

20:35-4

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:35-4 et al

(Comprehensive Drug Reform Act of 1986--various amendments)

LAWS OF: 1988

CHAPTER: 44

Bill No: S2026

Sponsor(s): Graves

Date Introduced: February 18, 1988

Committee: Assembly: -----

Senate: Law, Public Safety and Defense Committee

Amended during passage: Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly: May 16, 1988

Senate: April 18, 1988

Date of Approval: June 28, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: No

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

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Reports: No

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SENATE, No. 2026

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 18, 1988

By Senator GRAVES

1 AN ACT concerning drug law enforcement and amending the  
"Comprehensive Drug Reform Act of 1986," and various  
3 sections of Title 2A and Title 2C of the New Jersey Statutes.

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

7 1. N.J.S. 2C:35-4 is amended to read as follows:

2C:35-4. Maintaining or Operating a Controlled Dangerous  
9 Substance Production Facility.

Except as authorized by P.L. 1970, c. 226 (C. 24:21-1 et seq.),  
11 any person who knowingly maintains or operates any premises,  
place or facility used for the manufacture of methamphetamine,  
13 lysergic acid diethylamide, phencyclidine or any substance  
classified as a narcotic drug in Schedule I or II, or the analog of  
15 any such substance, or any person who knowingly aids, promotes,  
finances or otherwise participates in the maintenance or  
17 operations of such premises, place or facility, is guilty of a crime  
of the first degree and shall, except as provided in N.J.S.  
19 2C:35-12, be sentenced to a term of imprisonment which shall  
include the imposition of a minimum term which shall be fixed at,  
21 or between, one-third and one-half of the sentence imposed,  
during which the defendant shall be ineligible for parole.  
23 Notwithstanding the provisions of subsection a. of N.J.S. 2C:43-3,  
the court may also impose a fine not to exceed \$500,000.00 or  
25 five times the street value of all controlled dangerous substances  
or controlled substance analogs at any time manufactured or  
27 stored at such premises, place or facility, whichever is greater.

(cf: N.J.S. 2C:35-4)

29 2. N.J.S. 2C:35-5 is amended to read as follows:

2C:35-5. Manufacturing, Distributing or Dispensing.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SLP committee amendments adopted February 29, 1988.

<sup>2</sup> Assembly floor amendments adopted May 2, 1988.

S2026 (2R)

2

1 a. Except as authorized by P.L. 1970, c. 226 (C. 24:21-1 et  
seq.), it shall be unlawful for any person knowingly or purposely:

3 (1) To manufacture, distribute or dispense, or to possess or  
have under his control with intent to manufacture, distribute or  
5 dispense, a controlled dangerous substance or controlled  
substance analog; or

7 (2) To create, distribute, or possess or have under his control  
with intent to distribute, a counterfeit controlled dangerous  
9 substance.

b. Any person who violates subsection a. with respect to:

11 (1) Heroin, or its analog, or coca leaves and any salt,  
compound, derivative, or preparation of coca leaves, and any salt,  
13 compound, derivative, or preparation thereof which is chemically  
equivalent or identical with any of these substances, or analogs,  
15 except that the substances shall not include decocainized coca  
leaves or extractions which do not contain cocaine or ecogine, in  
17 a quantity of five ounces or more including any adulterants or  
dilutants[, provided there are included at least 3.5 grams of the  
19 pure free base drug,] is guilty of a crime of the first degree. The  
defendant shall, except as provided in N.J.S. 2C:35-12, be  
21 sentenced to a term of imprisonment by the court. The term of  
imprisonment shall include the imposition of a minimum term  
23 which shall be fixed at, or between, one-third and one-half of the  
sentence imposed, during which the defendant shall be ineligible  
25 for parole. Notwithstanding the provisions of subsection a. of  
N.J.S. 2C:43-3, a fine of up to \$300,000.00 may be imposed;

27 (2) A substance referred to in paragraph (1) of this subsection,  
in a quantity of one-half ounce or more but less than five ounces,  
29 including any adulterants or dilutants[, provided there are  
included at least 3.5 grams of the pure free base drug,] is guilty  
31 of a crime of the second degree;

33 (3) A substance referred to in paragraph (1) of this subsection  
in a quantity less than one-half ounce including any adulterants  
or dilutants[, or in a quantity of one-half ounce or more with  
35 there being included less than 3.5 grams of the pure free base  
drug or where the amount of the pure free base is undetermined,]  
37 is guilty of a crime of the third degree except that,  
notwithstanding the provisions of subsection b. of N.J.S. 2C:43-3,  
39 a fine of up to \$50,000.00 may be imposed;

1       (4) A substance classified as a narcotic drug in Schedule I or II  
2 other than those specifically covered in this section, or the  
3 analog of any such substance, in a quantity of one ounce or more  
4 including any adulterants or dilutants[, provided there are  
5 included at least 3.5 grams of the pure free base drug,] is guilty  
6 of a crime of the second degree;

7       (5) A substance classified as a narcotic drug in Schedule I or II  
8 other than those specifically covered in this section, or the  
9 analog of any such substance, in a quantity of less than one ounce  
10 including any adulterants or dilutants[, or in a quantity of one  
11 ounce or more with there being included less than 3.5 grams of  
12 the pure free base drug or where the amount of the pure free  
13 base drug is undetermined,] is guilty of a crime of the third  
14 degree except that, notwithstanding the provisions of subsection  
15 b. of N.J.S. 2C:43-3, a fine of up to \$50,000.00 may be imposed;

16       (6) Lysergic acid diethylamide, or its analog, in a quantity of  
17 100 milligrams or more including any adulterants or dilutants, or  
18 phencyclidine, or its analog, in a quantity of 10 grams or more  
19 including any adulterants or dilutants, is guilty of a crime of the  
20 first degree. Except as provided in 2C:35-12, the court shall  
21 impose a term of imprisonment which shall include the imposition  
22 of a minimum term, fixed at, or between, one-third and one-half  
23 of the sentence imposed by the court, during which the defendant  
24 shall be ineligible for parole. Notwithstanding the provisions of  
25 subsection a. of N.J.S. 2C:43-3, a fine of up to \$300,000.00 may  
26 be imposed;

27       (7) Lysergic acid diethylamide, or its analog, in a quantity of  
28 less than 100 milligrams including any adulterants or dilutants, or  
29 where the amount is undetermined, or phencyclidine, or its  
30 analog, in a quantity of less than 10 grams including any  
31 adulterants or dilutants, or where the amount is undetermined, is  
32 guilty of a crime of the second degree;

33       (8) Methamphetamine, or its analog, in a quantity of one ounce  
34 or more including any adulterants or dilutants[, provided there  
35 are included at least 3.5 grams of the pure free base drug,] is  
36 guilty of a crime of the second degree;

37       (9) Methamphetamine, or its analog, in a quantity of less than  
38 one ounce including any adulterants or dilutants[, or in a quantity  
39 of one ounce or more with there being included less than 3.5

1 grams of the pure free base drug or where the amount of the pure  
2 free base drug is undetermined,] is guilty of a crime of the third  
3 degree except that, notwithstanding the provisions of subsection  
b. of N.J.S. 2C:43-3, a fine of up to \$50,000.00 may be imposed;

5 (10) Marijuana in a quantity of five pounds or more including  
any adulterants and dilutants, or hashish in a quantity of one  
7 pound or more including any adulterants and dilutants, is guilty of  
a crime of the second degree;

9 (11) Marijuana in a quantity of one ounce or more but less than  
five pounds including any adulterants and dilutants, or hashish in  
11 a quantity of five grams or more but less than one pound  
including any adulterants and dilutants, is guilty of a crime of the  
13 third degree except that, notwithstanding the provisions of  
subsection b. of N.J.S. 2C:43-3, a fine of up to \$15,000.00 may be  
15 imposed;

(12) Marijuana in a quantity of less than one ounce including  
17 any adulterants and dilutants, or hashish in a quantity of less than  
five grams including any adulterants and dilutants, is guilty of a  
19 crime of the fourth degree;

(13) Any other controlled dangerous substance classified in  
21 Schedules I, II, III or IV, or its analog, is guilty of a crime of the  
third degree, except that, notwithstanding the provisions of  
23 subsection b. of N.J.S. 2C:43-3, a fine of up to \$15,000.00 may be  
imposed; or

25 (14) Any Schedule V substance, or its analog, is guilty of a  
crime of the fourth degree except that, notwithstanding the  
27 provisions of subsection b. of N.J.S. 2C:43-3, a fine of up to  
\$15,000.00 may be imposed.

29 c. Where the degree of the offense for violation of this section  
depends on the quantity of the substance, the quantity involved  
31 shall be determined by the trier of fact. [The] Where the  
indictment or accusation so provides, the quantity involved in  
33 individual acts of manufacturing, distribution, dispensing or  
possessing with intent to distribute may be aggregated in  
35 determining the grade of the offense, whether distribution or  
dispensing is to the same person or several persons, provided that  
37 each individual act of manufacturing, distribution, dispensing or  
possession with intent to distribute was committed within the  
39 applicable statute of limitations.

(cf: N.J.S. 2C:35-5)

1       3. Section 1 of P.L. 1987, c. 101 (C. 2C:35-7) is amended to  
read as follows:

3       1. Any person who violates subsection a. of N.J.S. 2C:35-5 by  
5       distributing, dispensing or possessing with intent to distribute a  
7       controlled dangerous substance or controlled substance analog  
9       while on any school property used for school purposes which is  
11       owned by or leased to any elementary or secondary school or  
13       school board, or within 1,000 feet of [any] such school property or  
15       a school bus, or while on any school bus, is guilty of a crime of  
17       the third degree and shall, except as provided in N.J.S. 2C:35-12,  
19       be sentenced by the court to a term of imprisonment. Where the  
21       violation involves [25 grams or] less than one ounce of marijuana.  
23       the term of imprisonment shall include the imposition of a  
minimum term which shall be fixed at, or between, one-third and  
one-half of the sentence imposed, or one year, whichever is  
greater, during which the defendant shall be ineligible for parole.  
In all other cases, the term of imprisonment shall include the  
imposition of a minimum term which shall be fixed at, or  
between, one-third and one-half of the sentence imposed, or  
three years, whichever is greater, during which the defendant  
shall be ineligible for parole. Notwithstanding the provisions of  
subsection b. of N.J.S. 2C:43-3, a fine of up to \$100,000.00 may  
also be imposed upon any conviction for a violation of this section.

Notwithstanding the provisions of N.J.S. 2C:1-8 or any other  
provisions of law, a conviction arising under this section shall not  
merge with a conviction for a violation of subsection a. of N.J.S.  
2C:35-5 (manufacturing, distributing or dispensing) or N.J.S.  
2C:35-6 (employing a juvenile in a drug distribution scheme).

It shall be no defense to a prosecution for a violation of this  
section that the actor was unaware that the prohibited conduct  
took place while on or within 1,000 feet of any school property.  
Nor shall it be a defense to a prosecution under this section, or  
under any other provision of this title, that no juveniles were  
present on the school property at the time of the offense or that  
the school was not in session.

It is an affirmative defense to prosecution for a violation of  
this section that the prohibited conduct took place entirely within  
a private residence, that no person 17 years of age or younger  
was present in such private residence at any time during the

1 commission of the offense, and that the prohibited conduct did  
not involve distributing, dispensing or possessing with the intent  
3 to distribute or dispense any controlled dangerous substance or  
controlled substance analog for profit. The affirmative defense  
5 established in this section shall be proved by the defendant by a  
preponderance of the evidence. Nothing herein shall be construed  
7 to establish an affirmative defense with respect to a prosecution  
for an offense defined in any other section of this chapter.

9 In a prosecution under this section, a map produced or  
reproduced by any municipal or county engineer for the purpose  
11 of depicting the location and boundaries of the area on or within  
1,000 feet of any property used for school purposes which is  
13 owned by or leased to any elementary or secondary school or  
school board, or a true copy of such a map, shall, upon proper  
15 authentication, be admissible and shall constitute prima facie  
evidence of the location and boundaries of those areas, provided  
17 that the governing body of the municipality or county has adopted  
a resolution or ordinance approving the map as official finding  
19 and record of the location and boundaries of the area or areas on  
or within 1,000 feet of the school property. Any map approved  
21 pursuant to this section may be changed from time to time by the  
governing body of the municipality or county. The original of  
23 every map approved or revised pursuant to this section, or a true  
copy thereof, shall be filed with the clerk of<sup>2</sup>the<sup>2</sup> municipality or  
25 county, and shall be maintained as an official record of the  
municipality or county. Nothing in this section shall be construed  
27 to preclude the prosecution from introducing or relying upon any  
other evidence or testimony to establish any element of this  
29 offense; nor shall this section be construed to preclude the use or  
admissibility of any map or diagram other than one which has  
31 been approved by the governing<sup>2</sup>body<sup>2</sup> of a municipality or  
county, provided that the map or diagram is otherwise admissible  
33 pursuant to the Rules of Evidence.

(cf: P.L. 1987, c. 101, s. 1)

35 4. N.J.S. 2C:35-8 is amended to read as follows:  
2C:35-8. Distribution to Persons Under Age 18; Enhanced  
37 Punishment. Upon the application of the prosecuting attorney,  
any person being at least 18 years of age who has been convicted  
39 for violating subsection a. of N.J.S. 2C:35-5 or section 1 of

1 P.L. 1987, c. 101 (C. 2C:35-7) by distributing a controlled  
dangerous substance or controlled substance analog to a pregnant  
3 female or a person 17 years of age or younger shall, except as  
provided in N.J.S. 2C:35-12, be subject to twice the term of  
5 imprisonment, fine and penalty, including twice the term of  
parole ineligibility, if any, authorized or required to be imposed  
7 by subsection b. of N.J.S. 2C:35-5 or section 1 of P.L. 1987, c.  
101 (C. 2C:35-7) or any other provision of this title. In addition,  
9 the presumption of non-imprisonment for certain offenders set  
11 forth in subsection e. of N.J.S. 2C:44-1 shall not apply to any  
person subject to enhanced punishment pursuant to this section.

The court shall not impose more than one enhanced sentence  
13 pursuant to this section. If the defendant is convicted of more  
than one offense which is otherwise subject to enhanced  
15 punishment pursuant to this section, the court shall impose  
enhanced punishment based upon the most serious such offense  
17 for which the defendant was convicted, or, where applicable, the  
offense which mandates the imposition of the longest term of  
19 parole ineligibility. Notwithstanding the provisions of paragraph  
(2) of subsection a. of 2C:44-5, nothing herein shall prevent the  
21 court from also imposing an extended term pursuant to subsection  
f. of N.J.S. 2C:43-6. The court shall not impose an enhanced  
23 sentence pursuant to this section unless the prosecutor has  
established the ground therefor by a preponderance of the  
25 evidence at a hearing, which may occur at the time of  
sentencing. In making its finding, the court shall take judicial  
27 notice of any evidence, testimony or information adduced at the  
trial, plea hearing or other court proceedings, and shall also  
29 consider the presentence report and any other relevant  
information. It shall [be no defense] not be relevant to the  
31 imposition of enhanced punishment pursuant to this section that  
the defendant mistakenly believed that the recipient of the  
33 substance was 18 years of age or older, even if the mistaken  
belief was reasonable. [It shall not be a defense] Nor shall it be  
35 relevant to the imposition of enhanced punishment pursuant to  
this section that the defendant did not know that the recipient  
37 was pregnant.

(cf: N.J.S. 2C:35-8)

39 5. N.J.S. 2C:35-10 is amended to read as follows:



1       2C:35-10. Possession, Use or Being Under the Influence, or  
2       Failure to Make Lawful Disposition.

3       a. It is unlawful for any person, knowingly or purposely, to  
4       obtain, or to possess, actually or constructively, a controlled  
5       dangerous substance or controlled substance analog, unless the  
6       substance was obtained directly, or pursuant to a valid  
7       prescription or order form from a practitioner, while acting in  
8       the course of his professional practice, or except as otherwise  
9       authorized by P.L. 1970, c. 226 (C. 24:21-1 et seq.). Any person  
10      who violates this section with respect to:

11      (1) A controlled dangerous substance, or its analog, classified  
12      in Schedules I, II, III or IV other than those specifically covered in  
13      this section, is guilty of a crime of the third degree except that,  
14      notwithstanding the provisions of subsection b. of N.J.S. 2C:43-3,  
15      a fine of up to \$25,000.00 may be imposed;

16      (2) Any controlled dangerous substance, or its analog,  
17      classified in Schedule V, is guilty of a crime of the fourth degree  
18      except that, notwithstanding the provisions of subsection b. of  
19      N.J.S. 2C:43-3, a fine of up to \$15,000.00 may be imposed;

20      (3) Possession of more than 50 grams of marijuana, including  
21      any adulterants or dilutants, or more than five grams of hashish is  
22      guilty of a crime of the fourth degree, except that,  
23      notwithstanding the provisions of subsection b. of N.J.S. 2C:43-3,  
24      a fine of up to \$15,000.00 may be imposed; or

25      (4) Possession of 50 grams or less of marijuana, including any  
26      adulterants or dilutants, or five grams or less of hashish is a  
27      disorderly person.

28      Any person who [violates this subsection or the offense defined  
29      in subsection b. of this section] commits any offense defined in  
30      this section while on any property used for school purposes which  
31      is owned by or leased to any elementary or secondary school or  
32      school board, or within 1,000 feet of any such school property or  
33      a school bus, or while on any school bus, and who is not sentenced  
34      to a term of imprisonment, shall, in addition to any other  
35      sentence which the court may impose, be required to perform not  
36      less than 100 hours of community service.

37      b. Any person who uses or who is under the influence of any  
38      controlled dangerous substance, or its analog, for a purpose other  
39      than the treatment of sickness or injury as lawfully prescribed or

1 administered by a physician is a disorderly person.

3 In a prosecution under this subsection, it shall not be necessary  
5 for the State to prove that the accused did use or was under the  
7 influence of any specific drug, but it shall be sufficient for a  
9 conviction under this subsection for the State to prove that the  
11 accused did use or was under the influence of some controlled  
dangerous substance, counterfeit controlled dangerous substance,  
or controlled substance analog, by proving that the accused did  
manifest physical and physiological symptoms or reactions caused  
by the use of any controlled dangerous substance or controlled  
substance analog.

13 c. Any person who knowingly obtains or possesses a controlled  
15 dangerous substance or controlled substance analog in violation of  
17 subsection a. of this section and who fails to voluntarily deliver  
19 the substance to the nearest law enforcement officer is guilty of  
21 a disorderly persons offense. Nothing in this subsection shall be  
23 construed to preclude a prosecution or conviction for any other  
25 offense defined in this title or any other statute.

27 (cf: N.J.S. 2C:35-10)

29 6. N.J.S. 2C:35-15 is amended to read as follows:

31 2C:35-15. Mandatory Drug Enforcement and Demand  
33 Reduction Penalties; Collection; Disposition; Suspension.

35 a. In addition to any disposition authorized by this title, the  
37 provisions of section 24 of P.L. 1982, c. 77 (C. 2A:4A-43), or any  
39 other statute indicating the dispositions that can be ordered for  
an adjudication of delinquency, every person convicted of or  
adjudicated delinquent for a violation of any offense defined in  
this chapter or chapter 36 of this title[, and every person placed  
in supervisory treatment pursuant to N.J.S. 2C:43-12 who was  
charged with any offense defined in this chapter or chapter 36 of  
this title,] shall be assessed for each such offense a penalty fixed  
at:

- 33 (1) \$3,000.00 in the case of a crime of the first degree;  
35 (2) \$2,000.00 in the case of a crime of the second degree;  
37 (3) \$1,000.00 in the case of a crime of the third degree;  
39 (4) \$750.00 in the case of a crime of the fourth degree;  
(5) \$500.00 in the case of a disorderly persons or petty  
disorderly persons offense.

Every person placed in supervisory treatment pursuant to the

1 provisions of N.J.S. 2C:36A-1 or N.J.S. 2C:43-12 for a violation  
2 of any offense defined in this chapter or chapter 36 of this title  
3 shall be assessed the penalty prescribed herein and applicable to  
4 the degree of the offense charged, except that the court shall not  
5 impose more than one such penalty regardless of the number of  
6 offenses charged. If the person is charged with more than one  
7 offense, the court shall impose as a condition of supervisory  
8 treatment the penalty applicable to the highest degree offense  
9 for which the person is charged.

10 All penalties provided for in this section shall be in addition to  
11 and not in lieu of any fine authorized by law or required to be  
12 imposed pursuant to the provisions of N.J.S. 2C:35-12.

13 b. All penalties provided for in this section shall be collected  
14 as provided for collection of fines and restitutions in section 3 of  
15 1979, c. 396 (C. 2C:46-4), and shall be forwarded to the  
16 Department of Law and Public Safety as provided in subsection c.  
17 of this section.

18 c. All moneys collected pursuant to this section shall be  
19 forwarded to the Department of Law and Public Safety to be  
20 deposited in a nonlapsing revolving fund to be known as the "Drug  
21 Enforcement and Demand Reduction Fund."

22 d. All moneys, including fines and restitution, collected from a  
23 person convicted of or adjudicated delinquent for an offense or  
24 placed in supervisory treatment pursuant to N.J.S. 2C:43-12 shall  
25 be applied first to any Violent Crimes Compensation Board  
26 penalty imposed pursuant to section 2 of P.L. 1979, c. 396 (C.  
27 2C:43-3.1), and shall next be applied to any forensic laboratory  
28 fee assessed pursuant to N.J.S. 2C:35-20, and shall next be  
29 applied to any penalty imposed pursuant to this section.

30 e. The court may suspend the collection of a penalty imposed  
31 pursuant to this section; provided the defendant agrees to enter a  
32 residential drug rehabilitation program approved by the court;  
33 and further provided that the defendant agrees to pay for all or  
34 some portion of the costs associated with the rehabilitation  
35 program. In this case, the collection of a penalty imposed  
36 pursuant to this section shall be suspended during the defendant's  
37 participation in the approved rehabilitation program. Upon  
38 successful completion of the program, the defendant may apply  
39 to the court to reduce the penalty imposed pursuant to this

1 section by any amount actually paid by the defendant for his  
2 participation in the program. The court shall not reduce the  
3 penalty pursuant to this subsection unless the defendant  
4 establishes to the satisfaction of the court that he has  
5 successfully completed the rehabilitation program. If the  
6 defendant's participation is for any reason terminated before his  
7 successful completion of the rehabilitation program, collection of  
8 the entire penalty imposed pursuant to this section shall be  
9 enforced. Nothing in this section shall be deemed to affect or  
10 suspend any other criminal sanctions imposed pursuant to this  
11 chapter or chapter 36 of this title.

(cf: N.J.S. 2C:35-15)

13 7. N.J.S. 2C:35-16 is amended to read as follows:

14 2C:35-16. Mandatory Forfeiture or Postponement of Driving  
15 Privileges.

16 In addition to any disposition authorized by this title, the  
17 provisions of section 24 of P.L. 1982, c. 77 (C. 2A:4A-43), or any  
18 other statute indicating the dispositions that can be ordered for  
19 an adjudication of delinquency, and notwithstanding the  
20 provisions of subsection c. of N.J.S. 2C:43-2 every person  
21 convicted of or adjudicated delinquent for a violation of any  
22 offense defined in this chapter or chapter 36 of this title shall  
23 forthwith forfeit his right to operate a motor vehicle over the  
24 highways of this State for a period to be fixed by the court at not  
25 less than six months or more than two years[, or, after the  
26 expiration of six months, until the privilege shall be restored to  
27 him in the discretion of the Director of the Division of Motor  
28 Vehicles upon application to and after certification by a  
29 physician to the director that the person is not a drug dependent  
30 person within the meaning of this chapter] <sup>1</sup>which shall  
31 commence on the day the sentence is imposed<sup>1</sup>. In the case of  
32 any person who at the time of the imposition of sentence is less  
33 than 17 years of age, the period of the suspension of driving  
34 privileges authorized herein <sup>1</sup>[shall not commence to run until the  
35 defendant reaches the age of 17] , including a suspension of the  
36 privilege of operating a motorized bicycle, shall commence on  
37 the day the sentence is imposed and shall run for a period as fixed  
38 by the court of not less than six months or more than two years  
39 after the day the person reaches the age of 17 years.<sup>1</sup> If

1 the driving privilege of any person is under revocation,  
2 suspension, or postponement for a violation of any provision <sup>1</sup>[or]  
3 of<sup>1</sup> this title or Title 39 of the Revised Statutes at the time of  
4 any conviction or adjudication of delinquency for a violation of  
5 any offense defined in this chapter or chapter 36 of this title, the  
6 revocation, suspension, or postponement period imposed herein  
7 shall commence as of the date of termination of the existing  
8 revocation, suspension, or postponement.

9 The court before whom any person is convicted of or  
10 adjudicated delinquent for a violation of any offense defined in  
11 this chapter or chapter 36 of this title shall [cause a report of the  
12 conviction or adjudication to be filed with the Director of the  
13 Division of Motor Vehicles] collect forthwith the New Jersey  
14 driver's license or licenses of the person and forward such license  
15 or licenses to the Director of the Division of Motor Vehicles  
16 <sup>1</sup>along with a report indicating the first and last day of the  
17 suspension or postponement period imposed by the court pursuant  
18 to this section<sup>1</sup>. If the court is for any reason unable to collect  
19 the license or licenses of the person, the court shall cause a  
20 report of the conviction or adjudication of delinquency to be filed  
21 with the Director. <sup>1</sup>That report shall include the complete name,  
22 address, date of birth, eye color, and sex of the person and shall  
23 indicate the first and last day of the suspension or postponement  
24 period imposed by the court pursuant to this section.<sup>1</sup> The court  
25 shall inform the person orally and in writing that if the person is  
26 convicted of personally operating a motor vehicle during the  
27 period of license suspension or postponement imposed pursuant to  
28 this section, the person shall, upon conviction, be subject to the  
29 penalties set forth in R.S. 39:3-40. A person shall be required to  
30 acknowledge receipt of the written notice in writing. Failure to  
31 receive a written notice or failure to acknowledge in writing the  
32 receipt of a written notice shall not be a defense to a subsequent  
33 charge of a violation of R.S. 39:3-40. If the person is the holder  
34 of a driver's license from another jurisdiction, the court shall not  
35 collect the license but shall notify forthwith the Director who  
36 shall notify the appropriate officials in the licensing jurisdiction.  
37 The court shall, however, in accordance with the provisions of  
38 this section, revoke the person's non-resident driving privilege in  
39 this State.

1 In addition to any other condition imposed, a court may in its  
2 discretion suspend, revoke or postpone in accordance with the  
3 provisions of this section the driving privileges of a person  
4 admitted to supervisory treatment under N.J.S. 2C:36A-1 or  
5 N.J.S. 2C:43-12 without a plea of guilty or finding of guilt.  
(cf: N.J.S. 2C:35-16)

7 8. N.J.S. 2C:35-18 is amended to read as follows:

2C:35-18. Exemption; Burden of Proof

9 a. If conduct is authorized by the provisions of P.L. 1970, c.  
10 226 (C.24:21-1 et seq.), that authorization shall, subject to the  
11 provisions of this section, constitute an exemption from criminal  
12 liability under this chapter or chapter 36, and the absence of such  
13 authorization shall not be construed to be an element of any  
14 offense in this chapter or chapter 36. It is an affirmative defense  
15 to any criminal action arising under this chapter or chapter 36  
16 that the defendant is the authorized holder of an appropriate  
17 registration or order form or is otherwise exempted or excepted  
18 from criminal liability by virtue of any provision of P.L. 1970, c.  
19 226 (C. 24:21-1 et seq.). The affirmative defense established  
20 herein shall be proved by the defendant by a preponderance of the  
21 evidence. It shall not be necessary for the State to negate any  
22 exemption set forth in this act or in any provision of Title 24 of  
23 the Revised Statutes in any complaint, information, indictment or  
24 other pleading or in any trial, hearing or other proceeding under  
25 this act.

b. No liability shall be imposed by virtue of this chapter or  
27 chapter 36 upon any duly authorized State officer, engaged in the  
28 enforcement of any law or municipal ordinance relating to  
29 controlled dangerous substances or controlled substance analogs.  
(cf: N.J.S 2C:35-18)

31 9. N.J.S. 2C:35-19 is amended to read as follows:

2C:35-19. Laboratory Certificates; Use; Admission into  
33 Evidence; Objections.

a. The Attorney General of New Jersey may designate State  
35 Forensic Laboratories. These laboratories shall be staffed by  
36 employees of this State or any of the State's political  
37 subdivisions. In a proceeding for a violation of the provisions of  
38 chapters 35 and 36 of this title 1or any other statute concerning  
39 controlled dangerous substances or controlled dangerous

1 substance analogs<sup>1</sup> , a law enforcement agency may submit to  
2 one of these laboratories any substance, including, but not limited  
3 to, any substance believed to be a controlled dangerous substance  
4 or controlled substance analog thereof, or any poisons, drugs or  
5 medicines or human body tissues or fluids. The laboratory shall  
6 [chemically] analyze these substances.

7 b. Upon the request of any law enforcement agency, the  
8 laboratory employee performing the [chemical] analysis shall  
9 prepare a certificate. This employee shall sign the certificate  
10 under oath and shall include in the certificate an attestation as to  
11 the result of the analysis. The presentation of this certificate to  
12 a court by any party to a proceeding shall be evidence that all of  
13 the requirements and provisions of this section have been  
14 complied with. This certificate shall be sworn to before a notary  
15 public or other person empowered by law to take oaths and shall  
16 contain a statement establishing the following: the type of  
17 analysis performed; the result achieved; any conclusions reached  
18 based upon that result; that the subscriber is the person who  
19 performed the analysis and made the conclusions; the  
20 subscriber's training or experience to perform the analysis; and  
21 the nature and condition of the equipment used. When properly  
22 executed, the certificate shall, subject to subsection c. of this  
23 section and notwithstanding any other provision of law, be  
24 admissible evidence of the composition, quality, and quantity of  
25 the substance submitted to the laboratory for analysis, and the  
26 court shall take judicial notice of the signature of the person  
27 performing the analysis and of the fact that he is that person.

28 c. Whenever a party intends to proffer in a criminal or  
29 quasi-criminal proceeding, a certificate executed pursuant to this  
30 section, notice of an intent to proffer that certificate and all  
31 reports relating to the analysis in question, including a copy of  
32 the certificate, shall be conveyed to the opposing party or parties  
33 at least 20 days before the proceeding begins. An opposing party  
34 who intends to object to the admission into evidence of a  
35 certificate shall give notice of objection and the grounds for the  
36 objection within 10 days upon receiving the adversary's notice of  
37 intent to proffer the certificate. Whenever a notice of objection  
38 is filed, admissibility of the certificate shall be determined not  
39 later than two days before the beginning of the

1 trial. A proffered certificate shall be admitted in evidence  
2 unless it appears from the notice of objection and specific  
3 grounds for that objection that the composition, quality, or  
4 quantity of the substance submitted to the laboratory for analysis  
5 will be contested at trial. A failure to comply with the time  
6 limitations regarding the notice of objection required by this  
7 section shall constitute a waiver of any objections to the  
8 admission of the certificate. The time limitations set forth in  
9 this section shall not be relaxed except upon a showing of good  
10 cause.

11 (cf: N.J.S. 2C:35-19)

12 10. N.J.S. 2C:35-20 is amended to read as follows:

13 2C:35-20. Forensic Laboratory Fees a. In addition to any  
14 disposition made pursuant to the provisions of N.J.S. 2C:43-2, any  
15 person convicted of an offense under this chapter shall be  
16 assessed a criminal laboratory analysis fee of \$50.00 for each  
17 offense for which he was convicted. Any person who is placed in  
18 supervisory treatment pursuant to N.J.S. 2C:36A-1 or N.J.S.  
19 2C:43-12 shall be assessed a criminal laboratory analysis fee of  
20 \$50.00 for each such offense for which he was charged.

21 b. In addition to any other disposition made pursuant to the  
22 provisions of section 24 of P.L. 1982, c. 77 (C. 2A:4A-43) or any  
23 other statute indicating the dispositions that can be ordered for  
24 adjudications of delinquency, any juvenile adjudicated delinquent  
25 for a violation of this chapter shall be assessed a laboratory  
26 analysis fee of \$25.00 for each adjudication.

27 c. All criminal laboratory analysis fees provided for in this  
28 section shall be collected as provided for the collection of fines  
29 and restitutions in <sup>2</sup>[N.J.S. 2C:46-4] section 3 of P.L. 1979, c. 396  
30 (C. 2C:46-4)<sup>2</sup>, and shall be forwarded to the appropriate forensic  
31 laboratory fund as provided in subsection d. of this section.

32 d. Forensic laboratory funds shall be established as follows:

33 (1) Any county or municipality which maintains a publicly  
34 funded forensic laboratory that regularly employs at least one  
35 forensic chemist or scientist engaged in the analysis of controlled  
36 dangerous substances may establish a [county] forensic laboratory  
37 fund within the office of the county or municipal treasurer.

38 (2) Any other county or municipality which has agreed by  
39 contract to pay or reimburse the entire salary of at least one



1 forensic chemist or scientist employed by a laboratory designated  
2 as a State Forensic Laboratory pursuant to N.J.S. 2C:35-19, may  
3 establish a forensic laboratory fund within the office of the  
4 county or municipal treasurer.

5 ~~[(2)]~~ (3) A separate account shall be established in the State  
6 Treasury and shall be designated the "State Forensic Laboratory  
7 Fund."

8 e. The ~~[\$50.00]~~ analysis fee provided for in ~~[subsection a.]~~  
9 subsections a. and b. of this section shall be forwarded to the  
10 office of the <sup>2</sup>[county or municipal]<sup>2</sup> treasurer of the county or  
11 municipality that performed the laboratory analysis if that  
12 county or municipality has established a [county] forensic  
13 laboratory fund or, [where appropriate, to the State forensic  
14 laboratory that performed the analysis] to the State forensic  
15 laboratory fund if the analysis was performed by a laboratory  
16 operated by the State. If the county or municipality has not  
17 established a forensic laboratory fund, then the ~~[\$50.00]~~ analysis  
18 fee shall be forwarded to the State forensic laboratory fund  
19 within the State Treasury. If the analysis was performed by a  
20 forensic chemist or scientist whose salary was paid or reimbursed  
21 by a county or municipality pursuant to a contract, the analysis  
22 fee shall be forwarded to the appropriate forensic laboratory fund  
23 established pursuant to paragraph (2) of subsection d. of this  
24 section unless the contract provides for a different means of  
25 allocating and distributing forensic laboratory fees, in which  
26 event the terms of the contract may determine the amounts to be  
27 forwarded to each forensic laboratory fund. The county <sup>2</sup>or  
28 municipal<sup>2</sup> treasurer<sup>2</sup>, [municipal treasurer]<sup>2</sup> and State Treasurer  
29 may retain an amount of [this money] the total of all collected  
30 analysis fees equal to the administrative costs incurred pursuant  
31 to carrying out their respective responsibilities under this section.

32 f. Moneys deposited in the county or municipal forensic  
33 laboratory fund created pursuant to paragraph (1) of subsection c.  
34 of this section shall be in addition to any allocations pursuant to  
35 existing law and shall be designated for the exclusive use of the  
36 county or municipal forensic laboratory. These uses may include,  
37 but are not limited to, the following:

38 (1) costs incurred in providing [microscopic and chemical]  
39 analyses for controlled substances in connection with criminal

1 investigations conducted within this State;

2 (2) purchase and maintenance of equipment for use in  
3 performing analyses; and

4 (3) continuing education, training and scientific development  
5 of forensic scientists regularly employed by these laboratories.

6 g. Moneys deposited in the State forensic laboratory fund  
7 created pursuant to paragraph [(2)] (3) of subsection [c.] d. of this  
8 section shall be used by State forensic laboratories that the  
9 Attorney General designates pursuant to N.J.S. 2C:35-19, and the  
10 Division of State Police in the Department of Law and Public  
11 Safety. These moneys shall be in addition to any allocations  
12 pursuant to existing law and shall be designated for the exclusive  
13 use of State forensic facilities. These uses may include those  
14 enumerated in subsection [e.] f. of this section.

15 (cf: P.L.1988, c. 14, s. 1)

16 11. N.J.S. 2C:35-21 is amended to read as follows:

17 2C:35-21. Seizure in Violation of Chapter; Pretrial  
18 Destruction of Bulk Seizures of Controlled Dangerous Substances.

19 Any controlled dangerous substance or controlled substance  
20 analog seized in violation of this chapter shall be subject to the  
21 forfeiture provisions of chapter 64 of this title. In any case  
22 involving a bulk seizure of a controlled dangerous substance or a  
23 controlled substance analog, a prosecuting authority, upon notice  
24 to defense counsel, may apply to the trial court for an order to  
25 destroy all or some portion of the seized substance. The State,  
26 [or] county or municipal forensic laboratory that analyzes the  
27 substance shall make a photographic record thereof.

28 In the event that the defendant objects to the application to  
29 destroy all or some portion of the controlled dangerous substance  
30 or controlled substance analog, defense counsel shall within 20  
31 days of receiving notice from the prosecuting authority serve  
32 notice of objection upon the trial judge and the prosecuting  
33 authority. The notice of objection shall include the reasons  
34 therefor. Failure to comply with the time limitations regarding  
35 the notice of objection required by this section shall constitute a  
36 waiver of any objections to the destruction of all or some portion  
37 of the substance.

38 The decision to order the destruction of the substance shall be  
39 vested in the sound discretion of the trial court. Prior to the

1 issuance of any order authorizing the destruction of all or some  
2 portion of the controlled dangerous substance or controlled  
3 substance analog, and subject to reasonable supervision by  
4 laboratory or agency personnel, defense counsel shall be afforded  
5 an opportunity to inspect or test the substance.

6 The State, [or] county or municipal forensic laboratory  
7 authorized to destroy all or some portion of the controlled  
8 dangerous substance or controlled substance analog shall file with  
9 the court a certificate under oath attesting to the date on which  
10 the substance was destroyed, the quantity of the substance  
11 destroyed, and the method used to destroy the substance.

12 Notwithstanding any other provision of law, the photographic  
13 record made in accordance with the provisions of this section,  
14 upon proper authentication, may be introduced as evidence in any  
15 court.

(cf: N.J.S. 2C:35-21)

17 12. N.J.S. 2C:36A-1 is amended to read as follows:

18 2C:36A-1. Conditional discharge for certain first offenses;  
19 expunging of records. a. Whenever any person who has not  
20 previously been convicted of any offense under section 20 of P.L.  
21 1970, c. 226 (C. 24:21-20), or "a disorderly persons or petty  
22 disorderly persons offense defined in chapter 35 or 36 of this title  
23 or, subsequent to the effective date of this title, under any law of  
24 the United States, this State or any other state relating to  
25 marijuana, or stimulant, depressant, or hallucinogenic drugs, is  
26 charged with or convicted of any disorderly persons offense or  
27 petty disorderly persons offense under chapter 35 or 36 of this  
28 title, the court upon notice to the prosecutor and subject to  
29 subsection c. of this section, may on motion of the defendant or  
30 the court:

31 (1) Suspend further proceedings and with the consent of the  
32 person after reference to the State Bureau of Identification  
33 criminal history record information files, place him under  
34 supervisory treatment upon such reasonable terms and conditions  
35 as it may require; or

36 (2) After plea of guilty or finding of guilty, and without  
37 entering a judgment of conviction, and with the consent of the  
38 person after proper reference to the State Bureau of  
39 Identification criminal history record information files, place him

1 on supervisory treatment upon reasonable terms and conditions as  
it may require, or as otherwise provided by law.

3 b. In no event shall the court require as a term or condition of  
supervisory treatment under this section, referral to any  
5 residential treatment facility for a period exceeding the  
maximum period of confinement prescribed by law for the  
7 offense for which the individual has been charged or convicted,  
nor shall any term of supervisory treatment imposed under this  
9 subsection exceed a period of three years. If a person is placed  
under supervisory treatment under this section after a plea of  
11 guilty or finding of guilt, the court as a term and condition of  
supervisory treatment shall suspend the person's driving  
13 privileges for a period to be fixed by the court at not less than six  
months or more than two years. In the case of a person who at  
15 the time of placement under supervisory treatment under this  
section is less than 17 years of age, the period of suspension of  
17 driving privileges authorized herein <sup>1</sup>[ shall not commence to run  
until the person reaches the age of 17] , including a suspension of  
19 the privilege of operating a motorized bicycle, shall commence  
on the day the person is placed on supervisory treatment and shall  
21 run for a period as fixed by the court of not less than six months  
or more than two years after the day the person reaches the age  
23 of 17 years<sup>1</sup>.

If the driving privilege of a person is under revocation,  
25 suspension, or postponement for a violation of this title or Title  
39 <sup>1</sup>of the Revised Statutes<sup>1</sup> at the time of the person's  
27 placement on supervisory treatment under this section, the  
revocation, suspension or postponement period imposed herein  
29 shall commence as of the date of the termination of the existing  
revocation, suspension or postponement. The court which places  
31 a person on supervisory treatment under this section shall collect  
and forward the person's driver's license <sup>1</sup>to the Division of  
33 Motor Vehicles and file an appropriate report with the division<sup>1</sup>  
in accordance with the procedure set forth in N.J.S. 2C:35-16.  
35 <sup>1</sup>The court shall also inform the person of the penalties for  
operating a motor vehicle during the period of license suspension  
37 or postponement as required in N.J.S. 2C:35-16.<sup>1</sup>

Upon violation of a term or condition of supervisory treatment

1 the court may enter a judgment of conviction and proceed as  
2 otherwise provided, or where there has been no plea of guilty or  
3 finding of guilty, resume proceedings. Upon fulfillment of the  
4 terms and conditions of supervisory treatment the court shall  
5 terminate the supervisory treatment and dismiss the proceedings  
6 against him. Termination of supervisory treatment and dismissal  
7 under this section shall be without court adjudication of guilt and  
8 shall not be deemed a conviction for purposes of disqualifications  
9 or disabilities, if any, imposed by law upon conviction of a crime  
10 or disorderly persons offense but shall be reported by the clerk of  
11 the court to the State Bureau of Identification criminal history  
12 record information files. Termination of supervisory treatment  
13 and dismissal under this section may occur only once with respect  
14 to any person. Imposition of supervisory treatment under this  
15 section shall not be deemed a conviction for the purposes of  
16 determining whether a second or subsequent offense has occurred  
17 under section 29 of P.L. 1970, c. 226 (C. 24:21-29), chapter 35 or  
18 36 of this title or any law of this State.

19 c. Proceedings under this section shall not be available to any  
20 defendant unless the court in its discretion concludes that:

21 (1) The defendant's continued presence in the community, or  
22 in a civil treatment center or program, will not pose a danger to  
23 the community; or

24 (2) That the terms and conditions of supervisory treatment will  
25 be adequate to protect the public and will benefit the defendant  
26 by serving to correct any dependence on or use of controlled  
27 substances which he may manifest; and

28 (3) The person has not previously received supervisory  
29 treatment under section 27 of P.L. 1970, c. 226 (C. 24:21-27),  
30 N.J.S. 2C:43-12, or the provisions of this chapter.

31 <sup>2</sup>d. A person seeking conditional discharge pursuant to this  
32 section shall pay to the court a fee of \$45.00. The court shall  
33 forward all money collected under this subsection to the  
34 treasurer of the county in which the court is located. This money  
35 shall be used to defray the cost of juror compensation within that  
36 county. A person may apply for a waiver of this fee, by reason of  
37 poverty, pursuant to the Rules Governing the Courts of the State  
38 of New Jersey.<sup>2</sup>

39 (cf: N.J.S. 2C:36A-1)

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

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

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

7 (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  
9 between 10 years and 20 years;

11 (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;

13 (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  
15 between three years and five years;

17 (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.

19 b. As part of a sentence for any crime, where the court is  
clearly convinced that the aggravating factors substantially  
21 outweigh the mitigating factors, as set forth in subsections a. and  
b. of 2C:44-1, the court may fix a minimum term not to exceed  
23 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  
25 crime set forth in any statute other than this code, during which  
the defendant shall not be eligible for parole; provided that no  
27 defendant shall be eligible for parole at a date earlier than  
otherwise provided by the law governing parole.

29 c. A person who has been convicted under 2C:39-4a. of  
possession of a firearm with intent to use it against the person of  
31 another, or of a crime under any of the following sections:  
2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-3a.,  
33 2C:15-1, 2C:18-2, 2C:29-5, who, while in the course of  
committing or attempting to commit the crime, including the  
35 immediate flight therefrom, used or was in possession of a  
firearm as defined in 2C:39-1f., shall be sentenced to a term of  
37 imprisonment by the court. The term of imprisonment shall  
include the imposition of a minimum term. The minimum term  
39 shall be fixed at, or between, one-third and one-half of the

1 sentence imposed by the court or three years, whichever is  
greater, or 18 months in the case of a fourth degree crime, during  
3 which the defendant shall be ineligible for parole.

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

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

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

e. A person convicted of a third or subsequent offense  
27 involving State taxes under N.J.S. 2C:20-9, N.J.S. 2C:21-15, any  
other provision of this code, or under any of the provisions of  
29 Title 54 of the Revised Statutes, or Title 54A of the New Jersey  
Statutes, as amended and supplemented, shall be sentenced to a  
31 term of imprisonment by the court. This shall not preclude an  
application for and imposition of an extended term of  
33 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,  
35 dispensing or possessing with intent to distribute any dangerous  
substance or controlled substance analog under N.J.S. 2C:35-5, of  
37 maintaining or operating a controlled dangerous substance  
production facility under N.J.S. 2C:35-4, of employing a juvenile  
39

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

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

29 For the purpose of this subsection, a previous conviction exists  
30 where the actor has at any time been convicted under chapter 35  
31 of this title or Title 24 of the Revised Statutes or under any  
32 similar statute of the United States, this State, or any other state  
33 for an offense that is substantially equivalent to N.J.S. 2C:35-3,  
34 N.J.S. 2C:35-4, N.J.S. 2C:35-5, N.J.S. 2C:35-6 or section 1 of  
35 P.L. 1987, c. 101 (C. 2C:35-7).  
(cf. P.L. 1987, c. 106, s. 12)

37 14. N.J.S. 2C:43-7 is amended to read as follows:  
38 2C:43-7. Sentence of Imprisonment for Crime; Extended  
39 Terms.



1 a. In the cases designated in section 2C:44-3, a person who has  
2 been convicted of a crime may be sentenced to an extended term  
3 of imprisonment, as follows:

4 (1) In case of aggravated manslaughter sentenced under  
5 subsection c. of N.J.S. 2C:11-4 or kidnapping when sentenced as a  
6 crime of the first degree under paragraph (1) of subsection c. of  
7 2C:13-1 for a specific term of years which shall be between 30  
8 years and life imprisonment;

9 (2) Except for the crime of murder and except as provided in  
10 paragraph (1) of this subsection, in the case of a crime of the  
11 first degree, for a specific term of years which shall be fixed by  
12 the court and shall be between 20 years and life imprisonment;

13 (3) In the case of a crime of the second degree, for a term  
14 which shall be fixed by the court between 10 and 20 years;

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

17 (5) In the case of a crime of the fourth degree pursuant to  
18 2C:43-6c. and 2C:44-3d. for a term of five years, and in the case  
19 of a crime of the fourth degree pursuant to 2C:43-6f. for a term  
20 which shall be fixed by the court between three and five years.

21 b. As part of a sentence for an extended term and  
22 notwithstanding the provisions of 2C:43-9, the court may fix a  
23 minimum term not to exceed one-half of the term set pursuant to  
24 subsection a. during which the defendant shall not be eligible for  
25 parole or a term of 25 years during which time the defendant  
26 shall not be eligible for parole where the sentence imposed was  
27 life imprisonment; provided that no defendant shall be eligible for  
28 parole at a date earlier than otherwise provided by the law  
29 governing parole.

30 c. In the case of a person sentenced to an extended term  
31 pursuant to 2C:43-6c., 2C:43-6f. and 2C:44-3d., the court shall  
32 impose a sentence within the ranges permitted by 2C:43-7a. (2),  
33 (3), (4) or (5) according to the degree or nature of the crime for  
34 which the defendant is being sentenced, which sentence shall  
35 include a minimum term which shall, except as may be  
36 specifically provided by N.J.S. 2C:43-6f., be fixed at or between  
37 one-third and one-half of the sentence imposed by the court or  
38 five years, whichever is greater, during which the defendant shall  
39 not be eligible for parole. Where the sentence imposed is life

1 imprisonment, the court shall impose a minimum term of 25 years  
2 during which the defendant shall not be eligible for parole, except  
3 that where the term of life imprisonment is imposed on a person  
4 convicted for a violation of N.J.S. 2C:35-3, the term of parole  
5 ineligibility shall be 30 years.

(cf: P.L. 1987, c. 106, s. 13)

7 15. N.J.S. 2C:43-13 is amended to read as follows:

2C:43-13. Supervisory Treatment Procedure.

9 a. Agreement. The terms and duration of the supervisory  
10 treatment shall be set forth in writing, signed by the prosecutor  
11 and agreed to and signed by the participant. If the participant is  
12 represented by counsel, defense counsel shall also sign the  
13 agreement. Each order of supervisory treatment shall be filed  
14 with the county clerk.

15 b. Charges. During a period of supervisory treatment the  
16 charge or charges on which the participant is undergoing  
17 supervisory treatment shall be held in an inactive status pending  
18 termination of the supervisory treatment pursuant to subsections  
19 d. or e. of this section.

20 c. Period of treatment. Supervisory treatment may be for  
21 such period, as determined by the designated judge or the  
22 assignment judge, not to exceed [1 year] three years, provided,  
23 however, that the period of supervisory treatment may be  
24 shortened or terminated as the program director may determine  
25 with the consent of the prosecutor and the approval of the court.

26 d. Dismissal. Upon completion of supervisory treatment, and  
27 with the consent of the prosecutor, the complaint, indictment or  
28 accusation against the participant may be dismissed with  
29 prejudice.

30 e. Violation of conditions. Upon violation of the conditions of  
31 supervisory treatment, the court shall determine, after summary  
32 hearing, whether said violation warrants the participant's  
33 dismissal from the supervisory treatment program or  
34 modification of the conditions of continued participation in that  
35 or another supervisory treatment program. Upon dismissal of  
36 participant from the supervisory treatment program, the charges  
37 against the participant may be reactivated and the prosecutor  
38 may proceed as though no supervisory treatment had been  
39 commenced.

1 f. Evidence. No statement or other disclosure by a participant  
undergoing supervisory treatment made or disclosed to the person  
3 designated to provide such supervisory treatment shall be  
disclosed, at any time, to the prosecutor in connection with the  
5 charge or charges against the participant, nor shall any such  
statement or disclosure be admitted as evidence in any civil or  
7 criminal proceeding against the participant. Nothing provided  
herein, however, shall prevent the person providing supervisory  
9 treatment from informing the prosecutor, or the court, upon  
request or otherwise as to whether or not the participant is  
11 satisfactorily responding to supervisory treatment.

g. Delay. No participant agreeing to undergo supervisory  
13 treatment shall be permitted to complain of a lack of speedy trial  
for any delay caused by the commencement of supervisory  
15 treatment.

<sup>2</sup>A person applying for admission to a program of supervisory  
17 treatment shall pay to the court a fee of \$45.00. The court shall  
forward all money collected under this subsection to the  
19 treasurer of the county in which the court is located. This money  
shall be used to defray the cost of juror compensation within that  
21 county. A person may apply for a waiver of this fee, by reason of  
poverty, pursuant to the Rules Governing the Courts of the State  
23 of New Jersey.<sup>2</sup>

(cf: P.L. 1979, c. 178, s. 89)

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

27 24. Disposition of delinquency cases.

a. In determining the appropriate disposition for a juvenile  
29 adjudicated delinquent the court shall weigh the following factors:

- 31 (1) The nature and circumstances of the offense;
- (2) The degree of injury to persons or damage to property  
caused by the juvenile's offense;
- 33 (3) The juvenile's age, previous record, prior social service  
received and out-of-home placement history;
- 35 (4) Whether the disposition supports family strength,  
responsibility and unity and the well-being and physical safety of  
37 the juvenile;
- (5) Whether the disposition provides for reasonable  
39 participation by the child's parent, guardian, or custodian,

1 provided, however, that the failure of a parent or parents to  
2 cooperate in the disposition shall not be weighed against the  
3 juvenile in arriving at an appropriate disposition;

4 (6) Whether the disposition recognizes and treats the unique  
5 physical, psychological and social characteristics and needs of the  
6 child;

7 (7) Whether the disposition contributes to the developmental  
8 needs of the child, including the academic and social needs of the  
9 child where he has mental retardation or learning disabilities; and

10 (8) Any other circumstances related to the offense and the  
11 juvenile's social history as deemed appropriate by the court.

12 b. If a juvenile is adjudged delinquent the court may order  
13 incarceration pursuant to section 25 of this act or any one or  
14 more of the following dispositions:

15 (1) Adjourn formal entry of disposition of the case for a period  
16 not to exceed 12 months for the purpose of determining whether  
17 the juvenile makes a satisfactory adjustment, and if during the  
18 period of continuance the juvenile makes such an adjustment,  
19 dismiss the complaint; provided that if the court adjourns formal  
20 entry of disposition of delinquency for a violation of an offense  
21 defined in chapter 35 or 36 of Title 2C, of the New Jersey  
22 Statutes the court shall assess the mandatory penalty set forth in  
23 N.J.S. 2C:35-15 but may waive imposition of the penalty set  
24 forth in N.J.S. 2C:35-16 for juveniles adjudicated delinquent;

25 (2) Release the juvenile to the supervision of his or her parent  
26 or guardian;

27 (3) Place the juvenile on probation to the chief probation  
28 officer of the county or to any other suitable person who agrees  
29 to accept the duty of probation supervision for a period not to  
30 exceed 3 years upon such written conditions as the court deems  
31 will aid rehabilitation of the juvenile;

32 (4) Transfer custody of the juvenile to any relative or other  
33 person determined by the court to be qualified to care for the  
34 juvenile;

35 (5) Place the juvenile under the care of the Department of  
36 Human Services under the responsibility of the Division of Youth  
37 and Family Services pursuant to P.L. 1951, c. 138, s. 2(c) (C.  
38 30:4C-2(c)) for the purpose of providing services in or out of the  
39 home. Within 14 days, unless for good cause shown, but not later

1 than 30 days, the Department of Human Services shall submit to  
the court a service plan, which shall be presumed valid, detailing  
3 the specifics of any disposition order. The plan shall be  
developed within the limits of fiscal and other resources available  
5 to the department. If the court determines that the service plan  
is inappropriate, given existing resources, the department may  
7 request a hearing on that determination;

(6) Place the juvenile under the care and custody of the  
9 Commissioner of the Department of Human Services for the  
purpose of receiving the services of the Division of Mental  
11 Retardation of that department, provided that the juvenile has  
been determined to be eligible for those services under P.L. 1965,  
13 c. 59, s. 16 (C. 30:4-25.4);

(7) Commit the juvenile, pursuant to the laws governing civil  
15 commitment, to the Department of Human Services under the  
responsibility of the Division of Mental Health and Hospitals for  
17 the purpose of placement in a suitable public or private hospital  
or other residential facility for the treatment of persons who are  
19 mentally ill, on the ground that the juvenile, if not committed,  
would be a probable danger to himself or others or property by  
21 reason of mental illness;

(8) Fine the juvenile an amount not to exceed the maximum  
23 provided by law for such a crime or offense if committed by an  
adult and which is consistent with the juvenile's income or ability  
25 to pay and financial responsibility to his family, provided that the  
fine is specially adapted to the rehabilitation of the juvenile or to  
27 the deterrence of the type of crime or offense. If the fine is not  
paid due to financial limitations, the fine may be satisfied by  
29 requiring the juvenile to submit to any other appropriate  
disposition provided for in this section;

(9) Order the juvenile to make restitution to a person or entity  
31 who has suffered loss resulting from personal injuries or damage  
to property as a result of the offense for which the juvenile has  
33 been adjudicated delinquent. The court may determine the  
reasonable amount, terms and conditions of restitution. If the  
35 juvenile participated in the offense with other persons, the  
participants shall be jointly and severally responsible for the  
37 payment of restitution. The court shall not require a juvenile to  
39 make full or partial restitution if the juvenile

1 reasonably satisfies the court that he does not have the means to  
2 make restitution and could not reasonably acquire the means to  
3 pay restitution;

4 (10) Order that the juvenile perform community services under  
5 the supervision of a probation department or other agency or  
6 individual deemed appropriate by the court. Such service shall be  
7 compulsory and reasonable in terms of nature and duration. Such  
8 services may be performed without compensation, provided that  
9 any money earned by the juvenile from the performance of  
10 community services may be applied towards any payment of  
11 restitution or fine which the court has ordered the juvenile to pay;

12 (11) Order that the juvenile participate in work programs  
13 which are designed to provide job skills and specific employment  
14 training to enhance the employability of job participants. Such  
15 programs may be without compensation, provided that any money  
16 earned by the juvenile from participation in a work program may  
17 be applied towards any payment of restitution or fine which the  
18 court has ordered the juvenile to pay;

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

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

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

33 (15) Order the parents or guardian of the juvenile to  
34 participate in appropriate programs or services when the court  
35 has found either that such person's omission or conduct was a  
36 significant contributing factor towards the commission of the  
37 delinquent act, or, under its authority to enforce litigant's rights,  
38 that such person's omission or conduct has been a significant  
39 contributing factor towards the ineffective implementation of a

1 court order previously entered in relation to the juvenile;

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

9 (b) Place the juvenile under the custody of the Department of  
Corrections for placement with any private group home or  
private residential facility with which the department has  
11 entered into a purchase of service contract;

13 (17) Instead of or in addition to any disposition made according  
to this section, the court may postpone, suspend, or revoke for a  
period not to exceed 2 years the driver's license, registration  
15 certificate, or both of any juvenile who used a motor vehicle in  
the course of committing an act for which he was adjudicated  
17 delinquent. In imposing this disposition and in deciding the  
duration of the postponement, suspension, or revocation, the  
19 court shall consider the severity of the delinquent act and the  
potential effect of the loss of driving privileges on the juvenile's  
21 ability to be rehabilitated. Any postponement, suspension, or  
revocation shall be imposed consecutively with any custodial  
23 commitment; or

25 (18) Order that the juvenile satisfy any other conditions  
reasonably related to the rehabilitation of the juvenile.

27 c. (1) If the juvenile detention facility in the county in which  
the juvenile has been adjudicated delinquent has a juvenile  
detention facility meeting the physical and program standards  
29 established pursuant to this subsection by the Department of  
Corrections, the court may, in addition to any of the dispositions  
31 enumerated in this subsection, incarcerate the juvenile in a youth  
detention facility for a term not to exceed 60 consecutive days.  
33 The Department of Corrections shall promulgate such rules and  
regulations from time to time as deemed necessary to establish  
35 minimum physical facility and program standards for the use of  
juvenile detention facilities pursuant to this subsection.

37 (2) No juvenile may be incarcerated in any county detention  
facility unless the county has entered into an agreement with the  
39 Department of Corrections concerning the use of the facility for

1 sentenced juveniles. Upon agreement with the county, the  
2 Department of Corrections shall certify detention facilities  
3 which may receive juveniles sentenced pursuant to this subsection  
4 and shall specify the capacity of the facility that may be made  
5 available to receive such juveniles; provided, however, that in no  
6 event shall the number of juveniles incarcerated pursuant to this  
7 subsection exceed 50% of the maximum capacity of the facility.

8 (3) The court may fix a term of incarceration under this  
9 subsection where:

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

13 (b) Incarceration of the juvenile is consistent with the  
14 rehabilitative goals of this act and the court is clearly convinced  
15 that the aggravating factors substantially outweigh the  
16 mitigating factors as set forth in section 25 of this act; and

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

19 (4) If as a result of incarcerations of adjudicated juveniles  
20 pursuant to this subsection, a county is required to transport a  
21 predisposition juvenile to a juvenile detention facility in another  
22 county, the costs of such transportation shall be borne by the  
23 Department of Corrections.

24 d. Whenever the court imposes a disposition upon an  
25 adjudicated delinquent which requires the juvenile to perform a  
26 community service, restitution, or to participate in any other  
27 program provided for in this section other than subsection c., the  
28 duration of the juvenile's mandatory participation in such  
29 alternative programs shall extend for a period consistent with the  
30 program goal for the juvenile and shall in no event exceed 1 year  
31 beyond the maximum duration permissible for the delinquent if he  
32 has been committed to a correctional institution.

33 (cf: P.L. 1982, c. 77, s. 24)

34 17. Section 2 of P.L. 1982, c. 81 (C. 2A:4A-71) is amended to  
35 read as follows:

36 2. Review and processing of complaints.

37 a. The jurisdiction of the court in any complaint filed pursuant  
38 to section 11 of P.L. 1982, c. 77 (C. 2A:4A-30) shall extend to the  
39 juvenile who is the subject to the complaint and his parents or  
40 guardian.





1                    *Sponsor*    STATEMENT    S2026 (1988)

3            This bill makes a series of clarifying and technical amendments  
4            to the recently enacted "Comprehensive Drug Reform Act of  
5            1986". The following is a brief description of the amendments  
6            proposed in the bill:

7            1. Clarifies that in calculating the maximum fine which may  
8            be imposed for a conviction for maintaining or operating an  
9            illegal drug production facility under N.J.S. 2C:35-4, the court  
10           may impose a fine of up to \$500,000.00 or five times the street  
11           value of all drugs produced at the illicit production facility,  
12           whichever is greater.

13           2. Clarifies that the quantities of drugs may be aggravated for  
14           purposes of determining the degree of the offense if the theory of  
15           the prosecution so provides. This amendment is intended to make  
16           clear that the original intent of the Comprehensive Drug Reform  
17           Act was that the prosecutor retains the discretion to charge  
18           individual acts in separate counts as was true under predecessor  
19           law found in Title 24.

20           3. Eliminates the requirement currently found in N.J.S.  
21           2C:35-5 that there be at least 3.5 grams of pure free base  
22           substance in the seized sample with respect to certain drugs.  
23           Data recently compiled from the State forensic laboratory  
24           system confirms that the purity of illicit drugs currently  
25           produced and marketed renders this threshold obsolete. With  
26           respect to cocaine, for example, every case involving the seizure  
27           of more than one-half ounce which was submitted for analysis in  
28           1987 involved in excess of 3.5 grams of the pure free base  
29           substance thus rendering a time consuming quantitative analysis  
30           unnecessary and superfluous.

31           4. With regard to the sale of drugs near schools, authorizes the  
32           governing bodies of municipalities and counties to produce and  
33           officially approve maps which, upon proper authentication, would  
34           be prima facie evidence of the location and boundaries of areas  
35           on or within 1,000 feet of school property. The bill further  
36           provides that these drug-free school zones would include areas on  
37           or within 1,000 feet of property leased by any elementary or  
38           secondary school and used for school purposes. This bill also  
39           clarifies that it is not a defense to a prosecution for distributing

1 drugs within 1,000 property that no juveniles were present on the  
2 school property at the time of the offense, or that the school was  
3 not then in session. The effect of this amendment would be to  
4 make clear that the State need not establish in its case-in-chief  
5 that juvenile were present or that the school was in session. The  
6 original intent with respect to the offense now codified at  
7 N.J.S.A. 2C:35-7 was to create a permanent drug safety zone  
8 areound schools, in recognition that children routinely congregate  
9 on school property and schoolyards before and after the normal  
10 school day, and during summer recess and other vacation periods.

11 5. Creates a new disorderly persons offense for any person who  
12 unlawfully comes into possession of a controlled dangerous  
13 substance or controlled substance analog and who fails to  
14 voluntarily turn over the substance to law enforcement officials.

15 6. Clarifies that every person placed insupervisory treatment,  
16 whether under N.J.S. 2C:43-12, 2C:36A-1 or 2A:4A-43b. (1),  
17 would be assessed the mandatory Drug Enforcement and Demand  
18 Reduction penalty. This amendment would also provide that the  
19 court should only impose one such penalty upon a defendant as a  
20 condition of his enrollment into supervisory treatment, regardless  
21 of the number of drug counts pending against him. If the  
22 defendant is charged with more than one drug offense, the court  
23 as a condition of the defendant's enrollment into supervisory  
24 treatment would be required to impose the prescribed DEDR  
25 penalty applicable to the most serious offense charged.

26 7. Clarifies that if either a county or municipality maintains a  
27 publicly funded forensic laboratory engaged in the analysis of  
28 controlled dangerous substances, or has entered into a contract to  
29 reimburse the salary of a forensic chemist or scientist employed  
30 by a designated laboratory, that municipality or county would be  
31 eligible to receive the proceeds from the mandatory analysis fees.

32 8. Clarifies that if a person is granted a conditional discharge  
33 under N.J.S. 2C:36A-1 after a guilty plea or finding of guilt, the  
34 court would be required to suspend or postpone the person's  
35 driving privileges for not less than six months. The court would  
36 also retain discretion to revoke or postpone a persons's driving  
37 privileges where the preson is enrolled into the conditional  
discharge program prior to a guilty plea or finding of guilt.

1       9. Provides that the extended terms of imprisonment  
imposable on a person convicted of a fourth degree drug  
3 distribution offense who had previously been convicted of any  
drug distribution offense shall be between 3 and 5 years  
5 imprisonment.

7       10. Provides a mandatory term of seven years without parole  
eligibility for a person convicted of employing a juvenile in a drug  
distribution scheme who had previously been convicted of a  
9 serious drug related offense.

11       11. Provides that juvenile court intake services must refer all  
alleged drug offenses for court action unless the prosecutor  
otherwise consents to diversion. The effect of this amendment  
13 will be to treat all disorderly persons drug offenses in the same  
manner as crimes and repetitive disorderly persons offenses are  
15 presently processed.

17

#### CRIMINAL JUSTICE

19

#### Criminal Sentences and Bail

21       Makes a series of amendments to the "Comprehensive Drug  
Reform Act of 1986."

SENATE LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE

STATEMENT TO

SENATE, No. 2026

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 29, 1988

The Senate Law, Public Safety and Defense Committee reports favorably Senate Bill 2026 with amendments.

As amended, Senate Bill 2026 makes a series of clarifying and technical amendments to the recently enacted "Comprehensive Drug Reform Act of 1986." The following is a brief description of the amendments proposed in the bill:

1. In calculating the maximum fine which may be imposed for a conviction of maintaining or operating an illegal drug production facility under N.J.S. 2C:35-4, a court may impose a fine of up to \$500,000.00 or five times the street value, whichever is greater, of all drugs produced at the illicit production facility.

2. Quantities of drugs may be aggregated in order to determine the degree of an offense if the theory of the prosecution so provides. This amendment makes clear that the original intent of the Comprehensive Drug Reform Act was to allow the prosecutor to retain his discretion to charge individual criminal acts in separate counts, which was the case under the predecessor laws in Title 24 of the Revised Statutes.

3. The current requirement in N.J.S. 2C:35-5 that there be at least 3.5 grams of pure free base substance in seized samples of certain drugs is eliminated. Data compiled by the State forensic laboratory system confirms that the purity of illicit drugs currently produced and marketed makes this threshold requirement obsolete. For example, every case involving the seizure of more than one-half ounce of cocaine submitted for analysis in 1987 involved an excess of 3.5 grams of the pure free base substance, thus making a time consuming quantitative analysis unnecessary and superflous.

4. Municipalities and counties are authorized to produce and approve maps which would be used as prima facie evidence of the

location and boundaries of the area on or within 1,000 feet of school property. These drug-free school zones would include areas on or within 1,000 feet of property leased by an elementary or secondary school and used for school purposes. It would not be a defense to a prosecution for distributing drugs within 1,000 feet of school property to claim that no juveniles were present at the time of the offense or that the school was not in session. This amendment makes clear that the State need not establish in every case that juveniles were present or that the school was in session. The original intent behind the enactment of N.J.S. 2C:35-7 was to create a permanent drug safety zone around schools in recognition that children routinely congregate on school property and schoolyards before and after the normal school day and during vacation periods.

5. A new disorderly persons offense is created for any person who unlawfully comes into possession of a controlled dangerous substance or controlled substance analog and who fails to voluntarily turn over the substance to law enforcement officials.

6. Every person placed in supervisory treatment, whether under N.J.S. 2C:43-12, 2C:36A-1, or 2A:4A-43b.(1), would be assessed the mandatory Drug Enforcement and Demand Reduction penalty. A court would only impose one such penalty upon a defendant as a condition of his enrollment into supervisory treatment regardless of the number of drug charges pending against him. If the defendant is charged with more than one drug offense, the court as a condition of the defendant's enrollment into supervisory treatment would be required to impose the prescribed penalty applicable to the most serious offense charged.

7. N.J.S. 2C:35-16 (mandatory forfeiture or postponement of driving privileges) and N.J.S. 2C:36A-1 (placement into supervisory treatment after a plea of guilty or finding of guilt) is amended to provide for the suspension of driver's licenses, the collection of suspended licenses, and the notification of the Division of Motor Vehicles. Also, the court would have to notify the defendant of the penalties for driving a motor vehicle during the period of license suspension.

county or municipality maintains a publicly funded forensic laboratory engaged in the analysis of controlled dangerous substances or if a county or municipality has entered into a contract to pay the salary of a forensic chemist or scientist employed by a designated laboratory, that county or municipality would be eligible to receive proceeds from the funds into which the mandatory lab analysis fees paid by defendants are deposited

9. If a person is granted a conditional discharge under N.J.S. 2C:36A-1 after a guilty plea or finding of guilt, a court would be required to suspend or postpone the person's driving privileges for not less than six months or more than two years. The court would also retain discretion to suspend a person's driving privileges where the person is enrolled in the conditional discharge program prior to a guilty plea or finding of guilt.

10. The extended terms of imprisonment imposed against a person convicted of a fourth degree drug distribution offense shall be between three and five years if the person had previously been convicted of any drug distribution offense .

11. A mandatory term of seven years imprisonment without parole would be imposed against a person convicted of employing a juvenile in a drug distribution scheme if the person had previously been convicted of another serious drug related offense.

12. Juvenile court intake services must refer all alleged drug offenders for court action unless the prosecutor otherwise consents to diversion. This amendment would result in the processing of all disorderly persons drug offenses in the same way as crimes and repetitive disorderly persons offenses are presently processed.

The committee amended section 7 and section 12 of the bill in order to clarify the procedures in N.J.S. 2C:35-16 and 2C:36A-1 for the suspension of driver's licenses. The clarification is to enable the Division of Motor Vehicles to implement the suspensions in an orderly and practicable manner.