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P.L. 2003, CHAPTER 48, *approved April 23, 2003*
Senate, No. 1733 (*First Reprint*)

1 AN ACT concerning the "Three Strikes" law and amending P.L.1995,
2 c.126.

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

6
7 1. Section 2 of P.L.1995, c.126 (C.2C:43-7.1) is amended to read
8 as follows:

9 2. a. Life Imprisonment Without Parole. A person convicted of a
10 crime under any of the following: N.J.S.2C:11-3; subsection a. of
11 N.J.S.2C:11-4; a crime of the first degree under N.J.S.2C:13-1,
12 paragraphs (3) through (6) of subsection a. of N.J.S.2C:14-2;
13 N.J.S.2C:15-1; or section 1 of P.L.1993, c.221 (C.2C:15-2), who has
14 **[on two or more prior and separate occasions]** been convicted of **[a**
15 **crime]** two or more crimes that were committed on prior and separate
16 occasions¹, regardless of the dates of the convictions,¹ under any of
17 the foregoing sections or under any similar statute of the United
18 States, this State, or any other state for a crime that is substantially
19 equivalent to a crime under any of the foregoing sections, shall be
20 sentenced to a term of life imprisonment by the court, with no
21 eligibility for parole.

22 b. Extended Term for Repeat Violent Offenders. A person shall be
23 sentenced to an extended term of imprisonment pursuant to
24 N.J.S.2C:43-7 if:

25 (1) The person is convicted of any of the following crimes: a crime
26 of the second degree under N.J.S.2C:11-4; a crime of the second or
27 third degree under subsection b. of N.J.S.2C:12-1; a crime of the
28 second degree under N.J.S.2C:13-1; a crime under N.J.S.2C:14-3 for
29 aggravated criminal sexual contact under any of the circumstances set
30 forth in paragraphs (3) through (6) of subsection a. of N.J.S.2C:14-2;
31 a crime of the second degree under N.J.S.2C:15-1; a crime of the
32 second degree under N.J.S.2C:18-2; or a crime of the second degree
33 under N.J.S.2C:39-4 for possession of a weapon with the purpose of
34 using it unlawfully against the person of another, and the person has
35 **[on two or more prior and separate occasions]** been convicted of any
36 of the foregoing crimes or any of the crimes enumerated in subsection
37 a. of this section or under any similar statute of the United States, this
38 State, or any other state for a crime that is substantially equivalent to
39 a crime enumerated in this subsection or in subsection a. of this section
40 committed on two or more prior and separate occasions¹ regardless of

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 Senate SJU committee amendments adopted October 28, 2002.

1 the dates of the convictions.¹; or

2 (2) The person is convicted of a crime enumerated in subsection a.
3 of this section, does not have two or more prior convictions that
4 require sentencing under subsection a. and has two or more prior
5 convictions that would require sentencing under paragraph (1) of this
6 subsection if the person had been convicted of a crime enumerated in
7 paragraph (1).

8 c. The provisions of this section shall not apply unless the prior
9 convictions are for crimes committed on separate occasions and unless
10 the crime for which the defendant is being sentenced was committed
11 either within 10 years of the date of the defendant's last release from
12 confinement for commission of any crime or within 10 years of the
13 date of the commission of the most recent of the crimes for which the
14 defendant has a prior conviction.

15 d. The court shall not impose a sentence of imprisonment pursuant
16 to this section, unless the ground therefor has been established at a
17 hearing after the conviction of the defendant and on written notice to
18 the defendant of the ground proposed. The defendant shall have the
19 right to hear and controvert the evidence against him and to offer
20 evidence upon the issue. Prior convictions shall be defined and proven
21 in accordance with N.J.S.2C:44-4.

22 e. For purposes of this section, a term of life shall mean the natural
23 life of a person sentenced pursuant to this section. Except that a
24 defendant who is at least 70 years of age and who has served at least
25 35 years in prison pursuant to a sentence imposed under this section
26 shall be released on parole if the full Parole Board determines that the
27 defendant is not a danger to the safety of any other person or the
28 community.

29 (cf: P.L.1995, c.126, s.2)

30

31 2. This act shall take effect immediately.

32

33

34

35

36 Amends "Three Strikes" law to clarify that it applies to crimes
37 committed on separate occasions regardless of the dates of conviction.

SENATE, No. 1733

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED JUNE 30, 2002

Sponsored by:

Senator DIANE ALLEN

District 7 (Burlington and Camden)

Senator JOSEPH A. PALAIA

District 11 (Monmouth)

Co-Sponsored by:

Senator Matheussen

SYNOPSIS

Amends "Three Strikes" law to clarify that it applies to crimes committed on separate occasions regardless of the dates of conviction.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/1/2002)

1 AN ACT concerning the "Three Strikes" law and amending P.L.1995,
2 c.126.

3

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

6

7 1. Section 2 of P.L.1995, c.126 (C.2C:43-7.1) is amended to read
8 as follows:

9 2. a. Life Imprisonment Without Parole. A person convicted of a
10 crime under any of the following: N.J.S.2C:11-3; subsection a. of
11 N.J.S.2C:11-4; a crime of the first degree under N.J.S.2C:13-1,
12 paragraphs (3) through (6) of subsection a. of N.J.S.2C:14-2;
13 N.J.S.2C:15-1; or section 1 of P.L.1993, c.221 (C.2C:15-2), who has
14 [on two or more prior and separate occasions] been convicted of [a
15 crime] two or more crimes that were committed on prior and separate
16 occasions under any of the foregoing sections or under any similar
17 statute of the United States, this State, or any other state for a crime
18 that is substantially equivalent to a crime under any of the foregoing
19 sections, shall be sentenced to a term of life imprisonment by the
20 court, with no eligibility for parole.

21 b. Extended Term for Repeat Violent Offenders. A person shall
22 be sentenced to an extended term of imprisonment pursuant to
23 N.J.S.2C:43-7 if:

24 (1) The person is convicted of any of the following crimes: a crime
25 of the second degree under N.J.S.2C:11-4; a crime of the second or
26 third degree under subsection b. of N.J.S.2C:12-1; a crime of the
27 second degree under N.J.S.2C:13-1; a crime under N.J.S.2C:14-3 for
28 aggravated criminal sexual contact under any of the circumstances set
29 forth in paragraphs (3) through (6) of subsection a. of N.J.S.2C:14-2;
30 a crime of the second degree under N.J.S.2C:15-1; a crime of the
31 second degree under N.J.S.2C:18-2; or a crime of the second degree
32 under N.J.S.2C:39-4 for possession of a weapon with the purpose of
33 using it unlawfully against the person of another, and the person has
34 [on two or more prior and separate occasions] been convicted of any
35 of the foregoing crimes or any of the crimes enumerated in subsection
36 a. of this section or under any similar statute of the United States, this
37 State, or any other state for a crime that is substantially equivalent to
38 a crime enumerated in this subsection or in subsection a. of this section
39 committed on two or more prior and separate occasions; or

40 (2) The person is convicted of a crime enumerated in subsection a.
41 of this section, does not have two or more prior convictions that
42 require sentencing under subsection a. and has two or more prior
43 convictions that would require sentencing under paragraph (1) of this

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Matter underlined thus is new matter.

1 subsection if the person had been convicted of a crime enumerated in
2 paragraph (1).

3 c. The provisions of this section shall not apply unless the prior
4 convictions are for crimes committed on separate occasions and unless
5 the crime for which the defendant is being sentenced was committed
6 either within 10 years of the date of the defendant's last release from
7 confinement for commission of any crime or within 10 years of the
8 date of the commission of the most recent of the crimes for which the
9 defendant has a prior conviction.

10 d. The court shall not impose a sentence of imprisonment pursuant
11 to this section, unless the ground therefor has been established at a
12 hearing after the conviction of the defendant and on written notice to
13 the defendant of the ground proposed. The defendant shall have the
14 right to hear and controvert the evidence against him and to offer
15 evidence upon the issue. Prior convictions shall be defined and proven
16 in accordance with N.J.S.2C:44-4.

17 e. For purposes of this section, a term of life shall mean the
18 natural life of a person sentenced pursuant to this section. Except that
19 a defendant who is at least 70 years of age and who has served at least
20 35 years in prison pursuant to a sentence imposed under this section
21 shall be released on parole if the full Parole Board determines that the
22 defendant is not a danger to the safety of any other person or the
23 community.

24 (cf: P.L.1995,c.126,s.2)

25

26 2. This act shall take effect immediately.

27

28

29

STATEMENT

30

31 Under the "Three Strikes" law, N.J.S.A.2C:43-7.1, defendants
32 convicted of certain first degree crimes who have previously been
33 convicted, on two separate occasions, of those crimes must be
34 sentenced to life imprisonment without eligibility for parole. (A crime
35 of the first degree is punishable by a term of imprisonment of ten to 20
36 years or a fine of up to \$200,000 or both.) The crimes are
37 murder, aggravated manslaughter, kidnapping in the first degree,
38 certain aggravated sexual assaults, robbery in the first degree, and
39 carjacking.

40 In State v. Livingston, 2002 WL 1025901 (decided May 23, 2002)
41 the New Jersey Supreme Court ruled that a defendant being sentenced
42 in 1999 for carjacking and other crimes who had two previous
43 convictions for robbery would not be eligible for sentencing under the
44 Three Strikes law due to the rather unusual timing of those prior
45 convictions. The defendant had committed one robbery in 1983 and
46 one in 1985, but pleaded guilty to both robberies on the same day in

1 1985. Because both convictions occurred on the same day, the court
2 held that the statute was not applicable, since the statute literally
3 applies only to those defendants who were convicted "on two or more
4 prior and separate occasions."

5 The sponsor believes that this interpretation of the statute was
6 never intended by the Legislature. In response to the court's decision,
7 this bill amends the Three Strikes law to clarify that it applies to
8 defendants convicted of three crimes which were committed on
9 separate occasions; the dates of the defendant's convictions are
10 irrelevant.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1733

STATE OF NEW JERSEY

DATED: JANUARY 16, 2003

The Assembly Judiciary Committee reports favorably Senate Bill No. 1733(1R).

Under the "Three Strikes" law, N.J.S.A.2C:43-7.1, defendants convicted of certain first degree crimes who have previously been convicted, on two separate occasions, of those crimes must be sentenced to life imprisonment without eligibility for parole. The crimes are murder, aggravated manslaughter, kidnapping in the first degree, certain aggravated sexual assaults, robbery in the first degree, and carjacking.

In State v. Livingston, 172 N.J. 209 (2002), the New Jersey Supreme Court ruled that a defendant being sentenced in 1999 for carjacking and other crimes who had two previous convictions for robbery would not be eligible for sentencing under the Three Strikes law due to the rather unusual timing of those prior convictions. The defendant had committed one robbery in 1983 and one in 1985, but pleaded guilty to both robberies on the same day in 1985. Because both convictions occurred on the same day, the court held that the statute was not applicable, since the statute literally applies only to those defendants who were convicted "on two or more prior and separate occasions."

In response to this decision, this bill amends the "Three Strikes" law to clarify that the Legislature intended that the law applies to a defendant convicted of an enumerated crime who has been convicted of two or more of those crimes that were committed on prior and separate occasions, regardless of the dates of the convictions.

This bill is identical to Assembly Bill No.3051 (1R).

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1733

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 28, 2002

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1733.

Under the "Three Strikes" law, N.J.S.A.2C:43-7.1, defendants convicted of certain first degree crimes who have previously been convicted, on two separate occasions, of those crimes must be sentenced to life imprisonment without eligibility for parole. The crimes are murder, aggravated manslaughter, kidnapping in the first degree, certain aggravated sexual assaults, robbery in the first degree, and carjacking.

In State v. Livingston, 172 N.J. 209 (2002) the New Jersey Supreme Court ruled that a defendant being sentenced in 1999 for carjacking and other crimes who had two previous convictions for robbery would not be eligible for sentencing under the Three Strikes law due to the rather unusual timing of those prior convictions. The defendant had committed one robbery in 1983 and one in 1985, but pleaded guilty to both robberies on the same day in 1985. Because both convictions occurred on the same day, the court held that the statute was not applicable, since the statute literally applies only to those defendants who were convicted "on two or more prior and separate occasions."

This bill clarifies that the Legislature intended that the law apply in cases where a defendant convicted of certain first degree crimes had previously been convicted of two or more of those crimes that were committed on prior and separate occasions. The committee amended the bill to add the clarifying phrase, "regardless of the dates of the convictions." Therefore, the law applies to a defendant convicted of an enumerated crime who has been convicted of two or more of those crimes that were committed on prior and separate occasions, regardless of the dates of the convictions.

ASSEMBLY, No. 3051

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED NOVEMBER 25, 2002

Sponsored by:

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Assemblyman PAUL SARLO

District 36 (Bergen, Essex and Passaic)

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Amends "Three Strikes" statute to clarify applicability to crimes committed on separate occasions.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/26/2002)

1 AN ACT concerning the "Three Strikes" statute and amending
2 P.L.1995, c.126.

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

6
7 1. Section 2 of P.L.1995, c.126 (C.2C:43-7.1) is amended to read
8 as follows:

9 2. a. Life Imprisonment Without Parole. A person who has been
10 previously convicted of two or more of the following crimes
11 committed on prior and separate occasions who is subsequently
12 convicted of a third crime under any of the following: N.J.S.2C:11-3;
13 subsection a. of N.J.S.2C:11-4; a crime of the first degree under
14 N.J.S.2C:13-1, paragraphs (3) through (6) of subsection a. of
15 N.J.S.2C:14-2; N.J.S.2C:15-1; or section 1 of P.L.1993, c.221
16 (C.2C:15-2)[, who has on two or more prior and separate occasions
17 been convicted of a crime under any of the foregoing sections] or
18 under any similar statute of the United States, this State, or any other
19 state for a crime that is substantially equivalent to a crime under any
20 of the foregoing sections, shall be sentenced to a term of life
21 imprisonment by the court, with no eligibility for parole.

22 b. Extended Term for Repeat Violent Offenders. A person shall
23 be sentenced to an extended term of imprisonment pursuant to
24 N.J.S.2C:43-7 if:

25 (1) The person is convicted of any of the following crimes: a crime
26 of the second degree under N.J.S.2C:11-4; a crime of the second or
27 third degree under subsection b. of N.J.S.2C:12-1; a crime of the
28 second degree under N.J.S.2C:13-1; a crime under N.J.S.2C:14-3 for
29 aggravated criminal sexual contact under any of the circumstances set
30 forth in paragraphs (3) through (6) of subsection a. of N.J.S.2C:14-2;
31 a crime of the second degree under N.J.S.2C:15-1; a crime of the
32 second degree under N.J.S.2C:18-2; or a crime of the second degree
33 under N.J.S.2C:39-4 for possession of a weapon with the purpose of
34 using it unlawfully against the person of another, and the person has
35 [on two or more prior and separate occasions] been convicted of any
36 of the foregoing crimes or any of the crimes enumerated in subsection
37 a. of this section or under any similar statute of the United States, this
38 State, or any other state for a crime that is substantially equivalent to
39 a crime enumerated in this subsection or in subsection a. of this section
40 committed on two or more prior and separate occasions; or

41 (2) The person is convicted of a crime enumerated in subsection a.
42 of this section, does not have two or more prior convictions that
43 require sentencing under subsection a. and has two or more prior

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 convictions that would require sentencing under paragraph (1) of this
2 subsection if the person had been convicted of a crime enumerated in
3 paragraph (1).

4 c. The provisions of this section shall not apply unless the prior
5 convictions are for crimes committed on separate occasions and unless
6 the crime for which the defendant is being sentenced was committed
7 either within 10 years of the date of the defendant's last release from
8 confinement for commission of any crime or within 10 years of the
9 date of the commission of the most recent of the crimes for which the
10 defendant has a prior conviction.

11 d. The court shall not impose a sentence of imprisonment pursuant
12 to this section, unless the ground therefor has been established at a
13 hearing after the conviction of the defendant and on written notice to
14 the defendant of the ground proposed. The defendant shall have the
15 right to hear and controvert the evidence against him and to offer
16 evidence upon the issue. Prior convictions shall be defined and proven
17 in accordance with N.J.S.2C:44-4.

18 e. For purposes of this section, a term of life shall mean the
19 natural life of a person sentenced pursuant to this section. Except that
20 a defendant who is at least 70 years of age and who has served at least
21 35 years in prison pursuant to a sentence imposed under this section
22 shall be released on parole if the full Parole Board determines that the
23 defendant is not a danger to the safety of any other person or the
24 community.

25 (cf: P.L.1995,c.126,s.2)

26

27 2. This act shall take effect immediately.

28

29

30

STATEMENT

31

32 In State v. Livingston, 172 N.J. 209 (decided May 23, 2002) the
33 New Jersey Supreme Court ruled that a defendant being sentenced in
34 1999 for carjacking and other crimes who had two previous
35 convictions for robbery would not be eligible for sentencing under the
36 "Three Strikes" law (N.J.S.A.2C:43-7.1) because of the particular
37 timing of his prior convictions.

38 The defendant had previously pleaded guilty to two separate
39 robberies on the same day in 1985. One of the robberies had been
40 committed in 1983 and one in 1985, but because both convictions
41 occurred on the same day, the court held the Three Strikes statute to
42 be inapplicable: the statute applies only to those defendants who were
43 convicted "on two or more prior and separate *occasions*."

44 In response to the Supreme Court's decision, this bill amends the
45 Three Strikes law to clarify that it applies to defendants convicted of
46 three crimes which were committed on separate occasions, regardless
47 of the dates of the defendant's convictions.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3051

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 16, 2003

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 3051.

Under the "Three Strikes" law, N.J.S.A.2C:43-7.1, defendants convicted of certain first degree crimes who have previously been convicted, on two separate occasions, of those crimes must be sentenced to life imprisonment without eligibility for parole. The crimes are murder, aggravated manslaughter, kidnapping in the first degree, certain aggravated sexual assaults, robbery in the first degree, and carjacking.

In State v. Livingston, 172 N.J. 209 (2002), the New Jersey Supreme Court ruled that a defendant being sentenced in 1999 for carjacking and other crimes who had two previous convictions for robbery would not be eligible for sentencing under the Three Strikes law due to the rather unusual timing of those prior convictions.

The defendant had committed one robbery in 1983 and one in 1985, but pleaded guilty to both robberies on the same day in 1985. Because both convictions occurred on the same day, the court held that the statute was not applicable, since the statute literally applies only to those defendants who were convicted "on two or more prior and separate occasions."

In response to the Supreme Court's decision, this bill, as originally introduced, amended the "Three Strikes" law to clarify that it applies to defendants convicted of three crimes which were committed on separate occasions, regardless of the dates of the defendant's convictions.

The committee amended the bill to add the clarifying phrase, "regardless of the dates of the convictions." Therefore, the bill applies to a defendant convicted of an enumerated crime who has been convicted of two or more of those crimes that were committed on prior and separate occasions, regardless of the dates of the convictions.

The remaining amendments are technical in nature.

These amendments make this bill identical to Senate Committee Bill No. 1733 (1R).

COMMITTEE AMENDMENTS

1. The amendments eliminate the existing amendatory language in subsection a. and place that language after the enumerated offenses in subsection a.

2. The amendments add the clarifying phrase, "regardless of the dates of the convictions" in subsection a. and in paragraph (1) of subsection b.

3. The remaining amendments are technical in nature.