by
43 an inmate sentenced to a mandatory minimum period of
44 incarceration. Solely for the purpose of calculating the minimum
45 term of parole ineligibility pursuant to subsection a. of this section,
46 a sentence of life imprisonment shall be deemed to be 75 years.

47 c. Notwithstanding any other provision of law to the contrary
48 and in addition to any other sentence imposed, a court imposing a
49 minimum period of parole ineligibility of 85 percent of the sentence

1 pursuant to this section shall also impose a five-year term of parole
2 supervision if the defendant is being sentenced for a crime of the
3 first degree, or a three-year term of parole supervision if the
4 defendant is being sentenced for a crime of the second degree. The
5 term of parole supervision shall commence upon the completion of
6 the sentence of incarceration imposed by the court pursuant to
7 subsection a. of this section unless the defendant is serving a
8 sentence of incarceration for another crime at the time **[he]** the
9 defendant completes the sentence of incarceration imposed pursuant
10 to subsection a., in which case the term of parole supervision shall
11 commence immediately upon the defendant's release from
12 incarceration. During the term of parole supervision the defendant
13 shall remain in release status in the community in the legal custody
14 of the Commissioner of the Department of Corrections and shall be
15 supervised by the State Parole Board as if on parole and shall be
16 subject to the provisions and conditions of section 3 of P.L.1997,
17 c.117 (C.30:4-123.51b).

18 d. The court shall impose sentence pursuant to subsection a. of
19 this section upon conviction of the following crimes or an attempt
20 or conspiracy to commit any of these crimes:

- 21 (1) N.J.S.2C:11-3, murder;
- 22 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 23 (3) N.J.S.2C:11-5, vehicular homicide;
- 24 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 25 (5) subsection b. of section 1 of P.L.1996, c.14 (2C:12-11),
26 disarming a law enforcement officer;
- 27 (6) N.J.S.2C:13-1, kidnapping;
- 28 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 29 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of
30 subsection c. of N.J.S.2C:14-2, sexual assault;
- 31 (9) N.J.S.2C:15-1, robbery;
- 32 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
- 33 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
34 arson;
- 35 (12) N.J.S.2C:18-2, burglary;
- 36 (13) subsection a. of N.J.S.2C:20-5, extortion;
- 37 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
38 booby traps in manufacturing or distribution facilities;
- 39 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;
- 40 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;
- 41 (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or
42 possessing chemical weapons, biological agents or nuclear or
43 radiological devices;
- 44 (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first
45 degree**[:]**;
- 46 (19) subsection i. of N.J.S.2C:39-9, firearms trafficking; **[or]**
- 47 (20) paragraph (3) of subsection b. of N.J.S.2C:24-4, causing or
48 permitting a child to engage in a prohibited sexual act, knowing that
49 the act may be reproduced or reconstructed in any manner, or be
50 part of an exhibition or performance;

1 (21) section 1 of P.L. _____, c. _____ (C. _____) (pending before the
2 Legislature as this bill), home invasion burglary; or

3 (22) section 2 of P.L. _____, c. _____ (C. _____) (pending before the
4 Legislature as this bill), residential burglary.

5 e. (Deleted by amendment, P.L.2001, c.129).¹

6 (cf: P.L.2013, c.136, s.4)

7
8 ¹9. N.J.S.2C:44-3 is amended to read as follows:

9 2C:44-3. The court may, upon application of the prosecuting
10 attorney, sentence a person who has been convicted of a crime of
11 the first, second or third degree to an extended term of
12 imprisonment if it finds one or more of the grounds specified in
13 subsection a., b., c., or f. of this section. If the grounds specified in
14 subsection d. are found, and the person is being sentenced for
15 commission of any of the offenses enumerated in **[N.J.S.2C:43-6c.**
16 **or N.J.S.2C:43-6g.]** subsections c. or g. of N.J.S.2C:43-6, the court
17 shall sentence the defendant to an extended term as required by
18 **[N.J.S.2C:43-6c. or N.J.S.2C:43-6g.]** subsections c. or g. of
19 N.J.S.2C:43-6, and application by the prosecutor shall not be
20 required. The court shall, upon application of the prosecuting
21 attorney, sentence a person who has been convicted of a crime
22 under N.J.S.2C:14-2 or N.J.S.2C:14-3 to an extended term of
23 imprisonment if the grounds specified in subsection g. of this
24 section are found. The court shall, upon application of the
25 prosecuting attorney, sentence a person to an extended term if the
26 imposition of such term is required pursuant to the provisions of
27 section 2 of P.L.1994, c.130 (C.2C:43-6.4). The finding of the
28 court shall be incorporated in the record.

29 a. The defendant has been convicted of a crime of the first,
30 second or third degree and is a persistent offender. A persistent
31 offender is a person who at the time of the commission of the crime
32 is 21 years of age or over, who has been previously convicted on at
33 least two separate occasions of two crimes, committed at different
34 times, when he was at least 18 years of age, if the latest in time of
35 these crimes or the date of the defendant's last release from
36 confinement, whichever is later, is within 10 years of the date of the
37 crime for which the defendant is being sentenced.

38 b. The defendant has been convicted of a crime of the first,
39 second or third degree and is a professional criminal. A
40 professional criminal is a person who committed a crime as part of
41 a continuing criminal activity in concert with two or more persons,
42 and the circumstances of the crime show he has knowingly devoted
43 himself to criminal activity as a major source of livelihood.

44 c. The defendant has been convicted of a crime of the first,
45 second or third degree and committed the crime as consideration for
46 the receipt, or in expectation of the receipt, of anything of pecuniary
47 value the amount of which was unrelated to the proceeds of the
48 crime or he procured the commission of the offense by payment or
49 promise of payment of anything of pecuniary value.

1 d. Second offender with a firearm. The defendant is at least 18
2 years of age and has been previously convicted of any of the
3 following crimes: N.J.S.2C:11-3, N.J.S.2C:11-4, [2C:12-1b.]
4 subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, [2C:14-2a., 2C:14-
5 3a.] subsection a. of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3,
6 N.J.S.2C:15-1, N.J.S.2C:18-2, section 1 of P.L. , c. (C.)
7 (pending before the Legislature as this bill), N.J.S.2C:29-5, [2C:39-
8 4a.] subsection a. of N.J.S.2C:39-4, or has been previously
9 convicted of an offense under Title 2A of the New Jersey Statutes
10 or under any statute of the United States or any other state which is
11 substantially equivalent to the offenses enumerated in this
12 subsection and he used or possessed a firearm, as defined in
13 **[2C:39-1f.] N.J.S.2C:39-1,** in the course of committing or
14 attempting to commit any of these crimes, including the immediate
15 flight therefrom.

16 e. (Deleted by amendment, P.L.2001, c.443).

17 f. The defendant has been convicted of a crime under any of the
18 following sections: N.J.S.2C:11-4, **[N.J.S.2C:12-1b.] subsection b.**
19 **of N.J.S.2C:12-1,** N.J.S.2C:13-1, **[N.J.S.2C:14-2a., N.J.S.2C:14-**
20 **3a.] subsection a. of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3,**
21 **N.J.S.2C:15-1, N.J.S.2C:18-2, section 1 of P.L. , c. (C.)**
22 **(pending before the Legislature as this bill), section 2 of P.L. , c.**
23 **(C.) (pending before the Legislature as this bill), [N.J.S.2C:29-**
24 **2b.] subsection b. of N.J.S.2C:29-2, N.J.S.2C:29-5, N.J.S.2C:35-5,**
25 and in the course of committing or attempting to commit the crime,
26 including the immediate flight therefrom, the defendant used or was
27 in possession of a stolen motor vehicle.

28 g. The defendant has been convicted of a crime under
29 N.J.S.2C:14-2 or N.J.S.2C:14-3 involving violence or the threat of
30 violence and the victim of the crime was 16 years of age or less.

31 For purposes of this subsection, a crime involves violence or the
32 threat of violence if the victim sustains serious bodily injury as
33 defined in subsection b. of N.J.S.2C:11-1, or the actor is armed with
34 and uses a deadly weapon or threatens by word or gesture to use a
35 deadly weapon as defined in subsection c. of N.J.S.2C:11-1, or
36 threatens to inflict serious bodily injury.

37 h. (Deleted by amendment, P.L.2007, c.341).¹

38 (cf: P.L.2007, c.341, s.8)

39

40 ¹10. Section 3 of P.L.1989, c.331 (C.34:8-44) is amended to
41 read as follows:

42 3. In addition to any other procedure, condition or information
43 required by this act:

44 a. Every applicant shall file a disclosure statement with the chief
45 stating whether or not the applicant has been convicted of any
46 crime, which for the purposes of this act shall mean a violation of
47 any of the following provisions of the "New Jersey Code of
48 Criminal Justice," Title 2C of the New Jersey Statutes as amended

1 and supplemented, or the equivalent under the laws of any other
2 jurisdiction:

3 (1) Any crime of the first degree;

4 (2) Any crime which is a second or third degree crime and is a
5 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;
6 or

7 (3) Any other crime which is a violation of N.J.S.2C:5-1,
8 N.J.S.2C:5-2, N.J.S.2C:11-2 through N.J.S.2C:11-4, N.J.S.2C:12-1,
9 N.J.S.2C:12-3, N.J.S.2C:13-1, N.J.S.2C:14-2, N.J.S.2C:15-1,
10 subsection a. or b. of N.J.S.2C:17-1, subsection a. or b. of
11 N.J.S.2C:17-2, N.J.S.2C:18-2, section 1 of P.L. _____, c. _____
12 (pending before the Legislature as this bill), section 2 of P.L. _____, c.
13 (C. _____) (pending before the Legislature as this bill), N.J.S.2C:20-1,
14 N.J.S.2C:20-2, N.J.S.2C:20-4, N.J.S.2C:20-5, N.J.S.2C:20-7,
15 section 1 or 2 of P.L.2023, c.101 (C.2C:20-10.1 or C.2C:20-10.2),
16 N.J.S.2C:20-9, N.J.S.2C:21-2 through N.J.S.2C:21-4, N.J.S.2C:21-
17 6, N.J.S.2C:21-7, N.J.S.2C:21-12, N.J.S.2C:21-14, N.J.S.2C:21-15,
18 or N.J.S.2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey
19 Statutes, N.J.S.2C:30-2, N.J.S.2C:30-3, N.J.S.2C:35-5,
20 N.J.S.2C:35-10, or N.J.S.2C:37-1 through N.J.S.2C:37-4.

21 b. Each disclosure statement may be reviewed and used by the
22 director as grounds for denying licensure or registration, except that
23 in cases in which the provisions of P.L.1968, c.282 (C.2A:168A-1
24 et seq.) apply, the director shall comply with the requirements of
25 that act.

26 c. An applicant who is denied licensure or registration pursuant
27 to this section shall, upon a written request transmitted to the
28 director within 30 calendar days of the denial, be afforded an
29 opportunity for a hearing in the manner provided for contested
30 cases pursuant to the “Administrative Procedure Act,” P.L.1968,
31 c.410 (C.52:14B-1 et seq.).

32 d. An applicant shall have the continuing duty to provide any
33 assistance or information requested by the director, and to cooperate
34 in any inquiry, investigation, or hearing conducted by the director.

35 e. If any of the information required to be included in the
36 disclosure statement changes, or if any additional information
37 should be added after the filing of the statement, the applicant shall
38 provide that information to the chief, in writing, within 30 calendar
39 days of the change or addition.¹

40 (cf: P.L.2023, c.101, s.6)

41

42 ¹**[9.] 11.**¹ This act shall take effect immediately.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 4299

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2024

The Assembly State and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 4299.

As amended, the bill establishes the crimes of home invasion burglary and residential burglary.

Under the bill, a person is guilty of the crime of home invasion burglary if the person enters or surreptitiously remains in a residential dwelling, without license or privilege to do so, and with purpose to commit an offense therein or thereon and, in the course of committing the offense, purposely, knowingly, or recklessly inflicts bodily injury, or is armed with a deadly weapon. Home invasion burglary is a crime of the first degree.

A person is guilty of the crime of residential burglary if the person enters or surreptitiously remains in a residential dwelling, without license or privilege to do so, and with purpose to commit an offense therein or thereon. Residential burglary is a crime of the second degree.

A “residential dwelling” is defined as “a permanent structure intended as and currently being utilized as a residence by a private person or persons, and any place adapted for overnight accommodation of persons.” By contrast, a non-residential “structure” is defined as “any building, room, ship, vessel, car, vehicle or airplane, and also means any place for carrying on business therein, whether or not a person is actually present.”

A crime of the first degree is punishable by a term of imprisonment of between 10 to 20 years, a fine of up to \$200,000, or both. A crime of the second degree is punishable by a term of imprisonment of between 5 to 10 years, a fine of up to \$150,000, or both. Additionally, home invasion burglary is subject to the “No Early Release Act,” which requires a person convicted of certain crimes to serve at least 85% of term of incarceration imposed before becoming eligible for parole. Residential burglary is also subject to the “No Early Release Act,” unless the defendant demonstrates by a preponderance of evidence a reasonable belief that no other person was present in the residence. Under the bill, convictions for home invasion burglary or

residential burglary, where the defendant used or possessed a firearm, or where the defendant used or possessed a stolen motor vehicle, are also subject to extended terms of imprisonment.

Notwithstanding the inclusion of residential burglary under the “No Early Release Act,” the bill provides that a person charged with residential burglary may nevertheless still be eligible for entry into special probation, also known as Recovery Court.

The bill further provides that a juvenile charged with home invasion burglary or residential burglary, while in possession of a firearm, may be waived from the Family Part of the Superior Court to the Law Division to be tried as an adult.

Finally, the bill provides that a conviction for home invasion burglary or residential burglary may serve as grounds to deny a professional license from the Division of Consumer Affairs in the Department of Law and Public Safety.

As amended and reported by the committee, Assembly Bill No. 4299 is identical to Senate Bill Nos. 3006/3204 (SCS), which was reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

provide definitions for residential dwelling and non-residential “structure;”

designate home invasion as a first degree crime from a second degree crime and designate residential burglary as a second degree crime from a third degree crime;

subject residential burglary to the “No Early Release Act;”

allow extended of terms of imprisonment for convictions of home invasion burglary or residential burglary when the defendant possessed or used a firearm;

permit a person charged with residential burglary to be eligible for entry into Recovery Court;

permit a juvenile to be waived from the Family Part of the Superior Court to the Law Division to be tried as an adult if the juvenile is charged with home invasion burglary or residential burglary, while in possession of a firearm; and

provide that a conviction for home invasion burglary or residential burglary may serve as grounds to deny a professional license from the Division of Consumer Affairs in the Department of Law and Public Safety.

RACIAL AND ETHNIC COMMUNITY CRIMINAL JUSTICE AND PUBLIC SAFETY IMPACT STATEMENT ASSEMBLY, No. 4299 (1R) STATE OF NEW JERSEY

SUMMARY

Synopsis: Establishes crimes of home invasion burglary and residential burglary.

INTRODUCTION

The Office of Legislative Services does not develop or maintain source data concerning the criminal justice system in the State. The Office of Legislative Services makes reasonable efforts to obtain data from Executive Branch Departments and the Judiciary. This statement may reflect information provided by the United States Census Bureau, the Administrative Office of the Courts within the Judiciary, the New Jersey Department of Corrections, the New Jersey Office of the Attorney General, and the Juvenile Justice Commission in the New Jersey Department of Law and Public Safety. The publicly available data and the data provided by the responding departments and agencies contained within this statement allows for a general overview of the frequencies of events of interest (i.e. arrests, charges, and convictions) for racial and ethnic minorities for the crimes identified herein. This statement does not provide for an in-depth analysis of that data.

Additional data concerning recidivism rates and incarceration rates for the specific crimes addressed within this statement sorted by race and ethnicity is needed in order to make a conclusion on the impacts on racial and ethnic minorities. Additional data concerning the deterrent effects of similar laws of this type is needed to determine the impact on community criminal justice and public safety. It should be noted that the data needed may not currently be collected by the responding departments or agencies or may not exist.¹

BILL DESCRIPTION

Assembly Bill No.4299 establishes the crimes of home invasion burglary and residential burglary.

Under the bill, a person is guilty of the crime of home invasion burglary if the person enters or surreptitiously remains in a residential dwelling, without license or privilege to do so, and with purpose to commit an offense therein or thereon and, in the course of committing the offense, purposely, knowingly, or recklessly inflicts bodily injury, or is armed with a deadly weapon. Home invasion burglary is a crime of the first degree.

¹ *This racial and ethnic community criminal justice and public safety impact statement has been produced by the Office of Legislative Services pursuant to section 2 of P.L.2017, c.286 (C.52:11-57.1). Although impact statements are considered a tool for policymaking, the Office of Legislative Services does not take a policy position in preparing a racial and ethnic community criminal justice and public safety impact statement. The role of the Office of Legislative Services is to gather and present data for legislators to review. This statement may reflect information provided by the United States Census Bureau, Office of Juvenile Justice and Delinquency Prevention in the United States Department of Justice, New Jersey Department of Corrections, and Juvenile Justice Commission in the New Jersey Department of Law and Public Safety.*

A person is guilty of the crime of residential burglary if the person enters or surreptitiously remains in a residential dwelling, without license or privilege to do so, and with purpose to commit an offense therein or thereon. Residential burglary is a crime of the second degree.

A “residential dwelling” is defined as “a permanent structure intended as and currently being utilized as a residence by a private person or persons, and any place adapted for overnight accommodation of persons.” By contrast, a “non-residential structure” is defined as “any building, room, ship, vessel, car, vehicle or airplane, and also means any place for carrying on business therein, whether or not a person is actually present.”

A crime of the first degree is punishable by a term of imprisonment of between 10 to 20 years, a fine of up to \$200,000, or both. A crime of the second degree is punishable by a term of imprisonment of between 5 to 10 years, a fine of up to \$150,000, or both. Additionally, home invasion burglary is subject to the “No Early Release Act,” which requires a person convicted of certain crimes to serve at least 85 percent of term of incarceration imposed before becoming eligible for parole. Residential burglary is also subject to the “No Early Release Act,” unless the defendant demonstrates by a preponderance of evidence a reasonable belief that no other person was present in the residence. Under the bill, convictions for home invasion burglary or residential burglary, where the defendant used or possessed a firearm, or where the defendant used or possessed a stolen motor vehicle, are also subject to extended terms of imprisonment.

Notwithstanding the inclusion of residential burglary under the “No Early Release Act,” the bill provides that a person charged with residential burglary may nevertheless still be eligible for entry into special probation, also known as Recovery Court.

The bill further provides that a juvenile charged with home invasion burglary or residential burglary, while in possession of a firearm, may be waived from the Family Part of the Superior Court to the Law Division to be tried as an adult.

Finally, the bill provides that a conviction for home invasion burglary or residential burglary may serve as grounds to deny a professional license from the Division of Consumer Affairs in the Department of Law and Public Safety.

Federal and State Census Information²

	Population	Caucasian	African American	Native American/Alaska Native	Asian	Native Hawaiian/ Other Pacific Islander	Hispanic	Two or More Races/Other
National Census Estimate	331,450,000	59.3%	13.6%	1.3%	6.1%	0.3%	18.9%	2.9%
State Census Estimate	9,289,000	53.5%	15.3%	0.7%	10.3%	0.1%	21.5%	2.4%

Federal and State Inmate Population Data

	Population	Caucasian	African American	Native American/Alaska Native	Asian	Native Hawaiian/ Other Pacific Islander	Hispanic	Two or More Races/Other
Actual Federal Adult Inmate Population ³	156,241	56.9%	38.8%	2.8%	1.5%	N/A	29.2%	N/A
Actual State Adult Inmate Population ⁴	12,978	22%	60.8%	0.0%	1%	N/A	17%	N/A

State Census and State Inmate Population Data

	Population	Caucasian	African American	Native American/Alaska Native	Asian	Native Hawaiian/ Other Pacific Islander	Hispanic	Two or More Races/Other
State Census Estimate	9,289,000	53.5%	15.3%	0.7%	10.3%	0.1%	21.5%	2.4%
Actual State Adult Inmate Population ⁵	12,978	22%	60.8%	0.0%	1%	N/A	17%	N/A

DATA PROVIDED BY THE EXECUTIVE BRANCH

The following data was provided, as a part of the submission, from the Office of the Attorney General:

² Publicly available data obtained from the federal census for national and State populations as of April 1, 2020.

³ Publicly available data of federally sentenced persons in custody of the Federal Bureau of Prisons, as of June 1, 2024.

⁴ Publicly available data produced by the New Jersey Department of Corrections concerning the State inmate population on January 1, 2024. It has been reported by the New Jersey Department of Corrections that the Fiscal Year 2024 average daily population was 12,490. However, that number has not been sorted by race or ethnicity.

⁵ Publicly available data produced by the New Jersey Department of Corrections concerning the State inmate population on January 1, 2024. It has been reported by the New Jersey Department of Corrections that the Fiscal Year 2024 average daily population was 12,490. However, that number has not been sorted by race or ethnicity.

The below displays the number of arrest events (a specific arrest date for a unique defendant) with any paragraph of the enumerated charges below displayed by race/ethnicity for all arrests between January 1, 2017 to June 30, 2024.

<i>STATUTE</i>	<i>STATUTE DESCRIPTION</i>	<i>DEGREE</i>	<i>WHITE (INCL. HISPANIC ORIGIN)</i>	<i>BLACK</i>	<i>ASIAN /PAC. ISLANDER</i>	<i>AM. INDIAN/ ALASKA NATIVE</i>	<i>UNKNOWN/ NOT PROVIDED</i>
2C:18-2	BURGLARY	2nd or 3rd	13	20			8
2C:18-2A	BURGLARY	2nd or 3rd	2	4			1
2C:18-2A(1)	BURGLARY-ENTERING STRUCTURE ETC.	2nd or 3rd	11,076	9,254	190	28	970
2C:18-2A(2)	BURGLARY-REMAIN IN STRUCTURE ETC.	2nd or 3rd	536	504	10	2	58
2C:18-2A(3)	BURGLARY-TRESPASS ON UTILITY CO PROPERTY	2nd or 3rd	64	31		2	3
2C:18-2B		2nd or 3rd			1		
2C:18-2B(1)	BURGLARY INFLICT/ ATTEMPT TO INFLICT BI	2nd	197	216	10	1	13
2C:18-2B(2)	BURGLARY – ARMED	2nd	1	3			3

The below displays the number of Unique Defendants with a Guilty Outcome (based on State Bureau of Identification Number) charged with any paragraph of the enumerated charges below displayed by race/ethnicity for all arrests between January 1, 2017 to June 30, 2024.

<i>STATUTE</i>	<i>STATUTE DESCRIPTION</i>	<i>DEGREE</i>	<i>WHITE (INCL. HISPANIC ORIGIN)</i>	<i>BLACK</i>	<i>ASIAN /PAC. ISLANDER</i>	<i>AM. INDIAN/ ALASKA NATIVE</i>	<i>UNKNOWN/ NOT PROVIDED</i>
2C:18-2	BURGLARY	2nd or 3rd	5	7			4
2C:18-2A	BURGLARY	2nd or 3rd					
2C:18-2A(1)	BURGLARY-ENTERING STRUCTURE ETC.	2nd or 3rd	2,853	2,353	34	7	256
2C:18-2A(2)	BURGLARY-REMAIN IN STRUCTURE ETC.	2nd or 3rd	108	103	1		14
2C:18-2A(3)	BURGLARY-TRESPASS ON UTILITY CO PROPERTY	2nd or 3rd	12	11			
2C:18-2B	BURGLARY	2nd or 3rd					
2C:18-2B(1)	BURGLARY INFLICT/ ATTEMPT TO INFLICT BI	2nd	5	6			
2C:18-2B(2)	BURGLARY – ARMED	2nd					

The following response was provided by the Juvenile Justice Commission:

The Juvenile Justice Commission (JJC) does not maintain or have direct access to detailed data on youth arrests, prosecutions, or adjudications (i.e. convictions). The JJC is not a prosecutorial agency. The JJC does not keep racial and ethnic data segregated by crimes for arrests, prosecutions, or adjudications for the juveniles committed to its care.

The Department of Corrections has made available to the public statistical data concerning the State inmate population categorized by race and ethnicity for 2024, which are reflected in the charts on page 3, and offenders by base offense for 2022, 2023, and 2024 in the following charts:

Offenders by Base Offense for 2022

Base Offense	Total		Male Offenders in Other Facilities		Youth Offenders		Adult Diagnostic Treatment Center (ADTC)		Edna Mahan		Halfway Houses, County Jails, St. Francis Hospital	
	#	%	#	%	#	%	#	%	#	%	#	%
TOTAL OFFENDERS	12,492	100%	9,442	100%	1,139	100%	410	100%	408	100%	1,093	100%
Property Offenses	526	4%	375	4%	57	5%	0	0%	36	9%	58	5%

Offenders by Base Offense for 2023

Base Offense	Total		Male Offenders in Other Facilities		Youth Offenders		Adult Diagnostic Treatment Center (ADTC)		Edna Mahan		Halfway Houses, County Jails, St. Francis Hospital	
	#	%	#	%	#	%	#	%	#	%	#	%
TOTAL OFFENDERS	13,196	100%	9,133	100%	1,174	100%	402	100%	356	100%	2,131	100%
Property Offenses	525	4%	324	4%	55	5%	0	0%	31	9%	115	5%

Offenders by Base Offense for 2024

Base Offense	Total		Male Incarcerated Persons		Edna Mahan		Residential Community Release Program (RCRP), County Jails, Central Medical Unit (CHR)		Interstate Corrections Compact	
	#	%	#	%	#	%	#	%	#	%
Total Offenders	12,978	100%	11,176	100%	386	100%	1,140	100%	276	100%
Property Offenses	472	4%	382	3%	38	10%	39	4%	13	5%

Note: Property offenses include burglary, arson, theft, forgery, embezzlement, and receiving/possessing stolen property.

DATA PROVIDED BY THE JUDICIARY

The following data was provided, as a part of the submission, from the Judiciary:

FAMILY (FACTS) JUVENILE DATA FOR CHARGES FILED IN COURT YEARS 2023 AND 2024										
2C:18-2 BURGLARY										
County	Degree 2			Degree 3						Total
	Black/Afr	Hispanic	White	Amr Ind/Alsk	Asian	Black/Afr	Hispanic	Not Stated	White	Total
Atlantic	8	1	4	0	0	133	0	1	87	234
Bergen	3	0	2	0	2	49	3	3	36	98
Burlington	4	0	1	0	0	58	0	0	13	76
Camden	4	1	4	0	0	73	0	0	38	120
Cape May	0	0	2	0	0	3	0	1	10	16
Cumberland	14	0	1	0	0	51	0	0	16	82
Essex	22	0	0	1	0	395	3	1	70	492
Gloucester	2	0	0	0	0	20	0	0	4	26
Hudson	8	0	11	0	0	75	2	2	47	145
Hunterdon	0	0	0	0	0	3	0	0	1	4
Mercer	1	0	0	0	6	58	1	0	7	73
Middlesex	7	0	1	0	6	80	1	0	117	212
Monmouth	5	0	3	0	0	64	0	1	16	89
Morris	0	0	2	0	0	23	0	2	16	43
Ocean	1	1	2	0	0	17	0	0	31	52
Passaic	1	0	1	0	0	24	6	1	39	72
Salem	2	0	0	0	0	5	0	0	4	11
Somerset	3	0	1	0	0	19	1	0	9	33
Sussex	0	0	0	0	0	0	0	0	3	3
Union	7	0	0	0	0	95	0	1	30	133
Warren	1	0	0	0	0	3	0	0	5	9
Total	93	3	35	1	14	1248	17	13	599	2023

Count of Probation clients in each category of crime-degree (FY23 & FY24 consolidated)																		
Statute degree		Race																
		AM. INDIAN OR ALASKA NATIVE			ASIAN			BLACK/AFRICAN AMERICAN			NAT. HAWAIIAN/OTHER PACIFIC ISLANDER		UNKNOWN			WHITE		
		Ethnicity			Ethnicity			Ethnicity			Ethnicity		Ethnicity			Ethnicity		
		Non- Hispanic	Unknown	Hispanic	Non- Hispanic	Unknown	Hispanic	Non- Hispanic	Unknown	Hispanic	Non- Hispanic	Unknown	Non- Hispanic	Unknown	Hispanic	Non- Hispanic	Unknown	Hispanic
		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
2C:18- 2	1	.	.	.	.	.	.	.	.	.	.	.	.	.	.	1	1	
	2	.	.	.	3	.	.	27	7	4	.	.	.	1	1	14	3	14
	3	1	1	1	20	2	.	787	124	46	.	.	14	19	48	593	176	379
	4	.	.	.	.	.	.	5	2	1	.	.	.	1	.	2	3	4
	DP	.	.	.	.	.	.	13	2	1	.	.	1	3	1	7	3	5
	PDP	.	.	.	.	.	.	2	.	.	.	.	.	.	.	1	.	.
Tot. counts by crime-deg.		1	1	1	23	2	0	834	135	52	0	0	15	24	50	617	186	403

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4299

STATE OF NEW JERSEY 221st LEGISLATURE

DATED: SEPTEMBER 30, 2024

SUMMARY

- Synopsis:** Establishes crimes of home invasion burglary and residential burglary.
- Type of Impact:** Annual State expenditure and revenue increases. Annual local expenditure increase.
- Agencies Affected:** Department of Law and Public Safety; County Prosecutors; the Judiciary; Office of the Public Defender; Department of Corrections; State Parole Board.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that this bill would result in an indeterminate annual State and local expenditure increases. The following State and local agencies would incur caseload and expenditure increases: a) the Department of Law and Public Safety would provide guidance and other information related to the prosecution of the cases; b) county prosecutors would have to prosecute additional cases; c) the Judiciary would have to adjudicate additional complaints and monitor additional probationers; d) the Office of the Public Defender would have to represent additional low-income criminal defendants; e) the Department of Corrections would have to house and care for more individuals who are sentenced to prison terms; and f) the State Parole Board would have to supervise the return to society of additional convicts.
- This bill establishes criminal penalties for the creation of the crimes of home invasion burglary, a crime of the first degree, and residential burglary, a crime of the second degree. These new crimes, under certain circumstances, may be subject to extended terms of imprisonment under the No Early Release Act, which requires a person convicted of certain crimes to serve at least 85 percent of term of incarceration imposed before becoming eligible for parole; therefore,

there may be lengthier terms of incarceration and increased costs. However, the bill also provides for eligible defendants charged with residential burglary to be accepted into special probation, also known as Recovery Court, which carries a presumption of non-incarceration, as a diversionary program, provided that defendant completes the conditions of the program.

- The OLS finds that the State may receive indeterminate revenues from court filing fees, fines, and penalties for the crimes established under the bill. However, the State's ability to collect criminal fines and penalties has historically been limited.

BILL DESCRIPTION

The bill establishes the crimes of home invasion burglary and residential burglary.

Under the bill, a person is guilty of the crime of home invasion burglary if the person enters or surreptitiously remains in a residential dwelling, without license or privilege to do so, and with purpose to commit an offense therein or thereon and, in the course of committing the offense, purposely, knowingly, or recklessly inflicts bodily injury, or is armed with a deadly weapon. Home invasion burglary is a crime of the first degree.

A person is guilty of the crime of residential burglary if the person enters or surreptitiously remains in a residential dwelling, without license or privilege to do so, and with purpose to commit an offense therein or thereon. Residential burglary is a crime of the second degree.

A "residential dwelling" is defined as "a permanent structure intended as and currently being utilized as a residence by a private person or persons, and any place adapted for overnight accommodation of persons." By contrast, a non-residential "structure" is defined as "any building, room, ship, vessel, car, vehicle or airplane, and also means any place for carrying on business therein, whether or not a person is actually present."

A crime of the first degree is punishable by a term of imprisonment of 10 to 20 years, a fine of up to \$200,000, or both. A crime of the second degree is punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both. Additionally, home invasion burglary is subject to the No Early Release Act, which requires a person convicted of certain crimes to serve at least 85% of term of incarceration imposed before becoming eligible for parole. Residential burglary is also subject to the No Early Release Act, unless the defendant demonstrates by a preponderance of evidence a reasonable belief that no other person was present in the residence. Under the bill, convictions for home invasion burglary or residential burglary, where the defendant used or possessed a firearm, or where the defendant used or possessed a stolen motor vehicle, are also subject to extended terms of imprisonment.

Notwithstanding the inclusion of residential burglary under the No Early Release Act, the bill provides that a person charged with residential burglary may nevertheless still be eligible for entry into special probation, also known as Recovery Court.

The bill further provides that a juvenile charged with home invasion burglary or residential burglary, while in possession of a firearm, may be waived from the Family Part of the Superior Court to the Law Division to be tried as an adult.

Finally, the bill provides that a conviction for home invasion burglary or residential burglary may serve as grounds to deny a professional license from the Division of Consumer Affairs in the Department of Law and Public Safety.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that this bill would result in an indeterminate annual State and local expenditure increases. The OLS lacks sufficient information to quantify the fiscal impact of this bill, as it is not possible to know how many individuals are likely to commit the new criminal offenses established by the bill.

This bill establishes criminal penalties for the creation of the crimes of home invasion burglary, a crime of the first degree, and residential burglary, a crime of the second degree. A crime of the first degree is punishable by a term of imprisonment of 10 to 20 years, a fine of up to \$200,000, or both. A crime of the second degree is punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both. The bill would also provide for a juvenile charged with home invasion burglary or residential burglary, while in possession of a firearm, to be waived from the Family Court to be tried as an adult. Additionally, these new crimes, under certain circumstances, may be subject to extended terms of imprisonment under the No Early Release Act, which requires a person convicted of certain crimes to serve at least 85 percent of term of incarceration imposed before becoming eligible for parole; therefore, there may be lengthier terms of incarceration and increased costs. However, the bill also provides for eligible defendants charged with residential burglary to be accepted into special probation, also known as Recovery Court, which carries a presumption of non-incarceration, as a diversionary program, provided that defendant completes the conditions of the program.

These factors in the trial procedures and sentencing of defendants may result in the Department of Law and Public Safety providing guidance and other information related to the prosecution of the cases; county prosecutors prosecuting additional cases; the Judiciary adjudicating additional complaints and monitoring additional probationers; the Office of the Public Defender having to represent additional low-income criminal defendants; the Department of Corrections housing and caring for more individuals who are sentenced to prison terms; and the State Parole Board supervising the return to society of additional convicts. The OLS notes that there could be instances in which the Department of Law and Public Safety prosecutes the cases, under special circumstances. The OLS cannot quantify the exact fiscal impact since the number of cases, convictions, and terms of imprisonment resulting from the bill's provisions cannot be known.

The OLS also finds that the State may receive indeterminate revenues from court filing fees, fines, and penalties for the crimes established under the bill. However, the State's ability to collect criminal fines and penalties has historically been limited.

Section: Judiciary
Analyst: Anuja Pande Joshi
Senior Fiscal Analyst
Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Signs Bipartisan Legislation Increasing Penalties for Home Invasions

10/16/2024

EDISON – Governor Phil Murphy today visited Edison to sign S3006/A4299 into law, establishing the crimes of home invasion burglary and residential burglary. The two new burglary classifications will raise penalties for crimes of burglary, reinforcing legal protections for New Jersey communities and ensuring that individuals who commit these crimes are held accountable.

“The safety and well-being of New Jerseyans is our Administration’s highest priority,” **said Governor Murphy**. “Today’s bipartisan legislation ensures that the penalties for burglary and home invasion reflect the severity of these crimes and deter individuals from entering a home illegally. We are grateful to the Legislature, our law enforcement community, local mayors, and community members for supporting our shared goal of keeping New Jersey residents safe.”

“Our home is our sanctuary, holding the things we value most and the people we love most. When that sanctity is violated and that feeling of security is shattered, it leaves us with an overwhelming feeling of helplessness and vulnerability,” **said Attorney General Matthew J. Platkin**. “We have seen significant reductions in violent crime in New Jersey, and with the serious consequences established by this new law, Governor Murphy and the Legislature are taking another step in the effort to secure our homes and provide greater peace of mind to all New Jerseyans.”

“This new law elevating home invasion burglary to a first-degree crime and residential burglary to a second-degree crime is a powerful step toward ensuring the safety of New Jersey’s residents. By increasing the penalties for these serious offenses, we are sending a clear message to criminals that we will not tolerate such brazen acts that violate the sanctity of our homes. This legislation serves as a strong deterrent and reinforces our commitment to keeping our communities safe,” **said Colonel Patrick J. Callahan, Superintendent of the New Jersey State Police**. “We sincerely thank Governor Phil Murphy and the senators and assembly members who championed this important bill. Their leadership and dedication to public safety will help New Jerseyans feel more secure in their homes, knowing those who threaten their peace will face harsher consequences.”

Home invasion burglary refers to a person who enters a home to commit an offense and ultimately inflicts bodily injury or is armed with a deadly weapon, whether or not that weapon is used. Under the new law, home invasion burglary is a crime in the first degree. A crime of the first degree is punishable by a term of imprisonment of 10 to 20 years, a fine of up to \$200,000, or both.

Residential burglary refers to a person who enters a home to commit an offense. Under the new law, residential burglary is a crime in the second degree. A crime of the second degree is punishable by a term of imprisonment of five to 10 years, a fine of up to \$150,000, or both.

Both classifications of burglary are subject to the “No Early Release Act,” which requires the convicted person to serve at least 85% of their incarceration term before becoming eligible for parole. Any person convicted of home invasion burglary or residential burglary may be denied a professional license from the Division of Consumer Affairs within the Department of Law and Public Safety.

Today’s legislation, which takes effect immediately, builds upon the Administration’s commitment to reducing crime and bolstering public safety. Over the past seven years, the Murphy Administration has taken a holistic approach to crime reduction, including tightening gun laws, investing in mental health resources, deploying new data collection technology, and increasing penalties for violators.

The primary sponsors of [S3006/A4299](#) are Senators Anthony Bucco, Brian Stack, and Vin Gopal, and Assembly members Sterley Stanley, Robert Karabinchak, and Alexander “Avi” Schnall. The bill received overwhelming bipartisan

support in the Legislature, with a vote of 36-1 to pass the Senate and a unanimous 74-0 vote in the Assembly.

“New Jersey has consistently ranked as one of the safest states in the country, but many residents are rightfully concerned by the recent uptick in home break-ins and robberies,” **said Congressman Frank Pallone**. “I applaud the State Legislature for taking decisive action to address these concerns and thank Governor Murphy for pushing to get this important bill across the finish line. This new law is a commonsense measure that will hold home invaders accountable, provide peace of mind to New Jersey residents, and help law enforcement keep our communities safe.”

“With the Governor’s signature, New Jersey is sending a strong and clear message that individuals who burglarize homes or engage in other associated criminal activities will face severe consequences,” **said Senate Republican Leader Anthony Bucco**. “Now, law enforcement and prosecutors will have the necessary tools to combat the troubling wave of residential home burglaries spreading across the Garden State and ensure safety within our communities. After today, there should be no mistake that if you commit these crimes, you will do time.”

“Citizens have a right to feel safe in their own homes. Making stiffer penalties for burglaries of residences, especially by perpetrators who are also armed with a weapon, will make would-be burglars think twice before committing this very personal and invasive crime,” **said Senator Brian Stack**.

“Even the report of just one home invasion or burglary on a street or in a neighborhood can have a traumatic effect on those who live there,” **said Senator Vin Gopal**. “People should have a right to feel safe and secure in their own homes. By toughening the punishment for home invasion crimes, including in some cases length of sentencing, we hope to crack down on this practice, and make would-be burglars, car thieves or home invaders think twice before breaking into and entering someone’s home illegally.”

“As elected leaders we have a responsibility to not just ensure that our residents are safe, but also a responsibility to make sure they feel safe,” **said Assemblyman Sterley Stanley**. “Unfortunately, it has become clear that many communities throughout our great state do not feel safe due to what would seem to be a unique rise in home burglaries and other related crimes. This important piece of legislation seeks to address these concerns by creating two new charges that prosecutors will have at their disposal in order to hold those who break into homes accountable, while also allowing us to gather important data to better understand the challenges our communities are facing.”

“A person’s home should be their sanctuary, and this bill holds criminals accountable for targeting those personal spaces,” **said Assemblyman Robert Karabinchak**. “By specifying the definitions when it comes to residential burglary, we are not just addressing property crimes, we’re also protecting lives.”

“By clearly defining and separating these crimes, we can ensure that the legal system has the tools to adequately address the dangers posed by home invasion burglary and residential burglary,” **said Assemblyman Alexander “Avi” Schnall**. “With this bill, we address the unique threats posed by violent break-ins and ensure that those who commit such offenses face appropriate consequences.”

“I am honored to have worked with Governor Murphy and our State Legislature to pass this crucial bill into law,” **said Edison Mayor Sam Joshi**. “Home invasions and burglaries not only violate our sense of security, but also leave lasting emotional scars on victims. This law sends a strong message that these crimes will not be tolerated in our community.”

“As we and all suburban communities have grappled with increased vehicle thefts, I have been clear that home break-ins are unacceptable and those who commit crimes must be held accountable, minors or not. I appreciate Governor Murphy and the state legislature hearing us and responding with this bi-partisan bill,” **said Marlboro Mayor Jonathan Hornik**.

“I’m honored to participate as the Governor signs this important legislation. This legislation is a beacon of hope for all New Jersey residents. There was a time when my family and I considered leaving the state due to rising concerns about safety,” **said Manjit “Goldy” Batra, an Edison resident whose home was burglarized last year**. “However, the commitment to strengthen penalties for these crimes reassures us that our voices are being heard. With this new law, we can expect better accountability for offenders, preventing those who are caught from returning to the streets so quickly. It’s time to reclaim our sense of security and make our neighborhoods safer for everyone. This action sends a strong message that we will not stand for such crimes, and it empowers residents to feel safe in their own homes.”

"The Fraternal Order of Police New Jersey State Lodge proudly represents over 13,000 active and retired law enforcement officers throughout the State of New Jersey. The FOP strongly endorses A4299/S3006, the Home Invasion Burglary and Residential Burglary legislation's passage into law. This legislation will enhance the protections afforded our citizens of this great state and we believe will deter criminal activity. This law will strengthen our ability to protect the people we serve and ensure those who commit such heinous acts are held accountable to fullest extent of the law. The FOP thanks the sponsors of this legislation, our legislative leadership for recognizing the importance of this legislation and to Governor Murphy for signing this legislation into law," **said Robert W. Fox, President of the Fraternal Order of Police - New Jersey State Lodge.**

"When people don't feel safe in their homes then public safety has broken down. This bill gives law enforcement the tools to prosecute anyone who would violate the sanctity and security of our residents. It tells criminals that there are real consequences for burglary and home invasion. We are proud to support this law," **said Peter Andreyev, President of the NJ State PBA.**

"In the wake of the tragic death of Detective Sergeant Monica Mosley as a result of a violent home invasion, it is jolting the crisis level we are at when a trained and capable law enforcement officer is overcome in their own residence. We must continue to adapt and address these evolutions in criminal behavior in our great state through crucial and impactful public safety policy and legislation such as this Bill that will also send a powerful message and serve as a deterrent to these violent criminals," **said Wayne Blanchard, President of the State Troopers Fraternal Association.**