

2C:43-2 and 2C:45-1

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:43-2 and 2C:45-1 (Probation - revises certain statutes)

LAW OF: 1983

CHAPTER: 124

Bill No: S1463

Sponsor(s): Kennedy

Date Introduced: June 3, 1982

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

Senate: Judiciary

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

Date of Passage: Assembly: March 14, 1983

Senate: July 22, 1982

Date of Approval: April 5, 1983

Following statements are attached if available:

Sponsor statement:		Yes	//
Committee statement:	Assembly	Yes	//
	Senate	Yes	//
Fiscal Note:		///	No
Veto Message:		///	No
Message on Signing:		Yes	//
Following were printed:			
Reports:		Yes	//
Hearings:		Yes	//

Attached:

974.90 New Jersey. Governor (1982- :Kean)
P959 Prison overcrowding, a plan of action.
1982d April, 1982. Trenton.
(p.8)

(over)

See also:

974.90 **New Jersey. Legislature. Senate. Institutions,**
P959 **Health and Welfare Committee.**
1982 **Public hearing on overcrowding in State**
 prisons and county jails, held 2-18-82.
 Trenton, 1982.
 (See especially pp 12-13, 15-16)

[OFFICIAL COPY REPRINT]

SENATE, No. 1463

STATE OF NEW JERSEY

INTRODUCED JUNE 3, 1982

By Senator KENNEDY

Referred to Committee on Judiciary

AN ACT concerning probation and amending N. J. S. 2C:43-2 and
N. J. S. 2C:45-1.

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

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

2 2C:43-2. Sentence in Accordance with Code; Authorized Disposi-
3 tions.

4 a. Except as provided in section 2C:43-1b, as to persons con-
5 victed of offenses under the New Jersey Controlled Dangerous Sub-
6 stances Act, or as otherwise provided by this code, all persons
7 convicted of an offense or offenses shall be sentenced in accordance
8 with this chapter.

9 b. Except as provided in subsection a. of this section and subject
10 to the applicable provisions of the code, the court may suspend the
11 imposition of sentence on a person who has been convicted of an
12 offense, or may sentence him as follows:

13 (1) To pay a fine or make restitution authorized by section
14 2C:43-3; or

15 (2) To be placed on probation and, in the case of a person cou-
16 victed of a crime, to imprisonment for a term fixed by the court not
17 exceeding **[180]** 364 days to be served as a condition of probation,
18 or in the case of a person convicted of a disorderly persons offense,
19 to imprisonment for a term fixed by the court not exceeding 90 days
20 to be served as a condition of probation; or

21 (3) To imprisonment for a term authorized by sections 2C:11-3,
22 2C:43-5, 6, 7 and 8 or 2C:44-5; or

**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 committee amendments adopted January 27, 1983.**

23 (4) To pay a fine, make restitution and probation, or fine, restitu-
24 tion and imprisonment; or

25 (5) To release under supervision in the community or to require
26 the performance of community-related service; or

27 (6) To a halfway house or other residential facility in the com-
28 munity, including agencies which are not operated by the Depart-
29 ment of Human Services; or

30 (7) To imprisonment at night or on weekends with liberty to
31 work or to participate in training or educational programs.

32 c. Instead of or in addition to any disposition made according to
33 this section, the court may postpone, suspend, or revoke for a period
34 not to exceed 2 years the driver's license, registration certificate,
35 or both of any person convicted of a crime, disorderly persons
36 offense, or petty disorderly persons offense in the course of which
37 a motor vehicle was used. In imposing this disposition and in
38 deciding the duration of the postponement, suspension, or revoca-
39 tion, the court shall consider the severity of the crime or offense
40 and the potential effect of the loss of driving privileges on the
41 person's ability to be rehabilitated. Any postponement, suspension,
42 or revocation shall be imposed consecutively with any custodial
43 sentence.

44 d. This chapter does not deprive the court of any authority con-
45 ferred by law to decree a forfeiture of property, suspend or cancel
46 a license, remove a person from office, or impose any other civil
47 penalty. Such a judgment or order may be included in the sentence.

48 e. The court shall state on the record the reasons for imposing
49 the sentence, including its findings pursuant to the criteria for
50 withholding or imposing imprisonment or fines under sections
51 2C:44-1 to 2C:44-3, where imprisonment is imposed, considera-
52 tion of the defendant's eligibility for release under the law govern-
53 ing parole and the factual basis supporting its findings of particular
54 aggravating or mitigating factors affecting sentence.

1 2. N. J. S. 2C:45-1 is amended to read as follows:

2 2C:45-1. Conditions of Suspension or Probation.

3 a. When the court suspends the imposition of sentence on a
4 person who has been convicted of an offense or sentences him to
5 be placed on probation, it shall attach such reasonable conditions,
6 authorized by this section, as it deems necessary to insure that he
7 will lead a law-abiding life or is likely to assist him to do so. These
8 conditions may be set forth in a set of standardized conditions
9 promulgated by the county probation department and approved by
10 the court.

11 b. The court, as a condition of its order, may require the
12 defendant:

- 13 (1) To support his dependents and meet his family responsi-
14 bilities;
- 15 (2) To find and continue in gainful employment;
- 16 (3) To undergo available medical or psychiatric treatment and
17 to enter and remain in a specified institution, when required for
18 that purpose;
- 19 (4) To pursue a prescribed secular course of study or vocational
20 training;
- 21 (5) To attend or reside in a facility established for the instruc-
22 tion, recreation or residence of persons on probation;
- 23 (6) To refrain from frequenting unlawful or disreputable places
24 or consorting with disreputable persons;
- 25 (7) Not to have in his possession any firearm or other dangerous
26 weapon unless granted written permission;
- 27 (8) To make restitution of the fruits of his offense, in an amount
28 he can afford to pay, for the loss or damage caused thereby;
- 29 (9) To remain within the jurisdiction of the court and to notify
30 the court or the probation officer of any change in his address or
31 his employment;
- 32 (10) To report as directed to the court or the probation officer,
33 to permit the officer to visit his home, and to answer all reasonable
34 inquiries by the probation officer;
- 35 (11) To pay a fine;
- 36 (12) To satisfy any other conditions reasonably related to the
37 rehabilitation of the defendant and not unduly restrictive of his
38 liberty or incompatible with his freedom of conscience;
- 39 (13) To require the performance of community-related service.
- 40 c. When the court sentences a person who has been convicted of
41 a crime to be placed on probation, it may require him to serve a
42 term of imprisonment not exceeding [180] 364 days as an addi-
43 tional condition of its order. When the court sentences a person
44 convicted of a disorderly persons offense to be placed on probation,
45 it may require him to serve a term of imprisonment not exceeding
46 90 days as an additional condition of its order. **In imposing a term*
47 *of imprisonment pursuant to this subsection, the sentencing court*
48 *shall specifically place on the record the reasons which justify the*
49 *sentence imposed.** The term of imprisonment imposed hereunder
50 shall be treated as part of the sentence, and in the event of a
51 sentence of imprisonment upon the revocation of probation, the
52 term of imprisonment served hereunder shall be credited toward
53 service of such subsequent sentence. *A term of imprisonment im-*
53A *posed under this section shall be governed by the "Parole Act of*
53B *1979," P. L. 1979, c. 441 (C. 30:4-123.45 et seq.).*

54 *Whenever a person is serving a term of parole as a result of a*
55 *sentence of incarceration imposed as a condition of probation,*
56 *supervision over that person shall be maintained pursuant to the*
57 *provisions of the law governing parole***[**, unless the sentencing*
58 *court, for good cause, provides that concurrent supervision shall be*
59 *maintained by the county probation department**]****. Upon termina-
60 *tion of the period of parole supervision provided by law, the county*
61 *probation department shall assume responsibility for supervision*
62 *of the person under sentence of probation. Nothing contained in*
63 *this section shall prevent the sentencing court from at any time pro-*
64 *ceeding under the provisions of this chapter against any person for*
65 *a violation of probation.*

66 d. The defendant shall be given a copy of the terms of his pro-
67 bation or suspension of sentence and any requirements imposed
68 pursuant to this section, stated with sufficient specificity to enable
69 him to guide himself accordingly. The defendant shall acknowl-
70 edge, in writing, his receipt of these documents and his consent to
71 their terms.

1 3. This act shall take effect immediately.

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 57 provisions of the law governing parole, unless the sentencing court,
 58 for good cause, provides that concurrent supervision shall be main-
 59 tained by the county probation department. Upon termination of
 60 the period of parole supervision provided by law, the county proba-
 61 tion department shall assume responsibility for supervision of the
 62 person under sentence of probation. Nothing contained in this
 63 section shall prevent the sentencing court from at any time pro-
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 70 edge, in writing, his receipt of these documents and his consent to
 71 their terms.

1 3. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to amend N. J. S. 2C:43-2 and N. J. S. 2C:45-1 to increase the maximum sentence as a condition of probation from 180 days to 364 days and would also make the parole law which is to be applied to county jail prisoners applicable to persons sentenced to county jail as a condition of probation. The law now in effect restricts a criminal court judge who desires to impose probation, and a custodial sentence as a condition thereof, to a very limited choice. The longest custodial sentence which can now be imposed as a condition of probation is a sentence of 180 days in a county jail. If the sentencing judge feels that custodial sentence is inadequate he must then impose a sentence of the minimum term of State prison confinement which would be 3 years. This results in less flexibility for sentencing judges and a disproportionate number of prisoners being sentenced to State prisons compared to prior practice. This amendment will introduce greater flexibility into the law and will result in a decline in State prison sentences and a corresponding increase in county jail sentences. However, any such increase in county jail sentences should be offset by the application of the parole law to county inmates.

S1463(1982)

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO

SENATE, No. 1463

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 27, 1983

Presently, the longest custodial term of imprisonment which can be imposed as a condition of probation is 180 days. This bill would increase the maximum term of imprisonment which can be imposed in connection with a sentence of probation to 364 days. This bill would also make the parole law applicable to persons sentenced to county jail as a condition of probation.

This bill operates on the theory that the criminal code unduly restricts the options available to a sentencing court and has resulted in a disproportionate number of prisoners being sentenced to State prison instead of county jails compared to the practice prior to the code's enactment. It is intended that the changes proposed will result in greater flexibility for sentencing judges and a decline in State prison sentences with a corresponding increase in county jail sentences. It is also anticipated that any such increase in county jail sentences will be offset by the application of the parole law to county inmates.

The committee amended the bill to provide that the court shall specifically place on the record the reasons which justify the 364 day sentence imposed as a condition of probation. In addition, the committee amended the bill to provide that the supervision of persons so sentenced would be exclusively maintained pursuant to the parole laws.

Assembly Bill No. 1559 and Senate Bill No. 1463 were released by the committee in identical form.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1463

STATE OF NEW JERSEY

DATED: JUNE 24, 1982

Presently, the longest custodial term of imprisonment which can be imposed as a condition of probation is 180 days. This bill would increase the maximum term of imprisonment which can be imposed in connection with a sentence of probation to 364 days. The bill would also make the parole law applicable to persons sentenced to county jail as a condition of probation.

The bill operates on the theory that the criminal code unduly restricts the options available to a sentencing court and has resulted in a disproportionate number of prisoners being sentenced to state prison instead of county jails compared to the practice prior to the code's enactment. It is intended that the changes proposed in the bill will result in greater flexibility for sentencing judges and a decline in state prison sentences with a corresponding increase in county jail sentences. It is hoped that any such increase in county jail sentences will be offset by the application of the parole law to county inmates.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATELY

CONTACT: PAUL WOLCOTT

TUESDAY, APRIL 5, 1983

Governor Thomas H. Kean has signed the following bills:

S-1463, sponsored by State Senator Brian T. Kennedy, R-Monmouth, which increases the jail term in a county jail which a court may require be served as a condition of probation. Under current law such a term is limited to 180 days, and in order for a judge to impose a longer jail term, coupled with probation, the convicted person must be sentenced to a State Prison term of 1-3 years. This bill extends that 180-day period to 364 days.

S-1355, sponsored by State Senator James R. Hurley, R-Cumberland, which amends the Solid Waste Utility Control Act to remove the pick-up, transportation and unloading of septic waste from the authority of the Board of Public Utilities.

A-2324, sponsored by Assemblyman Michael F. Adubato, D-Essex, which transfers the unrestricted reserve of the Unsatisfied Claim and Judgment Fund to the General Fund. As signed, the bill reflects the recommendations the Governor made in his original conditional veto of the bill. A copy of that veto message is attached.

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county jails which amounts to approximately one-third of the total county jail population.

2. An increase in the maximum sentence that can be imposed as a condition of probation. The law now in effect restricts a criminal court judge who desires to impose probation, and a custodial sentence as a condition thereof, to a very limited choice. The longest custodial sentence which can now be imposed as a condition of probation is a sentence of 180 days in a county jail. If the sentencing judge feels that custodial sentence is inadequate he must then impose a sentence of the minimum term of State prison confinement which would be three years. This results in less flexibility for sentencing judges and a disproportionate number of prisoners being sentenced to State prisons compared to prior practice. The amendment which we propose would increase the maximum sentence as a condition of probation to 364 days and would also make the parole law which is to be applied to county jail prisoners applicable to persons sentenced to county jail as a condition of probation. It is our belief that this amendment will introduce greater flexibility into the law and will probably result in a decline in State prison sentences and a corresponding increase in county jail sentences. However, any such increase in county jail sentences should be offset by the application of the parole law to county inmates.

3. Emergency early parole release. I am proposing that the Legislature authorize, as recommended by the Task Force appointed by Governor Byrne, an emergency mechanism that would permit the acceleration of parole release dates for non-violent prisoners whose parole eligibility has already been established by the Parole Board and whose parole dates have already been fixed. The authority to be conferred by such legislation would require authorization by the Governor and the Commissioner of Corrections and would be designed to deal with an emergency