

# 2C:11-3

## LEGISLATIVE HISTORY CHECK Compiled by the NJ State Law Library

**LAWS OF:** 1999                    **CHAPTER:** 209  
**NJSA:** 2C:11-3                    (Death penalty—adds aggravating factors)  
**BILL NO:** S947                    (Substituted for A2637)

**SPONSOR(S):** Gormley & Bryant

**DATE INTRODUCED:** March 23, 1998

**COMMITTEE:**                    **ASSEMBLY:** Judiciary

**SENATE:** Judiciary

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**                    **ASSEMBLY:** June 17, 1999

**SENATE:** January 28, 1999

**DATE OF APPROVAL:** September 17, 1999

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL:** 1<sup>st</sup> Reprint  
(Amendments during passage denoted by superscript numbers)

### S947

**SPONSORS STATEMENT:** (Begins on page 7 of original bill) Yes  
**COMMITTEE STATEMENT:**                    **ASSEMBLY:** Yes  
   **SENATE:** Yes

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

### A2637

**SPONSORS STATEMENT:** (Begins on page 7 of original bill) Yes  
**COMMITTEE STATEMENT:**                    **ASSEMBLY:** Yes

**SENATE:** No

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 102 or [refdesk@njstatelib.org](mailto:refdesk@njstatelib.org)

**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

P.L. 1999, CHAPTER 209, *approved September 17, 1999*

Senate, No. 947 (*First Reprint*)

1 **AN ACT** concerning the death penalty and amending N.J.S.2C:11-3.

2

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

5

6 1. N.J.S.2C:11-3 is amended to read as follows:

7 2C:11-3. Murder.

8 a. Except as provided in N.J.S.2C:11-4 criminal homicide  
9 constitutes murder when:

10 (1) The actor purposely causes death or serious bodily injury  
11 resulting in death; or

12 (2) The actor knowingly causes death or serious bodily injury  
13 resulting in death; or

14 (3) It is committed when the actor, acting either alone or with one  
15 or more other persons, is engaged in the commission of, or an attempt  
16 to commit, or flight after committing or attempting to commit robbery,  
17 sexual assault, arson, burglary, kidnapping<sup>1</sup>, carjacking<sup>1</sup> or criminal  
18 escape, and in the course of such crime or of immediate flight  
19 therefrom, any person causes the death of a person other than one of  
20 the participants; except that in any prosecution under this subsection,  
21 in which the defendant was not the only participant in the underlying  
22 crime, it is an affirmative defense that the defendant:

23 (a) Did not commit the homicidal act or in any way solicit, request,  
24 command, importune, cause or aid the commission thereof; and

25 (b) Was not armed with a deadly weapon, or any instrument, article  
26 or substance readily capable of causing death or serious physical injury  
27 and of a sort not ordinarily carried in public places by law-abiding  
28 persons; and

29 (c) Had no reasonable ground to believe that any other participant  
30 was armed with such a weapon, instrument, article or substance; and

31 (d) Had no reasonable ground to believe that any other participant  
32 intended to engage in conduct likely to result in death or serious  
33 physical injury.

34 b. (1) Murder is a crime of the first degree but a person convicted  
35 of murder shall be sentenced, except as provided in subsection c. of  
36 this section, by the court to a term of 30 years, during which the  
37 person shall not be eligible for parole, or be sentenced to a specific  
38 term of years which shall be between 30 years and life imprisonment  
39 of which the person shall serve 30 years before being eligible for  
40 parole.

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SJU committee amendments adopted October 19, 1998.

1 (2) If the victim was a law enforcement officer and was murdered  
2 while performing his official duties or was murdered because of his  
3 status as a law enforcement officer, the person convicted of that  
4 murder shall be sentenced, except as otherwise provided in subsection  
5 c. of this section, by the court to a term of life imprisonment, during  
6 which the person shall not be eligible for parole.

7 (3) A person convicted of murder and who is not sentenced to  
8 death under this section shall be sentenced to a term of life  
9 imprisonment without eligibility for parole if the murder was  
10 committed under all of the following circumstances:

11 (a) The victim is less than 14 years old; and

12 (b) The act is committed in the course of the commission, whether  
13 alone or with one or more persons, of a violation of N.J.S.2C:14-2 or  
14 N.J.S.2C:14-3.

15 The defendant shall not be entitled to a deduction of commutation  
16 and work credits from that sentence.

17 c. Any person convicted under subsection a.(1) or (2) who  
18 committed the homicidal act by his own conduct; or who as an  
19 accomplice procured the commission of the offense by payment or  
20 promise of payment of anything of pecuniary value; or who, as a leader  
21 of a narcotics trafficking network as defined in N.J.S.2C:35-3 and in  
22 furtherance of a conspiracy enumerated in N.J.S.2C:35-3, commanded  
23 or by threat or promise solicited the commission of the offense, shall  
24 be sentenced as provided hereinafter:

25 (1) The court shall conduct a separate sentencing proceeding to  
26 determine whether the defendant should be sentenced to death or  
27 pursuant to the provisions of subsection b. of this section.

28 Where the defendant has been tried by a jury, the proceeding shall  
29 be conducted by the judge who presided at the trial and before the jury  
30 which determined the defendant's guilt, except that, for good cause,  
31 the court may discharge that jury and conduct the proceeding before  
32 a jury empaneled for the purpose of the proceeding. Where the  
33 defendant has entered a plea of guilty or has been tried without a jury,  
34 the proceeding shall be conducted by the judge who accepted the  
35 defendant's plea or who determined the defendant's guilt and before a  
36 jury empaneled for the purpose of the proceeding. On motion of the  
37 defendant and with consent of the prosecuting attorney the court may  
38 conduct a proceeding without a jury. Nothing in this subsection shall  
39 be construed to prevent the participation of an alternate juror in the  
40 sentencing proceeding if one of the jurors who rendered the guilty  
41 verdict becomes ill or is otherwise unable to proceed before or during  
42 the sentencing proceeding.

43 (2) (a) At the proceeding, the State shall have the burden of  
44 establishing beyond a reasonable doubt the existence of any  
45 aggravating factors set forth in paragraph (4) of this subsection. The  
46 defendant shall have the burden of producing evidence of the existence

1 of any mitigating factors set forth in paragraph (5) of this subsection  
2 but shall not have a burden with regard to the establishment of a  
3 mitigating factor.

4 (b) The admissibility of evidence offered by the State to establish  
5 any of the aggravating factors shall be governed by the rules governing  
6 the admission of evidence at criminal trials. The defendant may offer,  
7 without regard to the rules governing the admission of evidence at  
8 criminal trials, reliable evidence relevant to any of the mitigating  
9 factors. If the defendant produces evidence in mitigation which would  
10 not be admissible under the rules governing the admission of evidence  
11 at criminal trials, the State may rebut that evidence without regard to  
12 the rules governing the admission of evidence at criminal trials.

13 (c) Evidence admitted at the trial, which is relevant to the  
14 aggravating and mitigating factors set forth in paragraphs (4) and (5)  
15 of this subsection, shall be considered without the necessity of  
16 reintroducing that evidence at the sentencing proceeding; provided  
17 that the fact finder at the sentencing proceeding was present as either  
18 the fact finder or the judge at the trial.

19 (d) The State and the defendant shall be permitted to rebut any  
20 evidence presented by the other party at the sentencing proceeding and  
21 to present argument as to the adequacy of the evidence to establish the  
22 existence of any aggravating or mitigating factor.

23 (e) Prior to the commencement of the sentencing proceeding, or at  
24 such time as he has knowledge of the existence of an aggravating  
25 factor, the prosecuting attorney shall give notice to the defendant of  
26 the aggravating factors which he intends to prove in the proceeding.

27 (f) Evidence offered by the State with regard to the establishment  
28 of a prior homicide conviction pursuant to paragraph (4)(a) of this  
29 subsection may include the identity and age of the victim, the manner  
30 of death and the relationship, if any, of the victim to the defendant.

31 (3) The jury or, if there is no jury, the court shall return a special  
32 verdict setting forth in writing the existence or nonexistence of each  
33 of the aggravating and mitigating factors set forth in paragraphs (4)  
34 and (5) of this subsection. If any aggravating factor is found to exist,  
35 the verdict shall also state whether it outweighs beyond a reasonable  
36 doubt any one or more mitigating factors.

37 (a) If the jury or the court finds that any aggravating factors exist  
38 and that all of the aggravating factors outweigh beyond a reasonable  
39 doubt all of the mitigating factors, the court shall sentence the  
40 defendant to death.

41 (b) If the jury or the court finds that no aggravating factors exist,  
42 or that all of the aggravating factors which exist do not outweigh all  
43 of the mitigating factors, the court shall sentence the defendant  
44 pursuant to subsection b.

45 (c) If the jury is unable to reach a unanimous verdict, the court  
46 shall sentence the defendant pursuant to subsection b.

1 (4) The aggravating factors which may be found by the jury or the  
2 court are:

3 (a) The defendant has been convicted, at any time, of another  
4 murder. For purposes of this section, a conviction shall be deemed  
5 final when sentence is imposed and may be used as an aggravating  
6 factor regardless of whether it is on appeal;

7 (b) In the commission of the murder, the defendant purposely or  
8 knowingly created a grave risk of death to another person in addition  
9 to the victim;

10 (c) The murder was outrageously or wantonly vile, horrible or  
11 inhuman in that it involved torture, depravity of mind, or an  
12 aggravated assault to the victim;

13 (d) The defendant committed the murder as consideration for the  
14 receipt, or in expectation of the receipt of anything of pecuniary  
15 value;

16 (e) The defendant procured the commission of the offense by  
17 payment or promise of payment of anything of pecuniary value;

18 (f) The murder was committed for the purpose of escaping  
19 detection, apprehension, trial, punishment or confinement for another  
20 offense committed by the defendant or another;

21 (g) The offense was committed while the defendant was engaged  
22 in the commission of, or an attempt to commit, or flight after  
23 committing or attempting to commit murder, robbery, sexual assault,  
24 arson, burglary or kidnapping <sup>1</sup>or the crime of contempt in violation  
25 of N.J.S.2C:29-9b.<sup>1</sup>;

26 (h) The defendant murdered a public servant, as defined in  
27 N.J.S.2C:27-1, while the victim was engaged in the performance of his  
28 official duties, or because of the victim's status as a public servant;

29 (i) The defendant: (i) as a leader of a narcotics trafficking network  
30 as defined in N.J.S.2C:35-3 and in furtherance of a conspiracy  
31 enumerated in N.J.S.2C:35-3, committed, commanded or by threat or  
32 promise solicited the commission of the offense or (ii) committed the  
33 offense at the direction of a leader of a narcotics trafficking network  
34 as defined in N.J.S.2C:35-3 in furtherance of a conspiracy enumerated  
35 in N.J.S.2C:35-3;

36 (j) The homicidal act that the defendant committed or procured  
37 was in violation of paragraph (1) of subsection a. of N.J.S.2C:17-2;  
38 **[or]** <sup>1</sup>or<sup>1</sup>

39 (k) The victim was less than 14 years old<sup>1</sup>**];** or

40 (l) At the time of the murder, the defendant was subject to a  
41 temporary or permanent order under the "Prevention of Domestic  
42 Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) which  
43 restrained the defendant from contact with the victim]<sup>1</sup>.

44 (5) The mitigating factors which may be found by the jury or the  
45 court are:

46 (a) The defendant was under the influence of extreme mental or

1 emotional disturbance insufficient to constitute a defense to  
2 prosecution;

3 (b) The victim solicited, participated in or consented to the  
4 conduct which resulted in his death;

5 (c) The age of the defendant at the time of the murder;

6 (d) The defendant's capacity to appreciate the wrongfulness of his  
7 conduct or to conform his conduct to the requirements of the law was  
8 significantly impaired as the result of mental disease or defect or  
9 intoxication, but not to a degree sufficient to constitute a defense to  
10 prosecution;

11 (e) The defendant was under unusual and substantial duress  
12 insufficient to constitute a defense to prosecution;

13 (f) The defendant has no significant history of prior criminal  
14 activity;

15 (g) The defendant rendered substantial assistance to the State in  
16 the prosecution of another person for the crime of murder; or

17 (h) Any other factor which is relevant to the defendant's character  
18 or record or to the circumstances of the offense.

19 (6) When a defendant at a sentencing proceeding presents evidence  
20 of the defendant's character or record pursuant to subparagraph (h)  
21 of paragraph (5) of this subsection, the State may present evidence of  
22 the murder victim's character and background and of the impact of the  
23 murder on the victim's survivors. If the jury finds that the State has  
24 proven at least one aggravating factor beyond a reasonable doubt and  
25 the jury finds the existence of a mitigating factor pursuant to  
26 subparagraph (h) of paragraph (5) of this subsection, the jury may  
27 consider the victim and survivor evidence presented by the State  
28 pursuant to this paragraph in determining the appropriate weight to  
29 give mitigating evidence presented pursuant to subparagraph (h) of  
30 paragraph (5) of this subsection.

31 d. The sentencing proceeding set forth in subsection c. of this  
32 section shall not be waived by the prosecuting attorney.

33 e. Every judgment of conviction which results in a sentence of  
34 death under this section shall be appealed, pursuant to the Rules of  
35 Court, to the Supreme Court. Upon the request of the defendant, the  
36 Supreme Court shall also determine whether the sentence is  
37 disproportionate to the penalty imposed in similar cases, considering  
38 both the crime and the defendant. Proportionality review under this  
39 section shall be limited to a comparison of similar cases in which a  
40 sentence of death has been imposed under subsection c. of this section.  
41 In any instance in which the defendant fails, or refuses to appeal, the  
42 appeal shall be taken by the Office of the Public Defender or other  
43 counsel appointed by the Supreme Court for that purpose.

44 f. Prior to the jury's sentencing deliberations, the trial court shall  
45 inform the jury of the sentences which may be imposed pursuant to  
46 subsection b. of this section on the defendant if the defendant is not

1 sentenced to death. The jury shall also be informed that a failure to  
2 reach a unanimous verdict shall result in sentencing by the court  
3 pursuant to subsection b.

4 g. A juvenile who has been tried as an adult and convicted of  
5 murder shall not be sentenced pursuant to the provisions of subsection  
6 c. but shall be sentenced pursuant to the provisions of subsection b. of  
7 this section.

8 h. In a sentencing proceeding conducted pursuant to this section,  
9 no evidence shall be admissible concerning the method or manner of  
10 execution which would be imposed on a defendant sentenced to death.

11 i. For purposes of this section the term "homicidal act" shall mean  
12 conduct that causes death or serious bodily injury resulting in death.  
13 (cf: P.L.1998, c.25, s.1)

14

15 2. This act shall take effect immediately.

16

17

18

19

20 Adds violation of domestic violence restraining order to list of  
21 "aggravating factors" in death penalty statute.



**SENATE, No. 947**

---

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

---

INTRODUCED MARCH 23, 1998

**Sponsored by:**

**Senator WILLIAM L. GORMLEY**

**District 2 (Atlantic)**

**Senator WAYNE R. BRYANT**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Adds violation of domestic violence restraining order to list of "aggravating factors" in death penalty statute.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the death penalty and amending N.J.S.2C:11-3.

2

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

5

6 1. N.J.S.2C:11-3 is amended to read as follows:

7 2C:11-3. Murder.

8 a. Except as provided in N.J.S.2C:11-4 criminal homicide  
9 constitutes murder when:

10 (1) The actor purposely causes death or serious bodily injury  
11 resulting in death; or

12 (2) The actor knowingly causes death or serious bodily injury  
13 resulting in death; or

14 (3) It is committed when the actor, acting either alone or with one  
15 or more other persons, is engaged in the commission of, or an attempt  
16 to commit, or flight after committing or attempting to commit robbery,  
17 sexual assault, arson, burglary, kidnapping or criminal escape, and in  
18 the course of such crime or of immediate flight therefrom, any person  
19 causes the death of a person other than one of the participants; except  
20 that in any prosecution under this subsection, in which the defendant  
21 was not the only participant in the underlying crime, it is an affirmative  
22 defense that the defendant:

23 (a) Did not commit the homicidal act or in any way solicit, request,  
24 command, importune, cause or aid the commission thereof; and

25 (b) Was not armed with a deadly weapon, or any instrument, article  
26 or substance readily capable of causing death or serious physical injury  
27 and of a sort not ordinarily carried in public places by law-abiding  
28 persons; and

29 (c) Had no reasonable ground to believe that any other participant  
30 was armed with such a weapon, instrument, article or substance; and

31 (d) Had no reasonable ground to believe that any other participant  
32 intended to engage in conduct likely to result in death or serious  
33 physical injury.

34 b. (1) Murder is a crime of the first degree but a person convicted  
35 of murder shall be sentenced, except as provided in subsection c. of  
36 this section, by the court to a term of 30 years, during which the  
37 person shall not be eligible for parole, or be sentenced to a specific  
38 term of years which shall be between 30 years and life imprisonment  
39 of which the person shall serve 30 years before being eligible for  
40 parole.

41 (2) If the victim was a law enforcement officer and was murdered  
42 while performing his official duties or was murdered because of his  
43 status as a law enforcement officer, the person convicted of that

**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 murder shall be sentenced, except as otherwise provided in subsection  
2 c. of this section, by the court to a term of life imprisonment, during  
3 which the person shall not be eligible for parole.

4 (3) A person convicted of murder and who is not sentenced to  
5 death under this section shall be sentenced to a term of life  
6 imprisonment without eligibility for parole if the murder was  
7 committed under all of the following circumstances:

8 (a) The victim is less than 14 years old; and

9 (b) The act is committed in the course of the commission, whether  
10 alone or with one or more persons, of a violation of N.J.S.2C:14-2 or  
11 N.J.S.2C:14-3.

12 The defendant shall not be entitled to a deduction of commutation  
13 and work credits from that sentence.

14 c. Any person convicted under subsection a.(1) or (2) who  
15 committed the homicidal act by his own conduct; or who as an  
16 accomplice procured the commission of the offense by payment or  
17 promise of payment of anything of pecuniary value; or who, as a leader  
18 of a narcotics trafficking network as defined in N.J.S.2C:35-3 and in  
19 furtherance of a conspiracy enumerated in N.J.S.2C:35-3, commanded  
20 or by threat or promise solicited the commission of the offense, shall  
21 be sentenced as provided hereinafter:

22 (1) The court shall conduct a separate sentencing proceeding to  
23 determine whether the defendant should be sentenced to death or  
24 pursuant to the provisions of subsection b. of this section.

25 Where the defendant has been tried by a jury, the proceeding shall  
26 be conducted by the judge who presided at the trial and before the jury  
27 which determined the defendant's guilt, except that, for good cause,  
28 the court may discharge that jury and conduct the proceeding before  
29 a jury empaneled for the purpose of the proceeding. Where the  
30 defendant has entered a plea of guilty or has been tried without a jury,  
31 the proceeding shall be conducted by the judge who accepted the  
32 defendant's plea or who determined the defendant's guilt and before a  
33 jury empaneled for the purpose of the proceeding. On motion of the  
34 defendant and with consent of the prosecuting attorney the court may  
35 conduct a proceeding without a jury. Nothing in this subsection shall  
36 be construed to prevent the participation of an alternate juror in the  
37 sentencing proceeding if one of the jurors who rendered the guilty  
38 verdict becomes ill or is otherwise unable to proceed before or during  
39 the sentencing proceeding.

40 (2) (a) At the proceeding, the State shall have the burden of  
41 establishing beyond a reasonable doubt the existence of any  
42 aggravating factors set forth in paragraph (4) of this subsection. The  
43 defendant shall have the burden of producing evidence of the existence  
44 of any mitigating factors set forth in paragraph (5) of this subsection  
45 but shall not have a burden with regard to the establishment of a  
46 mitigating factor.

1 (b) The admissibility of evidence offered by the State to establish  
2 any of the aggravating factors shall be governed by the rules governing  
3 the admission of evidence at criminal trials. The defendant may offer,  
4 without regard to the rules governing the admission of evidence at  
5 criminal trials, reliable evidence relevant to any of the mitigating  
6 factors. If the defendant produces evidence in mitigation which would  
7 not be admissible under the rules governing the admission of evidence  
8 at criminal trials, the State may rebut that evidence without regard to  
9 the rules governing the admission of evidence at criminal trials.

10 (c) Evidence admitted at the trial, which is relevant to the  
11 aggravating and mitigating factors set forth in paragraphs (4) and (5)  
12 of this subsection, shall be considered without the necessity of  
13 reintroducing that evidence at the sentencing proceeding; provided  
14 that the fact finder at the sentencing proceeding was present as either  
15 the fact finder or the judge at the trial.

16 (d) The State and the defendant shall be permitted to rebut any  
17 evidence presented by the other party at the sentencing proceeding and  
18 to present argument as to the adequacy of the evidence to establish the  
19 existence of any aggravating or mitigating factor.

20 (e) Prior to the commencement of the sentencing proceeding, or at  
21 such time as he has knowledge of the existence of an aggravating  
22 factor, the prosecuting attorney shall give notice to the defendant of  
23 the aggravating factors which he intends to prove in the proceeding.

24 (f) Evidence offered by the State with regard to the establishment  
25 of a prior homicide conviction pursuant to paragraph (4)(a) of this  
26 subsection may include the identity and age of the victim, the manner  
27 of death and the relationship, if any, of the victim to the defendant.

28 (3) The jury or, if there is no jury, the court shall return a special  
29 verdict setting forth in writing the existence or nonexistence of each  
30 of the aggravating and mitigating factors set forth in paragraphs (4)  
31 and (5) of this subsection. If any aggravating factor is found to exist,  
32 the verdict shall also state whether it outweighs beyond a reasonable  
33 doubt any one or more mitigating factors.

34 (a) If the jury or the court finds that any aggravating factors exist  
35 and that all of the aggravating factors outweigh beyond a reasonable  
36 doubt all of the mitigating factors, the court shall sentence the  
37 defendant to death.

38 (b) If the jury or the court finds that no aggravating factors exist,  
39 or that all of the aggravating factors which exist do not outweigh all  
40 of the mitigating factors, the court shall sentence the defendant  
41 pursuant to subsection b.

42 (c) If the jury is unable to reach a unanimous verdict, the court  
43 shall sentence the defendant pursuant to subsection b.

44 (4) The aggravating factors which may be found by the jury or the  
45 court are:

46 (a) The defendant has been convicted, at any time, of another

1 murder. For purposes of this section, a conviction shall be deemed  
2 final when sentence is imposed and may be used as an aggravating  
3 factor regardless of whether it is on appeal;

4 (b) In the commission of the murder, the defendant purposely or  
5 knowingly created a grave risk of death to another person in addition  
6 to the victim;

7 (c) The murder was outrageously or wantonly vile, horrible or  
8 inhuman in that it involved torture, depravity of mind, or an  
9 aggravated assault to the victim;

10 (d) The defendant committed the murder as consideration for the  
11 receipt, or in expectation of the receipt of anything of pecuniary  
12 value;

13 (e) The defendant procured the commission of the offense by  
14 payment or promise of payment of anything of pecuniary value;

15 (f) The murder was committed for the purpose of escaping  
16 detection, apprehension, trial, punishment or confinement for another  
17 offense committed by the defendant or another;

18 (g) The offense was committed while the defendant was engaged  
19 in the commission of, or an attempt to commit, or flight after  
20 committing or attempting to commit murder, robbery, sexual assault,  
21 arson, burglary or kidnapping;

22 (h) The defendant murdered a public servant, as defined in  
23 N.J.S.2C:27-1, while the victim was engaged in the performance of his  
24 official duties, or because of the victim's status as a public servant;

25 (i) The defendant: (i) as a leader of a narcotics trafficking network  
26 as defined in N.J.S.2C:35-3 and in furtherance of a conspiracy  
27 enumerated in N.J.S.2C:35-3, committed, commanded or by threat or  
28 promise solicited the commission of the offense or (ii) committed the  
29 offense at the direction of a leader of a narcotics trafficking network  
30 as defined in N.J.S.2C:35-3 in furtherance of a conspiracy enumerated  
31 in N.J.S.2C:35-3;

32 (j) The homicidal act that the defendant committed or procured  
33 was in violation of paragraph (1) of subsection a. of N.J.S.2C:17-2;

34 **[or]**

35 (k) The victim was less than 14 years old; or

36 (l) At the time of the murder, the defendant was subject to a  
37 temporary or permanent order under the "Prevention of Domestic  
38 Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) which  
39 restrained the defendant from contact with the victim.

40 (5) The mitigating factors which may be found by the jury or the  
41 court are:

42 (a) The defendant was under the influence of extreme mental or  
43 emotional disturbance insufficient to constitute a defense to  
44 prosecution;

45 (b) The victim solicited, participated in or consented to the  
46 conduct which resulted in his death;

- 1 (c) The age of the defendant at the time of the murder;
- 2 (d) The defendant's capacity to appreciate the wrongfulness of his  
3 conduct or to conform his conduct to the requirements of the law was  
4 significantly impaired as the result of mental disease or defect or  
5 intoxication, but not to a degree sufficient to constitute a defense to  
6 prosecution;
- 7 (e) The defendant was under unusual and substantial duress  
8 insufficient to constitute a defense to prosecution;
- 9 (f) The defendant has no significant history of prior criminal  
10 activity;
- 11 (g) The defendant rendered substantial assistance to the State in  
12 the prosecution of another person for the crime of murder; or
- 13 (h) Any other factor which is relevant to the defendant's character  
14 or record or to the circumstances of the offense.
- 15 (6) When a defendant at a sentencing proceeding presents evidence  
16 of the defendant's character or record pursuant to subparagraph (h)  
17 of paragraph (5) of this subsection, the State may present evidence of  
18 the murder victim's character and background and of the impact of the  
19 murder on the victim's survivors. If the jury finds that the State has  
20 proven at least one aggravating factor beyond a reasonable doubt and  
21 the jury finds the existence of a mitigating factor pursuant to  
22 subparagraph (h) of paragraph (5) of this subsection, the jury may  
23 consider the victim and survivor evidence presented by the State  
24 pursuant to this paragraph in determining the appropriate weight to  
25 give mitigating evidence presented pursuant to subparagraph (h) of  
26 paragraph (5) of this subsection.
- 27 d. The sentencing proceeding set forth in subsection c. of this  
28 section shall not be waived by the prosecuting attorney.
- 29 e. Every judgment of conviction which results in a sentence of  
30 death under this section shall be appealed, pursuant to the Rules of  
31 Court, to the Supreme Court. Upon the request of the defendant, the  
32 Supreme Court shall also determine whether the sentence is  
33 disproportionate to the penalty imposed in similar cases, considering  
34 both the crime and the defendant. Proportionality review under this  
35 section shall be limited to a comparison of similar cases in which a  
36 sentence of death has been imposed under subsection c. of this section.  
37 In any instance in which the defendant fails, or refuses to appeal, the  
38 appeal shall be taken by the Office of the Public Defender or other  
39 counsel appointed by the Supreme Court for that purpose.
- 40 f. Prior to the jury's sentencing deliberations, the trial court shall  
41 inform the jury of the sentences which may be imposed pursuant to  
42 subsection b. of this section on the defendant if the defendant is not  
43 sentenced to death. The jury shall also be informed that a failure to  
44 reach a unanimous verdict shall result in sentencing by the court  
45 pursuant to subsection b.

1 g. A juvenile who has been tried as an adult and convicted of  
2 murder shall not be sentenced pursuant to the provisions of subsection  
3 c. but shall be sentenced pursuant to the provisions of subsection b. of  
4 this section.

5 h. In a sentencing proceeding conducted pursuant to this section,  
6 no evidence shall be admissible concerning the method or manner of  
7 execution which would be imposed on a defendant sentenced to death.

8 i. For purposes of this section the term "homicidal act" shall mean  
9 conduct that causes death or serious bodily injury resulting in death.  
10 (cf: P.L.1997, c.60, s.1)

11

12 2. This act shall take effect immediately.

13

14

15

#### STATEMENT

16

17 This bill would amend the death penalty statute, N.J.S.A.2C:11-3,  
18 to provide that the defendant's violation of an existing domestic  
19 violence restraining order would constitute an "aggravating factor" to  
20 be considered by the jury in making its determination whether to  
21 sentence the defendant to death. Under the provisions of the death  
22 penalty law, the jury must weigh the "aggravating factors" of a  
23 particular case against the "mitigating factors" of that case to  
24 determine whether a defendant convicted of murder will be sentenced  
25 to death.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

**SENATE, No. 947**

**STATE OF NEW JERSEY**

DATED: FEBRUARY 11, 1999

The Assembly Judiciary Committee reports favorably Senate Bill No. 947 (1R).

Under the provisions of the death penalty law, the jury must weigh the "aggravating factors" of a particular case against the "mitigating factors" of the case to determine whether a defendant convicted of murder should be sentenced to death. One of the aggravating factors which may be considered is that the murder occurred during the commission of another crime such as robbery, sexual assault or kidnaping. This bill would add contempt if the contempt consisted of violation of a restraining order issued pursuant to the "Prevention of Domestic Violence Act" to the list of crimes covered by that aggravating factor.

This bill is identical to Assembly, No. 2637.



# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### **SENATE, No. 947**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: OCTOBER 19, 1998

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 947.

Under the provisions of the death penalty law, the jury must weigh the "aggravating factors" of a particular case against the "mitigating factors" of the case to determine whether a defendant convicted of murder should be sentenced to death. One of the aggravating factors which may be considered is that the murder occurred during the commission of another crime such as robbery, sexual assault or kidnaping. Under the amendments adopted by the committee, contempt would be added to the list of crimes covered by that aggravating factor if that contempt consisted of violation of a restraining order issued pursuant to the Prevention of Domestic Violence Act. In its original form, the bill would create a separate aggravating factor dealing the defendant's violation of an existing domestic violence restraining order.

[Corrected Copy]

**ASSEMBLY, No. 2637**

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

INTRODUCED NOVEMBER 16, 1998

**Sponsored by:**

**Assemblyman KENNETH C. LEFEVRE**

**District 2 (Atlantic)**

**Assemblyman TOM SMITH**

**District 11 (Monmouth)**

**Co-Sponsored by:**

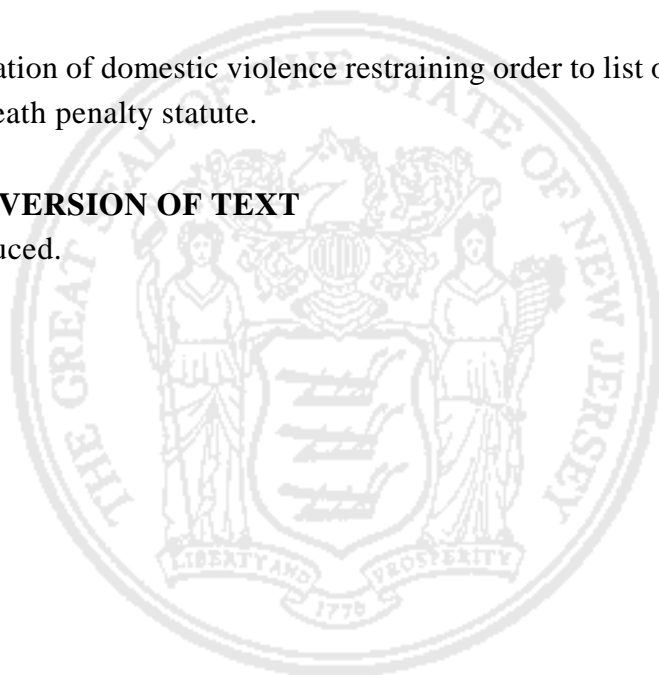
**Assemblymen Merkt, Corodemus and Assemblywoman Heck**

**SYNOPSIS**

Adds violation of domestic violence restraining order to list of "aggravating factors" in death penalty statute.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/18/1999)**

1 AN ACT concerning the death penalty and amending N.J.S.2C:11-3.

2

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

5

6 1. N.J.S.2C:11-3 is amended to read as follows:

7 2C:11-3. Murder.

8 a. Except as provided in N.J.S.2C:11-4 criminal homicide  
9 constitutes murder when:

10 (1) The actor purposely causes death or serious bodily injury  
11 resulting in death; or

12 (2) The actor knowingly causes death or serious bodily injury  
13 resulting in death; or

14 (3) It is committed when the actor, acting either alone or with one  
15 or more other persons, is engaged in the commission of, or an attempt  
16 to commit, or flight after committing or attempting to commit robbery,  
17 sexual assault, arson, burglary, kidnapping, carjacking or criminal  
18 escape, and in the course of such crime or of immediate flight  
19 therefrom, any person causes the death of a person other than one of  
20 the participants; except that in any prosecution under this subsection,  
21 in which the defendant was not the only participant in the underlying  
22 crime, it is an affirmative defense that the defendant:

23 (a) Did not commit the homicidal act or in any way solicit, request,  
24 command, importune, cause or aid the commission thereof; and

25 (b) Was not armed with a deadly weapon, or any instrument, article  
26 or substance readily capable of causing death or serious physical injury  
27 and of a sort not ordinarily carried in public places by law-abiding  
28 persons; and

29 (c) Had no reasonable ground to believe that any other participant  
30 was armed with such a weapon, instrument, article or substance; and

31 (d) Had no reasonable ground to believe that any other participant  
32 intended to engage in conduct likely to result in death or serious  
33 physical injury.

34 b. (1) Murder is a crime of the first degree but a person convicted  
35 of murder shall be sentenced, except as provided in subsection c. of  
36 this section, by the court to a term of 30 years, during which the  
37 person shall not be eligible for parole, or be sentenced to a specific  
38 term of years which shall be between 30 years and life imprisonment  
39 of which the person shall serve 30 years before being eligible for  
40 parole.

41 (2) If the victim was a law enforcement officer and was murdered  
42 while performing his official duties or was murdered because of his  
43 status as a law enforcement officer, the person convicted of that

**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 murder shall be sentenced, except as otherwise provided in subsection  
2 c. of this section, by the court to a term of life imprisonment, during  
3 which the person shall not be eligible for parole.

4 (3) A person convicted of murder and who is not sentenced to  
5 death under this section shall be sentenced to a term of life  
6 imprisonment without eligibility for parole if the murder was  
7 committed under all of the following circumstances:

8 (a) The victim is less than 14 years old; and

9 (b) The act is committed in the course of the commission, whether  
10 alone or with one or more persons, of a violation of N.J.S.2C:14-2 or  
11 N.J.S.2C:14-3.

12 The defendant shall not be entitled to a deduction of commutation  
13 and work credits from that sentence.

14 c. Any person convicted under subsection a.(1) or (2) who  
15 committed the homicidal act by his own conduct; or who as an  
16 accomplice procured the commission of the offense by payment or  
17 promise of payment of anything of pecuniary value; or who, as a leader  
18 of a narcotics trafficking network as defined in N.J.S.2C:35-3 and in  
19 furtherance of a conspiracy enumerated in N.J.S.2C:35-3, commanded  
20 or by threat or promise solicited the commission of the offense, shall  
21 be sentenced as provided hereinafter:

22 (1) The court shall conduct a separate sentencing proceeding to  
23 determine whether the defendant should be sentenced to death or  
24 pursuant to the provisions of subsection b. of this section.

25 Where the defendant has been tried by a jury, the proceeding shall  
26 be conducted by the judge who presided at the trial and before the jury  
27 which determined the defendant's guilt, except that, for good cause,  
28 the court may discharge that jury and conduct the proceeding before  
29 a jury empaneled for the purpose of the proceeding. Where the  
30 defendant has entered a plea of guilty or has been tried without a jury,  
31 the proceeding shall be conducted by the judge who accepted the  
32 defendant's plea or who determined the defendant's guilt and before a  
33 jury empaneled for the purpose of the proceeding. On motion of the  
34 defendant and with consent of the prosecuting attorney the court may  
35 conduct a proceeding without a jury. Nothing in this subsection shall  
36 be construed to prevent the participation of an alternate juror in the  
37 sentencing proceeding if one of the jurors who rendered the guilty  
38 verdict becomes ill or is otherwise unable to proceed before or during  
39 the sentencing proceeding.

40 (2) (a) At the proceeding, the State shall have the burden of  
41 establishing beyond a reasonable doubt the existence of any  
42 aggravating factors set forth in paragraph (4) of this subsection. The  
43 defendant shall have the burden of producing evidence of the existence  
44 of any mitigating factors set forth in paragraph (5) of this subsection  
45 but shall not have a burden with regard to the establishment of a  
46 mitigating factor.

1 (b) The admissibility of evidence offered by the State to establish  
2 any of the aggravating factors shall be governed by the rules governing  
3 the admission of evidence at criminal trials. The defendant may offer,  
4 without regard to the rules governing the admission of evidence at  
5 criminal trials, reliable evidence relevant to any of the mitigating  
6 factors. If the defendant produces evidence in mitigation which would  
7 not be admissible under the rules governing the admission of evidence  
8 at criminal trials, the State may rebut that evidence without regard to  
9 the rules governing the admission of evidence at criminal trials.

10 (c) Evidence admitted at the trial, which is relevant to the  
11 aggravating and mitigating factors set forth in paragraphs (4) and (5)  
12 of this subsection, shall be considered without the necessity of  
13 reintroducing that evidence at the sentencing proceeding; provided  
14 that the fact finder at the sentencing proceeding was present as either  
15 the fact finder or the judge at the trial.

16 (d) The State and the defendant shall be permitted to rebut any  
17 evidence presented by the other party at the sentencing proceeding and  
18 to present argument as to the adequacy of the evidence to establish the  
19 existence of any aggravating or mitigating factor.

20 (e) Prior to the commencement of the sentencing proceeding, or at  
21 such time as he has knowledge of the existence of an aggravating  
22 factor, the prosecuting attorney shall give notice to the defendant of  
23 the aggravating factors which he intends to prove in the proceeding.

24 (f) Evidence offered by the State with regard to the establishment  
25 of a prior homicide conviction pursuant to paragraph (4)(a) of this  
26 subsection may include the identity and age of the victim, the manner  
27 of death and the relationship, if any, of the victim to the defendant.

28 (3) The jury or, if there is no jury, the court shall return a special  
29 verdict setting forth in writing the existence or nonexistence of each  
30 of the aggravating and mitigating factors set forth in paragraphs (4)  
31 and (5) of this subsection. If any aggravating factor is found to exist,  
32 the verdict shall also state whether it outweighs beyond a reasonable  
33 doubt any one or more mitigating factors.

34 (a) If the jury or the court finds that any aggravating factors exist  
35 and that all of the aggravating factors outweigh beyond a reasonable  
36 doubt all of the mitigating factors, the court shall sentence the  
37 defendant to death.

38 (b) If the jury or the court finds that no aggravating factors exist,  
39 or that all of the aggravating factors which exist do not outweigh all  
40 of the mitigating factors, the court shall sentence the defendant  
41 pursuant to subsection b.

42 (c) If the jury is unable to reach a unanimous verdict, the court  
43 shall sentence the defendant pursuant to subsection b.

44 (4) The aggravating factors which may be found by the jury or the  
45 court are:

46 (a) The defendant has been convicted, at any time, of another

1 murder. For purposes of this section, a conviction shall be deemed  
2 final when sentence is imposed and may be used as an aggravating  
3 factor regardless of whether it is on appeal;

4 (b) In the commission of the murder, the defendant purposely or  
5 knowingly created a grave risk of death to another person in addition  
6 to the victim;

7 (c) The murder was outrageously or wantonly vile, horrible or  
8 inhuman in that it involved torture, depravity of mind, or an  
9 aggravated assault to the victim;

10 (d) The defendant committed the murder as consideration for the  
11 receipt, or in expectation of the receipt of anything of pecuniary  
12 value;

13 (e) The defendant procured the commission of the offense by  
14 payment or promise of payment of anything of pecuniary value;

15 (f) The murder was committed for the purpose of escaping  
16 detection, apprehension, trial, punishment or confinement for another  
17 offense committed by the defendant or another;

18 (g) The offense was committed while the defendant was engaged  
19 in the commission of, or an attempt to commit, or flight after  
20 committing or attempting to commit murder, robbery, sexual assault,  
21 arson, burglary or kidnapping or the crime of contempt in violation of  
22 N.J.S.2C:29-9b.;

23 (h) The defendant murdered a public servant, as defined in  
24 N.J.S.2C:27-1, while the victim was engaged in the performance of his  
25 official duties, or because of the victim's status as a public servant;

26 (i) The defendant: (i) as a leader of a narcotics trafficking network  
27 as defined in N.J.S.2C:35-3 and in furtherance of a conspiracy  
28 enumerated in N.J.S.2C:35-3, committed, commanded or by threat or  
29 promise solicited the commission of the offense or (ii) committed the  
30 offense at the direction of a leader of a narcotics trafficking network  
31 as defined in N.J.S.2C:35-3 in furtherance of a conspiracy enumerated  
32 in N.J.S.2C:35-3;

33 (j) The homicidal act that the defendant committed or procured  
34 was in violation of paragraph (1) of subsection a. of N.J.S.2C:17-2; or

35 (k) The victim was less than 14 years old.

36 (5) The mitigating factors which may be found by the jury or the  
37 court are:

38 (a) The defendant was under the influence of extreme mental or  
39 emotional disturbance insufficient to constitute a defense to  
40 prosecution;

41 (b) The victim solicited, participated in or consented to the  
42 conduct which resulted in his death;

43 (c) The age of the defendant at the time of the murder;

44 (d) The defendant's capacity to appreciate the wrongfulness of his  
45 conduct or to conform his conduct to the requirements of the law was  
46 significantly impaired as the result of mental disease or defect or

1 intoxication, but not to a degree sufficient to constitute a defense to  
2 prosecution;

3 (e) The defendant was under unusual and substantial duress  
4 insufficient to constitute a defense to prosecution;

5 (f) The defendant has no significant history of prior criminal  
6 activity;

7 (g) The defendant rendered substantial assistance to the State in  
8 the prosecution of another person for the crime of murder; or

9 (h) Any other factor which is relevant to the defendant's character  
10 or record or to the circumstances of the offense.

11 (6) When a defendant at a sentencing proceeding presents evidence  
12 of the defendant's character or record pursuant to subparagraph (h)  
13 of paragraph (5) of this subsection, the State may present evidence of  
14 the murder victim's character and background and of the impact of the  
15 murder on the victim's survivors. If the jury finds that the State has  
16 proven at least one aggravating factor beyond a reasonable doubt and  
17 the jury finds the existence of a mitigating factor pursuant to  
18 subparagraph (h) of paragraph (5) of this subsection, the jury may  
19 consider the victim and survivor evidence presented by the State  
20 pursuant to this paragraph in determining the appropriate weight to  
21 give mitigating evidence presented pursuant to subparagraph (h) of  
22 paragraph (5) of this subsection.

23 d. The sentencing proceeding set forth in subsection c. of this  
24 section shall not be waived by the prosecuting attorney.

25 e. Every judgment of conviction which results in a sentence of  
26 death under this section shall be appealed, pursuant to the Rules of  
27 Court, to the Supreme Court. Upon the request of the defendant, the  
28 Supreme Court shall also determine whether the sentence is  
29 disproportionate to the penalty imposed in similar cases, considering  
30 both the crime and the defendant. Proportionality review under this  
31 section shall be limited to a comparison of similar cases in which a  
32 sentence of death has been imposed under subsection c. of this section.  
33 In any instance in which the defendant fails, or refuses to appeal, the  
34 appeal shall be taken by the Office of the Public Defender or other  
35 counsel appointed by the Supreme Court for that purpose.

36 f. Prior to the jury's sentencing deliberations, the trial court shall  
37 inform the jury of the sentences which may be imposed pursuant to  
38 subsection b. of this section on the defendant if the defendant is not  
39 sentenced to death. The jury shall also be informed that a failure to  
40 reach a unanimous verdict shall result in sentencing by the court  
41 pursuant to subsection b.

42 g. A juvenile who has been tried as an adult and convicted of  
43 murder shall not be sentenced pursuant to the provisions of subsection  
44 c. but shall be sentenced pursuant to the provisions of subsection b. of  
45 this section.

46 h. In a sentencing proceeding conducted pursuant to this section,

1 no evidence shall be admissible concerning the method or manner of  
2 execution which would be imposed on a defendant sentenced to death.

3 i. For purposes of this section the term "homicidal act" shall mean  
4 conduct that causes death or serious bodily injury resulting in death.  
5 (cf: P.L.1998, c.25, s.1)

6

7 2. This act shall take effect immediately.

8

9

10 STATEMENT

11

12 Under the provisions of the death penalty law, the jury must weigh  
13 the "aggravating factors" of a particular case against the "mitigating  
14 factors" of the case to determine whether a defendant convicted of  
15 murder should be sentenced to death. One of the aggravating factors  
16 which may be considered is that the murder occurred during the  
17 commission of another crime such as robbery, sexual assault or  
18 kidnaping. This bill would add contempt to the list of crimes covered  
19 by that aggravating factor if the contempt consisted of violation of a  
20 restraining order issued pursuant to the Prevention of Domestic  
21 Violence Act.



ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2637**

**STATE OF NEW JERSEY**

DATED: FEBRUARY 11, 1999

The Assembly Judiciary Committee reports favorably Assembly Bill No. 2637.

Under the provisions of the death penalty law, the jury must weigh the "aggravating factors" of a particular case against the "mitigating factors" of the case to determine whether a defendant convicted of murder should be sentenced to death. One of the aggravating factors which may be considered is that the murder occurred during the commission of another crime such as robbery, sexual assault or kidnaping. This bill would add contempt if the contempt consisted of violation of a restraining order issued pursuant to the "Prevention of Domestic Violence Act" to the list of crimes covered by that aggravating factor.

This bill is identical to Senate, No. 947 (1R).

*Office of the Governor*  
**NEWS RELEASE**

CONTACT: Gene Herman  
609-777-2600

RELEASE: September 17, 1999

**Gov. Christie Whitman today signed the following pieces of legislation:**

**S-947**, sponsored by Senators William L. Gormley (R-Atlantic) and Wayne R. Bryant (D-Camden/Gloucester) and Assembly Members Kenneth C. LeFevre (R-Atlantic) and Tom Smith (R-Monmouth), adds the violation of a domestic violence restraining order to the list of aggravating factors for a jury to consider in the penalty phase of a murder case. The state's murder statute sets forth a list of aggravating factors, including that the murder was committed in an outrageously or wantonly vile manner, involved an aggravated assault, or was committed in the course of a robbery, burglary, sexual assault or other specified serious offense. A murder charge only may be tried as a death penalty case if the prosecutor gives notice to the defense near to the time of indictment that one or more of the statutory aggravating factors are present. Before a jury in such a case can consider imposing the death penalty, it must find that the state proved beyond a reasonable doubt at least one of the aggravating factors.

**S-1388**, sponsored by Senator Martha W. Bark (R-Atlantic/Burlington/Camden) and Assembly Member Francis L. Bodine (R-Atlantic/Burlington/Camden), amends the Long Term Tax Exemption Law to permit the assignment of long term tax abatements from urban renewal entities to owners in fee simple. Owners in fee simple own their housing units, which are not a part of a condominium. The law allows urban renewal entities, which are non-profit corporations established to rehabilitate urban housing for resale to qualified individuals, to receive such abatements for improvements made to urban housing developments. Previous law expressly permitted owners of condominium units to sell their property along with tax abatements.

**S-1959**, sponsored by Senator Robert E. Littell (R-Sussex/Hunterdon/Morris) and Assembly Members Guy R. Gregg (R-Sussex/Hunterdon/Morris) and E. Scott Garrett (R-Sussex/Hunterdon/Morris), appropriates \$5 million to the Department of Environmental Protection from the Natural Resources Bond Act of 1980 for a grant to Hopatcong Borough for a clean water project. The grant will be used to install sewers for residents that reside near Lake Hopatcong. The \$5 million grant is the state's share of the project, which is projected to cost \$20 million. The appropriation will leverage \$8.7 million in federal funds.

**S-1515**, sponsored by Senator Robert J. Martin (R-Essex/Morris/Passaic) and Assembly Members Carol J. Murphy (R-Essex/Morris/Passaic) and Neil M. Cohen (D-Union), authorizes the regulation of viatical agreements by the Commissioner of Banking and Insurance. A viatical agreement is an agreement to sell a life insurance policy by a person who typically is ill and in immediate need of money. The bill is intended to protect particularly vulnerable persons from aggressive or fraudulent business tactics. The bill requires licensure as a viatical settlement provider for any person who is involved in three or more agreements in the period of one year.

The regulatory aspects of the bill include permitting alterations to viatical agreements, tax implications, rights of rescission, and Medicaid issues. The viatical agreement must contain several consumer protection provisions as set forth in the bill. Among other things, the viatical settlement provider must disclose to consumers possible alternatives to the contract, the need for professional tax advice, the effect of receiving a lump sum of money on pending claims by creditors, and the person's eligibility for government benefits.

The Commissioner of Banking and Insurance is given broad discretion to suspend, revoke or refuse to review licenses. Licensees are required to file annual statements containing information that the Commissioner may require by regulation. The Commissioner has the right to examine the business activities of any licensee.

**S-673**, sponsored by Senator Peter A. Inverso (R-Mercer/Middlesex), implements a series of recommendations made by the Supreme Court Committee on the Tax Court to amend the laws dealing with property tax appeals and certain Tax Court matters. The amendments are primarily procedural in nature and are designed to increase uniformity, efficiency and flexibility in key areas of the administration of property tax appeals, such as filing deadlines, the Freeze Act and tax payment requirement. The Freeze Act freezes the property assessment for three years when a taxpayer is successful in a tax appeal. The bill also contains several technical amendments, such as incorporating gender neutral language and updating references to judicial bodies and governmental entities.

**S-1977** provides for continuity of legal representation through the Office of the Public Defender (OPD) for children and indigent parents in child abuse and termination of parental proceedings. The bill specifically directs that, where practicable, the same attorney will represent a parent or child in each of these types of matters. The continuity is intended to increase the overall effectiveness and efficiency of the legal system in its handling of termination of parental rights cases. The state's recently enacted Adoption and Safe Families Act (AFSA) provided the framework for continuity of legal representation by granting the OPD the authority to represent parents and children in termination of parental rights matters. Prior to AFSA, the OPD was statutorily authorized to provide legal counsel in abuse and neglect matters, but not termination matters. In such termination matters, the courts appointed pro-bono counsel to represent indigent parents and children. The bill was sponsored by Senators William L. Gormley (R-Atlantic) and Edward T. O'Connor, Jr. (D-Hudson) and Assembly Members Richard H. Bagger (R-Middlesex/Morris/Somerset/Union) and Rose Marie Heck (R-Bergen).