

2A:53A-18 to 2A:53A-20 ✓

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2A:53A-18 to 2A:53A-20

(Criminal activities--
prohibit criminals from
collecting civil damages)

LAWS OF: 1985

CHAPTER: 223

Bill No: A1044

Sponsor(s): Flynn

Date Introduced: January 23, 1984

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: Yes
according to Governor's recommendations

Amendments denoted by asterisks

Date of Passage: Assembly: April 30, 1984 Re-enacted 6-24-85

Senate: May 2, 1984 Re-enacted 6-27-85

Date of Approval: July 2, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: Yes

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

ASSEMBLY, No. 1044

STATE OF NEW JERSEY

INTRODUCED JANUARY 23, 1984

By Assemblyman FLYNN

AN ACT barring criminals from recovery of civil damages under certain circumstances, and supplementing Title 2A of the New Jersey Statutes.

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

1 1. Notwithstanding any law or judicial ruling to the contrary,
2 any person who is convicted of or pleads guilty to a criminal of-
3 fense, shall be barred from receiving a judgment, other than a
4 judgment for damages resulting from negligent or intentional
5 conduct showing reckless disregard for the value of human life,
6 against any person who otherwise would have been liable in a civil
7 action for damages initiated by the person who has been found
8 guilty or who has pleaded guilty, provided that liability does not
9 arise from conduct which would itself constitute a criminal offense.

1 2. For the purposes of this act, the scope of the bar to judgment
2 shall include all actions in preparation of the criminal activity,
3 all actions during the criminal activity, and all actions in connection
4 with the attempted escape from the scene of the criminal activity
5 or subsequent apprehension.

1 3. In the event that the prosecution of the alleged criminal
2 activity shall not have been brought to conclusion prior to the start
3 of a civil action for damages by one who has been arrested for a
4 criminal offense, the civil action for damages shall be stayed pend-
5 ing the final disposition of the criminal matter.

1 4. This act shall take effect immediately.

STATEMENT

This bill prohibits a person who is convicted of or who pleads guilty to a criminal offense from obtaining a judgment for damages in a civil action against a person who would otherwise be liable to that person for damages.

The bill creates an exception to the bar of recovery of damages by a criminal where the damages result from a judgment for intentional or negligent conduct which shows reckless disregard for the value of human life; thus in certain situations such as the intentional setting of a spring gun or similar device recovery would be permitted.

A1044 (1985)

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1044

STATE OF NEW JERSEY

DATED: OCTOBER 22, 1984

This bill bars a person who is convicted of or who pleads guilty to a criminal offense from obtaining a judgment for damages in a civil action for injuries sustained during the course of the criminal activity. Thus, for example, a burglar who fell into a property owner's uncovered well while fleeing from the burglary could not sue the property owner for damages.

The only exemption to this bar would be in cases where the criminal could show that the damages resulted from intentional or negligent conduct which showed a reckless disregard for the value of human life or from conduct which would itself constitute a criminal offense. An example cited in the sponsor's statement of the type of situation which would permit recovery is the intentional setting of a spring gun or similar device.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

June 17, 1985

ASSEMBLY BILL NO. 1044

To the General Assembly:

Pursuant to Article V, Section 1, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 1044 with my recommendations for reconsideration.

Assembly Bill No. 1044 would preclude an individual who was adjudicated or who pleaded guilty to a criminal offense from filing a lawsuit against another person to recover monetary damages for injuries sustained in the preparation of the crime, during the commission of the crime or in connection with an attempted escape from the scene of the crime. The prohibition would not apply if the civil defendant's actions involved negligent or intentional conduct showing a disregard for the value of human life, or if the civil defendant's conduct itself constitutes a criminal offense. If an individual were to file such a lawsuit during the course of criminal proceedings involving his actions, the civil action would be stayed until the final disposition of the criminal matter.

I support the concept expressed in Assembly Bill No. 1044. A criminal defendant should not have the opportunity to benefit from his criminal endeavor. Despite my support for the concept, I must return Assembly Bill No. 1044 so that technical amendments may be made in two areas.

The scope of the prohibition on civil actions by a criminal defendant must be clarified. While the intent of Assembly Bill No. 1044 is to preclude a criminal defendant from filing a lawsuit against another person for monetary damages for injuries sustained in preparation for the crime, during the crime or in connection with an attempted escape from the crime, the language is not clear in this regard.

I am concerned that the phrase "final disposition of the criminal matter" within Section 3 is also unclear. The sponsor has indicated that he intended that this phrase mean the point at which the verdict, judgment and sentence are entered against the criminal defendant. I am advised that this phrase can also

STATE OF NEW JERSEY
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be interpreted as the point at which all appeals from the criminal judgment and sentence are exhausted. Therefore, I recommend that Section 3 be amended to specifically define the phrase "final disposition of the criminal matter" as the point at which the jury verdict, final judgment and sentence are entered against a criminal defendant.

Accordingly, I return Assembly Bill No. 1044 and recommend that it be amended as follows:

Page 1, Section 1, Line 7: After "damages" insert "arising under the circumstances set forth in section 2 of this act which is"

Page 1, Section 2, Line 2: Delete "include" insert "be limited to"

Page 1, Section 3, Line 5: After "." insert "For the purposes of this section, the final disposition of the criminal matter shall mean the point at which the judgment of conviction is entered against one who is arrested for a criminal offense."

Respectfully,

/s/ Thomas H. Kean
GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards
Chief Counsel

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7-2-85

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1044

STATE OF NEW JERSEY

INTRODUCED JANUARY 23, 1984

By Assemblyman FLYNN

AN ACT barring criminals from recovery of civil damages under certain circumstances, and supplementing Title 2A of the New Jersey Statutes.

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

1 1. Notwithstanding any law or judicial ruling to the contrary,
2 any person who is convicted of or pleads guilty to a criminal of-
3 fense, shall be barred from receiving a judgment, other than a
4 judgment for damages resulting from negligent or intentional
5 conduct showing reckless disregard for the value of human life,
6 against any person who otherwise would have been liable in a civil
7 action for damages **arising under the circumstances set forth in*
8 *section 2 of this act which is** initiated by the person who has been
9 found guilty or who has pleaded guilty, provided that liability does
10 not arise from conduct which would itself constitute a criminal
11 offense.

1 2. For the purposes of this act, the scope of the bar to judgment
2 shall ***[include]*** **be limited to** all actions in preparation of the
3 criminal activity, all actions during the criminal activity, and all
4 actions in connection with the attempted escape from the scene of
5 the criminal activity or subsequent apprehension.

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

Matter printed in italics *thus* is new matter.

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

*—Assembly amendments adopted in accordance with Governor's recommendations June 17, 1985.

1 3. In the event that the prosecution of the alleged criminal
2 activity shall not have been brought to conclusion prior to the start
3 of a civil action for damages by one who has been arrested for a
4 criminal offense, the civil action for damages shall be stayed pend-
5 ing the final disposition of the criminal matter. **For the purposes*
6 *of this section, the final disposition of the criminal matter shall*
7 *mean the point at which the judgment of conviction is entered*
8 *against one who is arrested for a criminal offense.**

1 4. This act shall take effect immediately.

BILLS SIGNED

PAGE TWO

JULY 3, 1985

Other bills signed by the Governor with his recommendations made in earlier conditional vetoes are:

A-1044, sponsored by Assemblyman William Flynn, D-Middlesex, which precludes an individual who is found guilty or who pleads guilty to a criminal charge from filing a lawsuit to recover monetary damages for injuries sustained while engaged in criminal conduct.

S-1004, sponsored by Senator Christopher Jackman, D-Hudson, to increase the capital or net worth and liquidity requirements for check cashing licensee applicants.

S. 1307 sponsored by Senator Joseph Hirkala, D-Passaic, to permit a veteran member of the Public Employees' Retirement System (PERS) who is 60 years of age and has 35 years of aggregate service to retire and receive an allowance of one-sixtieth of compensation received during his final year of employment for each year of credited service.

S-1356, sponsored by Senator John Caufield, D-Essex, to allow a chief investigator, assistant chief investigator, senior investigator or investigator in a county welfare agency to transfer membership into the Police and Firemen's Retirement System.

A-1821, sponsored by Assemblyman John Bennett, R-Monmouth, to permit county and municipal employers to provide health and hospital benefits coverage to retirees 62 years or older with at least 15 years of service.

S-215, sponsored by Senator Edward O'Connor, D-Hudson, which makes certain changes in the law pertaining to the Sheriff's Employees Retirement System.

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