

53:1-15

LEGISLATIVE HISTORY CHECKLIST

NJSA 53:1-15 (Fingerprinting required of persons charged with certain offenses)

LAWS 1981 CHAPTER 411

Bill No. S3379

Sponsor(s) J. Russo

Date Introduced Nov. 12, 1981

Committee: Assembly Judiciary

Senate Judiciary

Amended during passage Yes No

Date of Passage: Assembly Jan. 4, 1981

Senate Dec. 7, 1981

Date of approval Jan. 7, 1982

Following statements are attached if available:

Sponsor statement	Yes	<input checked="" type="checkbox"/> No
Committee Statement: Assembly	Yes	<input checked="" type="checkbox"/> No
Senate	Yes	<input checked="" type="checkbox"/> No
Fiscal Note	<input checked="" type="checkbox"/>	No
Veto Message	<input checked="" type="checkbox"/>	No
Message on signing	Yes	<input checked="" type="checkbox"/> No

Following were printed:

Reports	<input checked="" type="checkbox"/>	No
Hearings	<input checked="" type="checkbox"/>	No

Court Rule, R.3:3-1, cited in sponsor's statement-- attached.

6/22/81

PP

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SENATE, No. 3379

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 12, 1981

By Senator J. RUSSO

Referred to Committee on Judiciary

AN ACT concerning the fingerprinting and photographing of certain persons and amending R. S. 53:1-15 and section 1 of P. L. 1952, c. 92.

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

1 1. R. S. 53:1-15 is amended to read as follows:

2 53:1-15. The sheriffs, chiefs of police, members of the State
3 Police and any other law enforcement agencies and officers, shall
4 immediately upon the arrest of any person for an indictable offense,
5 or of any person believed to be wanted for an indictable offense, or
6 believed to be an habitual criminal, **[and immediately after the con-**
7 **viction of any person of violations of the provisions of section**
8 **2A:170-8 of the New Jersey Statutes,]** *or within a reasonable time*
9 *after the filing of a complaint by a law enforcement officer charging*
10 *any person with an indictable offense, take the fingerprints of such*
11 *person according to the fingerprint system of identification*
12 *established by the Superintendent of State Police and on the forms*
13 *prescribed, and forward without delay two copies or more of the*
14 *same, together with photographs and such other descriptions as*
15 *may be required and with a history of the offense committed, to the*
16 *State Bureau of Identification.*

16A Such sheriffs, chiefs of police, members of the State Police and
16B any other law enforcement agencies and officers shall also take the
16C fingerprints, descriptions and such other information as may be
16D required, of unknown dead persons and forward same to the State
16E Bureau of Identification.

17 *Any person charged in a complaint filed by a law enforcement*
18 *officer with an indictable offense who has not been arrested shall*
19 *submit himself to the identification procedures provided herein*
20 *either on the date of any court appearance or upon written request*
21 *of the appropriate law enforcement agency within a reasonable time*

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

22 *after the filing of the complaint. Any person who refuses to submit*
 23 *to such identification procedures shall be a disorderly person.*

1 2. Section 1 of P. L. 1952, c. 92 (C. 53:1-18.1) is amended to read
 2 as follows:

3 1. Every law enforcement officer designated in [section] *R. S.*
 4 *53:1-15* [of the Revised Statutes] shall, immediately upon the
 5 arrest of any person for *or within a reasonable time after the filing*
 6 *of a complaint by a law enforcement officer charging any person*
 7 *with any offense against the laws of the United States, or any*
 8 *offense against the laws of this State, relating to narcotic or*
 9 *dangerous drugs, whether the same shall be indictable or otherwise,*
 10 *take the fingerprints of such person and forward copies thereof*
 11 *together with photographs and such other description and informa-*
 12 *tion as is required by such section in the case of the arrest of persons*
 13 *for any offense indictable under the laws of this State.*

1 3. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to insure that all those who are charged with indictable offenses and with narcotic offenses will be fingerprinted and that a record of such charge will be maintained within the State Bureau of Identification. Recent amendments to the New Jersey Rules of Court require this statutory amendment since the rules now permit the issuance of a summons in lieu of a warrant in certain cases involving indictable offenses. See *R. 3:3-1*. In those cases where a summons rather than a warrant issues, the individual charged is not arrested and is not, therefore, fingerprinted.

Since fingerprinting is the only means by which the State Bureau of Identification is advised of an arrest for an indictable offense, it is necessary to require that an individual issued a summons on an indictable offense be fingerprinted within a reasonable time after the filing of the charge.

The bill only requires identification procedures in cases where law enforcement officers have filed the complaints in order to avoid the necessity of fingerprinting individuals where patently frivolous complaints have been filed by citizens. At the present time, the Administrative Office of the Courts requires that police must take such complaints despite their frivolous nature or potential for harassment.

Lastly, the bill provides that any person who refuses to submit to identification procedures either on a date fixed for any court appearance or upon written request by the appropriate law enforcement agency shall be a disorderly person.

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S 3379 (1981)

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ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO
SENATE, No. 3379

STATE OF NEW JERSEY

DATED: DECEMBER 17, 1981

The purpose of this bill is to insure that all those who are charged with indictable offenses and with narcotic offenses will be fingerprinted and that a record of such charge will be maintained within the State Bureau of Identification. Recent amendments to the New Jersey Rules of Court require this statutory amendment since the rules now permit the issuance of a summons in lieu of a warrant in certain cases involving indictable offenses. See *R. 3:3-1*. In those cases where a summons rather than a warrant issues, the individual charged is not arrested and is not, therefore, fingerprinted.

Since fingerprinting is the only means by which the State Bureau of Identification is advised of an arrest for an indictable offense, it is necessary to require that an individual issued a summons on an indictable offense be fingerprinted within a reasonable time after the filing of the charge.

The bill only requires identification procedures in cases where law enforcement officers have filed the complaints in order to avoid the necessity of fingerprinting individuals where patently frivolous complaints have been filed by citizens. At the present time, the Administrative Office of the Courts requires that police must take such complaints despite their frivolous nature or potential for harassment.

Lastly, the bill provides that any person who refuses to submit to identification procedures either on a date fixed for any court appearance or upon written request by the appropriate law enforcement agency shall be a disorderly person.

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SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 3379

STATE OF NEW JERSEY

DATED: NOVEMBER 23, 1981

Recent amendments to the New Jersey Rules of Court permit the issuance of a summons in lieu of a warrant in cases involving certain indictable offenses. In those cases where a summons rather than a warrant is issued the individual is not arrested.

R. S. 53:1-15 requires the fingerprinting of all those arrested for indictable offenses. R. S. 53:1-18.1 requires the fingerprinting of those arrested for all narcotic-related offenses whether indictable or non-indictable. The purpose of Senate Bill No. 3379 is to amend these statutes to permit the fingerprinting of those charged with indictable offenses and narcotic-related offenses whether arrested or issued a summons.

A person issued a summons would be required to be fingerprinted within a reasonable time after the filing of the charge. In order to avoid the necessity of fingerprinting individuals where patently frivolous complaints have been filed, however, identification procedures would only be required in cases where law enforcement officers have filed the complaints.

Any person who refuses to submit to identification procedures either on a date fixed for any court appearance or upon written request by the appropriate law enforcement agency would be guilty of a disorderly persons offense.

Senate Bill No. 3379 is supported by the Division of Criminal Justice and the New Jersey Prosecutors' Association.

S-3379, sponsored by Senator John F. Russo (D-Ocean) amending existing statutes on the fingerprinting of persons charged with indictable offenses to require that all persons charged with indictable offenses and with narcotics offenses be fingerprinted and the prints filed with the State Bureau of Identification. The act takes effect immediately.

The State Supreme Court, in September of 1980, amended certain court rules pertaining to persons charged with indictable offenses. One of the Court's holdings allowed the issuance of summonses instead of warrants for indictable offenses where there is little need for detention or further investigation (violent crimes were exempted).

The rule resulted in the inability of many law enforcement authorities to fingerprint some persons charged with indictable offenses but issued summonses rather than arrest warrants, since current fingerprinting statutes require an arrest to be made. Persons "summoned" to appear in court are not technically arrested and many narcotics charges are non-indictable offenses.

This bill amends the fingerprinting statutes to require fingerprinting for all indictable offenses and all narcotics related offenses, indictable or non-indictable.

A-1371, sponsored by Assemblywoman Barbara F. Kalik (D-Burlington) allowing counties and municipalities to appoint two alternate members to their utility or sewerage authorities.

The alternates would be able to participate in authority proceedings but would be permitted to vote only if a regular member is absent or disqualified. If an alternate is available, authority proceedings may not be delayed to allow a regular member to vote rather than the alternate. The act takes effect immediately.

A-3152, sponsored by Assemblyman Walter Rand (D-Camden) and known as the "New Jersey Ridesharing Act of 1981," defines ridesharing and attempts to promote its growth by defining employer and employee liability for engaging in van or carpooling programs.

3:1-4 RULES GOVERNING CRIMINAL PRACTICE

court unless the form thereof has been settled on motion on notice to all parties affected thereby or unless the written approval of such attorneys or parties to the form thereof is endorsed thereon.

(c) **Settlement on Notice.** In lieu of settlement by motion or consent, the party proposing the form of judgment or order may forward the original thereof to the judge who heard the matter and shall serve a copy thereof on every other party not in default together with a notice advising him that unless he notifies the judge and the proponent of the judgment or order in writing of his specific objections thereto within 5 days after such service, the judgment or order may be signed in the judge's discretion. If no such objection is timely made, the judge may forthwith sign the judgment or order. If objection is made, the matter may be listed for hearing in the discretion of the court.

Note: Adopted July 29, 1977 to be effective September 6, 1977. Paragraph (c) amended July 24, 1978 to be effective September 11, 1978; paragraph (a) amended July 16, 1981 to be effective September 14, 1981.

3:1-5. Trial of Non-Indictables in Superior Court

Proceedings involving charges constituting a disorderly persons offense or a petty disorderly persons offense shall be heard in Superior Court when they are brought pursuant to N.J.S.A. 2C:34-2b, N.J.S.A. 2C:37-8, or as otherwise required by law, and shall be governed by the rules in Part III insofar as applicable.

Note: Adopted August 28, 1979 to be effective September 1, 1979.

RULE 3:2. COMPLAINT: CONTENTS, SERVICE

The complaint shall be a written statement of the essential facts constituting the offense charged made upon oath before a judge or other person empowered by law to take complaints. Whenever practicable a copy thereof shall be served on the defendant at the time of service of the summons or execution of the warrant.

Note: Source—R.R. 3:2-1(a) (b).

RULE 3:3. WARRANT OR SUMMONS UPON COMPLAINT

3:3-1. Issuance

(a) **Warrant or Summons.** An arrest warrant may be issued by a judge of a court having jurisdiction in the municipality in which the offense is alleged to have been committed or in which the defendant may be found, or by the clerk or a deputy clerk of

that court, if it appears to such judge, clerk or deputy clerk from the complaint, or from an affidavit or deposition taken under oath, that there is probable cause to believe that an offense has been committed and that the defendant has committed it. The warrant may issue to any officer authorized by law to execute it. A summons may issue instead of a warrant as provided in subsection (b), or if the defendant is a corporation. Instead of detaining a person arrested without a warrant, the officer may give such person a summons as provided in Rule 3:4-1(b).

(b) Guidance on Issuance. Whenever application for a warrant or summons is made before a judge or clerk authorized to issue a warrant, either under this Rule upon the filing of a complaint or pursuant to R. 3:4-1 after an arrest without warrant, a summons shall issue rather than a warrant unless the judge or clerk finds that any of the following conditions exists:

(1) The accused is charged with murder, kidnapping, aggravated manslaughter, manslaughter, robbery, aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact, aggravated assault, aggravated arson, arson, burglary, violations of the Controlled Dangerous Substances Act, excluding minor possessory offenses, any crime involving the possession or use of a firearm, or conspiracies or attempts to commit such crimes;

(2) The accused has previously failed to respond to a summons;

(3) The judge or clerk has reason to believe that the accused is dangerous to himself, to others or to property;

(4) There are one or more outstanding arrest warrants for the accused;

(5) The whereabouts of the accused are unknown and an arrest warrant is necessary to subject him to the jurisdiction of the court; or

(6) The judge or clerk has reason to believe that the accused will not appear in response to a summons.

(c) Failure of Defendant to Appear After Summons. If a defendant who has been duly summoned fails to appear, or if there is reasonable cause to believe that he will fail to appear, an arrest warrant shall issue. If a defendant corporation fails to appear after having been duly summoned, a plea of not guilty shall be entered by the court if it is empowered to try the offense for which the summons was issued, and it may proceed to trial and judgment without further process; if the court is not so empowered it shall proceed as though the defendant had appeared.

(d) Additional Warrants or Summonses. More than one warrant or summons may issue on the same complaint.

3.3-1 RULES GOVERNING CRIMINAL PRACTICE

(e) **Identification Procedures Upon Issuance of Summons.** In cases where a summons has issued in lieu of warrant pursuant to this rule, the defendant shall undergo all post arrest identification procedures, which are required by law upon an arrest, on the return date of the summons. In the event that the defendant does not appear on the return date or refuses to submit to the post arrest identification procedures, the court may on its own, or at the request of the prosecutor, order the issuance of an arrest warrant.

Note: Source—R.R. 3:2-2(a)(1) (2) (3) and (4); paragraph (a) amended, new paragraph (b) adopted and former paragraphs (b) and (c) redesignated as (c) and (d) respectively July 21, 1980 to be effective September 8, 1980; paragraph (b) amended and paragraph (e) adopted July 16, 1981 to be effective September 14, 1981.

3:3-2. Form and Contents of Warrant and Summons

The warrant or summons shall be signed by the committing judge or issued in his name and signed by the court clerk or deputy court clerk and shall describe the offense charged in the complaint. The warrant shall also contain the defendant's name, or if his name is unknown, any name or description which identifies him with reasonable certainty, and shall be directed to any officer authorized by law to execute the same, commanding that the defendant be arrested and brought before the court issuing the warrant. The summons shall be directed to the defendant named in the complaint, requiring him to appear before the court in which the complaint is made at the time and place stated therein and informing him that a warrant for his arrest will issue upon his failure to so appear.

Note: Source—R.R. 3:2-2(b).

3:3-3. Execution or Service; Return

(a) **By Whom.** The warrant shall be executed and the summons served by any officer authorized by law.

(b) **Territorial Limits.** The warrant may be executed and the summons served at any place within this State. An officer arresting a defendant in a county other than the one in which the warrant was issued shall take him, without unnecessary delay, before the nearest available committing judge authorized to admit to bail in accordance with R. 3:26-2, who may admit to bail conditioned on the defendant's appearance before the court issuing the warrant. Nothing in this rule shall affect the provisions of N.J.S. 2A:156-1 to 2A:156-4 (Uniform Act on Intrastate Fresh Pursuit).

(c) **Execution of Warrant.** The warrant shall be executed by the arrest of the defendant. The officer need not have the warrant in his possession at the time of the arrest, but upon request he shall show the warrant to the defendant as soon as possible. If the officer does not have the warrant in his possession at the time of the arrest, he shall inform the defendant of the offense charged and of the fact that a warrant has been issued.