

LEGISLATIVE HISTORY CHECKLIST

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LAWS of 1999

CHAPTER: 25

NJSA: 2C:21-27 to 2C:21-27.6
(Money laundering)

BILL NO: A2171(Substituted for S1194, S1198, S1240-SCS)

SPONSOR(S): Cohen and Barnes

DATE INTRODUCED: June 11, 1998

COMMITTEE:

ASSEMBLY: Judiciary

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATES OF PASSAGE:

ASSEMBLY: January 28, 1999

SENATE: January 28, 1999

DATE OF APPROVAL: February 16, 1999

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: 1st Reprint; Assembly Substitute A2171, A2479, A2492, A2645
(Amendments during passage denoted by superscript numbers)

Assembly Substitute for A2171, A2479, A2492, A2645

SPONSORS STATEMENT: *No*

COMMITTEE STATEMENT:

ASSEMBLY: No

SENATE: No

FLOOR AMENDMENT STATEMENTS: *Yes*

LEGISLATIVE FISCAL ESTIMATE: *No*

A2171

SPONSORS STATEMENT: *Yes (Begins on page 3 of original bill)*

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

LAST VERSION: *Yes (1st Reprint)*

(Amendments during passage denoted by superscript numbers)

A2479

SPONSORS STATEMENT: *Yes (Begins on page 4 of original bill)*

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *Yes*

LAST VERSION: *Yes (1st Reprint)*

(Amendments during passage denoted by superscript numbers)

A2492

SPONSORS STATEMENT: *Yes (Begins on page 2 of original bill)*

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

A2645

SPONSORS STATEMENT: *Yes (Begins on page 2 of original bill)*

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

SCS for S1194, 1198, 1240

SPONSORS STATEMENT: *No*

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *Yes*

LAST VERSION: *Yes*

(Amendments during passage denoted by superscript numbers)

S1194

SPONSORS STATEMENT: *Yes (Begins on page 4 of original bill)*

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

S1198

SPONSORS STATEMENT: *Yes (Begins on page 3 of original bill)*

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

S1240

SPONSORS STATEMENT: *Yes (Begins on page 5 of original bill)*

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

GOVERNOR'S ACTIONS

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

P.L. 1999, CHAPTER 25, *approved February 16, 1999*
Assembly Substitute (*First Reprint*) for
Assembly, Nos. 2171, 2479, 2492 and 2645

1 AN ACT concerning money laundering and amending P.L.1968, c.409,
2 N.J.S.2C:5-4, P.L.1994, c.121, N.J.S.2C:41-1, N.J.S.2C:41-3,
3 P.L.1991, c.329 and supplementing Title 2C of the New Jersey
4 Statutes.

5

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

8

9 1. Section 8 of P.L.1968, c.409 (C.2A:156A-8) is amended to
10 read as follows:

11 8. The Attorney General, county prosecutor or a person
12 designated to act for such an official and to perform his duties in and
13 during his actual absence or disability, may authorize, in writing, an ex
14 parte application to a judge designated to receive the same for an
15 order authorizing the interception of a wire, or electronic or oral
16 communication by the investigative or law enforcement officers or
17 agency having responsibility for an investigation when such
18 interception may provide evidence of the commission of the offense of
19 murder, kidnapping, gambling, robbery, bribery, a violation of
20 paragraph (1) or (2) of subsection b. of N.J.S.2C:12-1, a violation of
21 N.J.S.2C:21-19 punishable by imprisonment for more than one year,
22 a violation of P.L.1994, c.121 (C.2C:21-23 et seq.), terroristic
23 threats, violations of N.J.S.2C:35-3, N.J.S.2C:35-4 and
24 N.J.S.2C:35-5, violations of sections 112 through 116, inclusive, of
25 the "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through
26 5:12-116), arson, burglary, theft and related offenses punishable by
27 imprisonment for more than one year, endangering the welfare of a
28 child pursuant to N.J.S.2C:24-4, escape, forgery, alteration of motor
29 vehicle identification numbers, unlawful manufacture, purchase, use,
30 or transfer of firearms, unlawful possession or use of destructive
31 devices or explosives, racketeering or a violation of subsection g. of
32 N.J.S.2C:5-2, leader of organized crime, organized criminal activity
33 directed toward the unlawful transportation, storage, disposal,
34 discharge, release, abandonment or disposition of any harmful,
35 hazardous, toxic, destructive, or polluting substance, or any
36 conspiracy to commit any of the foregoing offenses or which may
37 provide evidence aiding in the apprehension of the perpetrator 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 underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted January 12, 1999.

1 perpetrators of any of the foregoing offenses.

2 (cf: P.L.1995, c.119, s.1)

3

4 2. N.J.S.2C:5-4 is amended to read as follows:

5 2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation
6 in Cases of Lesser Danger. a. Grading. Except as provided in
7 **【subsection】 subsections c. and d.**, an attempt or conspiracy to
8 commit a crime of the first degree is a crime of the second degree;
9 except that an attempt to commit murder is a crime of the first degree.
10 Otherwise an attempt is a crime of the same degree as the most serious
11 crime which is attempted, and conspiracy is a crime of the same degree
12 as the most serious crime which is the object of the conspiracy;
13 provided that, leader of organized crime is a crime of the second
14 degree. An attempt or conspiracy to commit an offense defined by a
15 statute outside the code shall be graded as a crime of the same degree
16 as the offense is graded pursuant to sections 2C:1-4 and 2C:43-1.

17 b. Mitigation. The court may impose sentence for a crime of a
18 lower grade or degree if neither the particular conduct charged nor the
19 defendant presents a public danger warranting the grading provided for
20 such crime under subsection a. because:

21 (1) The criminal attempt or conspiracy charged is so inherently
22 unlikely to result or culminate in the commission of a crime; or

23 (2) The conspiracy, as to the particular defendant charged, is so
24 peripherally related to the main unlawful enterprise.

25 c. Notwithstanding the provisions of subsection a. of this section,
26 conspiracy to commit a crime set forth in subsection a., b., or d. of
27 N.J.S.2C:17-1 where the structure which was the target of the crime
28 was a church, synagogue, temple or other place of public worship is
29 a crime of the first degree.

30 d. Notwithstanding the provisions of subsection a. of this section,
31 conspiracy to commit a crime as set forth in P.L.1994, c.121
32 (C.2C:21-23 et seq.) is a crime of the same degree as the most
33 serious crime that was conspired to be committed.

34 (cf: P.L.1997, c.34, s. 1)

35

36 3. Section 3 of P.L.1994, c.121 (C.2C:21-25) is amended to read
37 as follows:

38 3. A person is guilty of a crime if the person:

39 a. transports or possesses property known to be derived from
40 criminal activity; or

41 b. engages in a transaction involving property known to be derived
42 from criminal activity

43 (1) with the intent to facilitate or promote the criminal activity; or

44 (2) knowing that the transaction is designed in whole or in part

45 (a) to conceal or disguise the nature, location, source, ownership
46 or control of the property derived from criminal activity; or

1 (b) to avoid a transaction reporting requirement under the laws of
2 this State or any other state or of the United States; or

3 c. directs, organizes, finances, plans, manages, supervises, or
4 controls the transportation of or transactions in property known to be
5 derived from criminal activity.

6 d. For the purposes of this act, property is known to be derived
7 from criminal activity if the person knows that the property involved
8 represents proceeds from some form, though not necessarily which
9 form, of criminal activity. Among the factors that the finder of fact
10 may consider in determining that a transaction has been designed to
11 avoid a transaction reporting requirement shall be whether the person,
12 acting alone or with others, conducted one or more transactions in
13 currency, in any amount, at one or more financial institutions, on one
14 or more days, in any manner. The phrase "in any manner" includes the
15 breaking down of a single sum of currency exceeding the transaction
16 reporting requirement into smaller sums, including sums at or below
17 the transaction reporting requirement, or the conduct of a transaction,
18 or series of currency transactions, including transactions at or below
19 the transaction reporting requirement. The transaction or transactions
20 need not exceed the transaction reporting threshold at any single
21 financial institution on any single day in order to demonstrate a
22 violation of subparagraph (b) of paragraph (2) of subsection b. of this
23 section.

24 (cf: P.L.1994, c.121, s.3)

25
26 4. Section 5 of P.L.1994, c.121 (C.2C:21-27) is amended to read
27 as follows:

28 5. a. **【Where the amount involved is \$75,000 or more, the】** The
29 offense defined in section 3 of 【this act】 P.L.1994, c.121 (C.2C:21-
30 25) constitutes a crime of the first degree if the amount involved is
31 \$500,000.00 or more. If the amount involved is at least \$75,000.00
32 but less than \$500,000.00 the offense constitutes a crime of the
33 second degree; otherwise, the offense constitutes a crime of the third
34 degree. Notwithstanding the provisions of N.J.S.2C:43-3, the court
35 may also impose a fine up to \$500,000.00. The amount involved in a
36 prosecution for violation of this section shall be determined by the trier
37 of fact. Amounts involved in transactions conducted pursuant to one
38 scheme or course of conduct may be aggregated in determining the
39 degree of the offense. Notwithstanding the provisions of paragraph
40 (1) of subsection a. of N.J.S.2C:43-6, a person convicted of a crime
41 of the first degree pursuant to the provisions of this subsection shall
42 be sentenced to a term of imprisonment that shall include the
43 imposition of a minimum term which shall be fixed at, or between,
44 one-third and one-half of the sentence imposed, during which time the
45 defendant shall not be eligible for parole.

46 b. In addition to any other dispositions authorized by this Title,

1 upon conviction of a violation of this section, the court may sentence
2 the defendant to pay an amount as calculated pursuant to subsection
3 a. of section 6 of **[this act]** P.L.1994, c.121 (C.2C:21-28).

4 c. Notwithstanding N.J.S.2C:1-8 or any other provision of law, a
5 conviction of an offense defined in this section shall not merge with
6 the conviction of any other offense constituting the criminal activity
7 involved or from which the property was derived, and a conviction of
8 any offense constituting the criminal activity involved or from which
9 the property was derived shall not merge with a conviction of an
10 offense defined in section 3 of **[this act]** P.L.1994, c.121 (C.2C:21-
11 25), and the sentence imposed upon a conviction of any offense
12 defined in section 3 of P.L.1994, c.121 (C.2C:21-25) shall be ordered
13 to be served consecutively to that imposed for a conviction of any
14 offense constituting the criminal activity involved or from which the
15 property was derived. Nothing in **[this act]** P.L.1994, c.121 (C.2C:21-
16 23 et. seq.) shall be construed in any way to preclude or limit a
17 prosecution or conviction for any other offense defined in this Title or
18 any other criminal law of this State.

19 (cf: P.L.1994, c.121, s.5)

20

21 5. N.J.S.2C:41-1 is amended to read as follows:

22 2C:41-1. Definitions.

23 For purposes of this section and N.J.S.2C:41-2 through
24 N.J.S.2C:41-6:

25 a. "Racketeering activity" means (1) any of the following crimes
26 which are crimes under the laws of New Jersey or are equivalent
27 crimes under the laws of any other jurisdiction:

28 (a) murder

29 (b) kidnapping

30 (c) gambling

31 (d) promoting prostitution

32 (e) obscenity

33 (f) robbery

34 (g) bribery

35 (h) extortion

36 (i) criminal usury

37 (j) violations of Title 33 of the Revised Statutes

38 (k) violations of Title 54A of the New Jersey Statutes and Title 54
39 of the Revised Statutes

40 (l) arson

41 (m) burglary

42 (n) theft and **[related]** all crimes defined in chapter 20 of Title 2C
43 of the New Jersey Statutes

44 (o) forgery and fraudulent practices and all crimes defined in
45 chapter 21 of Title 2C of the New Jersey Statutes

46 (p) fraud in the offering, sale or purchase of securities

- 1 (q) alteration of motor vehicle identification numbers
- 2 (r) unlawful manufacture, purchase, use or transfer of firearms
- 3 (s) unlawful possession or use of destructive devices or explosives
- 4 (t) violation of sections 112 through 116 inclusive of the "Casino
- 5 Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116)
- 6 (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6
- 7 and all crimes involving illegal distribution of a controlled dangerous
- 8 substance or controlled substance analog, except possession of [84
- 9 grams or] less than one ounce of marijuana [or of N.J.S.2C:35-4 or
- 10 N.J.S.2C:35-6]
- 11 (v) violation of subsection b. of N.J.S.2C:24-4 except for
- 12 subparagraph (b) of paragraph (5) of subsection b.
- 13 (2) any conduct defined as "racketeering activity" under Title 18,
- 14 U.S.C.s.1961(1)(A), (B) and (D).
- 15 b. "Person" includes any individual or entity or enterprise as
- 16 defined herein holding or capable of holding a legal or beneficial
- 17 interest in property.
- 18 c. "Enterprise" includes any individual, sole proprietorship,
- 19 partnership, corporation, business or charitable trust, association, or
- 20 other legal entity, any union or group of individuals associated in fact
- 21 although not a legal entity, and it includes illicit as well as licit
- 22 enterprises and governmental as well as other entities.
- 23 d. "Pattern of racketeering activity" requires
- 24 (1) Engaging in at least two incidents of racketeering conduct one
- 25 of which shall have occurred after the effective date of this act and the
- 26 last of which shall have occurred within 10 years (excluding any period
- 27 of imprisonment) after a prior incident of racketeering activity; and
- 28 (2) A showing that the incidents of racketeering activity embrace
- 29 criminal conduct that has either the same or similar purposes, results,
- 30 participants or victims or methods of commission or are otherwise
- 31 interrelated by distinguishing characteristics and are not isolated
- 32 incidents.
- 33 e. "Unlawful debt" means a debt
- 34 (1) Which was incurred or contracted in gambling activity which
- 35 was in violation of the law of the United States, a state or political
- 36 subdivision thereof; or
- 37 (2) Which is unenforceable under state or federal law in whole or
- 38 in part as to principal or interest because of the laws relating to usury.
- 39 f. "Documentary material" includes any book, paper, document,
- 40 writing, drawing, graph, chart, photograph, phonorecord, magnetic or
- 41 recording or video tape, computer printout, other data compilation
- 42 from which information can be obtained or from which information can
- 43 be translated into useable form or other tangible item.
- 44 g. "Attorney General" includes the Attorney General of New
- 45 Jersey, his assistants and deputies. The term shall also include a
- 46 county prosecutor or his designated assistant prosecutor if a county

1 prosecutor is expressly authorized in writing by the Attorney General
2 to carry out the powers conferred on the Attorney General by this
3 chapter.

4 h. "Trade or commerce" shall include all economic activity
5 involving or relating to any commodity or service.
6 (cf: P.L.1995, c.110)

7

8 6. N.J.S.2C:41-3 is amended to read as follows:

9 2C:41-3. Criminal penalties.

10 a. Any person who violates any provision of N.J.S.2C:41-2 in
11 connection with a pattern of racketeering activity which involves a
12 crime of violence ~~or~~, ¹ a crime of the first degree or the use of
13 firearms ¹ or a crime of the first degree or a crime under the provisions
14 of P.L.1994, c.121 (C.2C:21-23 et seq.) which constitutes a crime of
15 the first or second degree ¹ shall be guilty of a crime of the first
16 degree. All other violations of N.J.S.2C:41-2 shall be crimes of the
17 second degree. ¹ Notwithstanding the provisions of paragraph (1) of
18 subsection a. of N.J.S.2C:43-6, if a person is convicted of a crime of
19 the first degree under the provisions of this section the sentence
20 imposed shall include a term of imprisonment between 30 years and
21 life imprisonment and shall include a mandatory minimum term of 30
22 years, during which the defendant shall not be eligible for parole.]¹

23 b. In addition, such persons shall forfeit to the entity funding the
24 prosecuting agency involved the following:

25 (1) Any interest including money or anything of value he has
26 acquired or maintained in violation of this chapter and

27 (2) Any interest in, security of, claim against, or property or
28 contractual right of any kind affording a source of influence over any
29 enterprise which he has established, acquired, maintained, operated,
30 controlled, conducted, or participated in the conduct of, in violation
31 of this chapter.

32 c. In any action brought by the Attorney General under this
33 section, the Superior Court shall have jurisdiction to enter such
34 restraining orders or prohibitions, or to take such other actions,
35 including, but not limited to, the acceptance of satisfactory
36 performance bonds, in connection with any property or other interests
37 subject to forfeiture under this section, as it shall deem proper.

38 d. Upon conviction of a person under this section, the court shall
39 authorize the Attorney General to seize all property or other interest
40 declared forfeited under this section, subject to the rights of innocent
41 persons such as any prior lienholders or other valid lienholders, upon
42 such other terms and conditions as the court shall deem proper. If a
43 property right or other interest is not exercisable or transferable for
44 value by the Attorney General, it shall expire, and shall not revert to
45 the convicted person.

46 e. The Attorney General shall dispose of all such property as soon

1 as commercially feasible, making due provision for the rights of
2 innocent persons.

3 f. When an offense charged may result in a criminal forfeiture, the
4 indictment shall allege the extent of the interest or property subject to
5 forfeiture. If the indictment alleges that an interest or property is
6 subject to criminal forfeiture, a special verdict shall be returned as to
7 the extent of the interest or property subject to forfeiture, if any.

8 (cf: P.L.1981, c.167, s.2)

9

10 7. Section 13 of P.L.1991, c.329 (2C:46-4.1) is amended to read
11 as follows:

12 13. Moneys that are collected in satisfaction of any assessment
13 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or
14 in satisfaction of restitution or fines imposed in accordance with the
15 provisions of Title 2C of the New Jersey Statutes or with the
16 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), shall be
17 applied in the following order:

18 a. first, in satisfaction of all assessments imposed pursuant to
19 section 2 of P.L.1979, c.396 (C.2C:43-3.1);

20 b. second, except as provided in subsection f. of this section, in
21 satisfaction of any restitution ordered;

22 c. third, in satisfaction of all assessments imposed pursuant to
23 section 11 of P.L.1993, c.220 (C.2C:43-3.2);

24 d. fourth, in satisfaction of any forensic laboratory fee assessed
25 pursuant to N.J.S.2C:35-20;

26 e. fifth, in satisfaction of any mandatory Drug Enforcement and
27 Demand Reduction penalty assessed pursuant to N.J.S.2C:35-15;

28 f. sixth, in satisfaction of any anti-drug profiteering penalty
29 imposed pursuant to section 2 of P.L.1997, c.187 (N.J.S.2C:35A-1 et
30 seq.);

31 g. seventh, in satisfaction of any anti-money laundering
32 profiteering penalty imposed pursuant to section 9 of P.L. , c
33 (C.)(now pending before the Legislature as section 9 of this bill);

34 h. eighth, in satisfaction of restitution for any extradition costs
35 imposed pursuant to section 4 of P.L.1997, c.253 (C.2C:43-3.4); and

36 **[h. eighth]** i. ninth, in satisfaction of any fine.

37 (cf: P.L.1997, c.253, s.3)

38

39 8. (New section) Criteria for Imposition of Anti-Money
40 Laundering Profiteering Penalty.

41 In addition to any other disposition authorized by this title,
42 including but not limited to any fines which may be imposed pursuant
43 to the provisions of N.J.S.2C:43-3, where a person has been
44 convicted of a crime defined in P.L.1994, c.121 (C.2C:21-23 et seq.)
45 or an attempt or conspiracy to commit such a crime, the court shall,
46 upon the application of the prosecutor, sentence the person to pay a

1 monetary penalty in an amount determined pursuant to section 9 of
2 P.L. .c. (C.)(now pending before the Legislature as section 9
3 of this bill), provided the court finds at a hearing, which may occur at
4 the time of sentencing, that the prosecutor has established by a
5 preponderance of the evidence that the defendant was convicted of a
6 violation of P.L.1994, c.121 (C.2C:21-23 et seq.).

7
8 9. (New section) Calculation of Anti-Money Laundering
9 Profiteering Penalty.

10 Where, pursuant to section 8 of P.L. , c. (C.)(now pending
11 before the Legislature as section 8 of this bill) the prosecutor has
12 established by a preponderance of the evidence that the defendant was
13 convicted of a violation of P.L.1994, c.121 (C.2C:21-23 et seq.), the
14 court shall assess a monetary penalty as follows:

15 a. \$500,000.00 in the case of a crime of the first degree;
16 \$250,000.00 in the case of a crime of the second degree; \$75,000.00
17 in the case of a crime of the third degree; or

18 b. an amount equal to three times the value of any property
19 involved in a money laundering activity in violation of P.L.1994, c.121
20 (C.2C:21-23 et seq.).

21 c. Where the prosecution requests that the court assess a penalty
22 in an amount calculated pursuant to subsection b. of this section, the
23 prosecutor shall have the burden of establishing by a preponderance of
24 the evidence the appropriate amount of the penalty to be assessed
25 pursuant to that subsection. In making its finding, the court shall take
26 judicial notice of any evidence, testimony or information adduced at
27 trial, plea hearing or other court proceedings and shall also consider
28 the presentence report and other relevant information, including expert
29 opinion in the form of live testimony or by affidavit. The court's
30 findings shall be incorporated in the record, and such findings shall not
31 be subject to modification by an appellate court except upon a showing
32 that the finding was totally lacking support in the record or was
33 arbitrary and capricious.

34
35 10. (New section) Revocation or reduction of penalty assessment.
36 The court shall not revoke or reduce a penalty imposed pursuant to
37 section 9 of P.L. c., (C.)(now pending before the Legislature
38 as section 9 of this bill). An anti-money laundering profiteering
39 penalty imposed pursuant to section 9 of P.L. c., (C.)(now
40 pending before the Legislature as section 9 of this bill) shall not be
41 deemed a fine for purposes of N.J.S.2C:46-3.

42
43 11. (New section) Payment Schedule.

44 The court may, for good cause shown, and subject to the
45 provisions of this section, grant permission for the payment of an anti-
46 money laundering profiteering penalty assessed pursuant to section 9

1 of P.L. .c. (C.)(now pending before the Legislature as section
2 9 of this bill) to be made within a specified period of time or in
3 specified installments, provided however that the payment schedule
4 fixed by the court shall require the defendant to pay the anti-money
5 laundering profiteering penalty in the shortest period of time consistent
6 with the nature and extent of his assets and his ability to pay, and
7 further provided that the prosecutor shall be afforded the opportunity
8 to present evidence or information concerning the nature, extent and
9 location of the defendant's assets or interests in property which are or
10 might be subject to levy and execution. In such event, the court may
11 only grant permission for the payment to be made within a specified
12 period of time or installments with respect to that portion of the
13 assessed penalty which would not be satisfied by the liquidation of
14 property which is or may be subject to levy and execution, unless the
15 court finds that the immediate liquidation of such property would
16 result in undue hardship to innocent persons. If no permission to make
17 payment within a specified period of time or in installments is
18 embodied in the sentence, the entire penalty shall be payable forthwith.

19

20 12. (New section) Relation to Other Dispositions.

21 a. An anti-money laundering profiteering penalty assessed
22 pursuant to section 9 of P.L. .c. (C.)(now pending before the
23 Legislature as section 9 of this bill) shall be imposed and paid in
24 addition to any penalty, fine, fee or order for restitution which may be
25 imposed.

26 b. An anti-money laundering profiteering penalty imposed
27 pursuant to section 9 of P.L. .c. (C.)(now pending before
28 the Legislature as section 9 of this bill) shall be in addition to and not
29 in lieu of any forfeiture or other cause of action instituted pursuant to
30 chapters 41 or 64 of Title 2C of the New Jersey Statutes, and nothing
31 in this chapter shall be construed in any way to preclude, preempt or
32 limit any such cause of action. A defendant shall not be entitled to
33 receive credit toward the payment of an anti-money laundering
34 profiteering penalty imposed pursuant to section 9 of P.L. .c.
35 (C.)(now pending before the Legislature as section 9 of this bill)
36 for the value of property forfeited, or subject to forfeiture, pursuant
37 to the provisions of chapters 41 or 64 of Title 2C of the New Jersey
38 Statutes.

39

40 13. (New section) Collection and Distribution.

41 All anti-money laundering profiteering penalties assessed pursuant
42 to section 9 of P.L. .c. (C.)(now pending before the
43 Legislature as section 9 of this bill) shall be docketed and collected as
44 provided for the collection of fines, penalties, fees and restitution in
45 chapter 46 of Title 2C of the New Jersey Statutes. The Attorney
46 General or prosecutor may prosecute an action to collect any anti-

1 money laundering profiteering penalties imposed pursuant to section
2 9 of P.L. .c. (C.)(now pending before the Legislature as
3 section 9 of this bill). All anti-money laundering profiteering penalties
4 assessed pursuant to section 9 of P.L. .c. (C.) (now
5 pending before the Legislature as section 9 of this bill) shall be
6 disposed of, distributed, appropriated and used as if the collected
7 penalties were the proceeds of property forfeited pursuant to chapter
8 64 of Title 2C of the New Jersey Statutes.

9

10 14. This act shall take effect immediately.

11

12

13

14

15 Revises the statutory law concerning money laundering.

STATEMENT TO
ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, Nos. 2171, 2479, 2492 and 2645

with Assembly Floor Amendments
(Proposed By Assemblyman COHEN)

ADOPTED: JANUARY 12, 1999

This substitute revises the statutory law concerning money laundering to strengthen the existing sentencing provisions and enhance the penalty provisions in the law.

Section 6 of the substitute had amended N.J.S.A. 2C:41-3, the criminal penalties provision section of the RICO statute, to provide that if a person violates the RICO statute in connection with a pattern of racketeering activity which involves a crime of the first degree or money laundering in the first or second degree, that person would be guilty of a crime of the first degree. This floor amendment would delete the language concerning money laundering in the first or second degree. This floor amendment would also delete that provision in the bill which provided for a mandatory minimum term of imprisonment of 30 years for any person convicted of a crime of the first degree under the RICO statute.

ASSEMBLY, No. 2171

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED JUNE 11, 1998

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman PETER J. BARNES, JR.

District 18 (Middlesex)

SYNOPSIS

Upgrades the crime of money laundering to a crime of the first degree; classifies conspiracy to commit money laundering as a crime of the first degree.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/19/1998)

A2171 COHEN, BARNES

2

1 AN ACT concerning money laundering and amending P.L.1994, c.121
2 and N.J.S.2C:5-4.

3

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

6

7 1.Section 5 of P.L.1994, c.121 (C.2C:21-27) is amended to read as
8 follows:

9 5. a. **[** Where the amount involved is \$75,000 or more, the **]** The
10 offense defined in section 3 of this act constitutes a crime of the first
11 degree if the amount involved is \$500,000.00 or more . If the amount
12 involved is at least \$75,000.00 but does not exceed \$500,000.00 then
13 the offense constitutes a crime of the second degree; otherwise, the
14 offense constitutes a crime of the third degree. Notwithstanding the
15 provisions of N.J.S.2C:43-3, the court may also impose a fine not to
16 exceed \$500,000.00. The amount involved in a prosecution for
17 violation of this section shall be determined by the trier of fact.
18 Amounts involved in transactions conducted pursuant to one scheme
19 or course of conduct may be aggregated in determining the degree of
20 the offense. Notwithstanding the provisions of paragraph (1) of
21 subsection a. of N.J.S.2C:43-6, a person convicted of a crime of the
22 first degree pursuant to the provisions of this subsection shall be
23 sentenced to a mandatory minimum term of imprisonment of 15 years,
24 during which time the defendant shall not be eligible for parole.

25 b. In addition to any other dispositions authorized by this Title,
26 upon conviction of a violation of this section, the court may sentence
27 the defendant to pay an amount as calculated pursuant to subsection
28 a. of section 6 of this act.

29 c. Notwithstanding N.J.S.2C:1-8 or any other provision of law, a
30 conviction of an offense defined in this section shall not merge with
31 the conviction of any other offense constituting the criminal activity
32 involved or from which the property was derived, and a conviction of
33 any offense constituting the criminal activity involved or from which
34 the property was derived shall not merge with a conviction of an
35 offense defined in section 3 of this act. Nothing in this act shall be
36 construed in any way to preclude or limit a prosecution or conviction
37 for any other offense defined in this Title or any other criminal law of
38 this State.

39 (cf: P.L.1994, c.121, s.5)

40

41 2. N.J.S.2C:5-4 is amended to read as follows:

42 2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation
43 in Cases of Lesser Danger. a. Grading. Except as provided in

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

Matter underlined thus is new matter.

1 **[subsection]** subsections c. and d., an attempt or conspiracy to
2 commit a crime of the first degree is a crime of the second degree;
3 except that an attempt to commit murder is a crime of the first degree.
4 Otherwise an attempt is a crime of the same degree as the most serious
5 crime which is attempted, and conspiracy is a crime of the same degree
6 as the most serious crime which is the object of the conspiracy;
7 provided that, leader of organized crime is a crime of the second
8 degree. An attempt or conspiracy to commit an offense defined by a
9 statute outside the code shall be graded as a crime of the same degree
10 as the offense is graded pursuant to sections 2C:1-4 and 2C:43-1.

11 b. Mitigation. The court may impose sentence for a crime of a
12 lower grade or degree if neither the particular conduct charged nor the
13 defendant presents a public danger warranting the grading provided for
14 such crime under subsection a. because:

15 (1) The criminal attempt or conspiracy charged is so inherently
16 unlikely to result or culminate in the commission of a crime; or

17 (2) The conspiracy, as to the particular defendant charged, is so
18 peripherally related to the main unlawful enterprise.

19 c. Notwithstanding the provisions of subsection a. of this section,
20 conspiracy to commit a crime set forth in subsection a., b., or d. of
21 N.J.S.2C:17-1 where the structure which was the target of the crime
22 was a church, synagogue, temple or other place of public worship is
23 a crime of the first degree.

24 d. Notwithstanding the provisions of subsection a. of this section,
25 conspiracy to commit a crime as set forth in P.L.1994, c.121
26 (C.2C:21-23 et seq.) is a crime of the first degree and a person
27 convicted of under this section shall be sentenced to a term of
28 imprisonment. Notwithstanding the provisions of paragraph (1) of
29 subsection a. of N.J.S.2C: 43-6, the term of imprisonment shall
30 include a mandatory minimum term of 10 years, during which the
31 defendant shall not be eligible for parole. The court may not suspend
32 or make any other noncustodial disposition of a person sentenced
33 pursuant to the provisions of this subsection.

34 (cf: P.L.1997, c.34, s. 1)

35

36 3. This act shall take effect immediately .

37

38

39

STATEMENT

40

41 This bill would upgrade the crime of money laundering to a crime
42 of first degree and would also classify conspiracy to commit money
43 laundering as a crime of the first degree.

44 Money laundering would be a crime of the first degree if the
45 amount involved was \$500,000.00 or more. This bill would impose
46 a mandatory minimum term of 15 years, without eligibility of parole,

A2171 COHEN, BARNES

4

1 on any person convicted of money laundering in the first degree.

2 Money laundering would be a crime of the second degree if the
3 amount involved is at least \$75,000.00 but less than \$500,000.00.

4 Otherwise the crime would be graded as a crime of the third degree.

5 A crime of the second degree is punishable by a term of imprisonment
6 of 5-10 years. A crime of the third degree is punishable by a term of
7 imprisonment of 3-5 years. This bill would also authorize the court
8 to impose a fine of not more \$500,000.

9 In addition, conspiracy to commit money laundering would be
10 graded as a crime of the first degree. This bill would also impose a
11 mandatory minimum term of imprisonment of 10 years, during which
12 time the person would be ineligible for parole.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2171

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 16, 1998

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2171.

Under the current provisions of the law, money laundering is a crime of the second degree if the amount involved is \$75,000.00 or more; otherwise it is a crime of the third degree. This bill would upgrade the crime of money laundering to a crime of the first degree where the amount involved is \$500,000.00 or more. Money laundering would be a crime of the second degree if the amount involved is at least \$75,000.00 but less than \$500,000.00; otherwise it would be a crime of the third degree.

In addition, the bill would authorize the court to impose a fine of up to \$500,000.00. The bill as introduced would have imposed a mandatory minimum term of imprisonment of 15 years if a person was convicted of a crime of the first degree. The committee amended this section of the bill by eliminating the mandatory term of 15 years and providing for a term of imprisonment which would include a minimum term fixed at, or between, one-third and one-half of the sentence imposed, during which time the defendant would be ineligible for parole.

In its original form, the bill amended the conspiracy statute to make conspiracy to commit money laundering a crime of the first degree and provided for a mandatory minimum term of imprisonment of 10 years. The committee amendments would make conspiracy to commit the crime of money laundering the same degree as the most serious crime that was conspired to be committed and eliminate the mandatory minimum term provision.

[First Reprint]

ASSEMBLY, No. 2171

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED JUNE 11, 1998

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman PETER J. BARNES, JR.

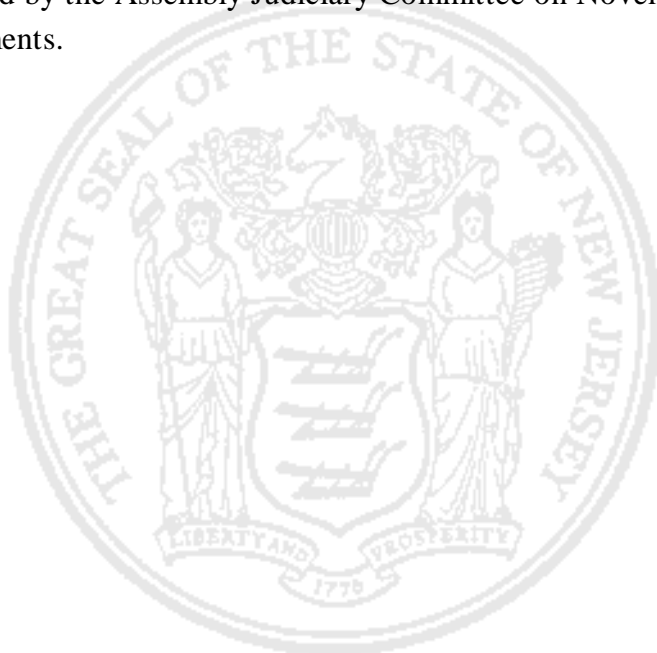
District 18 (Middlesex)

SYNOPSIS

Upgrades the crime of money laundering to a crime of the first degree under certain circumstances; amends conspiracy concerning money laundering.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on November 16, 1998, with amendments.



(Sponsorship Updated As Of: 6/19/1998)

1 AN ACT concerning money laundering and amending P.L.1994, c.121
2 and N.J.S.2C:5-4.

3

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

6

7 1.Section 5 of P.L.1994, c.121 (C.2C:21-27) is amended to read as
8 follows:

9 5. a. ~~Where the amount involved is \$75,000 or more, the~~ The
10 offense defined in section 3 of this act constitutes a crime of the first
11 degree if the amount involved is \$500,000.00 or more . If the amount
12 involved is at least \$75,000.00 but ¹ ~~does not exceed~~ less than¹
13 \$500,000.00 ¹ ~~then~~ the offense constitutes a crime of the second
14 degree; otherwise, the offense constitutes a crime of the third degree.
15 Notwithstanding the provisions of N.J.S.2C:43-3, the court may also
16 impose a fine ¹ ~~not~~ up¹ to ¹ ~~exceed~~ \$500,000.00. The amount
17 involved in a prosecution for violation of this section shall be
18 determined by the trier of fact. Amounts involved in transactions
19 conducted pursuant to one scheme or course of conduct may be
20 aggregated in determining the degree of the offense. Notwithstanding
21 the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, a
22 person convicted of a crime of the first degree pursuant to the
23 provisions of this subsection shall be sentenced to a ¹ ~~mandatory~~
24 minimum term of imprisonment of 15 years, ¹ ~~term of imprisonment~~
25 that shall include the imposition of a minimum term which shall be
26 fixed at, or between, one-third and one-half of the sentence imposed,¹
27 during which time the defendant shall not be eligible for parole.

28 b. In addition to any other dispositions authorized by this Title,
29 upon conviction of a violation of this section, the court may sentence
30 the defendant to pay an amount as calculated pursuant to subsection
31 a. of section 6 of this act.

32 c. Notwithstanding N.J.S.2C:1-8 or any other provision of law, a
33 conviction of an offense defined in this section shall not merge with
34 the conviction of any other offense constituting the criminal activity
35 involved or from which the property was derived, and a conviction of
36 any offense constituting the criminal activity involved or from which
37 the property was derived shall not merge with a conviction of an
38 offense defined in section 3 of this act. Nothing in this act shall be
39 construed in any way to preclude or limit a prosecution or conviction

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:

¹ Assembly AJU committee amendments adopted November 16, 1998.

1 for any other offense defined in this Title or any other criminal law of
2 this State.

3 (cf: P.L.1994, c.121, s.5)

4

5 2. N.J.S.2C:5-4 is amended to read as follows:

6 2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation
7 in Cases of Lesser Danger. a. Grading. Except as provided in
8 **[subsection]** subsections c. and d., an attempt or conspiracy to
9 commit a crime of the first degree is a crime of the second degree;
10 except that an attempt to commit murder is a crime of the first degree.
11 Otherwise an attempt is a crime of the same degree as the most serious
12 crime which is attempted, and conspiracy is a crime of the same degree
13 as the most serious crime which is the object of the conspiracy;
14 provided that, leader of organized crime is a crime of the second
15 degree. An attempt or conspiracy to commit an offense defined by a
16 statute outside the code shall be graded as a crime of the same degree
17 as the offense is graded pursuant to sections 2C:1-4 and 2C:43-1.

18 b. Mitigation. The court may impose sentence for a crime of a
19 lower grade or degree if neither the particular conduct charged nor the
20 defendant presents a public danger warranting the grading provided for
21 such crime under subsection a. because:

22 (1) The criminal attempt or conspiracy charged is so inherently
23 unlikely to result or culminate in the commission of a crime; or

24 (2) The conspiracy, as to the particular defendant charged, is so
25 peripherally related to the main unlawful enterprise.

26 c. Notwithstanding the provisions of subsection a. of this section,
27 conspiracy to commit a crime set forth in subsection a., b., or d. of
28 N.J.S.2C:17-1 where the structure which was the target of the crime
29 was a church, synagogue, temple or other place of public worship is
30 a crime of the first degree.

31 d. Notwithstanding the provisions of subsection a. of this section,
32 conspiracy to commit a crime as set forth in P.L.1994, c.121
33 (C.2C:21-23 et seq.) is a crime of the ¹[first] same¹ degree ¹[and a
34 person convicted of under this section shall be sentenced to a term of
35 imprisonment. Notwithstanding the provisions of paragraph (1) of
36 subsection a. of N.J.S.2C: 43-6, the term of imprisonment shall
37 include a mandatory minimum term of 10 years, during which the
38 defendant shall not be eligible for parole. The court may not suspend
39 or make any other noncustodial disposition of a person sentenced
40 pursuant to the provisions of this subsection] as the most serious
41 crime that was conspired to be committed¹.

42 (cf: P.L.1997, c.34, s. 1)

43

44 3. This act shall take effect immediately.

ASSEMBLY, No. 2479

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED OCTOBER 5, 1998

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman WILFREDO CARABALLO

District 28 (Essex)

SYNOPSIS

Establishes anti-money laundering penalty.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning money laundering and supplementing P.L.1994,
2 c.191 and amending P.L.1991, c.329.

3

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

6

7 1. (New section) Criteria for Imposition of Anti-Money Laundering
8 Profiteering Penalty.

9 a. In addition to any other disposition authorized by this title,
10 including but not limited to any fines which may be imposed pursuant
11 to the provisions of N.J.S.2C:43-3, where a person has been
12 convicted of a crime defined in P.L.1994, c.121 (C.2C:21-23 et seq.)
13 or an attempt or conspiracy to commit such a crime, the court shall,
14 upon the application of the prosecutor, sentence the person to pay a
15 monetary penalty in an amount determined section 2 of P.L.....c.
16 (C.) (now pending before the Legislature as section 2 of this bill),
17 provided the court finds at a hearing, which may occur at the time of
18 sentencing, that the prosecutor has established by a preponderance of
19 the evidence that the defendant was convicted of a violation of
20 P.L.1994, c.121 (2C:21-23 et seq.). The findings of the court shall be
21 incorporated in the record, and in making its findings, the court shall
22 take judicial notice of any evidence, testimony or information adduced
23 at the trial, plea hearing or other court proceedings and shall also
24 consider the presentence report and any other relevant information.

25 b. In making its determination, the court may rely upon expert
26 opinion in the form of live testimony or by affidavit, or by such other
27 means as the court deems appropriate.

28

29 2. (New section) Calculation of Anti-Money Laundering
30 Profiteering Penalty.

31 Where, pursuant to section 1 of P.L. , c. (C.) (now pending
32 before the legislature as this bill) the prosecutor has established by a
33 preponderance of the evidence that the defendant was convicted of a
34 violation of P.L.1994, c.121 (2C:21-23 et seq.), the court shall assess
35 a monetary penalty as follows:

36 a. \$500,000.00 in the case of a crime of the first degree;
37 \$250,000.00 in the case of a crime of the second degree; \$125,000.00
38 in the case of a crime of the third degree; or

39 b. an amount equal to three times the value of any property
40 involved in a money laundering activity in violation of P.L.1994,
41 c.121 (C.2C:21-23 et seq.).

42

43 3. (New section) Payment Schedule.

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

Matter underlined thus is new matter.

1 The court may, for good cause shown, and subject to the provisions
2 of this section, grant permission for the payment of a penalty assessed
3 pursuant to this chapter to be made within a specified period of time
4 or in specified installments, provided however that the payment
5 schedule fixed by the court shall require the defendant to pay the
6 penalty in the shortest period of time consistent with the nature and
7 extent of his assets and his ability to pay, and further provided that the
8 prosecutor shall be afforded the opportunity to present evidence or
9 information concerning the nature, extent and location of the
10 defendant's assets or interests in property which are or might be
11 subject to levy and execution. In such event, the court may only grant
12 permission for the payment to be made within a specified period of
13 time or installments with respect to that portion of the assessed
14 penalty which would not be satisfied by the liquidation of property
15 which is or may be subject to levy and execution, unless the court finds
16 that the immediate liquidation of such property would result in undue
17 hardship to innocent persons. If no permission to make payment
18 within a specified period of time or in installments is embodied in the
19 sentence, the entire penalty shall be payable forthwith.

20

21 4. (New section) Relation to Other Dispositions.

22 a. An anti-money laundering profiteering penalty assessed pursuant
23 to P.L. ...c. (C.) (now pending before the Legislature as this bill)
24 shall be imposed and paid in addition to any penalty, fine, or order for
25 restitution which may be imposed.

26 b. An anti-money laundering profiteering penalty imposed pursuant
27 to this chapter shall be in addition to and not in lieu of any forfeiture
28 or other cause of action instituted pursuant to chapters 41 or 64 of
29 this Title, and nothing in this chapter shall be construed in any way to
30 preclude, preempt or limit any such cause of action. A defendant shall
31 not be entitled to receive credit toward the payment of a penalty
32 imposed pursuant to this chapter for the value of property forfeited,
33 or subject to forfeiture, pursuant to the provisions of chapters 41 and
34 64 of this Title.

35

36 5. (New section) Collection and Distribution.

37 All penalties assessed pursuant to this chapter shall be docketed and
38 collected as provided for collection of fines, penalties and restitution
39 in chapter 46 of this Title. The Attorney General or prosecutor may
40 prosecute an action to collect penalties imposed pursuant to this
41 chapter. All penalties assessed pursuant to this chapter shall be
42 disposed of, distributed, appropriated and used as if the collected
43 penalties were the proceeds of property forfeited pursuant to chapter
44 64 of this Title.

45

46 6. Section 13 of P.L.1991, c.329 (2C:46-4.1) is amended to read

1 as follows:

2 13. Moneys that are collected in satisfaction of any assessment
3 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or
4 in satisfaction of restitution or fines imposed in accordance with the
5 provisions of Title 2C of the New Jersey Statutes or with the
6 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), shall be
7 applied in the following order:

8 a. first, in satisfaction of all assessments imposed pursuant to
9 section 2 of P.L.1979, c.396 (C.2C:43-3.1);

10 b. second, except as provided in subsection f. of this section, in
11 satisfaction of any restitution ordered;

12 c. third, in satisfaction of all assessments imposed pursuant to
13 section 11 of P.L.1993, c.220 (C.2C:43-3.2);

14 d. fourth, in satisfaction of any forensic laboratory fee assessed
15 pursuant to N.J.S.2C:35-20;

16 e. fifth, in satisfaction of any mandatory Drug Enforcement and
17 Demand Reduction penalty assessed pursuant to N.J.S.2C:35-15;

18 f. sixth, in satisfaction of any anti-drug profiteering penalty
19 imposed pursuant to section 2 of P.L.1997, c.187 (N.J.S.2C:35A-1 et
20 seq.);

21 g. seventh, in satisfaction of any anti-money laundering
22 profiteering penalty imposed pursuant to P.L....., c.... (C.)(now
23 pending before the Legislature as this bill);

24 h. eighth, in satisfaction of restitution for any extradition costs
25 imposed pursuant to section 4 of P.L.1997, c.253 (C.2C:43-3.4); and

26 **[h. eighth]** i. ninth, in satisfaction of any fine.

27

28 7. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 This bill provides for enhanced penalties for persons found guilty
34 of money laundering, N.J.S.2C:21-23 et seq.

35 Under the provisions of the bill, the court, upon application of the
36 prosecutor, is authorized to impose an anti-money laundering penalty
37 when the prosecutor has established by a preponderance of evidence
38 that the defendant was convicted of money laundering. In the case of
39 a person convicted of a crime of the first degree, the additional penalty
40 would be \$500,000.00; \$250,000.00 in the case of a crime of the
41 second degree; and \$125,000.00 in the case of a crime of the third
42 degree. The bill would authorize the court to impose in the alternative
43 a penalty in the amount of three times the value of any property
44 involved in a money laundering activity. The bill also specifies that the
45 penalty may be satisfied by a judgment against any of the defendant's
46 assets.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2479

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 15, 1998

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2479.

This bill provides for enhanced penalties for persons found guilty of money laundering, N.J.S.A.2C:21-23 et seq.

Under the provisions of the bill, the court, upon application of the prosecutor, is authorized to impose an anti-money laundering profiteering penalty when the prosecutor has established by a preponderance of evidence that the defendant was convicted of money laundering. In the case of a person convicted of a crime of the first degree, the additional penalty would be \$500,000.00; \$250,000.00 in the case of a crime of the second degree; and \$ 75,000.00 in the case of a crime of the third degree. The committee amended the bill to make the penalty for a crime of the third degree \$75,000 instead of the original amount of \$125,000.00.

In the alternative, the bill would authorize the court to impose a penalty in the amount of three times the value of any property involved in a money laundering activity. The bill also specifies that the penalty may be satisfied by a judgment against any of the defendant's assets. The committee also added language to the bill which provides that when the prosecutor requests the court to assess a penalty in the amount equal to three times the value of the property involved in the money laundering activity, the prosecutor would have the burden of establishing by a preponderance of evidence the appropriate amount of the penalty. In making its finding the court would take judicial notice of any evidence or information adduced at trial or in any other court proceeding. The findings would be incorporated into the record and not be subject to modification by an appellate court except upon a showing that the finding lacked support in the record or was arbitrary and capricious.

FISCAL NOTE

[First Reprint]

ASSEMBLY, No. 2479

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: DECEMBER 14, 1998

Assembly Bill No. 2479 (1R) of 1998 provides for enhanced penalties for persons found guilty of money laundering.

Under the bill, the court, upon application of the prosecutor, is authorized to impose an anti-money laundering profiteering penalty. In the case of a person convicted of a crime of the first degree, the additional penalty would be \$500,000.00; \$250,000.00 in the case of a crime of the second degree; and \$ 75,000.00 in the case of a crime of the third degree.

In the alternative, the bill would authorize the court to impose a penalty in the amount of three times the value of any property involved in a money laundering activity. The bill also specifies that the penalty may be satisfied by a judgment against any of the defendant's assets.

The Administrative Office of the Courts (AOC) states that 1997 conviction data indicates that there were 16 convictions for money laundering, 3 in the amount greater than \$75,000, a second degree crime, and 13 in the amount less than \$75,000, a third degree crime. Based on this, the annual of revenue to be collected as a result of this bill would total \$1,725,000.

The Office of Legislative Services concurs and adds that if the court chooses to impose the penalty in the amount of three times the value of any property involved in the money laundering activity, the revenue could be higher than the amount estimated.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

[First Reprint]

ASSEMBLY, No. 2479

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED OCTOBER 5, 1998

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman WILFREDO CARABALLO

District 28 (Essex)

SYNOPSIS

Establishes anti-money laundering penalty.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on October 15, 1998,
with amendments.



1 AN ACT concerning money laundering and supplementing P.L.1994,
2 c.191 and amending P.L.1991, c.329.

3

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

6

7 1. (New section) Criteria for Imposition of Anti-Money Laundering
8 Profiteering Penalty.

9 ¹[a.]¹ In addition to any other disposition authorized by this title,
10 including but not limited to any fines which may be imposed pursuant
11 to the provisions of N.J.S.2C:43-3, where a person has been
12 convicted of a crime defined in P.L.1994, c.121 (C.2C:21-23 et seq.)
13 or an attempt or conspiracy to commit such a crime, the court shall,
14 upon the application of the prosecutor, sentence the person to pay a
15 monetary penalty in an amount determined ¹pursuant to¹ section 2 of
16 P.L.....c. (C.) (now pending before the Legislature as section 2 of
17 this bill), provided the court finds at a hearing, which may occur at the
18 time of sentencing, that the prosecutor has established by a
19 preponderance of the evidence that the defendant was convicted of a
20 violation of P.L.1994, c.121 (C. 2C:21-23 et seq.). ¹【The findings of
21 the court shall be incorporated in the record, and in making its
22 findings, the court shall take judicial notice of any evidence, testimony
23 or information adduced at the trial, plea hearing or other court
24 proceedings and shall also consider the presentence report and any
25 other relevant information.

26 b. In making its determination, the court may rely upon expert
27 opinion in the form of live testimony or by affidavit, or by such other
28 means as the court deems appropriate. ¹】¹

29

30 2. (New section) Calculation of Anti-Money Laundering
31 Profiteering Penalty.

32 Where, pursuant to section 1 of P.L. , c. (C.) (now pending
33 before the legislature as this bill) the prosecutor has established by a
34 preponderance of the evidence that the defendant was convicted of a
35 violation of P.L.1994, c.121 (C. 2C:21-23 et seq.), the court shall
36 assess a monetary penalty as follows:

37 a. \$500,000.00 in the case of a crime of the first degree;
38 \$250,000.00 in the case of a crime of the second degree;
39 ¹【\$125,000.00】 \$75,000.00¹ in the case of a crime of the third
40 degree; or

41 b. an amount equal to three times the value of any property

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:

¹ Assembly AJU committee amendments adopted October 15, 1998.

1 involved in a money laundering activity in violation of P.L.1994,
2 c.121 (C.2C:21-23 et seq.).

3 ¹c. Where the prosecution requests that the court assess a penalty
4 in an amount calculated pursuant to subsection b. of this section, the
5 prosecutor shall have the burden of establishing by a preponderance of
6 the evidence the appropriate amount of the penalty to be assessed
7 pursuant to that subsection. In making its finding, the court shall take
8 judicial notice of any evidence, testimony or information adduced at
9 trial, plea hearing or other court proceedings and shall also consider
10 the presentence report and other relevant information, including expert
11 opinion in the form of live testimony or by affidavit. The court's
12 findings shall be incorporated in the record, and such findings shall not
13 be subject to modification by an appellate court except upon a showing
14 that the finding was totally lacking support in the record or was
15 arbitrary and capricious.¹

16

17 3. (New section) Payment Schedule.

18 The court may, for good cause shown, and subject to the provisions
19 of this section, grant permission for the payment of a ¹anti-money
20 laundering profiteering¹ penalty assessed pursuant to ¹[this chapter]
21 P.L. ...c. (C.) (now pending before the Legislature as this bill)¹ to
22 be made within a specified period of time or in specified installments,
23 provided however that the payment schedule fixed by the court shall
24 require the defendant to pay the ¹anti-money laundering profiteering¹
25 penalty in the shortest period of time consistent with the nature and
26 extent of his assets and his ability to pay, and further provided that the
27 prosecutor shall be afforded the opportunity to present evidence or
28 information concerning the nature, extent and location of the
29 defendant's assets or interests in property which are or might be
30 subject to levy and execution. In such event, the court may only grant
31 permission for the payment to be made within a specified period of
32 time or installments with respect to that portion of the assessed
33 penalty which would not be satisfied by the liquidation of property
34 which is or may be subject to levy and execution, unless the court finds
35 that the immediate liquidation of such property would result in undue
36 hardship to innocent persons. If no permission to make payment
37 within a specified period of time or in installments is embodied in the
38 sentence, the entire penalty shall be payable forthwith.

39

40 4. (New section) Relation to Other Dispositions.

41 a. An anti-money laundering profiteering penalty assessed pursuant
42 to P.L. ...c. (C.) (now pending before the Legislature as this bill)
43 shall be imposed and paid in addition to any penalty, fine, ¹fee¹ or
44 order for restitution which may be imposed.

45 b. An anti-money laundering profiteering penalty imposed pursuant
46 to ¹[this chapter]P.L. ...c. (C.) (now pending before the

1 Legislature as this bill¹ shall be in addition to and not in lieu of any
2 forfeiture or other cause of action instituted pursuant to chapters 41
3 or 64 of this Title, and nothing in this chapter shall be construed in any
4 way to preclude, preempt or limit any such cause of action. A
5 defendant shall not be entitled to receive credit toward the payment of
6 ¹[a] an anti-money laundering profiteering¹ penalty imposed pursuant
7 to ¹[this chapter] P.L. ...c. (C.) (now pending before the
8 Legislature as this bill)¹ for the value of property forfeited, or subject
9 to forfeiture, pursuant to the provisions of chapters 41 and 64 of this
10 Title.

11

12 5. (New section) Collection and Distribution.

13 All ¹[penalties] anti-money laundering profiteering penalties¹
14 assessed pursuant to ¹[this chapter] P.L. ...c. (C.) (now pending
15 before the Legislature as this bill)¹ shall be docketed and collected as
16 provided for collection of fines, penalties ¹, fees¹ and restitution in
17 chapter 46 of this Title. The Attorney General or prosecutor may
18 prosecute an action to collect ¹[penalties imposed pursuant to this
19 chapter] any anti-money laundering profiteering penalties imposed
20 pursuant to P.L. ...c. (C.) (now pending before the Legislature as
21 this bill). ¹[All penalties] All anti-money laundering profiteering
22 penalties¹ assessed pursuant to ¹[this chapter] P.L. ...c. (C.)
23 (now pending before the Legislature as this bill)¹ shall be disposed of,
24 distributed, appropriated and used as if the collected penalties were the
25 proceeds of property forfeited pursuant to chapter 64 of this Title.

26

27 6. Section 13 of P.L.1991, c.329 (2C:46-4.1) is amended to read
28 as follows:

29 13. Moneys that are collected in satisfaction of any assessment
30 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or
31 in satisfaction of restitution or fines imposed in accordance with the
32 provisions of Title 2C of the New Jersey Statutes or with the
33 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), shall be
34 applied in the following order:

35 a. first, in satisfaction of all assessments imposed pursuant to
36 section 2 of P.L.1979, c.396 (C.2C:43-3.1);

37 b. second, except as provided in subsection f. of this section, in
38 satisfaction of any restitution ordered;

39 c. third, in satisfaction of all assessments imposed pursuant to
40 section 11 of P.L.1993, c.220 (C.2C:43-3.2);

41 d. fourth, in satisfaction of any forensic laboratory fee assessed
42 pursuant to N.J.S.2C:35-20;

43 e. fifth, in satisfaction of any mandatory Drug Enforcement and
44 Demand Reduction penalty assessed pursuant to N.J.S.2C:35-15;

45 f. sixth, in satisfaction of any anti-drug profiteering penalty
46 imposed pursuant to section 2 of P.L.1997, c.187 (N.J.S.2C:35A-1 et

1 seq.);

2 g. seventh, in satisfaction of any anti-money laundering
3 profiteering penalty imposed pursuant to P.L....., c.... (C.)(now
4 pending before the Legislature as this bill);

5 h. eighth, in satisfaction of restitution for any extradition costs
6 imposed pursuant to section 4 of P.L.1997, c.253 (C.2C:43-3.4); and

7 **[h. eighth]** i. ninth, in satisfaction of any fine.

8

9 7. This act shall take effect immediately.

ASSEMBLY, No. 2492

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED OCTOBER 5, 1998

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Co-Sponsored by:

Assemblyman Zecker

SYNOPSIS

Amends the "New Jersey Wiretapping and Electronic Surveillance Control Act" to include money laundering.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/11/1998)

1 AN ACT concerning wiretapping and amending P.L.1968, c.409.

2

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

5

6 1. Section 8 of P.L.1968, c.409 (C.2A:156A-8) is amended to
7 read as follows:

8 8. The Attorney General, county prosecutor or a person
9 designated to act for such an official and to perform his duties in and
10 during his actual absence or disability, may authorize, in writing, an ex
11 parte application to a judge designated to receive the same for an
12 order authorizing the interception of a wire, or electronic or oral
13 communication by the investigative or law enforcement officers or
14 agency having responsibility for an investigation when such
15 interception may provide evidence of the commission of the offense of
16 murder, kidnapping, gambling, robbery, bribery, a violation of
17 paragraph (1) or (2) of subsection b. of N.J.S.2C:12-1, a violation of
18 N.J.S.2C:21-19 punishable by imprisonment for more than one year,
19 a violation of P.L.1994, c.121 (C.2C:21-23 et seq.), terroristic
20 threats, violations of N.J.S.2C:35-3, N.J.S.2C:35-4 and
21 N.J.S.2C:35-5, violations of sections 112 through 116, inclusive, of
22 the "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through
23 5:12-116), arson, burglary, theft and related offenses punishable by
24 imprisonment for more than one year, endangering the welfare of a
25 child pursuant to N.J.S. 2C:24-4, escape, forgery, alteration of motor
26 vehicle identification numbers, unlawful manufacture, purchase, use,
27 or transfer of firearms, unlawful possession or use of destructive
28 devices or explosives, racketeering or a violation of subsection g. of
29 N.J.S.2C:5-2, leader of organized crime, organized criminal activity
30 directed toward the unlawful transportation, storage, disposal,
31 discharge, release, abandonment or disposition of any harmful,
32 hazardous, toxic, destructive, or polluting substance, or any
33 conspiracy to commit any of the foregoing offenses or which may
34 provide evidence aiding in the apprehension of the perpetrator or
35 perpetrators of any of the foregoing offenses.

36 (cf: P.L.1995, c.119, s.1)

37

38 2. This act shall take effect immediately.

39

40 STATEMENT

41

42 Currently the "New Jersey Wiretapping and Electronic
43 Surveillance Control Act," N.J.S.A.2A:156A-1 et seq., authorizes the

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

Matter underlined thus is new matter.

1 Attorney General or a county prosecutor to seek an ex-parte order
2 allowing the interception of a wire, electronic or oral communication
3 for an investigation when such interception may provide evidence of
4 the commission of an offense, including but not limited to: murder,
5 kidnapping, gambling, robbery, bribery, terroristic threats, certain drug
6 offenses, violations of the "Casino Control Act," N.J.S.A.5:12-112 et
7 seq., endangering the welfare of a child or racketeering.

8 The act also provides that a judge may enter an ex-parte order
9 authorizing the interception if there is probable cause to believe that
10 the person whose communications are to be intercepted was engaged
11 in the specified criminal activity listed in N.J.S.A.2A:156A-8.

12 This bill would expand the list of enumerated offenses in
13 N.J.S.A.2A:156-8 to include money laundering, N.J.S.2C:21-23 et.
14 seq.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2492

STATE OF NEW JERSEY

DATED: OCTOBER 15, 1998

The Assembly Judiciary Committee reports favorably Assembly Bill No. 2492.

Currently the "New Jersey Wiretapping and Electronic Surveillance Control Act," N.J.S.A.2A:156A-1 et seq., authorizes the Attorney General or a county prosecutor to seek an ex-parte order allowing the interception of a wire, electronic or oral communication for an investigation when such interception may provide evidence of the commission of an offense, including but not limited to: murder, kidnapping, gambling, robbery, bribery, terroristic threats, certain drug offenses, violations of the "Casino Control Act," N.J.S.A.5:12-112 et seq., endangering the welfare of a child or racketeering.

The act also provides that a judge may enter an ex-parte order authorizing the interception if there is probable cause to believe that the person whose communications are to be intercepted was engaged in the specified criminal activity listed in N.J.S.A.2A:156A-8.

This bill would expand the list of enumerated offenses in N.J.S.A.2A:156A-8 to include money laundering, N.J.S.A.2C:21-23 et. seq.

ASSEMBLY, No. 2645

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED NOVEMBER 16, 1998

Sponsored by:

Assemblyman PAUL DIGAETANO
District 36 (Bergen, Essex and Passaic)
Assemblyman NEIL M. COHEN
District 20 (Union)

Co-Sponsored by:

Assemblyman Zecker

SYNOPSIS

Provides for consecutive sentences for money laundering.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/08/1999)

1 AN ACT concerning money laundering and amending P.L.1994, c.121.

2

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

5

6 1. Section 5 of P.L.1994, c.121 (C.2C:21-27) is amended to read
7 as follows:

8 5. a. Where the amount involved is \$75,000 or more, the offense
9 defined in section 3 of **[this act]** P.L.1994, c.121 (C.2C:21-25)
10 constitutes a crime of the second degree; otherwise, the offense
11 constitutes a crime of the third degree. The amount involved in a
12 prosecution for violation of this section shall be determined by the trier
13 of fact. Amounts involved in transactions conducted pursuant to one
14 scheme or course of conduct may be aggregated in determining the
15 degree of the offense.

16 b. In addition to any other dispositions authorized by this Title,
17 upon conviction of a violation of this section, the court may sentence
18 the defendant to pay an amount as calculated pursuant to subsection
19 a. of section 6 of **[this act]** P.L.1994, c.121 (C.2C:21-28).

20 c. Notwithstanding N.J.S.2C:1-8 or any other provision of law, a
21 conviction of an offense defined in **[this]** section 3 of P.L.1994, c.121
22 (C.2C:21-25) shall not merge with the conviction of any other offense
23 constituting the criminal activity involved or from which the property
24 was derived, and a conviction of any offense constituting the criminal
25 activity involved or from which the property was derived shall not
26 merge with a conviction of an offense defined in section 3 of **[this act]**
27 P.L.1994, c.121 (C.2C:21-25), and the sentence imposed upon a
28 conviction of any offense defined in section 3 of P.L.1994, c.121
29 (C.2C:21-25) shall be ordered to be served consecutively to that
30 imposed for a conviction of any offense constituting the criminal
31 activity involved or from which the property was derived. Nothing in
32 **[this act]** P.L.1994, c.121 (C.2C:21-23 et. seq.) shall be construed in
33 any way to preclude or limit a prosecution or conviction for any other
34 offense defined in this Title or any other criminal law of this State.
35 (cf: P.L.1994, c.121, s.5)

36

37 2. This act shall take effect immediately .

38

39

STATEMENT

40

41 This bill is based upon a recommendation contained in the
42 September Report to the Governor by the Attorney General's Money

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

Matter underlined thus is new matter.

1 Laundering Working Group. The bill would ensure that money
2 launderers receive a meaningful sentence for a money laundering
3 conviction that is obtained in conjunction with a conviction for any
4 underlying criminal offense that led to the money laundering activity.
5 Specifically, the bill would amend the current money laundering statute
6 to require that a money laundering sentence be served consecutively
7 to a sentence for an underlying crime.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2645

STATE OF NEW JERSEY

DATED: NOVEMBER 16, 1998

The Assembly Judiciary Committee reports favorably Assembly Bill No. 2645.

This bill would amend the current money laundering statute to require that a money laundering sentence be served consecutively to a sentence for an underlying crime. The bill would ensure that money launderers receive a meaningful sentence for a money laundering conviction obtained in conjunction with a conviction for any underlying criminal offense that led to the money laundering activity.

This bill is based upon a recommendation contained in the Report to the Governor by the Attorney General's Money Laundering Working Group issued September, 1998.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 1194, 1198 and 1240**

STATE OF NEW JERSEY

DATED: JANUARY 21, 1999

The Senate Judiciary Committee reports favorably a Senate committee substitute for Senate Bill Nos. 1194, 1198 and 1240.

This committee substitute would revise certain sections in Titles 2A and 2C in order to strengthen the ability of the criminal justice system to combat money laundering.

Section 1 of the committee substitute amends the "New Jersey Wiretapping and Electronic Surveillance Control Act," N.J.S.A.2A:156A-1 et seq. Currently, the act authorizes the Attorney General or a county prosecutor to seek an ex-parte order allowing the interception of a wire, electronic or oral communication when such interception may provide evidence of the commission of certain offenses, including but not limited to: murder, kidnapping, gambling, robbery, bribery, terroristic threats, certain drug offenses, endangering the welfare of a child and racketeering. The committee substitute would add money laundering to the list of offenses enumerated in the wiretapping statute.

Section 2 of the committee substitute would provide that conspiracy to commit the crime of money laundering be graded at the same degree as the most serious crime that was conspired to be committed.

Section 3 of the committee substitute amends N.J.S.A. 2C:21-25 which deals with the financial facilitation of criminal activity. The amendment provides that in determining that a transaction was undertaken for the purpose of avoiding a financial transaction reporting requirement, a factor would be whether the person acting alone or with others conducted one or more transactions in currency in any amount at one or more financial institutions on one or more days in any manner. The committee substitute defines "any manner" to include the breaking down of a single sum of currency exceeding the transaction reporting requirement into smaller sums, including sums at or below the transaction reporting requirement, or the conduct of a transaction, or series of currency transactions, including transactions at or below the transaction reporting requirement. This "structuring" provision is modeled on federal law.

Section 4 of the committee substitute would amend N.J.S.A.2C:21-7 to upgrade the penalties for money laundering. Presently, money laundering is graded as a crime of the second degree if the amount involved is \$75,000.00 or more. In other cases, the money laundering is graded as a crime of the third degree. The committee substitute would provide that money laundering would constitute a crime of the first degree if the amount involved is \$500,000.00 or more. Money laundering would be a crime of the second degree if the amount involved is at least \$75,000.00 but less than \$500,000.00; otherwise it would be a crime of the third degree. In addition, the committee substitute would authorize the court to impose a fine of up to \$500,000.00 for any money laundering offense. The committee substitute also provides that the sentence imposed on a person convicted of money laundering as a crime of the first degree must include a minimum term fixed at, or between, one-third and one-half of the sentence imposed, during which time the person would be ineligible for parole.

Sections 5 and 6 of the committee substitute amend two provisions of the RICO statute: N.J.S.A.2C:41-1 and N.J.S.A. 2C:41-3. Section 5 clarifies that money laundering, leader of narcotics trafficking network and leader of auto theft trafficking network are included in the enumerated offenses which comprise "racketeering activity" under N.J.S.A.2C:41-1. Section 6 amends N.J.S.A.2C:41-3, the criminal penalties provision of the RICO statute, to provide that if a person violates the RICO statute in connection with a pattern of racketeering activity which involves a crime of the first degree that person would be guilty of a crime of the first degree. Currently, this section provides that any person who violates RICO in connection with a pattern of racketeering activity which involves a crime of violence or the use of a firearm would be guilty of a crime of the first degree.

Sections 7 through 13 provide for enhanced penalties for persons found guilty of money laundering. Under the provisions of the committee substitute, the court, upon application of the prosecutor, would be authorized to impose an "anti-money laundering profiteering penalty." In the case of a person convicted of a crime of the first degree, the additional penalty would be \$500,000.00; \$250,000.00 in the case of a crime of the second degree; \$75,000.00 in the case of a crime of the third degree; or an amount equal to three times the value of any property involved in a money laundering activity.

If the prosecutor requests the court to assess a penalty in the amount equal to three times the value of the property involved in the money laundering activity, the prosecutor would have the burden of establishing by a preponderance of evidence the appropriate amount of the penalty. In making its finding the court would take judicial notice of any evidence or information adduced at trial or in any other court proceeding. The finding would be incorporated into the record and not be subject to modification by an appellate court except upon a showing that the finding lacked support in the record or was

arbitrary and capricious. The penalty may be satisfied by a judgment against any of the defendant's assets.

FISCAL NOTE

SENATE COMMITTEE SUBSTITUTE FOR SENATE, Nos. 1194, 1198 and 1240 STATE OF NEW JERSEY 208th LEGISLATURE

DATED: FEBRUARY 23, 1999

Bill Summary

Senate Committee Substitute for Senate Bill Nos. 1194, 1198 and 1240 of 1998 revises certain sections in Titles 2A and 2C in order to strengthen the ability of the criminal justice system to combat money laundering. This bill provides the following:

- Amends the "New Jersey Wiretapping and Electronic Surveillance Control Act," N.J.S.A.2A:156A-1 et seq, by adding money laundering to the list of offenses enumerated in the wiretapping statute.
- Upgrades the penalties for money laundering so that it is a first degree crime if the amount involved is \$500,000 or more, a second degree crime if the amount involved is at least \$75,000 but less than \$500,000, and a third degree crime otherwise.
- Amends 2C:41-1 by including all crimes defined in Chapter 20 of Title 2C of the New Jersey Statutes, all crimes defined in Chapter 21 of Title 2C of the New Jersey Statutes, violations of 2C:35-4 (maintaining or operating a Controlled Dangerous Substance production facility), and violations of 2C:35-6 (employing a juvenile in a drug distribution scheme) among the crimes which may constitute racketeering activity.
- Provides for an "Anti-Money Laundering Profiteering Penalty." For first degree crimes, the penalty would be \$500,000; for second degree crimes, \$250,000; and for third degree crimes, \$75,000.

Agency Comments

The Administrative Office of the Courts (AOC) states that according to the latest Wiretapping Report, there were 86 orders to wiretap, intercept electronic communications and/or conduct electronic surveillance granted in 1995. Only one order pertained to money laundering offenses. In 1997 there were three people sentenced for second degree money laundering offenses (amounts greater than

\$75,000) and thirteen sentenced for third degree money laundering (amounts less than \$75,000). Although data is not collected on money involved in money laundering offenses, if the "Anti-Money Laundering Profiteering Penalty" was in effect in 1997 at least \$1,725,000 would have been collected.

In 1997 there were a total of fourteen sentences for racketeering offenses under either 2C:41-2 or 2C:41-3. The department does not collect data on the predicate offenses which were the basis for the racketeering convictions. There were, however, 3,616 sentences for offenses under Chapter 20 of Title 2C of the New Jersey Statutes during 1997. In addition there were 325 sentences for offenses under Chapter 21 of Title 2C of the New Jersey Statutes during 1997.

There were two sentences under 2C:35-4 in 1997 (Maintaining/Operating a Controlled Dangerous Substance Production Facility) and twenty-eight sentences under 2C:35-6 (Employing a Juvenile in a Drug Distribution Scheme).

The Office of Legislative Services concurs.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 1194, 1198 and 1240

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED JANUARY 21, 1999

Sponsored by:

Senator GARRY J. FURNARI

District 36 (Bergen, Essex and Passaic)

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Senator LOUIS F. KOSCO

District 38 (Bergen)

Co-Sponsored by:

Senators Sinagra, Inverso, Singer, Allen and Bucco

SYNOPSIS

Revises the statutory law concerning money laundering.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Judiciary Committee.



(Sponsorship Updated As Of: 1/29/1999)

1 **AN ACT** concerning money laundering and amending P.L.1968,
2 c.409, N.J.S.2C:5-4, P.L.1994, c.121, N.J.S.2C:41-1,
3 N.J.S.2C:41-3, P.L.1991, c.329 and supplementing Title 2C of
4 the New Jersey Statutes.

5

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

8

9 1. Section 8 of P.L.1968, c.409 (C.2A:156A-8) is amended to
10 read as follows:

11 8. The Attorney General, county prosecutor or a person
12 designated to act for such an official and to perform his duties in and
13 during his actual absence or disability, may authorize, in writing, an ex
14 parte application to a judge designated to receive the same for an
15 order authorizing the interception of a wire, or electronic or oral
16 communication by the investigative or law enforcement officers or
17 agency having responsibility for an investigation when such
18 interception may provide evidence of the commission of the offense of
19 murder, kidnapping, gambling, robbery, bribery, a violation of
20 paragraph (1) or (2) of subsection b. of N.J.S.2C:12-1, a violation of
21 N.J.S.2C:21-19 punishable by imprisonment for more than one year,
22 a violation of P.L.1994, c.121 (C.2C:21-23 et seq.), terroristic
23 threats, violations of N.J.S.2C:35-3, N.J.S.2C:35-4 and
24 N.J.S.2C:35-5, violations of sections 112 through 116, inclusive, of
25 the "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through
26 5:12-116), arson, burglary, theft and related offenses punishable by
27 imprisonment for more than one year, endangering the welfare of a
28 child pursuant to N.J.S.2C:24-4, escape, forgery, alteration of motor
29 vehicle identification numbers, unlawful manufacture, purchase, use,
30 or transfer of firearms, unlawful possession or use of destructive
31 devices or explosives, racketeering or a violation of subsection g. of
32 N.J.S.2C:5-2, leader of organized crime, organized criminal activity
33 directed toward the unlawful transportation, storage, disposal,
34 discharge, release, abandonment or disposition of any harmful,
35 hazardous, toxic, destructive, or polluting substance, or any
36 conspiracy to commit any of the foregoing offenses or which may
37 provide evidence aiding in the apprehension of the perpetrator or
38 perpetrators of any of the foregoing offenses.

39 (cf: P.L.1995, c.119, s.1)

40

41 2. N.J.S.2C:5-4 is amended to read as follows:

42 2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation
43 in Cases of Lesser Danger. a. Grading. Except as provided in

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

Matter underlined thus is new matter.

1 **[subsection]** subsections c. and d., an attempt or conspiracy to
2 commit a crime of the first degree is a crime of the second degree;
3 except that an attempt to commit murder is a crime of the first degree.
4 Otherwise an attempt is a crime of the same degree as the most serious
5 crime which is attempted, and conspiracy is a crime of the same degree
6 as the most serious crime which is the object of the conspiracy;
7 provided that, leader of organized crime is a crime of the second
8 degree. An attempt or conspiracy to commit an offense defined by a
9 statute outside the code shall be graded as a crime of the same degree
10 as the offense is graded pursuant to sections 2C:1-4 and 2C:43-1.

11 b. Mitigation. The court may impose sentence for a crime of a
12 lower grade or degree if neither the particular conduct charged nor the
13 defendant presents a public danger warranting the grading provided for
14 such crime under subsection a. because:

15 (1) The criminal attempt or conspiracy charged is so inherently
16 unlikely to result or culminate in the commission of a crime; or

17 (2) The conspiracy, as to the particular defendant charged, is so
18 peripherally related to the main unlawful enterprise.

19 c. Notwithstanding the provisions of subsection a. of this section,
20 conspiracy to commit a crime set forth in subsection a., b., or d. of
21 N.J.S.2C:17-1 where the structure which was the target of the crime
22 was a church, synagogue, temple or other place of public worship is
23 a crime of the first degree.

24 d. Notwithstanding the provisions of subsection a. of this section,
25 conspiracy to commit a crime as set forth in P.L.1994, c.121
26 (C.2C:21-23 et seq.) is a crime of the same degree as the most
27 serious crime that was conspired to be committed.

28 (cf: P.L.1997, c.34, s. 1)

29

30 3. Section 3 of P.L.1994, c.121 (C.2C:21-25) is amended to read
31 as follows:

32 3. A person is guilty of a crime if the person:

33 a. transports or possesses property known to be derived from
34 criminal activity; or

35 b. engages in a transaction involving property known to be derived
36 from criminal activity

37 (1) with the intent to facilitate or promote the criminal activity; or

38 (2) knowing that the transaction is designed in whole or in part

39 (a) to conceal or disguise the nature, location, source, ownership
40 or control of the property derived from criminal activity; or

41 (b) to avoid a transaction reporting requirement under the laws of
42 this State or any other state or of the United States; or

43 c. directs, organizes, finances, plans, manages, supervises, or
44 controls the transportation of or transactions in property known to be
45 derived from criminal activity.

46 d. For the purposes of this act, property is known to be derived

1 from criminal activity if the person knows that the property involved
2 represents proceeds from some form, though not necessarily which
3 form, of criminal activity. Among the factors that the finder of fact
4 may consider in determining that a transaction has been designed to
5 avoid a transaction reporting requirement shall be whether the person,
6 acting alone or with others, conducted one or more transactions in
7 currency, in any amount, at one or more financial institutions, on one
8 or more days, in any manner. The phrase "in any manner" includes the
9 breaking down of a single sum of currency exceeding the transaction
10 reporting requirement into smaller sums, including sums at or below
11 the transaction reporting requirement, or the conduct of a transaction,
12 or series of currency transactions, including transactions at or below
13 the transaction reporting requirement. The transaction or transactions
14 need not exceed the transaction reporting threshold at any single
15 financial institution on any single day in order to demonstrate a
16 violation of subparagraph (b) of paragraph (2) of subsection b. of this
17 section.

18 (cf: P.L.1994, c.121, s.3)

19

20 4. Section 5 of P.L.1994, c.121 (C.2C:21-27) is amended to read
21 as follows:

22 5. a. **【** Where the amount involved is \$75,000 or more, the **】**
23 The offense defined in section 3 of 【this act】 P.L.1994, c.121
24 (C.2C:21-25) constitutes a crime of the first degree if the amount
25 involved is \$500,000.00 or more . If the amount involved is at least
26 \$75,000.00 but less than \$500,000.00 the offense constitutes a crime
27 of the second degree; otherwise, the offense constitutes a crime of the
28 third degree. Notwithstanding the provisions of N.J.S.2C:43-3, the
29 court may also impose a fine up to \$500,000.00. The amount involved
30 in a prosecution for violation of this section shall be determined by the
31 trier of fact. Amounts involved in transactions conducted pursuant to
32 one scheme or course of conduct may be aggregated in determining
33 the degree of the offense. Notwithstanding the provisions of paragraph
34 (1) of subsection a. of N.J.S.2C:43-6, a person convicted of a crime
35 of the first degree pursuant to the provisions of this subsection shall
36 be sentenced to a term of imprisonment that shall include the
37 imposition of a minimum term which shall be fixed at, or between,
38 one-third and one-half of the sentence imposed, during which time the
39 defendant shall not be eligible for parole.

40 b. In addition to any other dispositions authorized by this Title,
41 upon conviction of a violation of this section, the court may sentence
42 the defendant to pay an amount as calculated pursuant to subsection
43 a. of section 6 of **【this act】** P.L.1994, c.121 (C.2C:21-28).

44 c. Notwithstanding N.J.S.2C:1-8 or any other provision of law, a
45 conviction of an offense defined in this section shall not merge with
46 the conviction of any other offense constituting the criminal activity

1 involved or from which the property was derived, and a conviction of
2 any offense constituting the criminal activity involved or from which
3 the property was derived shall not merge with a conviction of an
4 offense defined in section 3 of **[this act]** P.L.1994, c.121 (C.2C:21-
5 25), and the sentence imposed upon a conviction of any offense
6 defined in section 3 of P.L.1994, c.121 (C.2C:21-25) shall be ordered
7 to be served consecutively to that imposed for a conviction of any
8 offense constituting the criminal activity involved or from which the
9 property was derived. Nothing in **[this act]** P.L.1994, c.121 (C.2C:21-
10 23 et. seq.) shall be construed in any way to preclude or limit a
11 prosecution or conviction for any other offense defined in this Title or
12 any other criminal law of this State.

13 (cf: P.L.1994, c.121, s.5)

14

15 5. N.J.S.2C:41-1 is amended to read as follows:

16 2C:41-1. Definitions.

17 For purposes of this section and N.J.S.2C:41-2 through
18 N.J.S.2C:41-6:

19 a. "Racketeering activity" means (1) any of the following crimes
20 which are crimes under the laws of New Jersey or are equivalent
21 crimes under the laws of any other jurisdiction:

22 (a) murder

23 (b) kidnapping

24 (c) gambling

25 (d) promoting prostitution

26 (e) obscenity

27 (f) robbery

28 (g) bribery

29 (h) extortion

30 (i) criminal usury

31 (j) violations of Title 33 of the Revised Statutes

32 (k) violations of Title 54A of the New Jersey Statutes and Title 54
33 of the Revised Statutes

34 (l) arson

35 (m) burglary

36 (n) theft and **[related]** all crimes defined in chapter 20 of Title 2C
37 of the New Jersey Statutes

38 (o) forgery and fraudulent practices and all crimes defined in
39 chapter 21 of Title 2C of the New Jersey Statutes

40 (p) fraud in the offering, sale or purchase of securities

41 (q) alteration of motor vehicle identification numbers

42 (r) unlawful manufacture, purchase, use or transfer of firearms

43 (s) unlawful possession or use of destructive devices or explosives

44 (t) violation of sections 112 through 116 inclusive of the "Casino
45 Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116)

46 (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6

1 and all crimes involving illegal distribution of a controlled dangerous
2 substance or controlled substance analog, except possession of [84
3 grams or] less than one ounce of marijuana [or of N.J.S.2C:35-4 or
4 N.J.S.2C:35-6]

5 (v) violation of subsection b. of N.J.S.2C:24-4 except for
6 subparagraph (b) of paragraph (5) of subsection b.

7 (2) any conduct defined as "racketeering activity" under Title 18,
8 U.S.C.s.1961(1)(A), (B) and (D).

9 b. "Person" includes any individual or entity or enterprise as
10 defined herein holding or capable of holding a legal or beneficial
11 interest in property.

12 c. "Enterprise" includes any individual, sole proprietorship,
13 partnership, corporation, business or charitable trust, association, or
14 other legal entity, any union or group of individuals associated in fact
15 although not a legal entity, and it includes illicit as well as licit
16 enterprises and governmental as well as other entities.

17 d. "Pattern of racketeering activity" requires

18 (1) Engaging in at least two incidents of racketeering conduct one
19 of which shall have occurred after the effective date of this act and the
20 last of which shall have occurred within 10 years (excluding any period
21 of imprisonment) after a prior incident of racketeering activity; and

22 (2) A showing that the incidents of racketeering activity embrace
23 criminal conduct that has either the same or similar purposes, results,
24 participants or victims or methods of commission or are otherwise
25 interrelated by distinguishing characteristics and are not isolated
26 incidents.

27 e. "Unlawful debt" means a debt

28 (1) Which was incurred or contracted in gambling activity which
29 was in violation of the law of the United States, a state or political
30 subdivision thereof; or

31 (2) Which is unenforceable under state or federal law in whole or
32 in part as to principal or interest because of the laws relating to usury.

33 f. "Documentary material" includes any book, paper, document,
34 writing, drawing, graph, chart, photograph, phonorecord, magnetic or
35 recording or video tape, computer printout, other data compilation
36 from which information can be obtained or from which information can
37 be translated into useable form or other tangible item.

38 g. "Attorney General" includes the Attorney General of New
39 Jersey, his assistants and deputies. The term shall also include a
40 county prosecutor or his designated assistant prosecutor if a county
41 prosecutor is expressly authorized in writing by the Attorney General
42 to carry out the powers conferred on the Attorney General by this
43 chapter.

44 h. "Trade or commerce" shall include all economic activity
45 involving or relating to any commodity or service.

46 (cf: P.L.1995, c.110)

1 6. N.J.S.2C:41-3 is amended to read as follows:

2 2C:41-3. Criminal penalties.

3 a. Any person who violates any provision of N.J.S.2C:41-2 in
4 connection with a pattern of racketeering activity which involves a
5 crime of violence, a crime of the first degree or the use of firearms
6 shall be guilty of a crime of the first degree. All other violations of
7 N.J.S.2C:41-2 shall be crimes of the second degree.

8 b. In addition, such persons shall forfeit to the entity funding the
9 prosecuting agency involved the following:

10 (1) Any interest including money or anything of value he has
11 acquired or maintained in violation of this chapter and

12 (2) Any interest in, security of, claim against, or property or
13 contractual right of any kind affording a source of influence over any
14 enterprise which he has established, acquired, maintained, operated,
15 controlled, conducted, or participated in the conduct of, in violation
16 of this chapter.

17 c. In any action brought by the Attorney General under this
18 section, the Superior Court shall have jurisdiction to enter such
19 restraining orders or prohibitions, or to take such other actions,
20 including, but not limited to, the acceptance of satisfactory
21 performance bonds, in connection with any property or other interests
22 subject to forfeiture under this section, as it shall deem proper.

23 d. Upon conviction of a person under this section, the court shall
24 authorize the Attorney General to seize all property or other interest
25 declared forfeited under this section, subject to the rights of innocent
26 persons such as any prior lienholders or other valid lienholders, upon
27 such other terms and conditions as the court shall deem proper. If a
28 property right or other interest is not exercisable or transferable for
29 value by the Attorney General, it shall expire, and shall not revert to
30 the convicted person.

31 e. The Attorney General shall dispose of all such property as soon
32 as commercially feasible, making due provision for the rights of
33 innocent persons.

34 f. When an offense charged may result in a criminal forfeiture, the
35 indictment shall allege the extent of the interest or property subject to
36 forfeiture. If the indictment alleges that an interest or property is
37 subject to criminal forfeiture, a special verdict shall be returned as to
38 the extent of the interest or property subject to forfeiture, if any.

39 (cf: P.L.1981, c.167, s.2)

40

41 7. Section 13 of P.L.1991, c.329 (2C:46-4.1) is amended to read
42 as follows:

43 13. Moneys that are collected in satisfaction of any assessment
44 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or
45 in satisfaction of restitution or fines imposed in accordance with the
46 provisions of Title 2C of the New Jersey Statutes or with the

1 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), shall be
2 applied in the following order:

3 a. first, in satisfaction of all assessments imposed pursuant to
4 section 2 of P.L.1979, c.396 (C.2C:43-3.1);

5 b. second, except as provided in subsection f. of this section, in
6 satisfaction of any restitution ordered;

7 c. third, in satisfaction of all assessments imposed pursuant to
8 section 11 of P.L.1993, c.220 (C.2C:43-3.2);

9 d. fourth, in satisfaction of any forensic laboratory fee assessed
10 pursuant to N.J.S.2C:35-20;

11 e. fifth, in satisfaction of any mandatory Drug Enforcement and
12 Demand Reduction penalty assessed pursuant to N.J.S.2C:35-15;

13 f. sixth, in satisfaction of any anti-drug profiteering penalty
14 imposed pursuant to section 2 of P.L.1997, c.187 (N.J.S.2C:35A-1 et
15 seq.);

16 g. seventh, in satisfaction of any anti-money laundering
17 profiteering penalty imposed pursuant to section 9 of P.L....., c....
18 (C.)(now pending before the Legislature as section 9 of this bill);

19 h. eighth, in satisfaction of restitution for any extradition costs
20 imposed pursuant to section 4 of P.L.1997, c.253 (C.2C:43-3.4); and

21 **[h. eighth] i. ninth**, in satisfaction of any fine.

22 (cf: P.L.1997, c.253, s.3)

23

24 8. (New section) Criteria for Imposition of Anti-Money
25 Laundering Profiteering Penalty.

26 In addition to any other disposition authorized by this Title,
27 including but not limited to any fines which may be imposed pursuant
28 to the provisions of N.J.S.2C:43-3, where a person has been
29 convicted of a crime defined in P.L.1994, c.121 (C.2C:21-23 et seq.)
30 or an attempt or conspiracy to commit such a crime, the court shall,
31 upon the application of the prosecutor, sentence the person to pay a
32 monetary penalty in an amount determined pursuant to section 9 of
33 P.L. , c. (C.)(now pending before the Legislature as section 9
34 of this bill), provided the court finds at a hearing, which may occur at
35 the time of sentencing, that the prosecutor has established by a
36 preponderance of the evidence that the defendant was convicted of a
37 violation of P.L.1994, c.121 (C.2C:21-23 et seq.).

38

39 9. (New section) Calculation of Anti-Money Laundering
40 Profiteering Penalty.

41 Where, pursuant to section 8 of P.L. , c. (C.)(now pending
42 before the Legislature as section 8 of this bill) the prosecutor has
43 established by a preponderance of the evidence that the defendant was
44 convicted of a violation of P.L.1994, c.121 (C. 2C:21-23 et seq.), the
45 court shall assess a monetary penalty as follows:

46 a. \$500,000.00 in the case of a crime of the first degree;

1 \$250,000.00 in the case of a crime of the second degree; \$75,000.00
2 in the case of a crime of the third degree; or

3 b. an amount equal to three times the value of any property
4 involved in the money laundering activity in violation of P.L.1994,
5 c.121 (C.2C:21-23 et seq.).

6 c. Where the prosecution requests that the court assess a penalty
7 in an amount calculated pursuant to subsection b. of this section, the
8 prosecutor shall have the burden of establishing by a preponderance of
9 the evidence the appropriate amount of the penalty to be assessed
10 pursuant to that subsection. In making its finding, the court shall take
11 judicial notice of any evidence, testimony or information adduced at
12 trial, plea hearing or other court proceedings and shall also consider
13 the presentence report and other relevant information, including expert
14 opinion in the form of live testimony or by affidavit or by such other
15 means as the court deems appropriate. The court's findings shall be
16 incorporated in the record, and such findings shall not be subject to
17 modification by an appellate court except upon a showing that the
18 finding was totally lacking support in the record or was arbitrary and
19 capricious.

20

21 10. (New section) Revocation or reduction of penalty assessment.

22 The court shall not revoke or reduce a penalty imposed pursuant
23 to section 9 of P.L. , c. (C.)(now pending before the
24 Legislature as section 9 of this bill). An anti-money laundering
25 profiteering penalty imposed pursuant to section 9 of P.L. . c.
26 (C.)(now pending before the Legislature as section 9 of this bill)
27 shall not be deemed a fine for purposes of N.J.S.2C:46-3 except with
28 the consent of the prosecutor.

29

30 11. (New section) Payment Schedule.

31 The court may, for good cause shown, and subject to the
32 provisions of this section, grant permission for the payment of an anti-
33 money laundering profiteering penalty assessed pursuant to section 9
34 of P.L. , c. (C.)(now pending before the Legislature as section
35 9 of this bill) to be made within a specified period of time or in
36 specified installments, provided however that the payment schedule
37 fixed by the court shall require the defendant to pay the anti-money
38 laundering profiteering penalty in the shortest period of time consistent
39 with the nature and extent of his assets and his ability to pay, and
40 further provided that the prosecutor shall be afforded the opportunity
41 to present evidence or information concerning the nature, extent and
42 location of the defendant's assets or interests in property which are or
43 might be subject to levy and execution. In such event, the court may
44 only grant permission for the payment to be made within a specified
45 period of time or installments with respect to that portion of the
46 assessed penalty which would not be satisfied by the liquidation of

1 property which is or may be subject to levy and execution, unless the
2 court finds that the immediate liquidation of such property would
3 result in undue hardship to innocent persons. If no permission to make
4 payment within a specified period of time or in installments is
5 embodied in the sentence, the entire penalty shall be payable forthwith.

6
7 12. (New section) Relation to Other Dispositions.

8 a. An anti-money laundering profiteering penalty assessed
9 pursuant to section 9 of P.L. , c. (C.)(now pending before the
10 Legislature as section 9 of this bill) shall be imposed and paid in
11 addition to any penalty, fine, fee or order for restitution which may be
12 imposed.

13 b. An anti-money laundering profiteering penalty imposed
14 pursuant to section 9 of P.L. , c. (C.)(now pending before the
15 Legislature as section 9 of this bill) shall be in addition to and not in
16 lieu of any forfeiture or other cause of action instituted pursuant to
17 chapters 41 or 64 of Title 2C of the New Jersey Statutes, and nothing
18 in this chapter shall be construed in any way to preclude, preempt or
19 limit any such cause of action. A defendant shall not be entitled to
20 receive credit toward the payment of an anti-money laundering
21 profiteering penalty imposed pursuant to section 9 of P.L. , c.
22 (C.)(now pending before the Legislature as section 9 of this bill)
23 for the value of property forfeited, or subject to forfeiture, pursuant
24 to the provisions of chapters 41 or 64 of Title 2C of the New Jersey
25 Statutes.

26
27 13. (New section) Collection and Distribution.

28 All anti-money laundering profiteering penalties assessed pursuant
29 to section 9 of P.L. , c. (C.)(now pending before the
30 Legislature as section 9 of this bill) shall be docketed and collected as
31 provided for the collection of fines, penalties, fees and restitution in
32 chapter 46 of Title 2C of the New Jersey Statutes. The Attorney
33 General or prosecutor may prosecute an action to collect any anti-
34 money laundering profiteering penalties imposed pursuant to section
35 9 of P.L. , c. (C.)(now pending before the Legislature as
36 section 9 of this bill). All anti-money laundering profiteering penalties
37 assessed pursuant to section 9 of P.L. , c. (C.)(now pending
38 before the Legislature as section 9 of this bill) shall be disposed of,
39 distributed, appropriated and used as if the collected penalties were the
40 proceeds of property forfeited pursuant to chapter 64 of Title 2C of
41 the New Jersey Statutes.

42
43 14. This act shall take effect immediately.

SENATE, No. 1194

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED JUNE 15, 1998

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Senator GARRY J. FURNARI

District 36 (Bergen, Essex and Passaic)

SYNOPSIS

Amends RICO statute; provides for life imprisonment under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



S1194 BRYANT, FURNARI

2

1 **AN ACT** concerning racketeering and amending N.J.S.2C:41-1 and
2 N.J.S.2C:41-3.

3

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

6

7 1. N.J.S.2C:41-1 is amended to read as follows:

8 2C:41-1. Definitions.

9 For purposes of this section and N.J.S.2C:41-2 through
10 N.J.S.2C:41-6:

11 a. "Racketeering activity" means (1) any of the following crimes
12 which are crimes under the laws of New Jersey or are equivalent
13 crimes under the laws of any other jurisdiction:

14 (a) murder

15 (b) kidnapping

16 (c) gambling

17 (d) promoting prostitution

18 (e) obscenity

19 (f) robbery

20 (g) bribery

21 (h) extortion

22 (i) criminal usury

23 (j) violations of Title 33 of the Revised Statutes

24 (k) violations of Title 54A of the New Jersey Statutes and Title 54
25 of the Revised Statutes

26 (l) arson

27 (m) burglary

28 (n) theft and related crimes

29 (o) forgery and fraudulent practices

30 (p) fraud in the offering, sale or purchase of securities

31 (q) alteration of motor vehicle identification numbers

32 (r) unlawful manufacture, purchase, use or transfer of firearms

33 (s) unlawful possession or use of destructive devices or explosives

34 (t) violation of sections 112 through 116 inclusive of the "Casino
35 Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116)

36 (u) violation of N.J.S.2C:35-5 except possession of 84 grams or
37 less of marijuana or of N.J.S.2C:35-4 or N.J.S.2C:35-6

38 (v) violation of subsection b. of N.J.S.2C:24-4 except for
39 subparagraph (b) of paragraph (5) of subsection b

40 (w) a violation of P.L.1994, c.121 (C.2C:21-23 et. seq.)

41 (x) a violation of N.J.S.2C:35-3

42 (y) a violation of P.L.1991,C.82 (C.20:20-18).

43 (2) any conduct defined as "racketeering activity" under Title 18,

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

Matter underlined thus is new matter.

1 U.S.C.s.1961(1)(A), (B) and (D).

2 b. "Person" includes any individual or entity or enterprise as
3 defined herein holding or capable of holding a legal or beneficial
4 interest in property.

5 c. "Enterprise" includes any individual, sole proprietorship,
6 partnership, corporation, business or charitable trust, association, or
7 other legal entity, any union or group of individuals associated in fact
8 although not a legal entity, and it includes illicit as well as licit
9 enterprises and governmental as well as other entities.

10 d. "Pattern of racketeering activity" requires

11 (1) Engaging in at least two incidents of racketeering conduct one
12 of which shall have occurred after the effective date of this act and the
13 last of which shall have occurred within 10 years (excluding any period
14 of imprisonment) after a prior incident of racketeering activity; and

15 (2) A showing that the incidents of racketeering activity embrace
16 criminal conduct that has either the same or similar purposes, results,
17 participants or victims or methods of commission or are otherwise
18 interrelated by distinguishing characteristics and are not isolated
19 incidents.

20 e. "Unlawful debt" means a debt

21 (1) Which was incurred or contracted in gambling activity which
22 was in violation of the law of the United States, a state or political
23 subdivision thereof; or

24 (2) Which is unenforceable under state or federal law in whole or
25 in part as to principal or interest because of the laws relating to usury.

26 f. "Documentary material" includes any book, paper, document,
27 writing, drawing, graph, chart, photograph, phonorecord, magnetic or
28 recording or video tape, computer printout, other data compilation
29 from which information can be obtained or from which information can
30 be translated into useable form or other tangible item.

31 g. "Attorney General" includes the Attorney General of New
32 Jersey, his assistants and deputies. The term shall also include a
33 county prosecutor or his designated assistant prosecutor if a county
34 prosecutor is expressly authorized in writing by the Attorney General
35 to carry out the powers conferred on the Attorney General by this
36 chapter.

37 h. "Trade or commerce" shall include all economic activity
38 involving or relating to any commodity or service.

39 (cf: P.L.1995, c.110)

40

41 2. N.J.S.2C:41-3 is amended to read as follows:

42 2C:41-3. Criminal penalties.

43 a. Any person who violates any provision of N.J.S.2C:41-2 in
44 connection with a pattern of racketeering activity which involves a
45 crime of violence, a violation of P.L.1994, c.121 (2C:21-23 et seq.) or
46 the use of firearms shall be guilty of a crime of the first degree. All

1 other violations of N.J.S.2C:41-2 shall be crimes of the second degree.
2 Notwithstanding the provisions of paragraph (1) of subsection a. of
3 N.J.S.2C:43-6, if a person is convicted of a crime of the first degree
4 under the provisions of this section the sentence imposed shall include
5 a term of imprisonment between 30 years and life imprisonment and
6 shall include a mandatory minimum term of 30 years, during which the
7 defendant shall not be eligible for parole.

8 b. In addition, such persons shall forfeit to the entity funding the
9 prosecuting agency involved the following:

10 (1) Any interest including money or anything of value he has
11 acquired or maintained in violation of this chapter and

12 (2) Any interest in, security of, claim against, or property or
13 contractual right of any kind affording a source of influence over any
14 enterprise which he has established, acquired, maintained, operated,
15 controlled, conducted, or participated in the conduct of, in violation
16 of this chapter.

17 c. In any action brought by the Attorney General under this
18 section, the Superior Court shall have jurisdiction to enter such
19 restraining orders or prohibitions, or to take such other actions,
20 including, but not limited to, the acceptance of satisfactory
21 performance bonds, in connection with any property or other interests
22 subject to forfeiture under this section, as it shall deem proper.

23 d. Upon conviction of a person under this section, the court shall
24 authorize the Attorney General to seize all property or other interest
25 declared forfeited under this section, subject to the rights of innocent
26 persons such as any prior lienholders or other valid lienholders, upon
27 such other terms and conditions as the court shall deem proper. If a
28 property right or other interest is not exercisable or transferable for
29 value by the Attorney General, it shall expire, and shall not revert to
30 the convicted person.

31 e. The Attorney General shall dispose of all such property as soon
32 as commercially feasible, making due provision for the rights of
33 innocent persons.

34 f. When an offense charged may result in a criminal forfeiture, the
35 indictment shall allege the extent of the interest or property subject to
36 forfeiture. If the indictment alleges that an interest or property is
37 subject to criminal forfeiture, a special verdict shall be returned as to
38 the extent of the interest or property subject to forfeiture, if any.

39 (cf: P.L.1981, c.167, s.2)

40
41 3. This act shall take effect immediately.

42
43
44 STATEMENT

45
46 This bill would add money laundering, leader of narcotic trafficking

S1194 BRYANT, FURNARI

5

1 network and leader of auto theft trafficking network to the
2 enumerated offenses which comprise "racketeering activity" under the
3 provisions of New Jersey's RICO statute.

4 This bill would also amend that section of the RICO statute which
5 concerns criminal penalties to include money laundering in the list of
6 offenses which would upgrade racketeering to a crime of the first
7 degree. Currently, if the prohibited activity involved a crime of
8 violence or use of a firearm then it would be graded as a crime of the
9 first degree.

SENATE, No. 1198

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED JUNE 15, 1998

Sponsored by:

Senator GARRY J. FURNARI

District 36 (Bergen, Essex and Passaic)

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

SYNOPSIS

Upgrades the crime of money laundering to a crime of the first degree; classifies conspiracy to commit money laundering as a crime of the first degree.

CURRENT VERSION OF TEXT

As introduced.



S1198 FURNARI, BRYANT

2

1 AN ACT concerning money laundering and amending P.L.1994, c.121
2 and N.J.S.2C:5-4.

3

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

6

7 1. Section 5 of P.L. 1994, c. 121 (C.2C:21-27) is amended to read
8 as follows:

9 5. a. ~~Where the amount involved is \$75,000 or more, the~~ The
10 offense defined in section 3 of this act constitutes a crime of the first
11 degree if the amount involved is \$500,000.00 or more . If the amount
12 involved is at least \$75,000.00 but does not exceed \$500,000.00 then
13 the offense constitutes a crime of the second degree; otherwise, the
14 offense constitutes a crime of the third degree. Notwithstanding the
15 provisions of N.J.S. 2C:43-3, the court may also impose a fine not to
16 exceed \$500,000.00. The amount involved in a prosecution for
17 violation of this section shall be determined by the trier of fact.
18 Amounts involved in transactions conducted pursuant to one scheme
19 or course of conduct may be aggregated in determining the degree of
20 the offense. Notwithstanding the provisions of paragraph (1) of
21 subsection a. of N.J.S. 2C:43-6, a person convicted of a crime of the
22 first degree pursuant to the provisions of this subsection shall be
23 sentenced to a mandatory minimum term of imprisonment of 15 years,
24 during which time the defendant shall not be eligible for parole.

25 b. In addition to any other dispositions authorized by this Title,
26 upon conviction of a violation of this section, the court may sentence
27 the defendant to pay an amount as calculated pursuant to subsection
28 a. of section 6 of this act.

29 c. Notwithstanding N.J.S.2C:1-8 or any other provision of law, a
30 conviction of an offense defined in this section shall not merge with
31 the conviction of any other offense constituting the criminal activity
32 involved or from which the property was derived, and a conviction of
33 any offense constituting the criminal activity involved or from which
34 the property was derived shall not merge with a conviction of an
35 offense defined in section 3 of this act. Nothing in this act shall be
36 construed in any way to preclude or limit a prosecution or conviction
37 for any other offense defined in this Title or any other criminal law of
38 this State.

39 (cf: P.L.1994, c.121, s.5)

40

41 2. N.J.S.2C:5-4 is amended to read as follows:

42 2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation
43 in Cases of Lesser Danger. a. Grading. Except as provided in

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

Matter underlined thus is new matter.

1 **[subsection]** subsections c. and d., an attempt or conspiracy to
2 commit a crime of the first degree is a crime of the second degree;
3 except that an attempt to commit murder is a crime of the first degree.
4 Otherwise an attempt is a crime of the same degree as the most serious
5 crime which is attempted, and conspiracy is a crime of the same degree
6 as the most serious crime which is the object of the conspiracy;
7 provided that, leader of organized crime is a crime of the second
8 degree. An attempt or conspiracy to commit an offense defined by a
9 statute outside the code shall be graded as a crime of the same degree
10 as the offense is graded pursuant to sections 2C:1-4 and 2C:43-1.

11 b. Mitigation. The court may impose sentence for a crime of a
12 lower grade or degree if neither the particular conduct charged nor the
13 defendant presents a public danger warranting the grading provided for
14 such crime under subsection a. because:

15 (1) The criminal attempt or conspiracy charged is so inherently
16 unlikely to result or culminate in the commission of a crime; or

17 (2) The conspiracy, as to the particular defendant charged, is so
18 peripherally related to the main unlawful enterprise.

19 c. Notwithstanding the provisions of subsection a. of this section,
20 conspiracy to commit a crime set forth in subsection a., b., or d. of
21 N.J.S.2C:17-1 where the structure which was the target of the crime
22 was a church, synagogue, temple or other place of public worship is
23 a crime of the first degree.

24 d. Notwithstanding the provisions of subsection a. of this section,
25 conspiracy to commit a crime as set forth in P.L.1994, c.121
26 (C.2C:21-23 et seq.) is a crime of the first degree and a person
27 convicted of under this section shall be sentenced to a term of
28 imprisonment. Notwithstanding the provisions of paragraph (1) of
29 subsection a. of N.J.S.2C: 43-6, the term of imprisonment shall
30 include a mandatory minimum term of 10 years, during which the
31 defendant shall not be eligible for parole. The court may not suspend
32 or make any other noncustodial disposition of a person sentenced
33 pursuant to the provisions of this subsection.

34 (cf: P.L.1997, c.34, s. 1)

35

36 3. This act shall take effect immediately .

37

38

39

STATEMENT

40

41 This bill would upgrade the crime of money laundering to a crime
42 of first degree and would also classify conspiracy to commit money
43 laundering as a crime of the first degree.

44 Money laundering would be a crime of the first degree if the
45 amount involved was \$500,000.00 or more. This bill would impose
46 a mandatory minimum term of 15 years, without eligibility of parole,

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4

1 on any person convicted of money laundering in the first degree.

2 Money laundering would be a crime of the second degree if the
3 amount involved is at least \$75,000.00 but less than \$500,000.00.

4 Otherwise the crime would be graded as a crime of the third degree.

5 A crime of the second degree is punishable by a term of imprisonment
6 of 5-10 years. A crime of the third degree is punishable by a term of
7 imprisonment of 3-5 years. This bill would also authorize the court
8 to impose a fine of not more \$500,000.

9 In addition, conspiracy to commit money laundering would be
10 graded as a crime of the first degree. This bill would also impose a
11 mandatory minimum term of imprisonment of 10 years, during which
12 time the person would be ineligible for parole.

SENATE, No. 1240

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED JUNE 25, 1998

Sponsored by:
Senator LOUIS F. KOSCO
District 38 (Bergen)

SYNOPSIS

Increases penalties for money laundering; amends various sections of the "Check Cashers Regulatory Act of 1993"; makes an appropriation.

CURRENT VERSION OF TEXT

As introduced.



S1240 KOSCO

2

1 AN ACT concerning the money laundering and amending P.L.1994,
2 c.121 and P.L.1993, c.383, supplementing Title 17 of the New
3 Jersey Statutes and making an appropriation.

4

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

7

8 1. Section 5 of P.L.1994, c.121 (C.2C:21-27) is amended to read
9 as follows:

10 5. a. Where the amount involved is ~~[\$75,000]~~ \$100,000.00 or
11 more, the offense defined in section 3 of this act constitutes a crime of
12 the ~~[second]~~ first degree; otherwise, the offense constitutes a crime
13 of the ~~[third]~~ second degree. The amount involved in a prosecution
14 for violation of this section shall be determined by the trier of fact.
15 Amounts involved in transactions conducted pursuant to one scheme
16 or course of conduct may be aggregated in determining the degree of
17 the offense.

18 b. In addition to any other dispositions authorized by this Title,
19 upon conviction of a violation of this section, the court may sentence
20 the defendant to pay an amount as calculated pursuant to subsection
21 a. of section 6 of this act.

22 c. Notwithstanding N.J.S.2C:1-8 or any other provision of law, a
23 conviction of an offense defined in this section shall not merge with
24 the conviction of any other offense constituting the criminal activity
25 involved or from which the property was derived, and a conviction of
26 any offense constituting the criminal activity involved or from which
27 the property was derived shall not merge with a conviction of an
28 offense defined in section 3 of this act. Nothing in this act shall be
29 construed in any way to preclude or limit a prosecution or conviction
30 for any other offense defined in this Title or any other criminal law of
31 this State.

32 (cf: P.L.1994,c.121,s.5)

33

34 2. Section 18 of P.L.1993, c.383 (C.17:15A-47) is amended to
35 read as follows:

36 18. No licensee, or any person acting on behalf of a licensee,
37 shall:

38 a. Cash a check which is made payable to a payee which is other
39 than a natural person unless the licensee has on file a corporate
40 resolution or other appropriate documentation indicating that the
41 corporation, partnership or other entity has authorized the presentment
42 of a check on its behalf and the federal taxpayer identification number
43 of the corporation, partnership or other entity;

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.

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- 1 b. Cash a check for anyone other than the payee named on the
2 face of the check, except that the commissioner may, by regulation,
3 establish exceptions to this prohibition;
- 4 c. Cash or advance any money on a postdated check;
- 5 d. Fail to give each customer at the end of each transaction a
6 receipt showing the amount of the check which was cashed, the
7 amount which was charged for cashing the check, and the amount of
8 cash which the customer was given;
- 9 e. Engage in the business of making loans of money, credit,
10 goods or things or discounting or buying of notes, bills of exchange,
11 checks or other evidences of debt, or conduct, or allow to be
12 conducted, a loan business or the negotiation of loans or the
13 discounting or buying of notes, bills of exchange, checks or other
14 evidences of debt in the same premises where the licensee is cashing
15 checks. For purposes of this subsection, a licensee shall be deemed to
16 have made a loan if the licensee cashes a check deposited by a
17 customer whose check cashing privileges were required to be
18 suspended under subsection j. of section 15 of this act.
19 Notwithstanding the provisions of this subsection, any person licensed
20 as a pawnbroker in this State shall be eligible to qualify as a licensee
21 under this act, and upon being so licensed, may conduct business as a
22 check casher in the same premises in which that person conducts
23 business as a pawnbroker;
- 24 f. Engage in business at an office or mobile office other than a
25 business which primarily provides financial services, except as
26 otherwise provided pursuant to subsection e. of this section;
- 27 g. Violate any provision of this act or regulations promulgated
28 pursuant to this act; **[or]**
- 29 h. Fail to comply with any order of the commissioner; or
- 30 i. Cash a check for consideration in the amount of \$2,500.00 or
31 more.
- 32 (cf: P.L.1993,c.383,s.18)

33
34 3. Section 23 of P.L.1993, c.383 (C.17:15A-52) is amended to
35 read as follows:

36 23. **[a.]** The commissioner shall promulgate rules and regulations
37 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
38 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this act.

39 **[b.** If the commissioner finds that reasonable grounds exist for
40 requiring additional record keeping and reporting in order to carry out
41 the purposes of this act, the commissioner may:

42 (1) issue an order requiring any group of licensees in a geographic
43 area to provide information regarding transactions that involve a total
44 dollar amount or denomination of \$2,500 or more, including the names
45 of the persons participating in those transactions; and

46 (2) establish by regulation a reasonable fee for filing any report

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1 required by this subsection.】

2 (cf: P.L.1993,c.383,s.23)

3

4 4. Section 20 of P.L.1993, c.383 (C.17:15A-49) is amended to
5 read as follows:

6 20. a. Any person who knowingly cashes a check for consideration
7 without having first obtained a license as required by section 3 of this
8 act shall be **【liable for a penalty of not more than \$1,000 for each
9 violation】** guilty of a crime of the fourth degree. For the purposes of
10 this section, each check cashed for consideration without a license
11 shall constitute a separate violation.

12 b. Any person who violates or causes to be violated any
13 provision of this act or any order, rule or regulation made or issued
14 pursuant to this act shall be liable for a penalty, in addition to all other
15 penalties or forfeitures imposed by this or any other law, of not more
16 than \$5,000 for each violation. Any person who shall aid or abet a
17 violation shall be equally liable for such a penalty as may be imposed
18 upon a principal violator. For the purpose of this subsection, a
19 violation of any provision of this act or any order of the commissioner
20 or rule or regulation promulgated by the commissioner pursuant
21 thereto shall constitute a separate violation.

22 c. The commissioner may issue an order to any licensee who
23 violates any provision of this act or regulation promulgated
24 thereunder, ordering payment of the penalties provided in this act and
25 corrective action concerning the violation. Any person aggrieved by
26 any ruling, action, order, or notice of the commissioner shall be
27 entitled to a hearing. The application for such a hearing shall be filed
28 in writing with the commissioner within 15 days of receipt thereof.

29 d. Where any violation of any provision of this act is of a
30 continuing nature, each day during which the violation remains
31 uncorrected after the date fixed by the commissioner in any order or
32 notice for the correction or termination of such continuing violation
33 shall constitute a separate and distinct violation, except during the time
34 when an appeal from such an order is being taken.

35 e. The commissioner is hereby authorized and empowered to
36 compromise and settle any claim for a penalty under this section for an
37 amount that appears appropriate and equitable under the
38 circumstances.

39 f. The civil penalties provided for in this section, if not paid to
40 the commissioner within 30 days of their issuance, shall be collected
41 in a civil action brought in the name of the commissioner pursuant to
42 the provisions of "the penalty enforcement law," N.J.S.2A:58-1 et seq.

43 g. Penalties imposed pursuant to this act shall not diminish the
44 remedies which may be available to complainants through private
45 actions.

46 (cf: P.L.1993,c.383,s.20)

1 5. (New section) a. Any person who is engages in any trade or
2 business who receives more than \$10,000.00 in cash in one sales
3 transaction shall make a report of the transaction to the Commissioner
4 of Banking and Insurance.

5 b. A duplicate copy of the report shall be filed with the Attorney
6 General.

7 c. Any person who fails to report a sales transaction as provided
8 in this section shall be guilty of a crime of the fourth degree.

9 d. The Commissioner of Banking and Insurance shall promulgate
10 rules and regulations pursuant to the "Administrative Procedure Act,"
11 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the
12 purposes of this act.

13
14 6. (New section) The Commissioner of the Department of
15 Banking and Insurance in consultation with the Attorney General
16 shall develop and approve a training course and curriculum on the
17 handling, investigation and response procedures concerning the use of
18 check cashing businesses to launder money or otherwise financially
19 facilitate criminal activity in violation of P.L.1994, c.121 (C.2C: 21-
20 23). This training course and curriculum shall be reviewed at least
21 every two years and modified by the Commissioner and the Attorney
22 General from time to time as need may require.

23
24 7. (New section) There is appropriated from the General Fund the
25 amount of \$95,000.00 to the Department of Banking and Insurance
26 to provide training courses and curriculum on the handling,
27 investigation and response procedures concerning the use of check
28 cashing businesses to launder money or otherwise financially
29 facilitate criminal activity in violation of P.L.1994, c.121 (C.2C: 21-
30 23) pursuant to section 4 of P.L. c. (C.)(now pending before
31 the Legislature as section 4 of this bill). The Director of the Division
32 of Budget and Accounting shall allocate such sums from the amount
33 appropriated to the Department of Law and Public Safety as are
34 necessary for the reimbursement of costs of training provided by the
35 Department of Law and Public Safety.

36
37 8. This act shall take effect immediately .
38
39

40 STATEMENT
41

42 This bill, the "Money Laundering Reform Act," would strengthen
43 the law concerning money laundering by amending and supplementing
44 the current laws regarding money laundering and the licensing of
45 check cashers.

46 This bill would amend N.J.S.A.2C:21-27 to upgrade money

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6

1 laundering to a crime of the first degree if the amount involved is
2 \$100,000.00 or more. Otherwise, the offense would be graded as a
3 crime of the second degree. A crime of the first degree is punishable
4 by a term of imprisonment of 10-20 years, a fine of up to \$200,000.00
5 or both.

6 This bill would also amend various sections of the "Check Cashers
7 Regulatory Act of 1993," (N.J.S.17:15A-30) pertaining to the
8 regulation and licensing of check cashers. Under the provisions of the
9 bill, a \$2,500.00 limit would be placed on the amount of a check that
10 a licensed check casher would be able to cash. In addition, the bill
11 would make it a crime of the fourth degree for any person to
12 knowingly cash a check for consideration without first having obtained
13 a license. A crime of the fourth degree is punishable by a term of
14 imprisonment of up to 18 months, a fine of \$10,000.00 or both.

15 This bill would also require any person who engages in any trade or
16 business and receives more than \$10,000.00 in cash in one sales
17 transaction to make a report of that transaction to the Commissioner
18 of Banking and Insurance. A duplicate copy of that report would be
19 filed with the Attorney General.

20 This bill would authorize the Commissioner of Banking and
21 Insurance and the Attorney General to develop training programs on
22 the handling, investigation and response procedures concerning the use
23 of check cashing businesses to launder money. An appropriation of
24 \$95,000.00 from the General Fund would be made to the Department
25 of Banking and Insurance. The Director of the Division of Budget and
26 Accounting would be authorized to allocate sums from the amount
27 appropriated to the Department of Law and Public Safety as may be
28 necessary for the reimbursement of cost of training provided by the
29 department.

Office of the Governor
NEWS RELEASE

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RELEASE: February 16, 1999

Governor Whitman Signs Tough New Anti-Money Laundering Law

Governor Christie Whitman today signed legislation that will help catch, convict and deter money launderers. The law revises current money laundering law, toughening penalties and increasing the tools at the disposal of law enforcement officers. "Money laundering cheats all of us. It gives hardened criminals the wherewithal to continue their unlawful enterprises. It gives the tax evader a way to escape detection. And it erodes the integrity of our financial institutions," said the Governor.

A-2171, sponsored by Assembly Members Neil M. Cohen (D-Union), Paul DiGaetano (R-Bergen/Essex/Passaic), Nia H. Gill (D-Essex), James W. Holzapfel (R-Monmouth/Ocean), Wilfredo Caraballo (D-Essex), Charles "Ken" Zisa (D-Bergen), and Peter J. Barnes, Jr. (D-Middlesex) and Senators Wayne R. Bryant (D-Camden/Gloucester), Garry J. Furnari (D-Bergen /Essex/Passaic), and Louis F. Kosco (R-Bergen), revises the statutory law concerning money laundering.

The Governor said law enforcement must have the tools they need to catch people who try to disguise profit from crime. The bill amends the New Jersey Wiretapping and Electronic Surveillance Control Act to expand wiretap use to include investigations that involve only money laundering.

"Money laundering is a shell game," said Gov. Whitman. "In a battle of one upmanship with money launderers, we must have the upper hand. We must give law enforcement all the tools to combat money laundering, no matter how sophisticated it gets."

The legislation also strengthens New Jersey's statutory law. The grade of offense will now be the same for those conspiring to commit money laundering and those who commit money laundering. In addition, the bill clarifies the factors that can be used to determine whether a financial transaction was designed to avoid reporting requirements.

The bill amends New Jersey's Racketeer Influenced and Corrupt Organization statute (RICO), to clarify that money laundering and drug distribution can be a racketeering activity. In addition, the penalties for racketeering are amended. If a first degree crime is committed while a person engages in racketeering the person can be charged with first degree racketeering. "Money launderers have a corrupting effect on our country's economy," said Attorney General Peter Verniero.

"Money laundering is a serious issue in New Jersey. This new law will further enhance law enforcement's effort to penetrate those criminal enterprises that work to conceal unlawful sources of money."

The legislation imposes heftier fines and stricter sentences on money launderers. When the dirty money is \$500,000 or more, criminals can expect a charge of first degree money laundering, and a minimum of

between one-third and one-half of their jail sentence without eligibility for parole. In addition, the bill provides that anyone serving time for money laundering will serve that time consecutively to any other sentence imposed for the underlying criminal activity.

The bill also creates an "anti-money laundering profiteering penalty," similar to the "anti-drug profiteering penalty," that will deprive money launderers of profits they make from their illegal activity. Courts will be able to assess increased monetary penalties on anyone convicted of money laundering.

"We are making it easier for our law enforcement community to uncover the money launderers and make them pay for their crimes. And ultimately that means greater protections for every law-abiding citizen in our state," said Gov. Whitman.

Crime in New Jersey is the lowest it has been in a quarter-century. The Governor said this new law, in addition to Megan's Law, "Three Strikes and You're In" and "No Early Release", makes New Jersey a tough place for criminals.