

2C:38-1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2002 **CHAPTER:** 26
NJSA: 2C: 38-1 (Anti-terrorism law)
BILL NO: A911 (Substituted for S775/1296)

SPONSOR(S): Cohen and others

DATE INTRODUCED: February 28, 2002

COMMITTEE: **ASSEMBLY:** Homeland Security

SENATE: ----

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 13, 2002

SENATE: March 25, 2002

DATE OF APPROVAL: June 18, 2002

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (2nd reprint enacted)
(Amendments during passage denoted by superscript numbers)

A911

[SPONSORS STATEMENT](#): (Begins on page 18 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENTS: Yes [3-21-2002](#)
[3-21-2002](#)

LEGISLATIVE FISCAL ESTIMATE: No

S775/1296

[SPONSORS STATEMENT \(S775\)](#): (Begins on page 23 of original bill) [Yes](#)

[SPONSORS STATEMENT \(S1296\)](#): (Begins on page 18 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)
Identical to Assembly Statement for A911

FLOOR AMENDMENT STATEMENTS: Yes [3/21/2002](#)
[3/21/2002](#)
Identical to Assembly Floor Amendments for A911

LEGISLATIVE FISCAL ESTIMATE: No

FINAL VERSION (SCS 1ST REPRINT):

Yes

Identical to A911, 2nd reprint

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. 103 or <mailto:refdesk@njstatelib.org>

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

"Governor signs terrorism bill into law," 6-19-2002 Home News, p.A1
"N.J. anti-terrorism bill signed into law," 6-19-2002 Courier Post, p9A
"Terrorists could face death under new law," 6-19-2002 The Press, pA11
"Trenton tackles terrorism with bill," 6-19-2002 The Record, p.A3
"McGreevey widens anti-terror power," 6-19-2002 Star Ledger, p. 13

P.L. 2002, CHAPTER 26, *approved June 18, 2002*
Assembly No. 911 (*Second Reprint*)

1 AN ACT creating the "September 11th, 2001 Anti-Terrorism Act" and
2 revising various parts of the statutory law.

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

6
7 1. (New section). Sections 1 through 5 of this act shall be known
8 and may be cited as the "September 11th, 2001 Anti-Terrorism Act."

9
10 2. (New section) a. A person is guilty of the crime of terrorism
11 if he commits or attempts, conspires or threatens to commit any crime
12 enumerated in subsection c. of this section with the purpose ¹:

13 (1)¹ to ²[incite or induce others to]² promote an act of terror¹; ¹or

14 ¹(2) to terrorize five or more persons; or

15 (3)¹ to influence the policy or affect the conduct of government by
16 terror ¹;or

17 (4)¹ to cause ²by an act of terror² the impairment or interruption
18 of public communications, public transportation, public or private
19 buildings, common carriers, public utilities or other public services.

20 b. Terrorism is a crime of the first degree. ¹[Notwithstanding any
21 other provision of law to the contrary, a person convicted under this
22 section shall be sentenced to life imprisonment, during which time the
23 person shall not be eligible for parole.

24 Notwithstanding the provisions of N.J.S.2C:1-8 or any other
25 provision of law, a conviction arising under this section shall not
26 merge with a conviction for any offense that the defendant intended to
27 commit or facilitate when the defendant violated the provisions of this
28 section nor shall any such other conviction merge with a conviction
29 under this section.]

30 (1) Notwithstanding any other provision of law to the contrary, any
31 person convicted under this section shall be sentenced to a term of 30
32 years, during which the person shall not be eligible for parole, or to a
33 specific term of years which shall be between 30 years and life
34 imprisonment, of which the person shall serve not less than 30 years

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 AHS committee amendments adopted March 11, 2002.

² Senate floor amendments adopted March 21, 2002.

1 before being eligible for parole.

2 (2) If a violation of this section results in death, the person shall be
3 sentenced to a term of life imprisonment, during which time the
4 person shall not be eligible for parole.¹

5 c. The crimes encompassed by this section are: murder pursuant to
6 N.J.S.2C:11-3; aggravated manslaughter or manslaughter pursuant to
7 N.J.S.2C:11-4; vehicular homicide pursuant to N.J.S.2C:11-5;
8 aggravated assault pursuant to subsection b. of N.J.S.2C:12-1;
9 ²[terroristic threats pursuant to N.J.S.2C:12-3;]² disarming a law
10 enforcement officer pursuant to section 1 of P.L.1996, c.14 (C.2C:12-
11 11); kidnapping pursuant to N.J.S.2C:13-1; criminal restraint pursuant
12 to N.J.S.2C:13-2; robbery pursuant to N.J.S.2C:15-1; carjacking
13 pursuant to section 1 of P.L.1993, c.221 (C.2C:15-2); aggravated
14 arson or arson pursuant to N.J.S.2C:17-1; causing or risking
15 widespread injury or damage pursuant to N.J.S.2C:17-2; damage to
16 nuclear plant with ¹[intent] the purpose to cause¹ or threat to cause
17 release of radiation pursuant to section 1 of P.L.1983, c.480
18 (C.2C:17-7); damage to nuclear plant resulting in death by radiation
19 pursuant to section 2 of P.L.1983, c.480 (C.2C:17-8); damage to
20 nuclear plant resulting in injury by radiation pursuant to section 3 of
21 P.L.1983, c.480 (C.2C:17-9); producing or possessing chemical
22 weapons, biological agents or nuclear or radiological devices pursuant
23 to section 3 of P.L. c. (C.) (now pending before the
24 Legislature as section 3 of this bill); burglary pursuant to N.J.S.2C:18-
25 2; possession of prohibited weapons and devices pursuant to
26 N.J.S.2C:39-3; possession of weapons for unlawful purposes pursuant
27 to N.J.S.2C:39-4; unlawful possession of weapons pursuant to
28 N.J.S.2C:39-5; weapons training for illegal activities pursuant to
29 section 1 of P.L.1983, c.229 (C.2C:39-14); racketeering pursuant to
30 N.J.S.2C:41-1 et seq.; and any other crime involving a risk of death or
31 serious bodily injury to any person.

32 ¹d. Definitions. For the purposes of this section:

33 "Government" means the United States, any State, county,
34 municipality, or other political unit, or any department, agency or
35 subdivision of any of the foregoing, or any corporation or other
36 association carrying out the functions of government.

37 "Serious bodily injury" means bodily injury which creates a
38 substantial risk of death or which causes serious, permanent
39 disfigurement, or protracted loss or impairment of the function of any
40 bodily member or organ.

41 "Terror" means the menace or fear of death or serious bodily injury.

42 "Terrorize" means to convey the menace or fear of death or serious
43 bodily injury by words or actions.

44 e. A prosecution pursuant to this section may be brought by the
45 Attorney General, his assistants and deputies within the Division of
46 Criminal Justice, or by a county prosecutor or a designated assistant

1 prosecutor if the county prosecutor is expressly authorized in writing
2 by the Attorney General to prosecute a violation of this section.

3 f. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
4 provision of law, a conviction of terrorism under this section shall not
5 merge with a conviction of any other offense, nor shall such other
6 conviction merge with a conviction under this section, and the court
7 shall impose separate sentences upon each violation of this section and
8 any other offense.

9 g. Nothing contained in this section shall be deemed to preclude,
10 if the evidence so warrants, an indictment and conviction for murder
11 under the provisions of N.J.S.2C:11-3 or any other offense.¹

12
13 3. (New section) Producing or Possessing Chemical Weapons,
14 Biological Agents or Nuclear or Radiological Devices.

15 a. A person who, purposely or knowingly, unlawfully develops,
16 produces, otherwise acquires, transfers, receives, stockpiles, retains,
17 owns, possesses or uses, or threatens to use, any chemical weapon,
18 biological agent, toxin, vector or delivery system for use as a weapon,
19 or nuclear or radiological device commits a crime of the first degree¹,
20 except that:

21 (1) Notwithstanding any other provision of law to the contrary, any
22 person convicted under this subsection shall be sentenced to a term of
23 30 years, during which the person shall not be eligible for parole, or to
24 a specific term of years which shall be between 30 years and life
25 imprisonment, of which the person shall serve not less than 30 years
26 before being eligible for parole.

27 (2) If a violation of this section results in death, the person shall be
28 sentenced to a term of life imprisonment, during which time the person
29 shall not be eligible for parole¹.

30 b. Any manufacturer, distributor, transferor, possessor or user of
31 any toxic chemical, biological agent, toxin or vector, or radioactive
32 material that is related to a lawful industrial, agricultural, research,
33 medical, pharmaceutical or other activity, who recklessly allows an
34 unauthorized individual to obtain access to the toxic chemical or
35 biological agent, toxin or vector or radioactive material, commits a
36 crime of the second degree and, notwithstanding the provisions of
37 subsection a. of N.J.S.2C:43-3, shall be subject to a fine of up to
38 \$250,000 for each violation.

39 c. For the purposes of this section:

40 (1) "Chemical weapon" means:

41 (a) a toxic chemical and its precursors, except where intended for
42 a lawful purpose as long as the type and quantity is consistent with
43 such a purpose. "Chemical weapon" shall include, but not be limited
44 to:

45 (i) nerve agents, including GA (Tabun) cyanide irreversible
46 inhibitor, Sarin (GB), GB (Soman) fluorine, reversible "slow aging,"

- 1 GF, and VX sulfur, irreversible;
- 2 (ii) choking agents, including Phosgene (CG) and Diphosgene
3 (DP);
- 4 (iii) blood agents, including Hydrogen Cyanide (AC), Cyanogen
5 Chloride (CK), and Arsine (SA); and
- 6 (iv) blister agents, including mustards (H, HD {sulfur mustard},
7 HN-1, HN-2, HN-3 {nitrogen mustard}), arsenicals, such as Lewisite
8 (L), and urticants, including CX; and
- 9 (v) incapacitating agents, including BZ; or
- 10 (b) a munition or device specifically designed to cause death or
11 other harm through the toxic properties of those chemical weapons
12 defined in subparagraph (a) of paragraph (1) of subsection c. of this
13 section, which would be released as a result of the employment of such
14 munition or device; or
- 15 (c) any equipment specifically designed for use directly in
16 connection with the employment of munitions or devices specified in
17 subparagraph (b) of paragraph (1) of subsection c. of this section.
- 18 (2) "Biological agent" means any microorganism, virus, bacteria,
19 rickettsiae, fungi, toxin, infectious substance or biological product that
20 may be engineered as a result of biotechnology, or any naturally
21 occurring or bioengineered component of any such microorganism,
22 virus, bacteria, rickettsiae, fungi, infectious substance or biological
23 product, capable of causing:
- 24 (a) death, disease, or other biological malfunction in a human, an
25 animal, a plant, or another living organism; or
- 26 (b) deterioration of food, water, equipment, supplies, or material
27 of any kind; or
- 28 (c) deleterious alteration of the environment.
- 29 "Biological agent" shall include, but not be limited to: viruses,
30 including Crimean-Congo hemorrhagic fever virus, eastern equine
31 encephalitis virus, ebola viruses, equine morbilli virus, lasa fever virus,
32 marburg virus, Rift Valley fever virus, South American hemorrhagic
33 fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito), tick-borne
34 encephalitis complex viruses, variola major virus (smallpox virus),
35 Venezuelan equine encephalitis virus, viruses causing hantavirus
36 pulmonary syndrome, and yellow fever virus; bacteria including
37 *Bacillus anthracis* (commonly known as anthrax), *Brucella abortus*,
38 *Brucella melitensis*, *Brucella suis*, *Burkholderia (pseudomonas) mallei*,
39 *Burkholderia (pseudomonas) pseudomallei*, *Clostridium botulinum*,
40 *Francisella tularensis*, *Yersinia pestis* (commonly known as plague);
41 rickettsiae, including *Coxiella burnetii*, *Rickettsia prowazekii* and
42 *Rickettsia rickettsii*; *Coccidioides immitis* fungus; and toxins, including
43 abrin, aflatoxins, Botulinum toxins, *Clostridium perringes epsilon*
44 toxin, conotoxins, diacetoxyscirpenol, ricin, saxitoxin, shigatoxin,
45 Staphylococcal enterotoxins, tetrodotoxins and T-2 toxin.
- 46 (3) "Toxin" means the toxic material of plants, animals,

1 microorganisms, viruses, fungi, or infectious substances, or a
2 recombinant molecule, whatever its origin or method of production,
3 including:

4 (a) any poisonous substance or biological product that may be
5 engineered as a result of biotechnology or produced by a living
6 organism; or

7 (b) any poisonous isomer or biological product, homolog, or
8 derivative of such a substance.

9 (4) "Vector" means a living organism or molecule, including a
10 recombinant molecule, or biological product that may be engineered
11 as a result of biotechnology, capable of carrying a biological agent or
12 toxin to a host.

13 (5) "Nuclear or radiological device" includes¹: (a)¹ any nuclear
14 device which is an explosive device designed to cause a nuclear yield
15 ¹[.]; (b)¹ a radiological dispersal device which is an explosive device
16 used to spread radioactive material ¹; ¹ or ¹(c)¹ a simple radiological
17 dispersal device which is any act ¹[or]¹ container or any other device
18 used to release radiological material for use as a weapon.

19 (6) "Delivery system" means any apparatus, equipment, device, or
20 means of delivery specifically designed to deliver or disseminate a
21 biological agent, toxin or vector.

22 (7) "For use as a weapon" means all situations in which ¹[defendant
23 had any purpose other than a prophylactic, protective or peaceful
24 purpose] the circumstances indicate that the person intended to
25 employ an item's ready capacity of lethal use or of inflicting serious
26 bodily injury¹.

27 d. This section shall not apply to the development, production,
28 acquisition, transfer, receipt, possession or use of any toxic chemical,
29 biological agent, toxin or vector that is related to a lawful industrial,
30 agricultural, research, medical, pharmaceutical, or other activity.

31 e. This section shall not apply to any device whose possession is
32 otherwise lawful pursuant to N.J.S.2C:39-6.

33 f. Nothing contained in this section shall be deemed to preclude, if
34 the evidence so warrants, an indictment and conviction for murder
35 under the provisions of N.J.S.2C:11-3 or any other offense.

36

37 ¹[4. (New section) Harboring, Concealing, Assisting or Providing
38 Aid to Terrorist.

39 a. A person is guilty of a crime of the first degree if he harbors,
40 conceals, assists or provides or aids in providing weapons, money,
41 transportation, disguise or other means of avoiding discovery or
42 apprehension or effecting escape to a person who has committed an
43 act of terrorism.

44 b. A person is guilty of a crime of the second degree if he:

45 (1) suppresses any evidence of an act of terrorism or tampers with
46 a witness, informant, document or other source of information,

1 regardless of its admissibility in evidence, which might aid in the
2 discovery or apprehension of such person or in the lodging of a charge
3 against that person;

4 (2) warns a person who has committed an act of terrorism of the
5 other's impending discovery or apprehension;

6 (3) prevents or obstructs, by means of force, intimidation or
7 deception, anyone from performing an act which might aid in the
8 discovery or apprehension of such person or in the lodging of a charge
9 against the person; or

10 (4) gives false information to a law enforcement officer.

11 c. A person is guilty of a crime of the third degree if he warns a
12 person who has committed an act of terrorism of the other's impending
13 discovery or apprehension.]¹

14

15 ¹4. (New section) Hindering Apprehension or Prosecution for
16 Terrorism.

17 a. A person commits a crime if, with the purpose to hinder the
18 detention, apprehension, investigation, prosecution, conviction or
19 punishment of another for the crime of terrorism, he:

20 (1) Harbors or conceals the other;

21 (2) Provides or aids in providing a weapon, money, transportation,
22 disguise or other means of avoiding discovery or apprehension or
23 effecting escape;

24 (3) Suppresses, by way of concealment or destruction, any
25 evidence of the crime, or tampers with a witness, informant, document
26 or other source of information, regardless of its admissibility in
27 evidence, which might aid in the discovery or apprehension of such
28 person or in the lodging of a charge against him;

29 (4) Warns the other of impending discovery or apprehension,
30 except that this paragraph does not apply to a warning given in
31 connection with an effort to bring another into compliance with law;

32 (5) Prevents or obstructs, by means of force, intimidation or
33 deception, anyone from performing an act which might aid in the
34 discovery or apprehension of such person or in the lodging of a charge
35 against him;

36 (6) Aids such person to protect or expeditiously profit from an
37 advantage derived from such crime; or

38 (7) Gives false information to a law enforcement officer.

39 b. A violation of subsection a. of this section is a crime of the first
40 degree if the crime of terrorism resulted in death. Otherwise, it is a
41 crime of the second degree.¹

42

43 5. (New section) Soliciting or Providing Material Support or
44 Resources for Terrorism.

45 a. As used in this section:

46 "Charitable organization" means: (1) any person determined by the

1 federal Internal Revenue Service to be a tax exempt organization
2 pursuant to section 501(c)(3) of the Internal Revenue Code of 1986,
3 26 U.S.C. s.501(c)(3); or

4 (2) any person who is, or holds himself out to be, established for
5 any benevolent, philanthropic, humane, social welfare, public health,
6 or other eleemosynary purpose, or for the benefit of law enforcement
7 personnel, firefighters or other persons who protect the public safety,
8 or any person who in any manner employs a charitable appeal as the
9 basis of any solicitation, or an appeal which has a tendency to suggest
10 there is a charitable purpose to any such solicitation.

11 "Charitable purpose" means: (1) any purpose described in section
12 501 (c)(3)¹[,]¹ of the Internal Revenue Code of 1986, 26 U.S.C.
13 s.501(c)(3); or (2) any benevolent, philanthropic, humane, social
14 welfare, public health, or other eleemosynary objective, or an objective
15 that benefits law enforcement personnel, firefighters, or other persons
16 who protect the public safety.

17 "Material support or resources" means: (1) ¹[expert]¹ services or
18 assistance with knowledge or purpose that the services or assistance
19 will ¹[or is intended to]¹ be used in preparing for or carrying out ¹an
20 act of¹ terrorism ¹in violation of section 2 of P.L. c. (C.)(now
21 pending before the Legislature as section 2 of this bill)¹;

22 (2) currency, financial securities or other monetary instruments,
23 financial services, lodging, training, safehouses, false documentation
24 or identification, communications equipment, facilities, weapons, lethal
25 substances, explosives, personnel, transportation and other physical
26 assets ¹or anything of value¹; ¹or¹

27 (3) any chemical weapon, or any biological agent, toxin, vector or
28 delivery system ¹[intended]¹ for use as a weapon, or any nuclear or
29 radiological device, as defined in subsection c. of section 3 of P.L.
30 c. (C.) (now pending before the Legislature as this bill).

31 "Professional fund raiser" means any person who for compensation
32 performs for a charitable organization any service in connection with
33 which contributions are ¹[,]¹ or will be solicited in this State by that
34 compensated person or by any compensated person he employs,
35 procures, or engages, directly or indirectly to solicit contributions. A
36 bona fide salaried officer, employee, or volunteer of a charitable
37 organization shall not be deemed to be ¹[an independent paid] a
38 professional¹ fund raiser. No attorney, accountant or banker who
39 advises a person to make a charitable contribution during the course
40 of rendering professional services to that person shall be deemed, as
41 a result of that advice, to be ¹[an independent paid] a professional¹
42 fund raiser.

43 b. (1) It shall be unlawful for any person, charitable organization
44 or professional fund raiser to solicit, transport or otherwise provide
45 material support or resources with the purpose or knowledge that such
46 material support or resources will ¹[or are intended to]¹ be used, in

1 whole or in part, to aid, plan, prepare or carry out an act ¹[or] of¹
2 terrorism ¹in violation of section 2 of P.L. c. (C.)(now
3 pending before the Legislature as section 2 of this bill)¹ or with the
4 purpose or knowledge that such material support or resources are ¹[or
5 are intended]¹ to be given, in whole or in part, to a person or an
6 organization that has committed or has the purpose to commit or has
7 threatened to commit ¹an act of¹ terrorism ¹in violation of section 2
8 of P.L. c. (C.)(now pending before the Legislature as section 2
9 of this bill)¹.

10 (2) It shall be unlawful for any person, charitable organization or
11 professional fund raiser to solicit, transport or otherwise provide
12 material support or resources to or on behalf of a person or an
13 organization that is designated as a foreign terrorist organization by
14 the United States Secretary of State pursuant to 8 U.S.C. §1189. It
15 shall not be a defense to a prosecution for a violation of this section
16 that the actor did not know that the person or organization is
17 designated as a foreign terrorist organization.

18 c. A person who violates the provisions of subsection b. of this
19 section shall be guilty of a crime of the first degree ¹if the act of
20 terrorism in violation of section 2 of P.L. c. (C.)(now pending
21 before the Legislature as section 2 of this bill) results in death.
22 Otherwise, it is a crime of the second degree¹.

23
24 6. Section 8 of P.L.1968, c.409 (C.2A:156A-8) is amended to read
25 as follows:

26 8. The Attorney General, county prosecutor or a person designated
27 to act for such an official and to perform his duties in and during his
28 actual absence or disability, may authorize, in writing, an ex parte
29 application to a judge designated to receive the same for an order
30 authorizing the interception of a wire, or electronic or oral
31 communication by the investigative or law enforcement officers or
32 agency having responsibility for an investigation when such
33 interception may provide evidence of the commission of the offense of
34 murder, kidnapping, gambling, robbery, bribery, a violation of
35 paragraph (1) or (2) of subsection b. of N.J.S.2C:12-1, a violation of
36 section 3 of P.L. 1997, c.353 (C.2C:21-4.3), a violation of
37 N.J.S.2C:21-19 punishable by imprisonment for more than one year,
38 a violation of P.L.1994, c.121 (C.2C:21-23 et seq.),a violation of
39 sections 1 through 5 of P.L. c. (C.)(now pending before the
40 Legislature as sections 1 through 5 of this bill), a violation of
41 N.J.S.2C:33-3, a violation of N.J.S.2C:17-2, a violation of sections 1
42 through 3 of P.L.1983, c.480 (C.2C:17-7 through 2C:17-9),
43 [terroristic threats] a violation of N.J.S.2C:12-3 (terroristic threats),
44 violations of N.J.S.2C:35-3, N.J.S.2C:35-4 and N.J.S.2C:35-5,
45 violations of sections 112 through 116, inclusive, of the "Casino
46 Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116), arson,

1 burglary, theft and related offenses punishable by imprisonment for
2 more than one year, endangering the welfare of a child pursuant to
3 N.J.S.2C:24-4, escape, forgery and fraudulent practices punishable by
4 imprisonment for more than one year, alteration of motor vehicle
5 identification numbers, unlawful manufacture, purchase, use, or
6 transfer of firearms, unlawful possession or use of destructive devices
7 or explosives, weapons training for illegal activities pursuant to section
8 1 of P.L.1983, c.229 (C.2C:39-14), racketeering or a violation of
9 subsection g. of N.J.S.2C:5-2, leader of organized crime, organized
10 criminal activity directed toward the unlawful transportation, storage,
11 disposal, discharge, release, abandonment or disposition of any
12 harmful, hazardous, toxic, destructive, or polluting substance, or any
13 conspiracy to commit any of the foregoing offenses or which may
14 provide evidence aiding in the apprehension of the perpetrator or
15 perpetrators of any of the foregoing offenses.

16 (cf: P.L.1999, c.151, s.4).

17

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

19 2C:1-6. Time Limitations. a. A prosecution for any offense set
20 forth in N.J.S.2C:11-3, N.J.S.2C:11-4 [or], N.J.S.2C:14-2 or sections
21 1 through 5 of P.L. c. (C.) (now pending before the Legislature
22 as sections 1 through 5 of this bill) may be commenced at any time.

23 b. Except as otherwise provided in this section, prosecutions for
24 other offenses are subject to the following periods of limitations:

25 (1) A prosecution for a crime must be commenced within five years
26 after it is committed;

27 (2) A prosecution for a disorderly persons offense or petty
28 disorderly persons offense must be commenced within one year after
29 it is committed;

30 (3) A prosecution for any offense set forth in N.J.S.2C:27-2,
31 N.J.S.2C:27-4, N.J.S.2C:27-6, N.J.S.2C:27-7, N.J.S.2C:29-4,
32 N.J.S.2C:30-2, N.J.S.2C:30-3, or any attempt or conspiracy to commit
33 such an offense, must be commenced within seven years after the
34 commission of the offense;

35 (4) A prosecution for an offense set forth in N.J.S.2C:14-3 or
36 N.J.S.2C:24-4, when the victim at the time of the offense is below the
37 age of 18 years, must be commenced within five years of the victim's
38 attaining the age of 18 or within two years of the discovery of the
39 offense by the victim, whichever is later;

40 (5) A prosecution for any offense set forth in paragraph (2) of
41 subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39
42 (C.13:1E-9), section 20 of P.L.1989, c.34 (C.13:1E-48.20), section 19
43 of P.L.1954, c.212 (C.26:2C-19), section 10 of P.L.1984, c.173
44 (C.34:5A-41), or section 10 of P.L.1977, c.74 (C.58:10A-10) must be
45 commenced within 10 years after the date of discovery of the offense
46 by a local law enforcement agency, a county prosecutor, or the

1 Department of Environmental Protection either directly by any of
2 those entities or indirectly by notice given to any of those entities.

3 c. An offense is committed either when every element occurs or,
4 if a legislative purpose to prohibit a continuing course of conduct
5 plainly appears, at the time when the course of conduct or the
6 defendant's complicity therein is terminated. Time starts to run on the
7 day after the offense is committed, except that when the prosecution
8 is supported by physical evidence that identifies the actor by means of
9 DNA testing or fingerprint analysis, time does not start to run until the
10 State is in possession of both the physical evidence and the DNA or
11 fingerprint evidence necessary to establish the identification of the
12 actor by means of comparison to the physical evidence.

13 d. A prosecution is commenced for a crime when an indictment is
14 found and for a nonindictable offense when a warrant or other process
15 is issued, provided that such warrant or process is executed without
16 unreasonable delay. Nothing contained in this section, however, shall
17 be deemed to prohibit the downgrading of an offense at any time if the
18 prosecution of the greater offense was commenced within the statute
19 of limitations applicable to the greater offense.

20 e. The period of limitation does not run during any time when a
21 prosecution against the accused for the same conduct is pending in this
22 State.

23 f. The limitations in this section shall not apply to any person
24 fleeing from justice.

25 g. Except as otherwise provided in this code, no civil action shall
26 be brought pursuant to this code more than five years after such action
27 accrues.

28 (cf: P.L.2001, c.308, s.1)

29

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

31 2C:5-2. Conspiracy. a. Definition of conspiracy. A person is
32 guilty of conspiracy with another person or persons to commit a crime
33 if with the purpose of promoting or facilitating its commission he:

34 (1) Agrees with such other person or persons that they or one or
35 more of them will engage in conduct which constitutes such crime or
36 an attempt or solicitation to commit such crime; or

37 (2) Agrees to aid such other person or persons in the planning or
38 commission of such crime or of an attempt or solicitation to commit
39 such crime.

40 b. Scope of conspiratorial relationship. If a person guilty of
41 conspiracy, as defined by subsection a. of this section, knows that a
42 person with whom he conspires to commit a crime has conspired with
43 another person or persons to commit the same crime, he is guilty of
44 conspiring with such other person or persons, whether or not he
45 knows their identity, to commit such crime.

46 c. Conspiracy with multiple objectives. If a person conspires to

1 commit a number of crimes, he is guilty of only one conspiracy so long
2 as such multiple crimes are the object of the same agreement or
3 continuous conspiratorial relationship. It shall not be a defense to a
4 charge under this section that one or more of the objectives of the
5 conspiracy was not criminal; provided that one or more of its
6 objectives or the means of promoting or facilitating an objective of the
7 conspiracy is criminal.

8 d. Overt act. No person may be convicted of conspiracy to commit
9 a crime other than a crime of the first or second degree or distribution
10 or possession with intent to distribute a controlled dangerous
11 substance or controlled substance analog as defined in chapter 35 of
12 this title, unless an overt act in pursuance of such conspiracy is proved
13 to have been done by him or by a person with whom he conspired.

14 e. Renunciation of purpose. It is an affirmative defense which the
15 actor must prove by a preponderance of the evidence that he, after
16 conspiring to commit a crime, informed the authority of the existence
17 of the conspiracy and his participation therein, and thwarted or caused
18 to be thwarted the commission of any offense in furtherance of the
19 conspiracy, under circumstances manifesting a complete and voluntary
20 renunciation of criminal purpose as defined in N.J.S.2C:5-1d.;
21 provided, however, that an attempt as defined in N.J.S.2C:5-1 shall
22 not be considered an offense for purposes of renunciation under this
23 subsection.

24 f. Duration of conspiracy. For the purpose of [section]
25 N.J.S.2C:1-6d.:

26 (1) Conspiracy is a continuing course of conduct which terminates
27 when the crime or crimes which are its object are committed or the
28 agreement that they be committed is abandoned by the defendant and
29 by those with whom he conspired; and

30 (2) Such abandonment is presumed with respect to a crime other
31 than one of the first or second degree if neither the defendant nor
32 anyone with whom he conspired does any overt act in pursuance of the
33 conspiracy during the applicable period of limitation; and

34 (3) If an individual abandons the agreement, the conspiracy is
35 terminated as to him only if and when he advises those with whom he
36 conspired of his abandonment or he informs the law enforcement
37 authorities of the existence of the conspiracy and of his participation
38 therein.

39 g. Leader of organized crime. A person is a leader of organized
40 crime if he purposefully conspires with others as an organizer,
41 supervisor [or], manager[,], or financier to commit a continuing series
42 of crimes which constitute a pattern of racketeering activity under the
43 provisions of N.J.S. 2C:41-1, provided, however, that notwithstanding
44 2C:1-8a. (2), a conviction of leader of organized crime shall not merge
45 with the conviction of any other crime which constitutes racketeering
46 activity under 2C:41-1. As used in this section, "financier" means a

1 person who provides money, credit or a thing of value with the
2 purpose or knowledge that it will be used to finance or support the
3 operations of a conspiracy to commit a series of crimes which
4 constitute a pattern of racketeering activity, including but not limited
5 to the purchase of materials to be used in the commission of crimes,
6 buying or renting housing or vehicles, purchasing transportation for
7 members of the conspiracy or otherwise facilitating the commission of
8 crimes which constitute a pattern of racketeering activity.

9 (cf: P.L.1987, c.106, s.4)

10

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

12 2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation
13 in Cases of Lesser Danger. a. Grading. Except as provided in
14 subsections c. and d., an attempt or conspiracy to commit a crime of
15 the first degree is a crime of the second degree; except that an attempt
16 or conspiracy to commit murder or terrorism is a crime of the first
17 degree¹, provided, however, that if the person attempted or conspired
18 to murder five or more persons, the person shall be sentenced by the
19 court to a term of 30 years, during which the person shall not be
20 eligible for parole, or to a specific term of years which shall be
21 between 30 years and life imprisonment, of which the person shall
22 serve not less than 30 years before eligibility for parole¹. Otherwise
23 an attempt is a crime of the same degree as the most serious crime
24 which is attempted, and conspiracy is a crime of the same degree as
25 the most serious crime which is the object of the conspiracy; provided
26 that, leader of organized crime is a crime of the second degree. An
27 attempt or conspiracy to commit an offense defined by a statute
28 outside the code shall be graded as a crime of the same degree as the
29 offense is graded pursuant to ¹[sections] N.J.S. 2C:1-4 and
30 ¹N.J.S. 2C:43-1.

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

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

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

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

44 d. Notwithstanding the provisions of subsection a. of this section,
45 conspiracy to commit a crime as set forth in P.L.1994, c.121
46 (C.2C:21-23 et seq.) is a crime of the same degree as the most serious

1 crime that was conspired to be committed.

2 (cf: P.L.1999, c.25, s.2)

3

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

5 2C:11-3. Murder.

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

8 (1) The actor purposely causes death or serious bodily injury
9 resulting in death; or

10 (2) The actor knowingly causes death or serious bodily injury
11 resulting in death; or

12 (3) It is committed when the actor, acting either alone or with one
13 or more other persons, is engaged in the commission of, or an attempt
14 to commit, or flight after committing or attempting to commit robbery,
15 sexual assault, arson, burglary, kidnapping, carjacking [or], criminal
16 escape or terrorism pursuant to section 2 of P.L. .c. (C.) (now
17 pending before the Legislature as section 2 of this bill), and in the
18 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
44 murder shall be sentenced, except as otherwise provided in subsection
45 c. of this section, by the court to a term of life imprisonment, during
46 which the person shall not be eligible for parole.

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

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

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

9 (4) If the defendant was subject to sentencing pursuant to
10 subsection c. and the jury or court found the existence of one or more
11 aggravating factors, but that such factors did not outweigh the
12 mitigating factors found to exist by the jury or court or the jury was
13 unable to reach a unanimous verdict as to the weight of the factors, the
14 defendant shall be sentenced by the court to a term of life
15 imprisonment during which the defendant shall not be eligible for
16 parole.

17 With respect to a sentence imposed pursuant to this subsection, the
18 defendant shall not be entitled to a deduction of commutation and
19 work credits from that sentence.

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

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

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

1 the sentencing proceeding.

2 (2) (a) At the proceeding, the State shall have the burden of
3 establishing beyond a reasonable doubt the existence of any
4 aggravating factors set forth in paragraph (4) of this subsection. The
5 defendant shall have the burden of producing evidence of the existence
6 of any mitigating factors set forth in paragraph (5) of this subsection
7 but shall not have a burden with regard to the establishment of a
8 mitigating factor.

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

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

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

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

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

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

42 (a) If the jury or the court finds that any aggravating factors exist
43 and that all of the aggravating factors outweigh beyond a reasonable
44 doubt all of the mitigating factors, the court shall sentence the
45 defendant to death.

46 (b) If the jury or the court finds that no aggravating factors exist,

1 or that all of the aggravating factors which exist do not outweigh all
2 of the mitigating factors, the court shall sentence the defendant
3 pursuant to subsection b.

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

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

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

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

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

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

20 (e) The defendant procured the commission of the [offense]
21 murder by payment or promise of payment of anything of pecuniary
22 value;

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

26 (g) The [offense] murder was committed while the defendant was
27 engaged in the commission of, or an attempt to commit, or flight after
28 committing or attempting to commit murder, robbery, sexual assault,
29 arson, burglary [or], kidnapping, carjacking or the crime of contempt
30 in violation of N.J.S.2C:29-9b.;

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

34 (i) The defendant: (i) as a leader of a narcotics trafficking network
35 as defined in N.J.S.2C:35-3 and in furtherance of a conspiracy
36 enumerated in N.J.S.2C:35-3, committed, commanded or by threat or
37 promise solicited the commission of the [offense] murder or (ii)
38 committed the [offense] murder at the direction of a leader of a
39 narcotics trafficking network as defined in N.J.S.2C:35-3 in
40 furtherance of a conspiracy enumerated in N.J.S.2C:35-3;

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

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

45 (l) The murder was committed during the commission of, or an
46 attempt to commit, or flight after committing or attempting to commit,

1 terrorism pursuant to section 2 of P.L. c. (C.)(now pending
2 before the Legislature as section 2 of this bill).

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

5 (a) The defendant was under the influence of extreme mental or
6 emotional disturbance insufficient to constitute a defense to
7 prosecution;

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

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

11 (d) The defendant's capacity to appreciate the wrongfulness of his
12 conduct or to conform his conduct to the requirements of the law was
13 significantly impaired as the result of mental disease or defect or
14 intoxication, but not to a degree sufficient to constitute a defense to
15 prosecution;

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

18 (f) The defendant has no significant history of prior criminal
19 activity;

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

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

24 (6) When a defendant at a sentencing proceeding presents evidence
25 of the defendant's character or record pursuant to subparagraph (h) of
26 paragraph (5) of this subsection, the State may present evidence of the
27 murder victim's character and background and of the impact of the
28 murder on the victim's survivors. If the jury finds that the State has
29 proven at least one aggravating factor beyond a reasonable doubt and
30 the jury finds the existence of a mitigating factor pursuant to
31 subparagraph (h) of paragraph (5) of this subsection, the jury may
32 consider the victim and survivor evidence presented by the State
33 pursuant to this paragraph in determining the appropriate weight to
34 give mitigating evidence presented pursuant to subparagraph (h) of
35 paragraph (5) of this subsection. As used in this paragraph "victim
36 and survivor evidence" may include the display of a photograph of the
37 victim taken before the homicide.

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

40 e. Every judgment of conviction which results in a sentence of
41 death under this section shall be appealed, pursuant to the Rules of
42 Court, to the Supreme Court. Upon the request of the defendant, the
43 Supreme Court shall also determine whether the sentence is
44 disproportionate to the penalty imposed in similar cases, considering
45 both the crime and the defendant. Proportionality review under this
46 section shall be limited to a comparison of similar cases in which a

1 sentence of death has been imposed under subsection c. of this section.
2 In any instance in which the defendant fails, or refuses to appeal, the
3 appeal shall be taken by the Office of the Public Defender or other
4 counsel appointed by the Supreme Court for that purpose.

5 f. Prior to the jury's sentencing deliberations, the trial court shall
6 inform the jury of the sentences which may be imposed pursuant to
7 subsection b. of this section on the defendant if the defendant is not
8 sentenced to death. The jury shall also be informed that a failure to
9 reach a unanimous verdict shall result in sentencing by the court
10 pursuant to subsection b.

11 g. A juvenile who has been tried as an adult and convicted of
12 murder shall not be sentenced pursuant to the provisions of subsection
13 c. but shall be sentenced pursuant to the provisions of subsection b. of
14 this section.

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

18 i. For purposes of this section the term "homicidal act" shall mean
19 conduct that causes death or serious bodily injury resulting in death.

20 j. In a sentencing proceeding conducted pursuant to this section,
21 the display of a photograph of the victim taken before the homicide
22 shall be permitted.

23 (cf: P.L.2000, c.88, s.1)²

24

25 ²[10.] 11.² N.J.S.2C:12-3 is amended to read as follows:

26 2C:12-3. Terroristic threats.

27 a. A person is guilty of a crime of the [third] ¹[second] third¹
28 degree if he threatens to commit any crime of violence with ¹the¹
29 purpose to terrorize another or to cause evacuation of a building,
30 place of assembly, or facility of public transportation, or otherwise to
31 cause serious public inconvenience, or in reckless disregard of the risk
32 of causing such terror or inconvenience. ¹A violation of this subsection
33 is a crime of the second degree if it occurs during a declared period of
34 national, State or county emergency. The actor shall be strictly liable
35 upon proof that the crime occurred, in fact, during a declared period
36 of national, State or county emergency. It shall not be a defense that
37 the actor did not know that there was a declared period of emergency
38 at the time the crime occurred.¹

39 b. A person is guilty of a crime of the [third] ¹[second] third¹
40 degree if he threatens to kill another with ¹the¹ purpose to put him in
41 imminent fear of death under circumstances reasonably causing the
42 victim to believe the immediacy of the threat and the likelihood that it
43 will be carried out.

44 (cf: P.L.1981, c.290, s.15)

45

46 ²[11.] 12.² N.J.S.2C:17-2 is amended to read as follows:

1 2C:17-2. Causing or Risking Widespread Injury or Damage.

2 a. (1) A person who, purposely or knowingly, unlawfully causes
3 an explosion, flood, avalanche, collapse of a building, release or
4 abandonment of poison gas, radioactive material or any other harmful
5 or destructive substance commits a crime of the second degree. A
6 person who, purposely or knowingly, unlawfully causes widespread
7 injury or damage in any manner commits a crime of the second degree.

8 (2) A person who, purposely or knowingly, unlawfully causes a
9 hazardous discharge required to be reported pursuant to the "Spill
10 Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et
11 seq.) or any rules and regulations adopted pursuant thereto, or who,
12 purposely or knowingly, unlawfully causes a release or abandonment
13 of hazardous waste as defined in section 1 of P.L.1976, c.99
14 (C.13:1E-38) or a toxic pollutant as defined in section 3 of P.L.1977,
15 c.74 (C.58:10A-3) commits a crime of the second degree. Any person
16 who recklessly violates the provisions of this paragraph is guilty of a
17 crime of the ~~[third]~~ ¹~~[second]~~ third¹ degree.

18 b. A person who recklessly causes widespread injury or damage is
19 guilty of a crime of the third degree.

20 c. A person who recklessly creates a risk of widespread injury or
21 damage commits a crime of the ~~[fourth]~~ ¹~~[third]~~ fourth¹ degree, even
22 if no such injury or damage occurs. ¹A violation of this subsection is
23 a crime of the third degree if the risk of widespread injury or damage
24 results from the reckless handling or storage of hazardous materials.
25 A violation of this subsection is a crime of the second degree if the
26 handling or storage of hazardous materials violated any law, rule or
27 regulation intended to protect the public health and safety.¹

28 d. A person who knowingly or recklessly fails to take reasonable
29 measures to prevent or mitigate widespread injury or damage commits
30 a crime of the fourth degree, if:

31 (1) He knows that he is under an official, contractual or other legal
32 duty to take such measures; or

33 (2) He did or assented to the act causing or threatening the injury
34 or damage.

35 e. For purposes of this section, widespread injury or damage means
36 serious bodily injury to ¹~~[10]~~ five¹ or more people or damage to
37 ¹~~[10]~~ five¹ or more habitations or to a building which would normally
38 have contained ¹~~[50]~~ 25¹ or more persons at the time of the offense.
39 (cf: P.L.1997, c.325, s.2).

40

41 ²~~[12.]~~ 13.² Section 1 of P.L.1983, c. 480 (C.2C:17-7) is amended
42 to read as follows:

43 1. The provisions of N.J.S.2C:17-2 to the contrary notwithstanding,
44 any person who purposely or knowingly damages or tampers with any
45 machinery, device, or equipment at a nuclear electric generating plant
46 with the ~~[intent]~~ purpose to cause or threaten to cause an

1 unauthorized release of radiation commits a crime of the [third] first
2 degree, and may be sentenced to an extended term of imprisonment as
3 set forth in paragraph ¹[(4)] (2)¹ of subsection a. of N.J.S.2C:43-7,
4 notwithstanding the provisions of N.J.S. 2C:44-3¹; provided, however,
5 that if the defendant is not sentenced to an extended term of
6 imprisonment, the defendant shall be sentenced to an ordinary term of
7 imprisonment between 15 and 30 years¹.

8 (cf: P.L.1983, c.480, s.1)

9

10 ²[13.] 14.² Section 3 of P.L.1994, c.121 (C.2C:21-25) is
11 amended to read as follows:

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

13 a. transports or possesses property ¹[which he knew or reasonably
14 should have]¹ known ¹or which a reasonable person would believe¹
15 to be derived from criminal activity; or

16 b. engages in a transaction involving property ¹[which he knew or
17 reasonably should have]¹ known ¹or which a reasonable person would
18 believe¹ to be derived from criminal activity

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

20 (2) knowing that the transaction is designed in whole or in part ¹;

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

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

25 c. directs, organizes, finances, plans, manages, supervises, or
26 controls the transportation of or transactions in property ¹[which the
27 person knew or reasonably should have]¹ known ¹or which a
28 reasonable person would believe¹ to be derived from criminal activity.

29 d. For the purposes of this act, property is known to be derived
30 from criminal activity if the person [knows] ¹[knew or reasonably
31 should have known] knows¹ that the property involved represents
32 proceeds from some form, though not necessarily which form, of
33 criminal activity. Among the factors that the finder of fact may
34 consider in determining that a transaction has been designed to avoid
35 a transaction reporting requirement shall be whether the person, acting
36 alone or with others, conducted one or more transactions in currency,
37 in any amount, at one or more financial institutions, on one or more
38 days, in any manner. The phrase "in any manner" includes the
39 breaking down of a single sum of currency exceeding the transaction
40 reporting requirement into smaller sums, including sums at or below
41 the transaction reporting requirement, or the conduct of a transaction,
42 or series of currency transactions, including transactions at or below
43 the transaction reporting requirement. The transaction or transactions
44 need not exceed the transaction reporting threshold at any single
45 financial institution on any single day in order to demonstrate a
46 violation of subparagraph (b) of paragraph (2) of subsection b. of this

1 section.

2 ¹e. A person is guilty of a crime if, with the purpose to evade a
3 transaction reporting requirement of this State or of 31 U.S.C. § 5311
4 et seq. or 31 C.F.R. § 103 et seq., or any rules or regulations adopted
5 under those chapters and sections, he:

6 (1) causes or attempts to cause a financial institution, including a
7 foreign or domestic money transmitter or an authorized delegate
8 thereof, casino, check casher, person engaged in a trade or business or
9 any other individual or entity required by State or federal law to file a
10 report regarding currency transactions or suspicious transactions to
11 fail to file a report; or

12 (2) causes or attempts to cause a financial institution, including a
13 foreign or domestic money transmitter or an authorized delegate
14 thereof, casino, check casher, person engaged in a trade or business or
15 any other individual or entity required by State or federal law to file a
16 report regarding currency transactions or suspicious transactions to
17 file a report that contains a material omission or misstatement of fact;
18 or

19 (3) structures or assists in structuring, or attempts to structure or
20 assist in structuring any transaction with one or more financial
21 institutions, including foreign or domestic money transmitters or an
22 authorized delegate thereof, casinos, check cashers, persons engaged
23 in a trade or business or any other individuals or entities required by
24 State or federal law to file a report regarding currency transactions or
25 suspicious transactions. “Structure” or “structuring” means that a
26 person, acting alone, or in conjunction with, or on behalf of, other
27 persons, conducts or attempts to conduct one or more transactions in
28 currency, in any amount, at one or more financial institutions, on one
29 or more days, in any manner, for the purpose of evading currency
30 transaction reporting requirements provided by State or federal law.
31 “In any manner” includes, but is not limited to, the breaking down into
32 smaller sums of a single sum of currency meeting or exceeding that
33 which is necessary to trigger a currency reporting requirement or the
34 conduct of a transaction, or series of currency transactions, at or
35 below the reporting requirement. The transaction or transactions need
36 not exceed the reporting threshold at any single financial institution on
37 any single day in order to meet the definition of “structure” or
38 “structuring” provided in this paragraph.¹

39 (cf: P.L.1999, c.25, s.3)

40

41 ²[¹⁴.] 15.² Section 5 of P.L.1994, c.121 (C.2C:21-27) is
42 amended to read as follows:

43 5. a. The offense defined in subsections a. b. and c. of section 3 of
44 P.L.1994, c.121 (C.2C:21-25) constitutes a crime of the first degree
45 if the amount involved is \$500,000.00 or more. If the amount
46 involved is at least \$75,000.00 but less than \$500,000.00 the offense
47 constitutes a crime of the second degree; otherwise, the offense

1 constitutes a crime of the third degree. The offense defined in
 2 subsection e. of section 3 of P.L.1994, c.121 (C.2C:21-25) constitutes
 3 a crime of the third degree. Notwithstanding the provisions of
 4 N.J.S.2C:43-3, the court may also impose a fine up to \$500,000.00.
 5 The amount involved in a prosecution for violation of this section shall
 6 be determined by the trier of fact. Amounts involved in transactions
 7 conducted pursuant to one scheme or course of conduct may be
 8 aggregated in determining the degree of the offense. Notwithstanding
 9 the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, a
 10 person convicted of a crime of the first degree pursuant to the
 11 provisions of this subsection shall be sentenced to a term of
 12 imprisonment that shall include the imposition of a minimum term
 13 which shall be fixed at, or between, one-third and one-half of the
 14 sentence imposed, during which time the defendant shall not be eligible
 15 for parole.

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

35 (cf: P.L.1999, c.25, s.4)

36

37 ¹[14.] ²[15.¹] ^{16.}² N.J.S.2C:33-3 is amended to read as follows:
 38 2C:33-3. False Public Alarms. a. Except as provided in subsection
 39 b. or c. ¹of this section¹, a person is guilty of a crime of the [third]
 40 ¹[second] ^{third}¹ degree if he initiates or circulates a report or warning
 41 of an impending fire, explosion, bombing, crime, catastrophe or
 42 emergency knowing that the report or warning is false or baseless and
 43 that it is likely to cause evacuation of a building, place of assembly, or
 44 facility of public transport, or to cause public ¹[inconveniences]
 45 inconvenience¹ or alarm. A person is guilty of a crime of the [third]
 46 ¹[second] ^{third}¹ degree if he knowingly causes such false alarm to be
 47 transmitted to or within any organization, official or volunteer, for

1 dealing with emergencies involving danger to life or property.

2 b. A person is guilty of a crime of the [~~third~~] second degree if in
3 addition to the report or warning initiated, circulated or transmitted
4 under subsection a. ¹of this section¹, he places or causes to be placed
5 any false or facsimile bomb in a building, place of assembly, or facility
6 of public transport or in a place likely to cause public inconvenience
7 or alarm. ¹A violation of this subsection is a crime of the first degree
8 if it occurs during a declared period of national, State or county
9 emergency.¹

10 c. A person is guilty of a crime of the [~~second~~] ¹[first] second¹
11 degree if a violation of subsection a. of this section in fact results in
12 serious bodily injury to another person ¹or occurs during a declared
13 period of national, State or county emergency¹. A person is guilty of
14 a crime of the [~~second~~] first degree if a violation of subsection a. of
15 this section in fact results in death.

16 d. For the purposes of this section, "in fact" means that strict
17 liability is imposed. ¹It shall not be a defense that the death or serious
18 bodily injury was not a foreseeable consequence of the person's acts
19 or that the death or serious bodily injury was caused by the actions of
20 another person or by circumstances beyond the control of the actor.
21 The actor shall be strictly liable upon proof that the crime occurred
22 during a declared period of national, State or county emergency. It
23 shall not be a defense that the actor did not know that there was a
24 declared period of emergency at the time the crime occurred.¹

25 e. A person is guilty of a [~~disorderly persons offense~~] ¹crime of
26 the¹ fourth degree if the person knowingly places a call to a 9-1-1
27 emergency telephone system without purpose of reporting the need for
28 9-1-1 service.

29 (cf: P.L.1999, c.195, s.1).

30

31 ¹[~~15.~~] ²[~~16.~~¹] ²17.² Section 3 of P.L. 1999, c.195 (C.2C:33-3.2)
32 is amended to read as follows:

33 3. Any person who violates the provisions of N.J.S.2C:33-3 shall
34 be liable for a civil penalty of not less than [~~\$1,000.00~~] ¹[\$20,000.00]
35 \$2,000¹ or actual costs incurred by or resulting from the law
36 enforcement and emergency services response to the false alarm,
37 whichever is higher. Any monies collected pursuant to this section
38 shall be made payable to the municipality or other entity providing the
39 law enforcement or emergency services response to the false alarm.
40 "Emergency services" includes, but is not limited to, paid or volunteer
41 fire fighters, paramedics, members of an ambulance team, rescue squad
42 or mobile intensive care unit.

43 (cf: P.L.1999, c.195, s.3)

44

45 ¹[~~16.~~] ²[~~17.~~¹] ²18.² N.J.S.2C:41-1 is amended to read as follows:
46 2C:41-1. Definitions.

- 1 For purposes of this section and N.J.S.2C:41-2 through
2 N.J.S.2C:41-6:
- 3 a. "Racketeering activity" means (1) any of the following crimes
4 which are crimes under the laws of New Jersey or are equivalent
5 crimes under the laws of any other jurisdiction:
- 6 (a) murder
 - 7 (b) kidnapping
 - 8 (c) gambling
 - 9 (d) promoting prostitution
 - 10 (e) obscenity
 - 11 (f) robbery
 - 12 (g) bribery
 - 13 (h) extortion
 - 14 (i) criminal usury
 - 15 (j) violations of Title 33 of the Revised Statutes
 - 16 (k) violations of Title 54A of the New Jersey Statutes and Title 54
17 of the Revised Statutes
 - 18 (l) arson
 - 19 (m) burglary
 - 20 (n) theft and all crimes defined in chapter 20 of Title 2C of the
21 New Jersey Statutes
 - 22 (o) forgery and fraudulent practices and all crimes defined in
23 chapter 21 of Title 2C of the New Jersey Statutes
 - 24 (p) fraud in the offering, sale or purchase of securities
 - 25 (q) alteration of motor vehicle identification numbers
 - 26 (r) unlawful manufacture, purchase, use or transfer of firearms
 - 27 (s) unlawful possession or use of destructive devices or explosives
 - 28 (t) violation of sections 112 through 116 inclusive of the "Casino
29 Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116)
 - 30 (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6
31 and all crimes involving illegal distribution of a controlled dangerous
32 substance or controlled substance analog, except possession of less
33 than one ounce of marijuana
 - 34 (v) violation of subsection b. of N.J.S.2C:24-4 except for
35 subparagraph (b) of paragraph (5) of subsection b.
 - 36 (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16), leader
37 of firearms trafficking network
 - 38 (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14),
39 weapons training for illegal activities
 - 40 (y) violation of section 2 of of P.L. c. (C.), terrorism.
 - 41 (2) any conduct defined as "racketeering activity" under Title 18,
42 U.S.C.s.1961(1)(A), (B) and (D).
 - 43 b. "Person" includes any individual or entity or enterprise as
44 defined herein holding or capable of holding a legal or beneficial
45 interest in property.
 - 46 c. "Enterprise" includes any individual, sole proprietorship,
47 partnership, corporation, business or charitable trust, association, or

1 other legal entity, any union or group of individuals associated in fact
2 although not a legal entity, and it includes illicit as well as licit
3 enterprises and governmental as well as other entities.

4 d. "Pattern of racketeering activity" requires

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

9 (2) A showing that the incidents of racketeering activity embrace
10 criminal conduct that has either the same or similar purposes, results,
11 participants or victims or methods of commission or are otherwise
12 interrelated by distinguishing characteristics and are not isolated
13 incidents.

14 e. "Unlawful debt" means a debt

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

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

20 f. "Documentary material" includes any book, paper, document,
21 writing, drawing, graph, chart, photograph, phonorecord, magnetic or
22 recording or video tape, computer printout, other data compilation
23 from which information can be obtained or from which information can
24 be translated into useable form or other tangible item.

25 g. "Attorney General" includes the Attorney General of New
26 Jersey, his assistants and deputies. The term shall also include a
27 county prosecutor or his designated assistant prosecutor if a county
28 prosecutor is expressly authorized in writing by the Attorney General
29 to carry out the powers conferred on the Attorney General by this
30 chapter.

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

33 (cf: P.L.1999, c.25, s.5).

34
35 ¹[17.] ²[18.¹] ^{19.}² Section 2 of P.L.1997, c.117 (C.2C:43-7.2)
36 is amended to read as follows:

37 2. a. A court imposing a sentence of incarceration for a crime of
38 the first or second degree enumerated in subsection d. of this section
39 shall fix a minimum term of 85% of the sentence imposed, during
40 which the defendant shall not be eligible for parole.

41 b. The minimum term required by subsection a. of this section shall
42 be fixed as a part of every sentence of incarceration imposed upon
43 every conviction of a crime enumerated in subsection d. of this section,
44 whether the sentence of incarceration is determined pursuant to
45 N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any other provision
46 of law, and shall be calculated based upon the sentence of
47 incarceration actually imposed. The provisions of subsection a. of this

1 section shall not be construed or applied to reduce the time that must
2 be served before eligibility for parole by an inmate sentenced to a
3 mandatory minimum period of incarceration. Solely for the purpose
4 of calculating the minimum term of parole ineligibility pursuant to
5 subsection a. of this section, a sentence of life imprisonment shall be
6 deemed to be 75 years.

7 c. Notwithstanding any other provision of law to the contrary and
8 in addition to any other sentence imposed, a court imposing a
9 minimum period of parole ineligibility of 85 percent of the sentence
10 pursuant to this section shall also impose a five-year term of parole
11 supervision if the defendant is being sentenced for a crime of the first
12 degree, or a three-year term of parole supervision if the defendant is
13 being sentenced for a crime of the second degree. The term of parole
14 supervision shall commence upon the completion of the sentence of
15 incarceration imposed by the court pursuant to subsection a. of this
16 section unless the defendant is serving a sentence of incarceration for
17 another crime at the time he completes the sentence of incarceration
18 imposed pursuant to subsection a., in which case the term of parole
19 supervision shall commence immediately upon the defendant's release
20 from incarceration. During the term of parole supervision the
21 defendant shall remain in release status in the community in the legal
22 custody of the Commissioner of the Department of Corrections and
23 shall be supervised by the State Parole Board as if on parole and shall
24 be subject to the provisions and conditions of section 3 of P.L.1997,
25 c.117 (C.30:4-123.51b).

26 d. The court shall impose sentence pursuant to subsection a. of this
27 section upon conviction of the following crimes or an attempt or
28 conspiracy to commit any of these crimes:

- 29 (1) N.J.S.2C:11-3, murder;
- 30 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 31 (3) N.J.S.2C:11-5, vehicular homicide;
- 32 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 33 (5) subsection b. of N.J.S.2C:12-11, disarming a law enforcement
34 officer;
- 35 (6) N.J.S.2C:13-1, kidnapping;
- 36 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 37 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of subsection
38 c. of N.J.S.2C:14-2, sexual assault;
- 39 (9) N.J.S.2C:15-1, robbery;
- 40 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
- 41 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
42 arson;
- 43 (12) N.J.S.2C:18-2, burglary;
- 44 (13) subsection a. of N.J.S.2C:20-5, extortion;
- 45 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
46 booby traps in manufacturing or distribution facilities; or
- 47 (15) N.J.S.2C:35-9, strict liability for drug induced deaths.

1 ~~(16) section 2 of P.L. c. (C.)(now pending before the~~
2 ~~Legislature as section 2 of this bill), terrorism; or~~

3 ~~(17) section 3 of P.L. c. (C.)(now pending before the~~
4 ~~Legislature as section 3 of this bill), producing or possessing chemical~~
5 ~~weapons, biological agents or nuclear or radiological devices.~~

6 e. (Deleted by amendment, P.L.2001, c.129).

7 (cf: P.L.2001, c.129, s.1)

8

9 ¹[18.] ²[19.1] 20.² This act shall take effect immediately.

10

11

12

13

14 Creates the "September 11th, 2001 Anti-Terrorism Act".

ASSEMBLY, No. 911

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED FEBRUARY 28, 2002

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Co-Sponsored by:

Assemblymen Bodine and Connors

SYNOPSIS

Creates the "September 11th, 2001 Anti-Terrorism Act".

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/12/2002)

1 AN ACT creating the "September 11th, 2001 Anti-Terrorism Act" and
2 revising various parts of the statutory law.

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

6
7 1. (New section). Sections 1 through 5 of this act shall be known
8 and may be cited as the "September 11th, 2001 Anti-Terrorism Act."

9
10 2. (New section) a. A person is guilty of the crime of terrorism
11 if he commits or attempts, conspires or threatens to commit any crime
12 enumerated in subsection c. of this section with the purpose to incite
13 or induce others to promote an act of terror or to influence the policy
14 or affect the conduct of government by terror or to cause the
15 impairment or interruption of public communications, public
16 transportation, public or private buildings, common carriers, public
17 utilities or other public services.

18 b. Terrorism is a crime of the first degree. Notwithstanding any
19 other provision of law to the contrary, a person convicted under this
20 section shall be sentenced to life imprisonment, during which time the
21 person shall not be eligible for parole.

22 Notwithstanding the provisions of N.J.S.2C:1-8 or any other
23 provision of law, a conviction arising under this section shall not
24 merge with a conviction for any offense that the defendant intended to
25 commit or facilitate when the defendant violated the provisions of this
26 section nor shall any such other conviction merge with a conviction
27 under this section.

28 c. The crimes encompassed by this section are: murder pursuant to
29 N.J.S.2C:11-3; aggravated manslaughter or manslaughter pursuant to
30 N.J.S.2C:11-4; vehicular homicide pursuant to N.J.S.2C:11-5;
31 aggravated assault pursuant to subsection b. of N.J.S.2C:12-1;
32 terroristic threats pursuant to N.J.S.2C:12-3; disarming a law
33 enforcement officer pursuant to section 1 of P.L.1996, c.14 (C.2C:12-
34 11); kidnapping pursuant to N.J.S.2C:13-1; criminal restraint pursuant
35 to N.J.S.2C:13-2; robbery pursuant to N.J.S.2C:15-1; carjacking
36 pursuant to section 1 of P.L.1993, c.221 (C.2C:15-2); aggravated
37 arson or arson pursuant to N.J.S.2C:17-1; causing or risking
38 widespread injury or damage pursuant to N.J.S.2C:17-2; damage to
39 nuclear plant with intent or threat to cause release of radiation
40 pursuant to section 1 of P.L.1983, c.480 (C.2C:17-7); damage to
41 nuclear plant resulting in death by radiation pursuant to section 2 of
42 P.L.1983, c.480 (C.2C:17-8); damage to nuclear plant resulting in
43 injury by radiation pursuant to section 3 of P.L.1983, c.480 (C.2C:17-

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 9); producing or possessing chemical weapons, biological agents or
2 nuclear or radiological devices pursuant to section 3 of P.L. c.
3 (C.) (now pending before the Legislature as section 3 of this bill);
4 burglary pursuant to N.J.S.2C:18-2; possession of prohibited weapons
5 and devices pursuant to N.J.S.2C:39-3; possession of weapons for
6 unlawful purposes pursuant to N.J.S.2C:39-4; unlawful possession of
7 weapons pursuant to N.J.S.2C:39-5; weapons training for illegal
8 activities pursuant to section 1 of P.L.1983, c.229 (C.2C:39-14);
9 racketeering pursuant to N.J.S.2C:41-1 et seq.; and any other crime
10 involving a risk of death or serious bodily injury to any person.

11

12 3. (New section) Producing or Possessing Chemical Weapons,
13 Biological Agents or Nuclear or Radiological Devices.

14 a. A person who, purposely or knowingly, unlawfully develops,
15 produces, otherwise acquires, transfers, receives, stockpiles, retains,
16 owns, possesses or uses, or threatens to use, any chemical weapon,
17 biological agent, toxin, vector or delivery system for use as a weapon,
18 or nuclear or radiological device commits a crime of the first degree.

19 b. Any manufacturer, distributor, transferor, possessor or user of
20 any toxic chemical, biological agent, toxin or vector, or radioactive
21 material that is related to a lawful industrial, agricultural, research,
22 medical, pharmaceutical or other activity, who recklessly allows an
23 unauthorized individual to obtain access to the toxic chemical or
24 biological agent, toxin or vector or radioactive material, commits a
25 crime of the second degree and, notwithstanding the provisions of
26 subsection a. of N.J.S.2C:43-3, shall be subject to a fine of up to
27 \$250,000 for each violation.

28 c. For the purposes of this section:

29 (1) "Chemical weapon" means:

30 (a) a toxic chemical and its precursors, except where intended for
31 a lawful purpose as long as the type and quantity is consistent with
32 such a purpose. "Chemical weapon" shall include, but not be limited
33 to:

34 (i) nerve agents, including GA (Tabun) cyanide irreversible
35 inhibitor, Sarin (GB), GB (Soman) fluorine, reversible "slow aging,"
36 GF, and VX sulfur, irreversible;

37 (ii) choking agents, including Phosgene (CG) and Diphosgene
38 (DP);

39 (iii) blood agents, including Hydrogen Cyanide (AC), Cyanogen
40 Chloride (CK), and Arsine (SA); and

41 (iv) blister agents, including mustards (H, HD {sulfur mustard},
42 HN-1, HN-2, HN-3 {nitrogen mustard}), arsenicals, such as Lewisite
43 (L), and urticants, including CX; and

44 (v) incapacitating agents, including BZ ; or

45 (b) a munition or device specifically designed to cause death or
46 other harm through the toxic properties of those chemical weapons

1 defined in subparagraph (a) of paragraph (1) of subsection c. of this
2 section, which would be released as a result of the employment of such
3 munition or device; or

4 (c) any equipment specifically designed for use directly in
5 connection with the employment of munitions or devices specified in
6 subparagraph (b) of paragraph (1) of subsection c. of this section.

7 (2) "Biological agent" means any microorganism, virus, bacteria,
8 rickettsiae, fungi, toxin, infectious substance or biological product that
9 may be engineered as a result of biotechnology, or any naturally
10 occurring or bioengineered component of any such microorganism,
11 virus, bacteria, rickettsiae, fungi, infectious substance or biological
12 product, capable of causing:

13 (a) death, disease, or other biological malfunction in a human, an
14 animal, a plant, or another living organism; or

15 (b) deterioration of food, water, equipment, supplies, or material
16 of any kind; or

17 (c) deleterious alteration of the environment.

18 "Biological agent" shall include, but not be limited to: viruses,
19 including Crimean-Congo hemorrhagic fever virus, eastern equine
20 encephalitis virus, ebola viruses, equine morbilli virus, lasa fever virus,
21 marburg virus, Rift Valley fever virus, South American hemorrhagic
22 fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito), tick-borne
23 encephalitis complex viruses, variola major virus (smallpox virus),
24 Venezuelan equine encephalitis virus, viruses causing hantavirus
25 pulmonary syndrome, and yellow fever virus; bacteria including
26 *Bacillus anthracis* (commonly known as anthrax), *Brucella abortus*,
27 *Brucella melitensis*, *Brucella suis*, *Burkholderia (pseudomonas) mallei*,
28 *Burkholderia (pseudomonas) pseudomallei*, *Clostridium botulinum*,
29 *Francisella tularensis*, *Yersinia pestis* (commonly known as plague);
30 rickettsiae, including *Coxiella burnetii*, *Rickettsia prowazekii* and
31 *Rickettsia rickettsii*; *Coccidioides immitis* fungus; and toxins, including
32 abrin, aflatoxins, Botulinum toxins, *Clostridium perringes epsilon*
33 toxin, conotoxins, diacetoxyscirpenol, ricin, saxitoxin, shigatoxin,
34 Staphylococcal enterotoxins, tetrodotoxins and T-2 toxin.

35 (3) "Toxin" means the toxic material of plants, animals,
36 microorganisms, viruses, fungi, or infectious substances, or a
37 recombinant molecule, whatever its origin or method of production,
38 including:

39 (a) any poisonous substance or biological product that may be
40 engineered as a result of biotechnology or produced by a living
41 organism; or

42 (b) any poisonous isomer or biological product, homolog, or
43 derivative of such a substance.

44 (4) "Vector" means a living organism or molecule, including a
45 recombinant molecule, or biological product that may be engineered
46 as a result of biotechnology, capable of carrying a biological agent or

1 toxin to a host.

2 (5) "Nuclear or radiological device" includes any nuclear device
3 which is an explosive device designed to cause a nuclear yield, a
4 radiological dispersal device which is an explosive device used to
5 spread radioactive material or a simple radiological dispersal device
6 which is any act or container or any other device used to release
7 radiological material for use as a weapon.

8 (6) "Delivery system" means any apparatus, equipment, device, or
9 means of delivery specifically designed to deliver or disseminate a
10 biological agent, toxin or vector.

11 (7) "For use as a weapon" means all situations in which the
12 defendant had any purpose other than a prophylactic, protective or
13 peaceful purpose.

14 d. This section shall not apply to the development, production,
15 acquisition, transfer, receipt, possession or use of any toxic chemical,
16 biological agent, toxin or vector that is related to a lawful industrial,
17 agricultural, research, medical, pharmaceutical, or other activity.

18 e. This section shall not apply to any device whose possession is
19 otherwise lawful pursuant to N.J.S.2C:39-6.

20 f. Nothing contained in this section shall be deemed to preclude, if
21 the evidence so warrants, an indictment and conviction for murder
22 under the provisions of N.J.S.2C:11-3 or any other offense.

23

24 4. (New section) Harboring, Concealing, Assisting or Providing
25 Aid to Terrorist.

26 a. A person is guilty of a crime of the first degree if he harbors,
27 conceals, assists or provides or aids in providing weapons, money,
28 transportation, disguise or other means of avoiding discovery or
29 apprehension or effecting escape to a person who has committed an
30 act of terrorism.

31 b. A person is guilty of a crime of the second degree if he:

32 (1) suppresses any evidence of an act of terrorism or tampers with
33 a witness, informant, document or other source of information,
34 regardless of its admissibility in evidence, which might aid in the
35 discovery or apprehension of such person or in the lodging of a charge
36 against that person;

37 (2) warns a person who has committed an act of terrorism of the
38 other's impending discovery or apprehension;

39 (3) prevents or obstructs, by means of force, intimidation or
40 deception, anyone from performing an act which might aid in the
41 discovery or apprehension of such person or in the lodging of a charge
42 against the person; or

43 (4) gives false information to a law enforcement officer.

44 c. A person is guilty of a crime of the third degree if he warns a
45 person who has committed an act of terrorism of the other's impending
46 discovery or apprehension.

1 5. (New section) Soliciting or Providing Material Support or
2 Resources for Terrorism.

3 a. As used in this section:

4 "Charitable organization" means: (1) any person determined by the
5 federal Internal Revenue Service to be a tax exempt organization
6 pursuant to section 501(c)(3) of the Internal Revenue Code of 1986,
7 26 U.S.C. s.501(c)(3); or

8 (2) any person who is, or holds himself out to be, established for
9 any benevolent, philanthropic, humane, social welfare, public health,
10 or other eleemosynary purpose, or for the benefit of law enforcement
11 personnel, firefighters or other persons who protect the public safety,
12 or any person who in any manner employs a charitable appeal as the
13 basis of any solicitation, or an appeal which has a tendency to suggest
14 there is a charitable purpose to any such solicitation.

15 "Charitable purpose" means: (1) any purpose described in section
16 501 (c)(3), of the Internal Revenue Code of 1986, 26 U.S.C.
17 s.501(c)(3); or (2) any benevolent, philanthropic, humane, social
18 welfare, public health, or other eleemosynary objective, or an objective
19 that benefits law enforcement personnel, firefighters, or other persons
20 who protect the public safety.

21 "Material support or resources" means: (1) expert services or
22 assistance with knowledge or purpose that the services or assistance
23 will or is intended to be used in preparing for or carrying out
24 terrorism;

25 (2) currency, financial securities or other monetary instruments,
26 financial services, lodging, training, safehouses, false documentation
27 or identification, communications equipment, facilities weapons, lethal
28 substances, explosives, personnel, transportation and other physical
29 assets;

30 (3) any chemical weapon, or any biological agent, toxin, vector or
31 delivery system intended for use as a weapon, or any nuclear or
32 radiological device, as defined in subsection c. of section 3 of P.L.

33 c. (C.) (now pending before the Legislature as this bill).

34 "Professional fund raiser" means any person who for compensation
35 performs for a charitable organization any service in connection with
36 which contributions are, or will be solicited in this State by that
37 compensated person or by any compensated person he employs,
38 procures, or engages, directly or indirectly to solicit contributions. A
39 bona fide salaried officer, employee, or volunteer of a charitable
40 organization shall not be deemed to be an independent paid fund
41 raiser. No attorney, accountant or banker who advises a person to
42 make a charitable contribution during the course of rendering
43 professional services to that person shall be deemed, as a result of that
44 advice, to be an independent paid fund raiser.

45 b. (1) It shall be unlawful for any person, charitable organization
46 or professional fund raiser to solicit, transport or otherwise provide

1 material support or resources with the purpose or knowledge that such
2 material support or resources will or are intended to be used, in whole
3 or in part, to aid, plan, prepare or carry out an act of terrorism or with
4 the purpose or knowledge that such material support or resources are
5 or are intended to be given, in whole or in part, to a person or an
6 organization that has committed or has the purpose to commit or has
7 threatened to commit terrorism.

8 (2) It shall be unlawful for any person, charitable organization or
9 professional fund raiser to solicit, transport or otherwise provide
10 material support or resources to or on behalf of a person or an
11 organization that is designated as a foreign terrorist organization by
12 the United States Secretary of State pursuant to 8 U.S.C. §1189. It
13 shall not be a defense to a prosecution for a violation of this section
14 that the actor did not know that the person or organization is
15 designated as a foreign terrorist organization.

16 c. A person who violates the provisions of subsection b. of this
17 section shall be guilty of a crime of the first degree.

18
19 6. Section 8 of P.L.1968, c.409 (C.2A:156A-8) is amended to read
20 as follows:

21 8. The Attorney General, county prosecutor or a person designated
22 to act for such an official and to perform his duties in and during his
23 actual absence or disability, may authorize, in writing, an ex parte
24 application to a judge designated to receive the same for an order
25 authorizing the interception of a wire, or electronic or oral
26 communication by the investigative or law enforcement officers or
27 agency having responsibility for an investigation when such
28 interception may provide evidence of the commission of the offense of
29 murder, kidnapping, gambling, robbery, bribery, a violation of
30 paragraph (1) or (2) of subsection b. of N.J.S.2C:12-1, a violation of
31 section 3 of P.L. 1997, c.353 (C.2C:21-4.3), a violation of
32 N.J.S.2C:21-19 punishable by imprisonment for more than one year,
33 a violation of P.L.1994, c.121 (C.2C:21-23 et seq.), a violation of
34 sections 1 through 5 of P.L. c. (C.) (now pending before the
35 Legislature as sections 1 through 5 of this bill), a violation of
36 N.J.S.2C:33-3, a violation of N.J.S.2C:17-2, a violation of sections 1
37 through 3 of P.L.1983, c.480 (C.2C:17-7 through 2C:17-9),
38 [terroristic threats] a violation of N.J.S.2C:12-3 (terroristic threats),
39 violations of N.J.S.2C:35-3, N.J.S.2C:35-4 and N.J.S.2C:35-5,
40 violations of sections 112 through 116, inclusive, of the "Casino
41 Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116), arson,
42 burglary, theft and related offenses punishable by imprisonment for
43 more than one year, endangering the welfare of a child pursuant to
44 N.J.S.2C:24-4, escape, forgery and fraudulent practices punishable by
45 imprisonment for more than one year, alteration of motor vehicle
46 identification numbers, unlawful manufacture, purchase, use, or

1 transfer of firearms, unlawful possession or use of destructive devices
2 or explosives, weapons training for illegal activities pursuant to section
3 1 of P.L.1983, c.229 (C.2C:39-14), racketeering or a violation of
4 subsection g. of N.J.S.2C:5-2, leader of organized crime, organized
5 criminal activity directed toward the unlawful transportation, storage,
6 disposal, discharge, release, abandonment or disposition of any
7 harmful, hazardous, toxic, destructive, or polluting substance, or any
8 conspiracy to commit any of the foregoing offenses or which may
9 provide evidence aiding in the apprehension of the perpetrator or
10 perpetrators of any of the foregoing offenses.

11 (cf: P.L.1999, c.151, s.4).

12

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

14 2C:1-6. Time Limitations. a. A prosecution for any offense set
15 forth in N.J.S.2C:11-3, N.J.S.2C:11-4 [or], N.J.S.2C:14-2 or sections
16 1 through 5 of P.L. c. (C.) (now pending before the Legislature
17 as sections 1 through 5 of this bill) may be commenced at any time.

18 b. Except as otherwise provided in this section, prosecutions for
19 other offenses are subject to the following periods of limitations:

20 (1) A prosecution for a crime must be commenced within five years
21 after it is committed;

22 (2) A prosecution for a disorderly persons offense or petty
23 disorderly persons offense must be commenced within one year after
24 it is committed;

25 (3) A prosecution for any offense set forth in N.J.S.2C:27-2,
26 N.J.S.2C:27-4, N.J.S.2C:27-6, N.J.S.2C:27-7, N.J.S.2C:29-4,
27 N.J.S.2C:30-2, N.J.S.2C:30-3, or any attempt or conspiracy to commit
28 such an offense, must be commenced within seven years after the
29 commission of the offense;

30 (4) A prosecution for an offense set forth in N.J.S.2C:14-3 or
31 N.J.S.2C:24-4, when the victim at the time of the offense is below the
32 age of 18 years, must be commenced within five years of the victim's
33 attaining the age of 18 or within two years of the discovery of the
34 offense by the victim, whichever is later;

35 (5) A prosecution for any offense set forth in paragraph (2) of
36 subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39
37 (C.13:1E-9), section 20 of P.L.1989, c.34 (C.13:1E-48.20), section 19
38 of P.L.1954, c.212 (C.26:2C-19), section 10 of P.L.1984, c.173
39 (C.34:5A-41), or section 10 of P.L.1977, c.74 (C.58:10A-10) must be
40 commenced within 10 years after the date of discovery of the offense
41 by a local law enforcement agency, a county prosecutor, or the
42 Department of Environmental Protection either directly by any of
43 those entities or indirectly by notice given to any of those entities.

44 c. An offense is committed either when every element occurs or,
45 if a legislative purpose to prohibit a continuing course of conduct
46 plainly appears, at the time when the course of conduct or the

1 defendant's complicity therein is terminated. Time starts to run on the
2 day after the offense is committed, except that when the prosecution
3 is supported by physical evidence that identifies the actor by means of
4 DNA testing or fingerprint analysis, time does not start to run until the
5 State is in possession of both the physical evidence and the DNA or
6 fingerprint evidence necessary to establish the identification of the
7 actor by means of comparison to the physical evidence.

8 d. A prosecution is commenced for a crime when an indictment is
9 found and for a nonindictable offense when a warrant or other process
10 is issued, provided that such warrant or process is executed without
11 unreasonable delay. Nothing contained in this section, however, shall
12 be deemed to prohibit the downgrading of an offense at any time if the
13 prosecution of the greater offense was commenced within the statute
14 of limitations applicable to the greater offense.

15 e. The period of limitation does not run during any time when a
16 prosecution against the accused for the same conduct is pending in this
17 State.

18 f. The limitations in this section shall not apply to any person
19 fleeing from justice.

20 g. Except as otherwise provided in this code, no civil action shall
21 be brought pursuant to this code more than five years after such action
22 accrues.

23 (cf: P.L.2001, c.308, s.1)

24

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

26 2C:5-2. Conspiracy. a. Definition of conspiracy. A person is
27 guilty of conspiracy with another person or persons to commit a crime
28 if with the purpose of promoting or facilitating its commission he:

29 (1) Agrees with such other person or persons that they or one or
30 more of them will engage in conduct which constitutes such crime or
31 an attempt or solicitation to commit such crime; or

32 (2) Agrees to aid such other person or persons in the planning or
33 commission of such crime or of an attempt or solicitation to commit
34 such crime.

35 b. Scope of conspiratorial relationship. If a person guilty of
36 conspiracy, as defined by subsection a. of this section, knows that a
37 person with whom he conspires to commit a crime has conspired with
38 another person or persons to commit the same crime, he is guilty of
39 conspiring with such other person or persons, whether or not he
40 knows their identity, to commit such crime.

41 c. Conspiracy with multiple objectives. If a person conspires to
42 commit a number of crimes, he is guilty of only one conspiracy so long
43 as such multiple crimes are the object of the same agreement or
44 continuous conspiratorial relationship. It shall not be a defense to a
45 charge under this section that one or more of the objectives of the
46 conspiracy was not criminal; provided that one or more of its

1 objectives or the means of promoting or facilitating an objective of the
2 conspiracy is criminal.

3 d. Overt act. No person may be convicted of conspiracy to commit
4 a crime other than a crime of the first or second degree or distribution
5 or possession with intent to distribute a controlled dangerous
6 substance or controlled substance analog as defined in chapter 35 of
7 this title, unless an overt act in pursuance of such conspiracy is proved
8 to have been done by him or by a person with whom he conspired.

9 e. Renunciation of purpose. It is an affirmative defense which the
10 actor must prove by a preponderance of the evidence that he, after
11 conspiring to commit a crime, informed the authority of the existence
12 of the conspiracy and his participation therein, and thwarted or caused
13 to be thwarted the commission of any offense in furtherance of the
14 conspiracy, under circumstances manifesting a complete and voluntary
15 renunciation of criminal purpose as defined in N.J.S.2C:5-1d.;
16 provided, however, that an attempt as defined in N.J.S.2C:5-1 shall
17 not be considered an offense for purposes of renunciation under this
18 subsection.

19 f. Duration of conspiracy. For the purpose of [section]
20 N.J.S.2C:1-6d.:

21 (1) Conspiracy is a continuing course of conduct which terminates
22 when the crime or crimes which are its object are committed or the
23 agreement that they be committed is abandoned by the defendant and
24 by those with whom he conspired; and

25 (2) Such abandonment is presumed with respect to a crime other
26 than one of the first or second degree if neither the defendant nor
27 anyone with whom he conspired does any overt act in pursuance of the
28 conspiracy during the applicable period of limitation; and

29 (3) If an individual abandons the agreement, the conspiracy is
30 terminated as to him only if and when he advises those with whom he
31 conspired of his abandonment or he informs the law enforcement
32 authorities of the existence of the conspiracy and of his participation
33 therein.

34 g. Leader of organized crime. A person is a leader of organized
35 crime if he purposefully conspires with others as an organizer,
36 supervisor [or], manager[,], or financier to commit a continuing series
37 of crimes which constitute a pattern of racketeering activity under the
38 provisions of N.J.S. 2C:41-1, provided, however, that notwithstanding
39 2C:1-8a. (2), a conviction of leader of organized crime shall not merge
40 with the conviction of any other crime which constitutes racketeering
41 activity under 2C:41-1. As used in this section, "financier" means a
42 person who provides money, credit or a thing of value with the
43 purpose or knowledge that it will be used to finance or support the
44 operations of a conspiracy to commit a series of crimes which
45 constitute a pattern of racketeering activity, including but not limited
46 to the purchase of materials to be used in the commission of crimes,

1 buying or renting housing or vehicles, purchasing transportation for
2 members of the conspiracy or otherwise facilitating the commission of
3 crimes which constitute a pattern of racketeering activity.

4 (cf: P.L.1987, c.106, s.4)

5

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

7 2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation
8 in Cases of Lesser Danger. a. Grading. Except as provided in
9 subsections c. and d., an attempt or conspiracy to commit a crime of
10 the first degree is a crime of the second degree; except that an attempt
11 or conspiracy to commit murder or terrorism is a crime of the first
12 degree. Otherwise an attempt is a crime of the same degree as the
13 most serious crime which is attempted, and conspiracy is a crime of
14 the same degree as the most serious crime which is the object of the
15 conspiracy; provided that, leader of organized crime is a crime of the
16 second degree. An attempt or conspiracy to commit an offense
17 defined by a statute outside the code shall be graded as a crime of the
18 same degree as the offense is graded pursuant to sections 2C:1-4 and
19 2C:43-1.

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

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

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

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

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

37 (cf: P.L.1999, c.25, s.2).

38

39 10. N.J.S.2C:12-3 is amended to read as follows:

40 2C:12-3. Terroristic threats.

41 a. A person is guilty of a crime of the ~~[third]~~ second degree if he
42 threatens to commit any crime of violence with purpose to terrorize
43 another or to cause evacuation of a building, place of assembly, or
44 facility of public transportation, or otherwise to cause serious public
45 inconvenience, or in reckless disregard of the risk of causing such
46 terror or inconvenience.

1 b. A person is guilty of a crime of the ~~[third]~~ second degree if he
2 threatens to kill another with purpose to put him in imminent fear of
3 death under circumstances reasonably causing the victim to believe the
4 immediacy of the threat and the likelihood that it will be carried out.
5 (cf: P.L.1981, c.290, s.15)

6
7 11. N.J.S.2C:17-2 is amended to read as follows:

8 2C:17-2. Causing or Risking Widespread Injury or Damage.

9 a. (1) A person who, purposely or knowingly, unlawfully causes
10 an explosion, flood, avalanche, collapse of a building, release or
11 abandonment of poison gas, radioactive material or any other harmful
12 or destructive substance commits a crime of the second degree. A
13 person who, purposely or knowingly, unlawfully causes widespread
14 injury or damage in any manner commits a crime of the second degree.

15 (2) A person who, purposely or knowingly, unlawfully causes a
16 hazardous discharge required to be reported pursuant to the "Spill
17 Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et
18 seq.) or any rules and regulations adopted pursuant thereto, or who,
19 purposely or knowingly, unlawfully causes a release or abandonment
20 of hazardous waste as defined in section 1 of P.L.1976, c.99
21 (C.13:1E-38) or a toxic pollutant as defined in section 3 of P.L.1977,
22 c.74 (C.58:10A-3) commits a crime of the second degree. Any person
23 who recklessly violates the provisions of this paragraph is guilty of a
24 crime of the ~~[third]~~ second degree.

25 b. A person who recklessly causes widespread injury or damage is
26 guilty of a crime of the third degree.

27 c. A person who recklessly creates a risk of widespread injury or
28 damage commits a crime of the ~~[fourth]~~ third degree, even if no such
29 injury or damage occurs.

30 d. A person who knowingly or recklessly fails to take reasonable
31 measures to prevent or mitigate widespread injury or damage commits
32 a crime of the fourth degree, if:

33 (1) He knows that he is under an official, contractual or other legal
34 duty to take such measures; or

35 (2) He did or assented to the act causing or threatening the injury
36 or damage.

37 e. For purposes of this section, widespread injury or damage means
38 serious bodily injury to 10 or more people or damage to 10 or more
39 habitations or to a building which would normally have contained 50
40 or more persons at the time of the offense.

41 (cf: P.L.1997, c.325, s.2).

42
43 12. Section 1 of P.L.1983, c. 480 (C.2C:17-7) is amended to read
44 as follows:

45 1. The provisions of N.J.S.2C:17-2 to the contrary notwithstanding,
46 any person who purposely or knowingly damages or tampers with any

1 machinery, device, or equipment at a nuclear electric generating plant
2 with the [intent] purpose to cause or threaten to cause an
3 unauthorized release of radiation commits a crime of the [third] first
4 degree, and may be sentenced to an extended term of imprisonment as
5 set forth in paragraph (4) of subsection a. of N.J.S.2C:43-7,
6 notwithstanding the provisions of N.J.S. 2C:44-3.
7 (cf: P.L.1983, c.480, s.1)

8
9 13. Section 3 of P.L.1994, c.121 (C.2C:21-25) is amended to read
10 as follows:

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

12 a. transports or possesses property which he knew or reasonably
13 should have known to be derived from criminal activity; or

14 b. engages in a transaction involving property which he knew or
15 reasonably should have known to be derived from criminal activity

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

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

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

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

22 c. directs, organizes, finances, plans, manages, supervises, or
23 controls the transportation of or transactions in property which the
24 person knew or reasonably should have known to be derived from
25 criminal activity.

26 d. For the purposes of this act, property is known to be derived
27 from criminal activity if the person [knows] knew or reasonably
28 should have known that the property involved represents proceeds
29 from some form, though not necessarily which form, of criminal
30 activity. Among the factors that the finder of fact may consider in
31 determining that a transaction has been designed to avoid a transaction
32 reporting requirement shall be whether the person, acting alone or with
33 others, conducted one or more transactions in currency, in any
34 amount, at one or more financial institutions, on one or more days, in
35 any manner. The phrase "in any manner" includes the breaking down
36 of a single sum of currency exceeding the transaction reporting
37 requirement into smaller sums, including sums at or below the
38 transaction reporting requirement, or the conduct of a transaction, or
39 series of currency transactions, including transactions at or below the
40 transaction reporting requirement. The transaction or transactions
41 need not exceed the transaction reporting threshold at any single
42 financial institution on any single day in order to demonstrate a
43 violation of subparagraph (b) of paragraph (2) of subsection b. of this
44 section.

45 (cf: P.L.1999, c.25, s.3).

1 14. N.J.S.2C:33-3 is amended to read as follows:

2 2C:33-3. False Public Alarms. a. Except as provided in subsection
3 b. or c., a person is guilty of a crime of the ~~[third]~~ second degree if
4 he initiates or circulates a report or warning of an impending fire,
5 explosion, bombing, crime, catastrophe or emergency knowing that the
6 report or warning is false or baseless and that it is likely to cause
7 evacuation of a building, place of assembly, or facility of public
8 transport, or to cause public inconveniences or alarm. A person is
9 guilty of a crime of the ~~[third]~~ second degree if he knowingly causes
10 such false alarm to be transmitted to or within any organization,
11 official or volunteer, for dealing with emergencies involving danger to
12 life or property.

13 b. A person is guilty of a crime of the ~~[third]~~ second degree if in
14 addition to the report or warning initiated, circulated or transmitted
15 under subsection a., he places or causes to be placed any false or
16 facsimile bomb in a building, place of assembly, or facility of public
17 transport or in a place likely to cause public inconvenience or alarm.

18 c. A person is guilty of a crime of the ~~[second]~~ first degree if a
19 violation of subsection a. of this section in fact results in serious bodily
20 injury to another person. A person is guilty of a crime of the ~~[second]~~
21 first degree if a violation of subsection a. of this section in fact results
22 in death.

23 d. For the purposes of this section, "in fact" means that strict
24 liability is imposed.

25 e. A person is guilty of a ~~[disorderly persons offense]~~ fourth
26 degree if the person knowingly places a call to a 9-1-1 emergency
27 telephone system without purpose of reporting the need for 9-1-1
28 service.

29 (cf: P.L.1999, c.195, s.1).

30

31 15. Section 3 of P.L. 1999, c.195 (C.2C:33-3.2) is amended to
32 read as follows:

33 3. Any person who violates the provisions of N.J.S.2C:33-3 shall
34 be liable for a civil penalty of not less than ~~[\$1,000.00]~~ \$20,000.00 or
35 actual costs incurred by or resulting from the law enforcement and
36 emergency services response to the false alarm, whichever is higher.
37 Any monies collected pursuant to this section shall be made payable to
38 the municipality or other entity providing the law enforcement or
39 emergency services response to the false alarm. "Emergency services"
40 includes, but is not limited to, paid or volunteer fire fighters,
41 paramedics, members of an ambulance team, rescue squad or mobile
42 intensive care unit.

43 (cf: P.L.1999, c.195, s.3)

44

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

46 2C:41-1. Definitions.

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

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

6 (a) murder
7 (b) kidnapping
8 (c) gambling
9 (d) promoting prostitution
10 (e) obscenity
11 (f) robbery
12 (g) bribery
13 (h) extortion
14 (i) criminal usury
15 (j) violations of Title 33 of the Revised Statutes
16 (k) violations of Title 54A of the New Jersey Statutes and Title 54
17 of the Revised Statutes
18 (l) arson
19 (m) burglary
20 (n) theft and all crimes defined in chapter 20 of Title 2C of the
21 New Jersey Statutes
22 (o) forgery and fraudulent practices and all crimes defined in
23 chapter 21 of Title 2C of the New Jersey Statutes
24 (p) fraud in the offering, sale or purchase of securities
25 (q) alteration of motor vehicle identification numbers
26 (r) unlawful manufacture, purchase, use or transfer of firearms
27 (s) unlawful possession or use of destructive devices or explosives
28 (t) violation of sections 112 through 116 inclusive of the "Casino
29 Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116)
30 (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6
31 and all crimes involving illegal distribution of a controlled dangerous
32 substance or controlled substance analog, except possession of less
33 than one ounce of marijuana
34 (v) violation of subsection b. of N.J.S.2C:24-4 except for
35 subparagraph (b) of paragraph (5) of subsection b.
36 (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16), leader
37 of firearms trafficking network
38 (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14),
39 weapons training for illegal activities
40 (y) violation of section 2 of of P.L. c. (C.), terrorism.
41 (2) any conduct defined as "racketeering activity" under Title 18,
42 U.S.C.s.1961(1)(A), (B) and (D).

43 b. "Person" includes any individual or entity or enterprise as
44 defined herein holding or capable of holding a legal or beneficial
45 interest in property.

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

6 d. "Pattern of racketeering activity" requires

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

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

16 e. "Unlawful debt" means a debt

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

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

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

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

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

35 (cf: P.L.1999, c.25, s.5).

36
37 17. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to read
38 as follows:

39 2. a. A court imposing a sentence of incarceration for a crime of
40 the first or second degree enumerated in subsection d. of this section
41 shall fix a minimum term of 85% of the sentence imposed, during
42 which the defendant shall not be eligible for parole.

43 b. The minimum term required by subsection a. of this section shall
44 be fixed as a part of every sentence of incarceration imposed upon
45 every conviction of a crime enumerated in subsection d. of this section,
46 whether the sentence of incarceration is determined pursuant to
47 N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any other provision

1 of law, and shall be calculated based upon the sentence of
2 incarceration actually imposed. The provisions of subsection a. of this
3 section shall not be construed or applied to reduce the time that must
4 be served before eligibility for parole by an inmate sentenced to a
5 mandatory minimum period of incarceration. Solely for the purpose
6 of calculating the minimum term of parole ineligibility pursuant to
7 subsection a. of this section, a sentence of life imprisonment shall be
8 deemed to be 75 years.

9 c. Notwithstanding any other provision of law to the contrary and
10 in addition to any other sentence imposed, a court imposing a
11 minimum period of parole ineligibility of 85 percent of the sentence
12 pursuant to this section shall also impose a five-year term of parole
13 supervision if the defendant is being sentenced for a crime of the first
14 degree, or a three-year term of parole supervision if the defendant is
15 being sentenced for a crime of the second degree. The term of parole
16 supervision shall commence upon the completion of the sentence of
17 incarceration imposed by the court pursuant to subsection a. of this
18 section unless the defendant is serving a sentence of incarceration for
19 another crime at the time he completes the sentence of incarceration
20 imposed pursuant to subsection a., in which case the term of parole
21 supervision shall commence immediately upon the defendant's release
22 from incarceration. During the term of parole supervision the
23 defendant shall remain in release status in the community in the legal
24 custody of the Commissioner of the Department of Corrections and
25 shall be supervised by the State Parole Board as if on parole and shall
26 be subject to the provisions and conditions of section 3 of P.L.1997,
27 c.117 (C.30:4-123.51b).

28 d. The court shall impose sentence pursuant to subsection a. of this
29 section upon conviction of the following crimes or an attempt or
30 conspiracy to commit any of these crimes:

- 31 (1) N.J.S.2C:11-3, murder;
- 32 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 33 (3) N.J.S.2C:11-5, vehicular homicide;
- 34 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 35 (5) subsection b. of N.J.S.2C:12-11, disarming a law enforcement
36 officer;
- 37 (6) N.J.S.2C:13-1, kidnapping;
- 38 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 39 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of subsection
40 c. of N.J.S.2C:14-2, sexual assault;
- 41 (9) N.J.S.2C:15-1, robbery;
- 42 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
- 43 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
44 arson;

- 1 (12) N.J.S.2C:18-2, burglary;
2 (13) subsection a. of N.J.S.2C:20-5, extortion;
3 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
4 booby traps in manufacturing or distribution facilities; or
5 (15) N.J.S.2C:35-9, strict liability for drug induced deaths.
6 (16) section 2 of P.L. c. (C.)(now pending before the
7 Legislature as section 2 of this bill), terrorism; or
8 (17) section 3 of P.L. c. (C.)(now pending before the
9 Legislature as section 3 of this bill), producing or possessing chemical
10 weapons, biological agents or nuclear or radiological devices.
11 e. (Deleted by amendment, P.L.2001, c.129).
12 (cf: P.L.2001, c.129, s.1)

13
14 18. This act shall take effect immediately.

15
16
17 STATEMENT

18
19 September 11, 2001 will be remembered as the day that the most
20 devastating act of terrorism was perpetrated on the United States.
21 Terrorists were able to orchestrate the destructive events at the World
22 Trade Center and the Pentagon by establishing a network of terrorists
23 who were able to creatively maneuver themselves around our existing
24 criminal laws to achieve their purpose. It is the sponsor's intent to
25 provide a comprehensive response to these acts of terror by providing
26 law enforcement with the essential tools to dismantle the networks of
27 terror and prevent further acts of terrorism.

28 This bill creates the new offenses of terrorism, producing or
29 possessing chemical weapons, biological agents or nuclear radiological
30 devices, harboring, concealing, assisting or providing aid to terrorists
31 and soliciting or providing material support to terrorists. This bill
32 would also expand existing provisions in the criminal code such as the
33 statute of limitations, the wiretapping statute, the RICO statute and
34 the "No Early Release Act" to add terrorism. The bill would also
35 revise the criminal laws concerning terroristic threats, causing
36 widespread injury or damage, money laundering and making a false
37 public alarm.

38 **Terrorism.** This bill provides that a person is guilty of a crime of
39 terrorism if he commits or attempts, conspires or threatens to commit
40 certain enumerated crimes with the purpose to incite or induce others
41 to promote of act of terror or to influence the policy or affect the
42 conduct of government by terror or to cause the impairment or
43 interruption of public communications, public transportation, public or
44 private buildings, common carriers, public utilities or other public
45 services. Anyone convicted of terrorism would be sentenced to life
46 imprisonment, during which time he would not be eligible for parole.in

47 **Producing or possessing chemical weapons, biological agents or**

1 **nuclear or radiological devices.** This bill addresses the development,
2 possession and use of nuclear, biological and chemical weapons which
3 pose a threat of large-scale loss of human life. Under the provisions
4 of the bill, it is a crime of the first degree to unlawfully develop,
5 produce, receive, stockpile, own, possess or use any chemical weapon,
6 biological agent, nuclear or radiological devices, toxin or vector. It
7 would be a crime of the second degree for any manufacturer,
8 distributor, transferor, possessor or user of any toxic chemical,
9 biological agent, toxin or vector, or radioactive material that is related
10 to a lawful industrial, agricultural, research, medical, pharmaceutical
11 or other activity, who recklessly allows an unauthorized individual to
12 obtain access to the toxic chemical or biological agent, toxin or vector
13 or radioactive material.

14 **Harboring, Concealing, Assisting or Providing Aid to**
15 **Terrorist.** This makes it a crime of the first degree for any person to
16 harbor, conceal, assist or provide or aid in providing weapons,
17 money, transportation, disguise or other means of avoiding discovery
18 or apprehension or effecting escape to a person who has committed an
19 act of terrorism. It would be a crime of the second degree if a person
20 (1) suppresses any evidence of an act of terrorism or tampers with a
21 witness, informant, document or other source of information,
22 regardless of its admissibility in evidence, which might aid in the
23 discovery or apprehension of such person or in the lodging of a charge
24 against that person; (2) warns a person who has committed an act of
25 terrorism of the other's impending discovery or apprehension; (3)
26 prevents or obstructs, by means of force, intimidation or deception,
27 anyone from performing an act which might aid in the discovery or
28 apprehension of such person or in the lodging of a charge against the
29 person; or (4) gives false information to a law enforcement officer. If
30 a person warns another person who has committed an act of terrorism
31 of the other's impending discovery or apprehension it would be a crime
32 of the third degree.

33 **Soliciting or Providing Material Support or Resources for**
34 **Terrorism.** This bill would make it a crime of the first degree for any
35 person, charitable organization or professional fund raiser to solicit,
36 transport or otherwise provide material support or resources with the
37 purpose or knowledge that such material support or resources be used
38 or be intended to be used, in whole or in part, to aid, plan, prepare or
39 carry out an act or terrorism or with the purpose or knowledge that
40 such material support or resources be given or be intended to be given,
41 in whole or in part, to a person or an organization that has committed
42 or has the purpose to commit or has threatened to commit terrorism.
43 It would also be a crime of the first degree for any person, charitable
44 organization or professional fund raiser to solicit, transport or
45 otherwise provide material support or resources to or on behalf of a
46 person or an organization that is designated as a foreign terrorist
47 organization by the United States Secretary of State pursuant to

1 8 U.S.C. §1189. It would not be a defense to a prosecution for a
2 violation of this section that the actor did not know that the person or
3 organization is designated as a foreign terrorist organization.

4 **Wiretapping and electronic surveillance.** This bill would amend
5 the wiretapping statute to include the new crimes of terrorism,
6 producing or possessing chemical weapons, biological agents or
7 nuclear or radiological devices, harboring, concealing, assisting or
8 providing aid to a terrorist and soliciting or providing material
9 support to for terrorism within the enumerated offenses. This bill also
10 amends the wiretapping statute to include false public alarms (2C:33-
11 3), causing widespread injury (2C:17-2), damage to a nuclear plant
12 (2C:17-7 through 2C:17-9) and weapons training for illegal activity
13 (2C:39-14).

14 **Statute of Limitations.** This bill would amend N.J.S.A.2C:1-6, the
15 statute of limitations provision in the criminal code, to provide that a
16 prosecution for terrorism, producing or possessing chemical weapons,
17 biological agents or nuclear or radiological devices, harboring,
18 concealing, assisting or providing aid to a terrorist and soliciting or
19 providing material support to for terrorism could be commenced at any
20 time.

21 **Conspiracy.** This bill would amend N.J.S.A.2C:5-2 to include in
22 the definition of "leader of organized crime" the term "financier"
23 which is defined as a person who provides money, credit or a thing of
24 value with the purpose or knowledge that it will be used to finance or
25 support the operations of a conspiracy to commit a series of crimes
26 which constitute a pattern of racketeering activity, including but not
27 limited to the purchase of materials to be used in the commission of
28 crimes, buying or renting housing or vehicles, purchasing
29 transportation for members of the conspiracy or otherwise facilitating
30 the commission of crimes which constitute a pattern of racketeering
31 activity.

32 **Grading of Attempt and Conspiracy.** This bill would amend
33 N.J.S.A.2C:5-4 to make an attempt or conspiracy to commit an act of
34 terrorism a crime of the first degree. Under the current provisions of
35 the statute a crime to commit an act of the first degree is graded as a
36 crime of the second degree, except for the crimes of murder,
37 aggravated arson or arson when the target of the crime is a place of
38 public worship.

39 **Terroristic Threats.** This bill would amend N.J.S.A.2C:12-3 to
40 upgrade to a crime of the first degree a threat to commit any crime
41 of violence with purpose to terrorize another or to cause evacuation
42 of a building, place of assembly, or facility of public transportation, or
43 otherwise to cause serious public inconvenience, or in reckless
44 disregard of the risk of causing such terror or inconvenience. This bill
45 would also upgrade to a crime of the second degree a threat to kill
46 another with purpose to put him in imminent fear of death under
47 circumstances reasonably causing the victim to believe the immediacy

1 of the threat and the likelihood that it will be carried out. Currently
2 these offenses are graded as crimes of the third degree.

3 **Causing or risking widespread injury or damage.** This bill would
4 amend N.J.S.A.2C:17-2 to upgrade to a crime of the second degree
5 for the crime of creating a risk of widespread injury or damage by
6 recklessly causing a discharge of hazardous materials. Currently this
7 offense is graded as a crime of the third degree.

8 **Damaging or Tampering with nuclear electric generating plant.**
9 This bill would amend N.J.S.A.2C:17-7 to upgrade to a crime of the
10 first degree the crime of damaging a nuclear plant with the intent to
11 cause the unauthorized release of radiation.

12 **Money Laundering.** This bill would amend N.J.S.2C:21-
13 25, the money laundering statute, to make it a crime for a person to
14 transport or possess property "which he knew or reasonably should
15 have known" was derived from criminal activity or to engage, direct
16 or organize such transactions. The person would be guilty of a crime
17 of the first, second or third degree depending on the amount of the
18 transaction. A transaction in the amount of \$500,000.00 or more
19 would be a crime of the first degree. If the amount is at least
20 \$75,000.00 but less than \$500,000.00 then the offense would
21 constitute a crime of the second degree, otherwise it would be a crime
22 of the third degree.

23 **False Public Alarms.** This bill would amend N.J.S.2C:33-3 to
24 make it a crime of the second degree if a person initiates or circulates
25 a report or warning of an impending fire, explosion, bombing, crime,
26 catastrophe or emergency knowing that the report or warning is false
27 or baseless and that it is likely to cause evacuation of a building, place
28 of assembly, or facility of public transport, or to cause public
29 inconvenience or alarm. It would also make it a crime of the second
30 degree if a person knowingly causes such false alarm to be transmitted
31 to or within any organization, official or volunteer, for dealing with
32 emergencies involving danger to life or property. It would be a crime
33 of the second degree if in addition to the report or warning initiated,
34 circulated or transmitted the offender places or causes to be placed any
35 false or facsimile bomb in a building, place of assembly, or facility of
36 public transport or in a place likely to cause public inconvenience or
37 alarm.

38 It would be a crime of the first degree if a violation of 2C:33-3
39 results in serious bodily injury to another person or in death.

40 It would be a crime of the fourth degree if a person knowingly
41 places a call to a 9-1-1 emergency telephone system without purpose
42 of reporting the need for 9-1-1 service.

1 The bill would also provide that if a person is convicted of initiating
2 a false alarm under these circumstances he would be liable for a civil
3 penalty of not less than \$20,000.

4 **Racketeering.** In addition, the racketeering statute, N.J.S.2C:41-1,
5 would be amended to include terrorism within the enumerated
6 offenses.

7 **No Early Release.** This bill would amend N.J.S.2C:43-7.2, NERA,
8 to require the imposition of a term of parole ineligibility of not less
9 than 85% of the sentence imposed for the crimes of terrorism and
10 producing or possessing chemical weapons, biological agents or
11 nuclear or radiological devices.

ASSEMBLY HOMELAND SECURITY AND STATE
PREPAREDNESS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 911

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 11, 2002

The Assembly Homeland Security and State Preparedness Committee reports favorably and with committee amendments Assembly Bill No. 911.

As amended, this bill creates the new offenses of terrorism, producing or possessing chemical weapons, biological agents or nuclear or radiological devices, soliciting or providing material support or resources for terrorism, and hindering apprehension or prosecution for terrorism. This bill would also expand existing provisions in the criminal code such as the statute of limitations, the wiretapping statute, the RICO statute and the "No Early Release Act" to add terrorism. In addition, the bill would revise the criminal laws concerning terroristic threats, causing widespread injury or damage, money laundering and making a false public alarm.

Terrorism. Under the provisions of the bill as amended, a person is guilty of the crime of terrorism if he commits or attempts, conspires or threatens to commit certain enumerated crimes with the purpose: to incite or induce others to promote an act of terror; or to terrorize five or more persons; or to influence the policy or affect the conduct of government by terror; or to cause the impairment or interruption of public communications, public transportation, public or private buildings, common carriers, public utilities or other public services. The crimes encompassed by this act are: murder pursuant to N.J.S.2C:11-3; aggravated manslaughter or manslaughter pursuant to N.J.S.2C:11-4; vehicular homicide pursuant to N.J.S.2C:11-5; aggravated assault pursuant to subsection b. of N.J.S.2C:12-1; terroristic threats pursuant to N.J.S.2C:12-3; disarming a law enforcement officer pursuant to section 1 of P.L.1996, c.14 (C.2C:12-11); kidnapping pursuant to N.J.S.2C:13-1; criminal restraint pursuant to N.J.S.2C:13-2; robbery pursuant to N.J.S.2C:15-1; carjacking pursuant to section 1 of P.L.1993, c.221 (C.2C:15-2); aggravated arson or arson pursuant to N.J.S.2C:17-1; causing or risking widespread injury or damage pursuant to N.J.S.2C:17-2; damage to nuclear plant with the purpose to cause or threaten to cause release of

radiation pursuant to section 1 of P.L.1983, c.480 (C.2C:17-7); damage to nuclear plant resulting in death by radiation pursuant to section 2 of P.L.1983, c.480 (C.2C:17-8); damage to nuclear plant resulting in injury by radiation pursuant to section 3 of P.L.1983, c.480 (C.2C:17-9); producing or possessing chemical weapons, biological agents or nuclear or radiological devices; burglary pursuant to N.J.S.2C:18-2; possession of prohibited weapons and devices pursuant to N.J.S.2C:39-3; possession of weapons for unlawful purposes pursuant to N.J.S.2C:39-4; unlawful possession of weapons pursuant to N.J.S.2C:39-5; weapons training for illegal activities pursuant to section 1 of P.L.1983, c.229 (C.2C:39-14); racketeering pursuant to N.J.S.2C:41-1 et seq.; and any other crime involving a risk of death or serious bodily injury to any person.

A person convicted of terrorism would be sentenced to a specific term of years which would be a term of 30 years without parole, or a specific term of years between 30 years and life imprisonment, of which the person shall serve not less than 30 years before being eligible for parole. If the crime of terrorism resulted in death, the person would be sentenced to life imprisonment without parole.

This bill defines the terms: "government," "serious bodily injury," "terror" and "terrorize."

The bill provides that a prosecution for the crime of terrorism may be brought by the Attorney General or by a county prosecutor if the county prosecutor is expressly authorized in writing by the Attorney General to prosecute such crime.

In addition, the bill provides that a conviction for terrorism would not merge with a conviction for any other offense.

Producing or possessing chemical weapons, biological agents or nuclear or radiological devices. This bill also addresses the development, possession and use of nuclear, biological and chemical weapons which pose a threat of large-scale loss of human life. Under the provisions of the bill, it is a crime of the first degree to unlawfully develop, produce, receive, stockpile, own, possess or use any chemical weapon, biological agent, nuclear or radiological device, toxin or vector. A person convicted under this subsection would be sentenced to a term of 30 years without parole, or a specific term of years between 30 years and life imprisonment, of which the person would serve not less than 30 years before being eligible for parole. If death resulted from this crime, the term of imprisonment would be life without parole.

This bill also provides that it would be a crime of the second degree if any manufacturer, distributor, transferor, possessor or user of any toxic chemical, biological agent, toxin or vector, or radioactive material related to a lawful industrial, agricultural, medical, pharmaceutical or other activity, recklessly allowed an unauthorized individual to obtain access to such chemical, agent, toxin, vector, or radioactive material. A fine of up to \$250,000 would be imposed

under the provisions of this subsection.

The bill's definitional subsection defines the term "for use as a weapon" to include all situations in which the circumstances indicate that the person intended to employ an item's ready capacity of lethal use or an item's capacity for inflicting serious bodily injury.

Hindering apprehension or prosecution for terrorism. The bill makes it a crime for a person, with the purpose to hinder the detention, apprehension, investigation, prosecution, conviction or punishment of another person for the crime of terrorism, to: (1) harbor or conceal the other person; (2) provide or aid in providing a weapon, money, transportation, disguise or other means of avoiding discovery or apprehension or effecting escape; (3) suppress, by way of concealment or destruction, any evidence of the crime, or tamper with a witness, informant, document or other source of information, regardless of its admissibility in evidence, which might aid in the discovery or apprehension of such person or in the lodging of a charge against him; (4) warn the other person of impending discovery or apprehension, except that this does not apply to a warning given in connection with an effort to bring another into compliance with the law; (5) prevent or obstruct, by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of such person or in the lodging of a charge against him; (6) aid such person to protect or expeditiously profit from an advantage derived from such crime; or (7) give false information to a law enforcement officer.

This offense would be graded as a crime of the first degree if the crime of terrorism resulted in death. Otherwise, it would be a crime of the second degree.

Soliciting or providing material support or resources for terrorism. This bill makes it a crime for any person, charitable organization or professional fund raiser to solicit, transport or otherwise provide material support or resources with the purpose or knowledge that such material support or resources will be used, in whole or in part, to aid, plan, prepare or carry out an act of terrorism or with the purpose or knowledge that such material support or resources are to be given, in whole or in part, to a person or an organization that has committed or has the purpose to commit or has threatened to commit an act of terrorism. It would also be a crime for any person, charitable organization or professional fund raiser to solicit, transport or otherwise provide material support or resources to or on behalf of a person or an organization that is designated as a foreign terrorist organization by the United States Secretary of State pursuant to 8 U.S.C. §1189. It would not be a defense to any prosecution that the actor did not know that the person or organization is designated as a foreign terrorist organization.

Under the provisions of the bill, a person found guilty of this offense would be guilty of a crime of the first degree if the terrorism

results in death, otherwise it would be a crime of the second degree.

The bill defines "material support or resources" to mean: services or assistance with knowledge or purpose that the services or assistance will be used in preparing for or carrying out an act of terrorism; currency, financial securities or other monetary instruments, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation and other physical assets or anything of value; or any chemical weapon, biological agent, toxin, vector or delivery system for use as a weapon, or any nuclear or radiological device.

Wiretapping and electronic surveillance. This bill would amend the wiretapping statute to include the new crimes of terrorism, producing or possessing chemical weapons, biological agents or nuclear or radiological devices, hindering apprehension or prosecution for terrorism, and soliciting or providing material support or resources for terrorism within the enumerated offenses. This bill also amends the wiretapping statute to include false public alarms (2C:33-3), causing or risking widespread injury (2C:17-2), damage to a nuclear plant (2C:17-7 through 2C:17-9) and weapons training for illegal activity (2C:39-14).

Statute of limitations. This bill would amend N.J.S.2C:1-6, the statute of limitations provision in the criminal code, to provide that a prosecution for terrorism, producing or possessing chemical weapons, biological agents or nuclear or radiological devices, hindering apprehension or prosecution for terrorism, and soliciting or providing material support or resources for terrorism could be commenced at any time.

Conspiracy. This bill would amend N.J.S.2C:5-2 to include in the definition of "leader of organized crime" those persons who provide financial or other support for the operation of a racketeering conspiracy.

Grading of attempt and conspiracy. Currently N.J.S.2C:5-4 provides that an attempt or conspiracy to commit a crime of the first degree is a crime of the second degree, except that an attempt to commit murder is a crime of the first degree. This bill would amend this provision and provide that an attempt or conspiracy to commit murder or terrorism is a crime of the first degree, provided that if the person attempted or conspired to murder five or more persons, the person would be sentenced to a term of 30 years without parole, or to a specific term between 30 years and life imprisonment, of which not less than 30 years would be served without parole.

Terroristic threats. The bill would amend the provisions of subsection a. of N.J.S.2C:12-3 to upgrade the crime of making terroristic threats from a crime of the third degree to a crime of the second degree if the crime occurs during a declared period of national, State or county emergency. The current provisions make it a crime of

the third degree to threaten to commit any crime of violence with the purpose to terrorize another or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public inconvenience, or in reckless disregard of the risk of causing such terror or inconvenience. The bill would hold the actor strictly liable and make this activity a crime of the second degree upon proof that the crime occurred, in fact, during a declared period of emergency. It would not be a defense under the provisions of the bill that the person did not know that there was a declared period of emergency at the time the crime occurred would not be a defense.

Causing or risking widespread injury or damage. The bill amends N.J.S.2C:17-2 to make it a crime of the third degree for a person to create a risk of widespread injury or damage by recklessly handling or storing hazardous materials. The bill would also make it a crime of the second degree if the handling or storing of hazardous materials violated any law, rule or regulation intended to protect the public health and safety.

Under the current provisions of this law, "widespread injury or damage" is defined as serious bodily injury to 10 or more persons or damage to 10 or more habitations or to a building which would normally have contained 50 or more persons. This bill would change the definition of "widespread injury or damage" to mean serious bodily injury to five or more people or damage to five or more habitations or to a building which would normally contain 25 or more people.

Damaging or tampering with nuclear electric generating plant. This bill also upgrades from a crime of the third degree to a crime of the first degree a violation of the existing law against damaging a nuclear plant resulting in the release of radiation, N.J.S.2C:17-7. The term of imprisonment would be 15 to 30 years in prison if an extended term of imprisonment was not imposed.

Money laundering. This bill would amend N.J.S.2C:21-25, the money laundering statute, to make it a crime for a person to transport or possess property, engage in a transaction, or direct, organize or control the transportation of property known "or which a reasonable person would believe to be derived" from criminal activity.

The bill as amended would also make it a crime of the third degree for a person, with the purpose to evade a federal or State transaction reporting requirement: (1) to cause or attempt to cause a financial institution, including a foreign or domestic money transmitter or an authorized delegate thereof, casino, check casher, person engaged in a trade or business or any other individual or entity required by State or federal law to file a report regarding currency transactions or suspicious transactions, to fail to file a report; (2) to cause or attempt to cause such financial institution to file a report regarding currency transactions or suspicious transactions that contains a material omission or misstatement of fact; or (3) to structure, assist or attempt to structure or assist in structuring any transaction with one or more such financial institutions.

The amendments define "structure" or "structuring" as a person, acting alone, or in conjunction with, or on behalf of, other persons, who conducts or attempts to conduct one or more transactions in currency, in any amount, at one or more financial institutions, on one or more days, in any manner, for the purpose of evading currency transaction reporting requirements provided by State or federal law.

Grading of money laundering. Under the current provisions of N.J.S.2C:21-27 a person is guilty of a crime of the first, second or third degree depending on the amount of the transaction. A transaction in the amount of \$500,000.00 or more would be a crime of the first degree. If the amount is at least \$75,000.00 but less than \$500,000.00 then the offense would constitute a crime of the second degree; otherwise, it would be a crime of the third degree. This bill amends this section to cross-reference the new third degree offense of evading a State or federal transaction reporting requirement set out in new subsection e. of N.J.S.2C:25-21.

False public alarms. The bill would amend N.J.S.2C:33-3 to upgrade from a crime of the third degree to a crime of the second degree if a person places a false bomb in addition to initiating or circulating a false public alarm. This offense would be a crime of the first degree if it occurred, in fact, during a declared period of national, State or county emergency.

In addition, the bill would make it a crime of the first degree if a person initiates a false alarm and if the crime in fact results in death.

As amended, the bill would hold the actor strictly liable upon proof that the crime occurred, in fact, during a declared period of national, State or county emergency. It would not be a defense under the provisions of the bill that the defendant did not know that there was a declared period of emergency at the time the crime occurred.

The bill would also provide that any person who is convicted of initiating a false alarm under these circumstances would be liable for a civil penalty of not less than \$2,000 or actual costs incurred as a result of the law enforcement or emergency services response to the false alarm, whichever is higher.

Racketeering. In addition, the racketeering statute, N.J.S.2C:41-1, would be amended to include terrorism, weapons training for illegal activities, and leader of firearms trafficking network within the enumerated offenses.

No early release. This bill would amend N.J.S.2C:43-7.2, the "No Early Release Act" (NERA) to require the imposition of a term of parole ineligibility of not less than 85% of the sentence imposed for the crimes of terrorism and producing or possessing chemical weapons, biological agents or nuclear or radiological devices.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 911

with Senate Floor Amendments
(Proposed By Senator CARDINALE)

ADOPTED: MARCH 21, 2002

This bill creates the new offense of terrorism as well as the new offenses of producing or possessing chemical weapons, biological agents or nuclear or radiological devices, soliciting or providing material support or resources for terrorism, and hindering apprehension or prosecution for terrorism and revises other criminal statutes.

The floor amendment would add a new section 10 to the bill which amends the provisions of the murder statute to add terrorism to the list of predicate crimes for felony murder. The amendments also provide that any person who participated directly in a crime of terrorism is eligible for the death penalty. The bill adds to the aggravating factors that the murder was committed during the commission of, or an attempt to commit, or flight after committing or attempting to commit, the crime of terrorism. In addition, the amendment adds "carjacking" to subsection g. of the aggravating factors to make it consistent with the predicate crimes for felony murder.

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 911

with Senate Floor Amendments
(Proposed By Senator CARDINALE)

ADOPTED: MARCH 21, 2002

This bill creates the new offense of terrorism as well as the new offenses of producing or possessing chemical weapons, biological agents or nuclear or radiological devices, soliciting or providing material support or resources for terrorism, and hindering apprehension or prosecution for terrorism and revises other criminal statutes.

This floor amendment clarifies that a person is guilty of the crime of terrorism if he commits or attempts, conspires or threatens to commit certain enumerated crimes with the purpose: to promote an act of terror; or to terrorize five or more persons; or to influence the policy or affect the conduct of government by terror; or to cause by an act of terror the impairment or interruption of public communications, public transportation, public or private buildings, common carriers, public utilities or other public services. This floor amendment also eliminates terroristic threats from the enumerated crimes.

SENATE, No. 775

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED JANUARY 24, 2002

Sponsored by:
Senator GERALD CARDINALE
District 39 (Bergen)

SYNOPSIS

Enacts the "Anti-Terrorism Act of 2001."

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT creating the "Anti-Terrorism Act of 2001" and revising
2 various parts of the statutory law.

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

6
7 1. (New section) Sections 1 through 5 of this act shall be known
8 and may be cited as the "Anti-Terrorism Act of 2001."

9
10 2. (New section) Terrorism. a. A person is guilty of the crime of
11 terrorism if he commits or attempts, conspires or threatens to commit
12 any crime enumerated in subsection c. of this section with the purpose
13 to:

14 (1) terrorize five or more persons; or

15 (2) influence the policy or affect the conduct of government by
16 terror.

17 b. Terrorism is a crime of the first degree.

18 (1) Notwithstanding any other provision of law to the contrary, any
19 person convicted under this section shall be sentenced to a term of 30
20 years, during which the person shall not be eligible for parole, or to a
21 specific term of years which shall be between 30 years and life
22 imprisonment, of which the person shall serve not less than 30 years
23 before being eligible for parole.

24 (2) If a violation of this section results in death, the person shall be
25 sentenced to a term of life imprisonment, during which time the
26 person shall not be eligible for parole.

27 c. The crimes encompassed by this section are: murder pursuant to
28 N.J.S.2C:11-3; aggravated manslaughter or manslaughter pursuant to
29 N.J.S.2C:11-4; vehicular homicide pursuant to N.J.S.2C:11-5;
30 aggravated assault pursuant to subsection b. of N.J.S.2C:12-1;
31 terroristic threats pursuant to N.J.S.2C:12-3; disarming a law
32 enforcement officer pursuant to section 1 of P.L.1996, c.14 (C.2C:12-
33 11); kidnapping pursuant to N.J.S.2C:13-1; criminal restraint pursuant
34 to N.J.S.2C:13-2; robbery pursuant to N.J.S.2C:15-1; carjacking
35 pursuant to section 1 of P.L.1993, c.221 (C.2C:15-2); aggravated
36 arson or arson pursuant to N.J.S.2C:17-1; causing or risking
37 widespread injury or damage pursuant to N.J.S.2C:17-2; damage to
38 nuclear plant resulting in release of radiation pursuant to section 1 of
39 P.L.1983, c.480 (C.2C:17-7); damage to nuclear plant resulting in
40 death by radiation pursuant to section 2 of P.L.1983, c.480 (C.2C:17-
41 8); damage to nuclear plant resulting in injury by radiation pursuant to
42 section 3 of P.L.1983, c.480 (C.2C:17-9); producing or possessing
43 chemical weapons, biological agents or nuclear or radiological devices

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 pursuant to section 3 of P.L. c. (C.) (now pending before the
2 Legislature as section 3 of this bill); burglary pursuant to N.J.S.2C:18-
3 2; possession of prohibited weapons and devices pursuant to
4 N.J.S.2C:39-3; possession of weapons for unlawful purposes pursuant
5 to N.J.S.2C:39-4; unlawful possession of weapons pursuant to
6 N.J.S.2C:39-5; weapons training for illegal activities pursuant to
7 section 1 of P.L.1983, c.229 (C.2C:39-14); racketeering pursuant to
8 N.J.S.2C:41-1 et seq.; and any other crime involving a risk of death or
9 serious bodily injury to any person.

10 d. Definitions. For the purposes of this section:

11 "Government" means the United States, any state, county,
12 municipality, or other political unit, or any department, agency or
13 subdivision of any of the foregoing, or any corporation or other
14 association carrying out the functions of government.

15 "Serious bodily injury" means bodily injury which creates a
16 substantial risk of death or which causes serious, permanent
17 disfigurement, or protracted loss or impairment of the function of any
18 bodily member or organ.

19 "Terror" means the menace or fear of death or serious bodily injury.

20 "Terrorize" means to convey the menace or fear of death or serious
21 bodily injury by words or actions.

22 e. A prosecution pursuant to this section may be brought by the
23 Attorney General, his assistants and deputies within the Division of
24 Criminal Justice, or by a county prosecutor or a designated assistant
25 prosecutor if the county prosecutor is expressly authorized in writing
26 by the Attorney General to prosecute a violation of this section.

27 f. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
28 law, a conviction of terrorism under this section shall not merge with
29 a conviction of any other offense, nor shall such other conviction
30 merge with a conviction under this section, and the court shall impose
31 separate sentences upon each violation of this section and any other
32 offense.

33 g. Nothing contained in this section shall be deemed to preclude,
34 if the evidence so warrants, an indictment and conviction for murder
35 under the provisions of N.J.S.2C:11-3 or any other crime.

36

37 3. (New section) Producing or Possessing Chemical Weapons,
38 Biological Agents or Nuclear or Radiological Devices. a. A person
39 who, purposely or knowingly, unlawfully develops, produces,
40 otherwise acquires, transfers, receives, stockpiles, retains, owns,
41 possesses or uses, or threatens to use, any chemical weapon, biological
42 agent, toxin, vector or delivery system for use as a weapon, or nuclear
43 or radiological device commits a crime of the first degree, except that:

44 (1) Notwithstanding any other provision of law to the contrary, any
45 person convicted under this subsection shall be sentenced to a term of
46 30 years, during which the person shall not be eligible for parole, or to

1 a specific term of years which shall be between 30 years and life
2 imprisonment of which the person shall serve not less than 30 years
3 before being eligible for parole.

4 (2) If a violation of this section results in death, the person shall be
5 sentenced to a term of life imprisonment, during which the person shall
6 not be eligible for parole.

7 b. Any manufacturer, distributor, transferor, possessor or user of
8 any toxic chemical, biological agent, toxin or vector, or radioactive
9 material that is related to a lawful industrial, agricultural, research,
10 medical, pharmaceutical or other activity, who recklessly allows an
11 unauthorized individual to obtain access to the toxic chemical or
12 biological agent, toxin or vector or radioactive material, commits a
13 crime of the fourth degree and notwithstanding the provisions of
14 subsection b. of N.J.S.2C:43-3 shall be subject to a fine of up to
15 \$50,000.00 for each violation.

16 c. For the purposes of this section:

17 (1) "Chemical weapon" means:

18 (a) a toxic chemical and its precursors, except where intended for
19 a lawful purpose as long as the type and quantity is consistent with
20 such a purpose. "Chemical weapon" shall include, but not be limited
21 to:

22 (i) nerve agents, including GA (Tabun) cyanide irreversible
23 inhibitor, Sarin (GB), GB (Soman) fluorine, reversible "slow aging",
24 GF, and VX sulfur, irreversible;

25 (ii) choking agents, including Phosgene (CG) and Diphosgene (DP);

26 (iii) blood agents, including Hydrogen Cyanide (AC), Cyanogen
27 Chloride (CK), and Arsine (SA); and

28 (iv) blister agents, including mustards (H, HD {sulfur mustard},
29 HN-1, HN-2, HN-3 {nitrogen mustard}), arsenicals, such as Lewisite
30 (L), urticants, including CX; and

31 (v) incapacitating agents, including BZ ; or

32 (b) a munition or device, specifically designed to cause death or
33 other harm through toxic properties of those toxic chemicals specified
34 in subparagraph (a) of paragraph (1) of subsection c. of this section,
35 which would be released as a result of the employment of such
36 munition or device; or

37 (c) any equipment specifically designed for use directly in
38 connection with the employment of munitions or devices specified in
39 subparagraph (b) of paragraph (1) of subsection c. of this section.

40 (2) "Biological agent" means any microorganism, virus, bacteria,
41 rickettsiae, fungi, toxin, infectious substance or biological product that
42 may be engineered as a result of biotechnology, or any naturally
43 occurring or bioengineered component of any such microorganism,
44 virus, bacteria, rickettsiae, fungi, infectious substance or biological
45 product, capable of causing:

1 (a) death, disease, or other biological malfunction in a human, an
2 animal, a plant, or another living organism; or

3 (b) deterioration of food, water, equipment, supplies, or material
4 of any kind; or

5 (c) deleterious alteration of the environment.

6 "Biological agent" shall include, but not be limited to: viruses
7 including, Crimean-Congo hemorrhagic fever virus, eastern equine
8 encephalitis virus, ebola viruses, equine morbilli virus, lasa fever virus,
9 marburg virus, Rift Valley fever virus, South American hemorrhagic
10 fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito), tick-borne
11 encephalitis complex viruses, variola major virus (smallpox virus),
12 Venezuelan equine encephalitis virus, viruses causing hantavirus
13 pulmonary syndrome, and yellow fever virus; bacteria including,
14 *Bacillus anthracis* (commonly known as anthrax), *Brucella abortus*,
15 *Brucella melitensis*, *Brucella suis*, *Burkholderia (pseudomonas) mallei*,
16 *Burkholderia (pseudomonas) pseudomallei*, *Clostridium botulinum*,
17 *Francisella tularensis*, *Yersinia pestis* (commonly known as plague);
18 rickettsiae, including *Coxiella burnetii*, *Rickettsia prowazekii* and
19 *Rickettsia rickettsii*; *Coccidioides immitis* fungus; and toxins including
20 abrin, aflatoxins, Botulinum toxins, *Clostridium perringes epsilon*
21 toxin, conotoxins, diacetoxyscirpenol, ricin, saxitoxin, shigatoxin,
22 Staphylococcal enterotoxins, tetrodotoxins and T-2 toxin.

23 (3) "Toxin" means the toxic material of plants, animals,
24 microorganisms, viruses, fungi, or infectious substances, or a
25 recombinant molecule, whatever its origin or method of production,
26 including:

27 (a) any poisonous substance or biological product that may be
28 engineered as a result of biotechnology or produced by a living
29 organism; or

30 (b) any poisonous isomer or biological product, homolog, or
31 derivative of such a substance.

32 (4) "Vector" means a living organism or molecule, including a
33 recombinant molecule, or biological product that may be engineered
34 as a result of biotechnology, capable of carrying a biological agent or
35 toxin to a host.

36 (5) "Nuclear or radiological device" includes any nuclear device
37 which is an explosive device designed to cause a nuclear yield, a
38 radiological dispersal device which is an explosive device used to
39 spread radioactive material or a simple radiological dispersal device
40 which is any act or container or any other device used to release
41 radiological material for use as a weapon.

42 (6) "Delivery system" means any apparatus, equipment, device, or
43 means of delivery specifically designed to deliver or disseminate a
44 biological agent, toxin or any vector.

45 (7) "For use as a weapon" means all situations in which the
46 defendant had any purpose other than a prophylactic, protective or

1 peaceful purpose.

2 d. This section shall not apply to the development, production,
3 acquisition, transfer, receipt, possession or use of, any toxic chemical,
4 biological agent, toxin or vector, that is related to a lawful industrial,
5 agricultural, research, medical, pharmaceutical, or other activity.

6 e. This section shall not apply to individual self-defense devices
7 whose possession is otherwise lawful pursuant to subsections h., i., or
8 k. of N.J.S.2C:39-6.

9 f. Nothing in this section shall be deemed to preclude, if the
10 evidence so warrants, an indictment and conviction of murder under
11 the provisions of N.J.S.2C:11-3 or any other criminal offense.

12

13 4. (New section) Hindering Apprehension or Prosecution for
14 Terrorism. a. A person commits a crime if, with purpose to hinder the
15 detention, apprehension, investigation, prosecution, conviction or
16 punishment of another for the crime of terrorism, he:

17 (1) Harbors or conceals the other;

18 (2) Provides or aids in providing a weapon, money, transportation,
19 disguise or other means of avoiding discovery or apprehension or
20 effecting escape;

21 (3) Suppresses, by way of concealment or destruction, any evidence
22 of the crime, or tampers with a witness, informant, document or other
23 source of information, regardless of its admissibility in evidence, which
24 might aid in the discovery or apprehension of such person or in the
25 lodging of a charge against him;

26 (4) Warns the other of impending discovery or apprehension,
27 except that this paragraph does not apply to a warning given in
28 connection with an effort to bring another into compliance with law;

29 (5) Prevents or obstructs, by means of force, intimidation or
30 deception, anyone from performing an act which might aid in the
31 discovery or apprehension of such person or in the lodging of a charge
32 against him;

33 (6) Aids such person to protect or expeditiously profit from an
34 advantage derived from such crime; or

35 (7) Gives false information to a law enforcement officer.

36 b. A violation of subsection a. of this section is a crime of the first
37 degree if the crime of terrorism resulted in death. Otherwise, it is a
38 crime of the second degree.

39

40 5. (New section) Solicitation and Providing Support for Terrorism.

41 a. As used in this act:

42 "Charitable organization" means:

43 (1) any person determined by the federal Internal Revenue Service
44 to be a tax exempt organization pursuant to section 501(c)(3) of the
45 Internal Revenue Code of 1986, 26 U.S.C.s.501(c)(3); or

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1 (2) any person who is, or holds himself out to be, established for
2 any benevolent, philanthropic, humane, social welfare, public health,
3 or other eleemosynary purpose, or for the benefit of law enforcement
4 personnel, firefighters or other persons who protect the public safety,
5 or any person who in any manner employs a charitable appeal as the
6 basis of any solicitation, or an appeal which has a tendency to suggest
7 there is a charitable purpose to any such solicitation.

8 "Contribution" means material support or resources.

9 "Terrorism" means activities that involve a crime enumerated in
10 section 2 of P.L. c. (C.)(now pending before the Legislature as
11 section 2 of this bill).

12 "Independent paid fund raiser" means any person who for
13 compensation performs for a charitable organization any service in
14 connection with which contributions are, or will be solicited in this
15 State by that compensated person or by any compensated person he
16 employs, procures, or engages, directly or indirectly to solicit
17 contributions. A bona fide salaried officer, employee, or volunteer of
18 a charitable organization shall not be deemed to be an independent
19 paid fund raiser. No attorney, accountant or banker who advises a
20 person to make a charitable contribution during the course of
21 rendering professional services to that person shall be deemed, as a
22 result of that advice, to be an independent paid fund raiser.

23 "Material support or resources" means:

24 (1) expert services or assistance with knowledge or purpose that
25 the services or assistance will be used in preparing for or carrying out
26 terrorism;

27 (2) currency, financial securities or other monetary instruments,
28 financial services, lodging, training, safehouses, false documentation
29 or identification, communications equipment, facilities, weapons, lethal
30 substances, explosives, personnel, transportation, and other physical
31 assets; or

32 (3) any chemical weapon, biological agent, toxin, vector, delivery
33 system or nuclear or radiological device for use as a weapon.

34 "Solicitation" or "solicit" means the request, directly or indirectly,
35 for money, credit, property, financial assistance, or other thing of any
36 kind or value which will or is intended to be used for a charitable
37 purpose or benefit a charitable organization. Solicitation shall include,
38 but not be limited to, the following methods of requesting or securing
39 money, credit, property, financial assistance or other thing of value:

40 (1) Any oral or written request;

41 (2) The making of any announcement in the press, over the radio
42 or television, by telephone, through the mail or any other media
43 concerning an appeal or campaign by or for any charitable organization
44 or purpose;

45 (3) The distribution, circulation, posting or publishing of any
46 handbill, written advertisement or other publication which directly or

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1 by implication seeks to obtain a contribution;

2 (4) The offer of, attempt to sell, or sale of any advertising space,
3 book, card, tag, coupon, device, magazine, membership, merchandise,
4 subscription, flower, ticket, candy, cookies or other tangible item in
5 connection with which any appeal is made for any charitable
6 organization or purpose, or where the name of any charitable
7 organization is used or referred to in any appeal as an inducement or
8 reason for making any sale, or where any statement is made that the
9 whole or any part of the proceeds from the sale will be used for any
10 charitable purpose or benefit any charitable organization;or

11 (5) The use or employment of canisters, cards, receptacles or
12 similar devices for the collection of money or other thing of value in
13 connection with which any appeal is made for any charitable
14 organization or purpose.

15 A solicitation shall take place whether or not the person making the
16 solicitation receives any contribution, except that a charitable
17 organization's use of its own name in any communication shall not
18 alone be sufficient to constitute a solicitation.

19 "Solicitor" means any individual who attempts to solicit or solicits
20 contributions for use by a charitable purpose or to benefit a charitable
21 organization.

22 b. Solicitation to Commit Terrorism. A person, charitable
23 organization, independent paid fund raiser, or solicitor who raises,
24 solicits, or collects material support or resources with the purpose or
25 knowledge that such material support or resources will be used, in
26 whole or in part, to plan, prepare, carry out, or escape from an act of
27 terrorism is guilty of committing solicitation to commit terrorism, a
28 crime of the second degree.

29 c. Providing Support for Terrorism. A person who provides
30 material support or resources to a person or an organization with the
31 knowledge that the material support or resources will be used, in
32 whole or in part, to plan, prepare, carry out, or escape from an act of
33 terrorism is guilty of committing the crime of providing material
34 support or resources for terrorism. A violation of this section is a
35 crime of the first degree if the act of terrorism results in death.
36 Otherwise, it is a crime of the second degree.

37 d. A person, charitable organization, independent paid fund raiser,
38 or solicitor, who raises, solicits, collects or provides material support
39 or resources, commits the crime of providing support for terrorism, if
40 that person, charitable organization, independent paid fund raiser or
41 solicitor:

42 (1) gives material support or resources to an organization
43 designated as a foreign terrorist organization by the United States
44 Secretary of State pursuant to 8 U.S.C.A. section 1189; or

45 (2) gives material support or resources to a person or organization
46 with the knowledge that the person or organization has committed or

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1 has the purpose to commit or has threatened to commit, an act of
2 terrorism.

3 A violation of this section is a crime of the first degree if the act of
4 terrorism results in death. Otherwise, it is a crime of the second
5 degree.

6 e. Nothing herein shall be deemed to preclude prosecution and
7 conviction of any other offense, if the evidence so warrants.

8 f. The Attorney General shall revoke any registration granted under
9 the "Charitable Registration and Investigation Act," P.L.1994, c.16
10 (C.45:17A-18 et seq.), to any person found guilty of violating the
11 provisions of this section.

12

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

15 8. The Attorney General, county prosecutor or a person designated
16 to act for such an official and to perform his duties in and during his
17 actual absence or disability, may authorize, in writing, an ex parte
18 application to a judge designated to receive the same for an order
19 authorizing the interception of a wire, or electronic or oral
20 communication by the investigative or law enforcement officers or
21 agency having responsibility for an investigation when such
22 interception may provide evidence of the commission of the offense of
23 murder, kidnapping, gambling, robbery, bribery, a violation of
24 paragraph (1) or (2) of subsection b. of N.J.S.2C:12-1, a violation of
25 section 3 of P.L.1997, c.353 (C.2C:21-4.3), a violation of
26 N.J.S.2C:21-19 punishable by imprisonment for more than one year,
27 a violation of P.L.1994, c.121 (C.2C:21-23 et seq.), a violation of
28 sections 1 through 5 of P.L. , c. (C.) (now pending before the
29 Legislature as sections 1 through 5 of this bill), a violation of
30 N.J.S.2C:33-3, a violation of N.J.S.2C:17-2, a violation of sections 1
31 through 3 of P.L.1983, c.480 (C.2C:17-7 through 2C:17-9),
32 terroristic threats pursuant to N.J.S.2C:12-3, violations of
33 N.J.S.2C:35-3, N.J.S.2C:35-4 and N.J.S.2C:35-5, violations of
34 sections 112 through 116, inclusive, of the "Casino Control Act,"
35 P.L.1977, c.110 (C.5:12-112 through 5:12-116), arson, burglary, theft
36 and related offenses punishable by imprisonment for more than one
37 year, endangering the welfare of a child pursuant to N.J.S.2C:24-4,
38 escape, forgery and fraudulent practices punishable by imprisonment
39 for more than one year, alteration of motor vehicle identification
40 numbers, unlawful manufacture, purchase, use, or transfer of firearms,
41 unlawful possession or use of destructive devices or explosives,
42 weapons training for illegal activities pursuant to section 1 of
43 P.L.1983, c.229 (C.2C:39-14), racketeering or a violation of
44 subsection g. of N.J.S.2C:5-2, leader of organized crime, organized
45 criminal activity directed toward the unlawful transportation, storage,
46 disposal, discharge, release, abandonment or disposition of any

1 harmful, hazardous, toxic, destructive, or polluting substance, or any
2 conspiracy to commit any of the foregoing offenses or which may
3 provide evidence aiding in the apprehension of the perpetrator or
4 perpetrators of any of the foregoing offenses.

5 (cf: P.L.1999, c.151, s.4)

6

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

8 2C:1-6. Time Limitations. a. A prosecution for any offense set
9 forth in N.J.S.2C:11-3, N.J.S.2C:11-4 [or], N.J.S.2C:14-2 or
10 sections 1 through 5 of P.L. , c. (C.)(now pending before the
11 Legislature as this bill) may be commenced at any time.

12 b. Except as otherwise provided in this section, prosecutions for
13 other offenses are subject to the following periods of limitations:

14 (1) A prosecution for a crime must be commenced within five years
15 after it is committed;

16 (2) A prosecution for a disorderly persons offense or petty
17 disorderly persons offense must be commenced within one year after
18 it is committed;

19 (3) A prosecution for any offense set forth in N.J.S.2C:27-2,
20 N.J.S.2C:27-4, N.J.S.2C:27-6, N.J.S.2C:27-7, N.J.S.2C:29-4,
21 N.J.S.2C:30-2, N.J.S.2C:30-3, or any attempt or conspiracy to commit
22 such an offense, must be commenced within seven years after the
23 commission of the offense;

24 (4) A prosecution for an offense set forth in N.J.S.2C:14-3 or
25 N.J.S.2C:24-4, when the victim at the time of the offense is below the
26 age of 18 years, must be commenced within five years of the victim's
27 attaining the age of 18 or within two years of the discovery of the
28 offense by the victim, whichever is later;

29 (5) A prosecution for any offense set forth in paragraph (2) of
30 subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39
31 (C.13:1E-9), section 20 of P.L.1989, c.34 (C.13:1E-48.20), section 19
32 of P.L.1954, c.212 (C.26:2C-19), section 10 of P.L.1984, c.173
33 (C.34:5A-41), or section 10 of P.L.1977, c.74 (C.58:10A-10) must be
34 commenced within 10 years after the date of discovery of the offense
35 by a local law enforcement agency, a county prosecutor, or the
36 Department of Environmental Protection either directly by any of
37 those entities or indirectly by notice given to any of those entities.

38 c. An offense is committed either when every element occurs or,
39 if a legislative purpose to prohibit a continuing course of conduct
40 plainly appears, at the time when the course of conduct or the
41 defendant's complicity therein is terminated. Time starts to run on the
42 day after the offense is committed , except that when the prosecution
43 is supported by physical evidence that identifies the actor by means of
44 DNA testing or fingerprint analysis, time does not start to run until the
45 State is in possession of both the physical evidence and the DNA or
46 fingerprint evidence necessary to establish the identification of the

1 actor by means of comparison to the physical evidence.

2 d. A prosecution is commenced for a crime when an indictment is
3 found and for a nonindictable offense when a warrant or other process
4 is issued, provided that such warrant or process is executed without
5 unreasonable delay. Nothing contained in this section, however, shall
6 be deemed to prohibit the downgrading of an offense at any time if the
7 prosecution of the greater offense was commenced within the statute
8 of limitations applicable to the greater offense.

9 e. The period of limitation does not run during any time when a
10 prosecution against the accused for the same conduct is pending in this
11 State.

12 f. The limitations in this section shall not apply to any person
13 fleeing from justice.

14 g. Except as otherwise provided in this code, no civil action shall
15 be brought pursuant to this code more than five years after such action
16 accrues.

17 (cf: P.L.2001, c.308, s.1)

18

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

20 2C:5-2. Conspiracy. a. Definition of conspiracy. A person is
21 guilty of conspiracy with another person or persons to commit a crime
22 if with the purpose of promoting or facilitating its commission he:

23 (1) Agrees with such other person or persons that they or one or
24 more of them will engage in conduct which constitutes such crime or
25 an attempt or solicitation to commit such crime; or

26 (2) Agrees to aid such other person or persons in the planning or
27 commission of such crime or of an attempt or solicitation to commit
28 such crime.

29 b. Scope of conspiratorial relationship. If a person guilty of
30 conspiracy, as defined by subsection a. of this section, knows that a
31 person with whom he conspires to commit a crime has conspired with
32 another person or persons to commit the same crime, he is guilty of
33 conspiring with such other person or persons, whether or not he
34 knows their identity, to commit such crime.

35 c. Conspiracy with multiple objectives. If a person conspires to
36 commit a number of crimes, he is guilty of only one conspiracy so long
37 as such multiple crimes are the object of the same agreement or
38 continuous conspiratorial relationship. It shall not be a defense to a
39 charge under this section that one or more of the objectives of the
40 conspiracy was not criminal; provided that one or more of its
41 objectives or the means of promoting or facilitating an objective of the
42 conspiracy is criminal.

43 d. Overt act. No person may be convicted of conspiracy to commit
44 a crime other than a crime of the first or second degree or distribution
45 or possession with intent to distribute a controlled dangerous
46 substance or controlled substance analog as defined in chapter 35 of

1 this title, unless an overt act in pursuance of such conspiracy is proved
2 to have been done by him or by a person with whom he conspired.

3 e. Renunciation of purpose. It is an affirmative defense which the
4 actor must prove by a preponderance of the evidence that he, after
5 conspiring to commit a crime, informed the authority of the existence
6 of the conspiracy and his participation therein, and thwarted or caused
7 to be thwarted the commission of any offense in furtherance of the
8 conspiracy, under circumstances manifesting a complete and voluntary
9 renunciation of criminal purpose as defined in N.J.S.2C:5-1d.;
10 provided, however, that an attempt as defined in N.J.S.2C:5-1 shall
11 not be considered an offense for purposes of renunciation under this
12 subsection.

13 f. Duration of conspiracy. For the purpose of [section]
14 N.J.S.2C:1-6d.:

15 (1) Conspiracy is a continuing course of conduct which terminates
16 when the crime or crimes which are its object are committed or the
17 agreement that they be committed is abandoned by the defendant and
18 by those with whom he conspired; and

19 (2) Such abandonment is presumed with respect to a crime other
20 than one of the first or second degree if neither the defendant nor
21 anyone with whom he conspired does any overt act in pursuance of the
22 conspiracy during the applicable period of limitation; and

23 (3) If an individual abandons the agreement, the conspiracy is
24 terminated as to him only if and when he advises those with whom he
25 conspired of his abandonment or he informs the law enforcement
26 authorities of the existence of the conspiracy and of his participation
27 therein.

28 g. Leader of organized crime. A person is a leader of organized
29 crime if he purposefully conspires with others as an organizer,
30 supervisor [or], manager[,] or financier to commit a continuing series
31 of crimes which constitute a pattern of racketeering activity under the
32 provisions of N.J.S.2C:41-1, provided, however, that notwithstanding
33 N.J.S.2C:1-8a. (2), a conviction of leader of organized crime shall not
34 merge with the conviction of any other crime which constitutes
35 racketeering activity under N.J.S.2C:41-1. As used in this section,
36 "financier" means a person who provides money, credit or a thing of
37 value with the purpose or knowledge that it will be used to finance or
38 support the operations of a conspiracy to commit a series of crimes
39 which constitute a pattern of racketeering activity, including but not
40 limited to the purchase of materials to be used in the commission of
41 crimes, buying or renting housing or vehicles, purchasing
42 transportation for members of the conspiracy or otherwise facilitating
43 the commission of crimes which constitute a pattern of racketeering
44 activity.

45 (cf: P.L.1987, c.106, s.4).

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

2 2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation
3 in Cases of Lesser Danger. a. Grading. Except as provided in
4 subsections c. and d., an attempt or conspiracy to commit a crime of
5 the first degree is a crime of the second degree; except that an attempt
6 or conspiracy to commit murder is a crime of the first degree,
7 provided, however, that if the defendant attempted or conspired to kill
8 five or more persons, the defendant shall be sentenced by the court to
9 a term of 30 years, during which the defendant shall not be eligible for
10 parole, or to a specific term of years which shall be between 30 years
11 and life imprisonment, of which the defendant shall serve not less than
12 30 years before eligibility for parole. Otherwise an attempt is a crime
13 of the same degree as the most serious crime which is attempted, and
14 conspiracy is a crime of the same degree as the most serious crime
15 which is the object of the conspiracy; provided that, leader of
16 organized crime is a crime of the second degree. An attempt or
17 conspiracy to commit an offense defined by a statute outside the code
18 shall be graded as a crime of the same degree as the offense is graded
19 pursuant to [sections] N.J.S.2C:1-4 and N.J.S.2C:43-1.

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

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

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

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

33 d. Notwithstanding the provisions of subsection a. of this section,
34 conspiracy to commit a crime as set forth in P.L.1994, c.121
35 (C.2C:21-23 et seq.) is a crime of the same degree as the most serious
36 crime that was conspired to be committed.
37 (cf: P.L.1999, c.25, s.2).

38

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

40 2C:11-3. Murder.

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

43 (1) The actor purposely causes death or serious bodily injury
44 resulting in death; or

45 (2) The actor knowingly causes death or serious bodily injury
46 resulting in death; or

1 (3) It is committed when the actor, acting either alone or with one
2 or more other persons, is engaged in the commission of, or an attempt
3 to commit, or flight after committing or attempting to commit robbery,
4 sexual assault, arson, burglary, kidnapping, carjacking [or], criminal
5 escape[,] or terrorism pursuant to section 2 of P.L. , c. (C.)
6 (now pending before the Legislature as section 2 of this bill), and in
7 the course of such crime or of immediate flight therefrom, any person
8 causes the death of a person other than one of the participants; except
9 that in any prosecution under this subsection, in which the defendant
10 was not the only participant in the underlying crime, it is an affirmative
11 defense that the defendant:

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

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

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

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

23 b. (1) Murder is a crime of the first degree but a person convicted
24 of murder shall be sentenced, except as provided in subsection c. of
25 this section, by the court to a term of 30 years, during which the
26 person shall not be eligible for parole, or be sentenced to a specific
27 term of years which shall be between 30 years and life imprisonment
28 of which the person shall serve 30 years before being eligible for
29 parole.

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

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

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

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

44 (4) If the defendant was subject to sentencing pursuant to
45 subsection c. and the jury or court found the existence of one or more
46 aggravating factors, but that such factors did not outweigh the

1 mitigating factors found to exist by the jury or court or the jury was
2 unable to reach a unanimous verdict as to the weight of the factors, the
3 defendant shall be sentenced by the court to a term of life
4 imprisonment during which the defendant shall not be eligible for
5 parole.

6 (5) A person convicted of murder and who is not sentenced to
7 death under this section shall be sentenced to a term of life
8 imprisonment without eligibility for parole if the murder was
9 committed while the person was engaged in the commission of, or an
10 attempt to commit, or flight after committing or attempting to commit,
11 terrorism pursuant to section 2 of P.L. , c. (C)(now pending
12 before the Legislature as section 2 of this bill).

13 With respect to a sentence imposed pursuant to this subsection, the
14 defendant shall not be entitled to a deduction of commutation and
15 work credits from that sentence.

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

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

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

42 (2) (a) At the proceeding, the State shall have the burden of
43 establishing beyond a reasonable doubt the existence of any
44 aggravating factors set forth in paragraph (4) of this subsection. The
45 defendant shall have the burden of producing evidence of the existence
46 of any mitigating factors set forth in paragraph (5) of this subsection

1 but shall not have a burden with regard to the establishment of a
2 mitigating factor.

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

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

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

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

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

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

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

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

44 (c) If the jury is unable to reach a unanimous verdict, the court
45 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 value;
- 15 (e) The defendant procured the commission of the [offense]
16 murder by payment or promise of payment of anything of pecuniary
17 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] murder was committed while the defendant was
22 engaged 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 or the crime of contempt in violation of
25 N.J.S.2C:29-9b.;
- 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] murder or (ii)
33 committed the [offense] murder at the direction of a leader of a
34 narcotics trafficking network as defined in N.J.S.2C:35-3 in
35 furtherance of a conspiracy enumerated 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]
- 39 (k) The victim was less than 14 years old; or
- 40 (l) The murder was committed while the defendant was engaged
41 in the commission of, or an attempt to commit, or flight after
42 committing or attempting to commit, terrorism pursuant to section 2
43 of P.L. , c. (C.)(now pending before the Legislature as section
44 2 of this bill).
- 45 (5) The mitigating factors which may be found by the jury or the
46 court are:

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

1 f. Prior to the jury's sentencing deliberations, the trial court shall
2 inform the jury of the sentences which may be imposed pursuant to
3 subsection b. of this section on the defendant if the defendant is not
4 sentenced to death. The jury shall also be informed that a failure to
5 reach a unanimous verdict shall result in sentencing by the court
6 pursuant to subsection b.

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

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

14 i. For purposes of this section the term "homicidal act" shall mean
15 conduct that causes death or serious bodily injury resulting in death.

16 j. In a sentencing proceeding conducted pursuant to this section,
17 the display of a photograph of the victim taken before the homicide
18 shall be permitted.

19 (cf: P.L.2000, c.88, s.1).

20
21 11. N.J.S. 2C:12-3 is amended to read as follows:

22 2C:12-3. Terroristic Threats.

23 a. A person is guilty of a crime of the third degree if he threatens
24 to commit any crime of violence with purpose to terrorize another or
25 to cause evacuation of a building, place of assembly, or facility of
26 public transportation, or otherwise to cause serious public
27 inconvenience, or in reckless disregard of the risk of causing such
28 terror or inconvenience. A violation of this subsection is a crime of
29 the second degree if it occurs during a declared period of national,
30 State or county emergency. The actor shall be strictly liable upon
31 proof that the crime occurred, in fact, during a declared period of
32 national, State or county emergency. It shall not be a defense that the
33 actor did not know that there was a declared period of emergency at
34 the time the crime occurred.

35 b. A person is guilty of a crime of the third degree if he threatens
36 to kill another with purpose to put him in imminent fear of death under
37 circumstances reasonably causing the victim to believe the immediacy
38 of the threat and the likelihood that it will be carried out.

39 (cf: P.L.1981, c.290, s.15)

40
41 12. Section 1 of P.L.1983, c.480 (C.2C:17-7) is amended to read
42 as follows:

43 1. The provisions of N.J.S.2C:17-2 to the contrary notwithstanding,
44 any person who purposely or knowingly damages or tampers with any
45 machinery, device, or equipment at a nuclear electric generating plant
46 with the [intent] purpose to cause or threaten to cause an

1 unauthorized release of radiation commits a crime of the [third] first
2 degree, and may be sentenced to an extended term of imprisonment as
3 set forth in paragraph [(4)] (2) of subsection a. of N.J.S.2C:43-7,
4 notwithstanding the provisions of N.J.S.2C:44-3; provided, however,
5 that if the defendant is not sentenced to an extended term of
6 imprisonment, the defendant shall be sentenced to an ordinary term of
7 imprisonment between 15 and 30 years.

8 (cf: P.L.1983, c.480, s.1).

9

10 13. N.J.S.2C:33-3 is amended to read as follows:

11 2C:33-3. False Public Alarms. a. Except as provided in subsection
12 b. or c., a person is guilty of a crime of the third degree if he initiates
13 or circulates a report or warning of an impending fire, explosion,
14 bombing, crime, catastrophe or emergency knowing that the report or
15 warning is false or baseless and that it is likely to cause evacuation of
16 a building, place of assembly, or facility of public transport, or to
17 cause public inconveniences or alarm. A person is guilty of a crime of
18 the third degree if he knowingly causes such false alarm to be
19 transmitted to or within any organization, official or volunteer, for
20 dealing with emergencies involving danger to life or property.

21 b. A person is guilty of a crime of the [third] second degree if in
22 addition to the report or warning initiated, circulated or transmitted
23 under subsection a., he places or causes to be placed any false or
24 facsimile bomb in a building, place of assembly, or facility of public
25 transport or in a place likely to cause public inconvenience or alarm.
26 A violation of this subsection is a crime of the first degree if it occurs
27 during a declared period of national, State or county emergency.

28 c. A person is guilty of a crime of the second degree if a violation
29 of subsection a. of this section in fact results in serious bodily injury
30 to another person or occurs during a declared period of national, State
31 or county emergency. A person is guilty of a crime of the [second]
32 first degree if a violation of subsection a. of this section in fact results
33 in death.

34 d. For the purposes of this section, "in fact" means that strict
35 liability is imposed. It shall not be a defense that the death or serious
36 bodily injury was not a foreseeable consequence of the defendant's
37 acts or that the death or serious bodily injury was caused by the
38 actions of another person or by circumstances beyond the control of
39 the defendant. The actor shall be strictly liable upon proof that the
40 crime occurred during a declared period of national, State or county
41 emergency. It shall not be a defense that the actor did not know that
42 there was a declared period of emergency at the time the crime
43 occurred.

44 e. A person is guilty of a [disorderly persons offense] crime of the
45 fourth degree if the person knowingly places a call to a 9-1-1
46 emergency telephone system without purpose of reporting the need for

- 1 9-1-1 service.
- 2 (cf: P.L.1999, c.195, s.1)

1 14. Section 3 of P.L.1999,c.195 (2C:33-3.2) is amended to read as
2 follows:

3 3. Any person who violates the provisions of N.J.S.2C:33-3 shall
4 be liable for a civil penalty of not less than ~~[\$1,000.00]~~ \$2,000.00 or
5 actual costs incurred by or resulting from the law enforcement and
6 emergency services response to the false alarm, whichever is higher.
7 Any monies collected pursuant to this section shall be made payable to
8 the municipality or other entity providing the law enforcement or
9 emergency services response to the false alarm. "Emergency services"
10 includes, but is not limited to, paid or volunteer fire fighters,
11 paramedics, members of an ambulance team, rescue squad or mobile
12 intensive care unit.

13 (cf: P.L.1999, c.195, s.3)

14

15 15. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to read
16 as follows:

17 2. a. A court imposing a sentence of incarceration for a crime of
18 the first or second degree enumerated in subsection d. of this section
19 shall fix a minimum term of 85% of the sentence imposed, during
20 which the defendant shall not be eligible for parole.

21 b. The minimum term required by subsection a. of this section shall
22 be fixed as a part of every sentence of incarceration imposed upon
23 every conviction of a crime enumerated in subsection d. of this section,
24 whether the sentence of incarceration is determined pursuant to
25 N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any other provision
26 of law, and shall be calculated based upon the sentence of
27 incarceration actually imposed. The provisions of subsection a. of this
28 section shall not be construed or applied to reduce the time that must
29 be served before eligibility for parole by an inmate sentenced to a
30 mandatory minimum period of incarceration. Solely for the purpose
31 of calculating the minimum term of parole ineligibility pursuant to
32 subsection a. of this section, a sentence of life imprisonment shall be
33 deemed to be 75 years.

34 c. Notwithstanding any other provision of law to the contrary and
35 in addition to any other sentence imposed, a court imposing a
36 minimum period of parole ineligibility of 85 percent of the sentence
37 pursuant to this section shall also impose a five-year term of parole
38 supervision if the defendant is being sentenced for a crime of the first
39 degree, or a three-year term of parole supervision if the defendant is
40 being sentenced for a crime of the second degree. The term of parole
41 supervision shall commence upon the completion of the sentence of
42 incarceration imposed by the court pursuant to subsection a. of this
43 section unless the defendant is serving a sentence of incarceration for
44 another crime at the time he completes the sentence of incarceration
45 imposed pursuant to subsection a., in which case the term of parole
46 supervision shall commence immediately upon the defendant's release

1 from incarceration. During the term of parole supervision the
 2 defendant shall remain in release status in the community in the legal
 3 custody of the Commissioner of the Department of Corrections and
 4 shall be supervised by the State Parole Board as if on parole and shall
 5 be subject to the provisions and conditions of section 3 of P.L.1997,
 6 c.117 (C.30:4-123.51b).

7 d. The court shall impose sentence pursuant to subsection a. of this
 8 section upon conviction of the following crimes or an attempt or
 9 conspiracy to commit any of these crimes:

- 10 (1) N.J.S.2C:11-3, murder;
- 11 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 12 (3) N.J.S.2C:11-5, vehicular homicide;
- 13 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 14 (5) subsection b. of N.J.S.2C:12-11, disarming a law enforcement
 15 officer;
- 16 (6) N.J.S.2C:13-1, kidnapping;
- 17 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 18 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of subsection
 19 c. of N.J.S.2C:14-2, sexual assault;
- 20 (9) N.J.S.2C:15-1, robbery;
- 21 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
- 22 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
 23 arson;
- 24 (12) N.J.S.2C:18-2, burglary;
- 25 (13) subsection a. of N.J.S.2C:20-5, extortion;
- 26 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
 27 booby traps in manufacturing or distribution facilities; [or]
- 28 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;
- 29 (16) section 2 of P.L. , c. (C.)(now pending before the
 30 Legislature as section 2 of this bill), terrorism; or
- 31 (17) section 3 of P.L. , c. (C.)(now pending before the
 32 Legislature as section 3 of this bill), producing or possessing chemical
 33 weapons, biological agents or nuclear or radiological devices.
- 34 e. (Deleted by amendment, P.L.2001, c.129).
- 35 (cf: P.L.2001, c.129, s.1).

36
 37 16. This act shall take effect immediately.

38

39

40

STATEMENT

41

42 The terrorist attacks on the United States on September 11, 2001
 43 which took the lives of many individuals in the World Trade Center,
 44 the Pentagon and on board American Airlines Flights 11 and 77 and
 45 United Airlines Flights 93 and 175 emphasize the importance and
 46 necessity of providing law enforcement agencies with all the essential

1 tools to combat terrorism. These appalling acts of terrorism make it
2 clear that current laws are not tailored towards combating terrorism.
3 To address this gap, this bill creates the "Anti-Terrorism Act of 2001."

4 This act provides a multi-faceted response to terrorism. It tightens
5 existing criminal laws concerning terroristic threats and making a false
6 public alarm while at the same time creating the new offenses of
7 terrorism, soliciting or providing material resources to terrorists,
8 producing or possessing chemical weapons, biological agents or
9 nuclear or radiological devices and hindering the prosecution of
10 terrorism. It would, among other things, expand the wiretapping
11 statute to include these new crimes and add terrorism to the list of
12 aggravating factors to be considered in determining whether the
13 defendant would receive the death sentence.

14 ***Terrorism.*** Under the provisions of the bill, a person is guilty of
15 the crime of terrorism if he commits or attempts, conspires or
16 threatens to commit certain enumerated crimes with the purpose to:
17 terrorize five or more persons or influence the policy or affect the
18 conduct of government by terror. The crimes encompassed by this act
19 are: murder pursuant to N.J.S.2C:11-3; aggravated manslaughter or
20 manslaughter pursuant to N.J.S.2C:11-4; vehicular homicide pursuant
21 to N.J.S.2C:11-5; aggravated assault pursuant to subsection b. of
22 N.J.S.2C:12-1; terroristic threats pursuant to N.J.S.2C:12-3;
23 disarming a law enforcement officer pursuant to section 1 of P.L.1996,
24 c.47 (C.2C:12-11); kidnapping pursuant to N.J.S.2C:13-1; criminal
25 restraint pursuant to N.J.S. 2C:13-2; robbery pursuant to
26 N.J.S.2C:15-1; carjacking pursuant to section 1 of P.L.1993, c.221
27 (C.2C:15-2); aggravated arson or arson pursuant to N.J.S.2C:17-1;
28 causing or risking widespread injury or damage pursuant to
29 N.J.S.2C:17-2; damage to nuclear plant resulting in release of
30 radiation pursuant to section 1 of P.L.1983, c.480 (C.2C:17-7);
31 damage to nuclear plant resulting in death by radiation pursuant to
32 section 2 of P.L.1983, c.480 (C.2C:17-8); damage to nuclear plant
33 resulting in injury by radiation pursuant to section 3 of P.L.1983,
34 c.480 (C.2C:17-9); producing or possessing chemical weapons,
35 biological agents or nuclear or radiological devices; burglary pursuant
36 to N.J.S.2C:18-2; possession of prohibited weapons and devices
37 pursuant to N.J.S.2C:39-3; possession of weapons for unlawful
38 purposes pursuant to N.J.S.2C:39-4; unlawful possession of weapons
39 pursuant to N.J.S.2C:39-5; weapons training for illegal activities
40 pursuant to section 1 of P.L.1983, c.229 (C.2C:39-14); racketeering
41 pursuant to N.J.S.2C:41-1 et seq.; and any other crime involving a risk
42 of death or serious bodily injury to any person.

43 A person convicted under this act would be sentenced to a specific
44 term of years which shall be a term of 30 years without parole, or a
45 specific term of years between 30 years and life imprisonment of which
46 the person shall serve not less than 30 years before being eligible for

1 parole.

2 ***Producing or possessing chemical weapons, biological agents or***
3 ***nuclear or radiological devices.*** This bill also addresses the
4 development, possession and use of nuclear, biological and chemical
5 weapons which poses a threat of large-scale loss of human life. Under
6 the provisions of the bill, it is a crime of the first degree to unlawfully
7 develop, produce, receive, stockpile, own, possess or use any chemical
8 weapon, biological agent, nuclear or radiological devices, toxin or
9 vector. Those who engage in the development, production, possession
10 or use of such chemical and biological weapons and nuclear or
11 radiological devices, whether directly or by assisting others, would be
12 guilty of a crime of the first degree, and would be sentenced to a term
13 of 30 years without parole, or to a specific term between 30 years and
14 life imprisonment, of which not less than 30 years must be served
15 without parole. If death results from a violation of this section, a
16 sentence of life without parole.

17 ***Hindering prosecution of terrorism.*** The bill makes it a crime for
18 a person, with purpose to hinder the detention, apprehension,
19 investigation, prosecution, conviction or punishment of another person
20 for the crime of terrorism, to: (1) harbor or conceal the other person;
21 (2) provide or aid in providing a weapon, money, transportation,
22 disguise or other means of avoiding discovery or apprehension or
23 effecting escape; (3) suppress, by way of concealment or destruction,
24 any evidence of the crime, or tamper with a witness, informant,
25 document or other source of information, regardless of its admissibility
26 in evidence, which might aid in the discovery or apprehension of such
27 person or in the lodging of a charge against him; (4) warn the other
28 person of impending discovery or apprehension, except that this does
29 not apply to a warning given in connection with an effort to bring
30 another into compliance with law; (5) prevent or obstruct, by means
31 of force, intimidation or deception, anyone from performing an act
32 which might aid in the discovery or apprehension of such person or in
33 the lodging of a charge against him; (6) aid such person to protect or
34 expeditiously profit from an advantage derived from such crime; or (7)
35 give false information to a law enforcement officer. This offense would
36 be graded as a crime of the first degree if the crime of terrorism
37 resulted in death. Otherwise, it would be graded as a crime of the
38 second degree.

39 ***Soliciting or providing material support for terrorism.*** The bill
40 would create the offense of solicitation of material support or
41 resources in support of terrorism and providing material support or
42 resources for terrorism. This bill would prohibit a person from raising,
43 soliciting or collecting material support or resources or providing
44 material support or resources to a person or organization intending
45 that the material support or resources to be used to plan, prepare,
46 carry out or escape from acts of terrorism. Under the provisions of

1 the bill, a person found guilty of either offense would be guilty of a
2 crime of the second degree, except that if the act of providing support
3 or resources for terrorism results in death, then the person would be
4 guilty of a crime of the first degree.

5 "Material support or resources" means: expert services or
6 assistance with knowledge or purpose that the services or assistance
7 will be used in preparing for or carrying out terrorism, currency,
8 financial securities or other monetary instruments, financial services,
9 lodging, training, safehouses, false documentation or identification,
10 communications equipment, facilities, weapons, lethal substances,
11 explosives, personnel, transportation, and other physical assets, or any
12 chemical weapon, biological agent, toxin, vector, delivery system or
13 nuclear or radiological device for use as a weapon.

14 ***Wiretapping and electronic surveillance.*** The bill would amend
15 the current wiretapping statute to include the new crimes of terrorism,
16 producing or possessing chemical weapons, biological agents or
17 nuclear or radiological devices, hindering the prosecution of
18 terrorism, soliciting and providing material support for terrorism and
19 violations of N.J.S.2C:17-2, and N.J.S.2C:17-7 through N.J.S.2C:17-9
20 within the list of enumerated offenses for which a wiretap or electronic
21 surveillance may be authorized.

22 ***Statute of limitations.*** This bill would amend the statute of
23 limitations provisions in the criminal code, N.J.S.2C:1-6, to provide
24 that a prosecution for terrorism, producing or possessing chemical
25 weapons, biological agents or nuclear or radiological devices,
26 hindering the prosecution of terrorism, soliciting and providing
27 material resources for terrorism may be commenced at any time.

28 ***Conspiracy statute.*** This bill would amend the conspiracy statute,
29 N.J.S.2C:5-2, to include in the definition of "leader of organized
30 crime" those persons who provide financial or other support for the
31 operation of a racketeering conspiracy.

32 ***Grading of attempt and conspiracy.*** This bill would increase the
33 sentence for the crime of conspiracy or attempt to commit murder of
34 five or more persons to provide that the defendant would be
35 sentenced to a term of 30 years, during which the defendant would not
36 be eligible for parole or to a specific term of years which would be
37 between 30 years and life imprisonment, of which the defendant would
38 serve not less than 30 years before being eligible for parole.

39 ***Murder statute.*** The bill would add to the list of aggravating
40 factors for the death penalty statute that the murder was committed
41 while the defendant was engaged in the commission of, or an attempt
42 to commit, or flight after committing or attempting to commit
43 terrorism. If the defendant is not sentenced to death for such a murder,
44 the defendant must be sentenced to a term of life imprisonment
45 without the possibility of parole. The bill would also add terrorism to
46 the list of predicate crimes for felony murder.

1 ***Terroristic threats.*** The bill would amend the provisions of
2 subsection a. of N.J.S.2C:12-3 to upgrade the crime of making
3 terroristic threats from a crime of the third degree to a crime of the
4 second degree if the crime occurs during a declared period of national,
5 State or county emergency. The current provisions make it a crime of
6 the third degree to threaten to commit a crime of violence with
7 purpose to terrorize another or to cause evacuation of a building,
8 place of assembly, or facility of public transportation, or otherwise to
9 cause serious public inconvenience or in reckless disregard of the risk
10 of causing such terror or inconvenience. The bill would hold the actor
11 strictly liable and make this activity a crime of the second degree upon
12 proof that the crime occurred, in fact, during a declared period of
13 emergency. That the defendant did not know that there was a declared
14 period of emergency at the time the crime occurred would not be a
15 defense.

16 ***Damaging or tampering with nuclear electric generating plant.***
17 This bill also upgrades the penalties for a violation of the existing law
18 against damaging a nuclear plant resulting in the release of radiation.
19 N.J.S.2C:17-7 currently makes it a crime of the third degree to
20 purposely or knowingly damage or tamper with any equipment at a
21 nuclear power plant with the intent to cause or threaten a release of
22 radiation. In light of the potential devastating consequences of such
23 conduct, the bill would make this offense a crime of the first degree
24 and require a term of 15 to 30 years in prison if a discretionary
25 extended term of imprisonment is not imposed.

26 ***False public alarms.*** The bill would upgrade the crime of making
27 a false public alarm in violation of N.J.S.2C:33-3 . Under present law,
28 a person would be guilty of a crime of the third degree if that person
29 initiates or circulates a report or warning of an impending fire,
30 explosion, bombing, crime, catastrophe or emergency knowing that the
31 report is false and that it is likely to cause evacuation of a building,
32 place or facility or to cause public inconvenience. The bill would hold
33 the actor strictly liable and upgrade this offense to a crime of the
34 second degree upon proof that the crime occurred, in fact, during a
35 declared period of national, State or county emergency. Under these
36 circumstances, the bill would also make it a crime of the second degree
37 for a person to knowingly cause such false alarm to be transmitted to
38 any emergency personnel causing the emergency personnel to respond
39 to the false alarm and thereby making the emergency personnel
40 unavailable to deal with real emergencies. Furthermore, the bill would
41 make it a crime of the second degree to place a fake bomb in addition
42 to making the false alarm, upgrading this offense from a crime of the
43 third degree. This offense would be a crime of the first degree if it
44 occurred, in fact, during a declared period of national, State or county
45 emergency. That the defendant did not know that there was a declared
46 period of emergency at the time the crime occurred would not be a

1 defense to any of these upgraded crimes.

2 In addition, the bill would make it a crime of the first degree if a
3 person initiates a false alarm and that act results in death regardless of
4 whether the death was foreseeable or was caused by the actions of
5 another person or circumstances beyond the control of the defendant.
6 The bill would also provide that any person who is convicted of
7 initiating a false alarm under these circumstances would be liable for
8 a civil penalty of not less than \$2,000.00 or actual costs incurred by
9 the law enforcement or emergency services personnel in responding to
10 a false alarm, whichever is higher.

11 ***No Early Release.*** N.J.S.2C:43-7.2 would be amended to require
12 the imposition of a term of parole ineligibility of not less than 85% of
13 the sentence imposed for the crimes of terrorism and producing or
14 possessing chemical weapons, biological agents or nuclear or
15 radiological devices.

SENATE, No. 1296

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED MARCH 11, 2002

Sponsored by:

Senator GARRY J. FURNARI

District 36 (Bergen, Essex and Passaic)

Senator ROBERT J. MARTIN

District 26 (Morris and Passaic)

SYNOPSIS

Creates the "September 11th, 2001 Anti-Terrorism Act."

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT creating the "September 11th, 2001 Anti-Terrorism Act" and
2 revising various parts of the statutory law.

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

6
7 1. (New section). Sections 1 through 5 of this act shall be known
8 and may be cited as the "September 11th, 2001 Anti-Terrorism Act."

9
10 2. (New section) a. A person is guilty of the crime of terrorism
11 if he commits or attempts, conspires or threatens to commit any crime
12 enumerated in subsection c. of this section with the purpose to incite
13 or induce others to promote an act of terror or to influence the policy
14 or affect the conduct of government by terror or to cause the
15 impairment or interruption of public communications, public
16 transportation, public or private buildings, common carriers, public
17 utilities or other public services.

18 b. Terrorism is a crime of the first degree. Notwithstanding any
19 other provision of law to the contrary, a person convicted under this
20 section shall be sentenced to life imprisonment, during which time the
21 person shall not be eligible for parole.

22 Notwithstanding the provisions of N.J.S.2C:1-8 or any other
23 provision of law, a conviction arising under this section shall not
24 merge with a conviction for any offense that the defendant intended to
25 commit or facilitate when the defendant violated the provisions of this
26 section nor shall any such other conviction merge with a conviction
27 under this section.

28 c. The crimes encompassed by this section are: murder pursuant to
29 N.J.S.2C:11-3; aggravated manslaughter or manslaughter pursuant to
30 N.J.S.2C:11-4; vehicular homicide pursuant to N.J.S.2C:11-5;
31 aggravated assault pursuant to subsection b. of N.J.S.2C:12-1;
32 terroristic threats pursuant to N.J.S.2C:12-3; disarming a law
33 enforcement officer pursuant to section 1 of P.L.1996, c.14
34 (C.2C:12-11); kidnapping pursuant to N.J.S.2C:13-1; criminal
35 restraint pursuant to N.J.S.2C:13-2; robbery pursuant to
36 N.J.S.2C:15-1; carjacking pursuant to section 1 of P.L.1993, c.221
37 (C.2C:15-2); aggravated arson or arson pursuant to N.J.S.2C:17-1;
38 causing or risking widespread injury or damage pursuant to
39 N.J.S.2C:17-2; damage to nuclear plant with intent or threat to cause
40 release of radiation pursuant to section 1 of P.L.1983, c.480
41 (C.2C:17-7); damage to nuclear plant resulting in death by radiation
42 pursuant to section 2 of P.L.1983, c.480 (C.2C:17-8); damage to
43 nuclear plant resulting in injury by radiation pursuant to section 3 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.

1 P.L.1983, c.480 (C.2C:17-9); producing or possessing chemical
2 weapons, biological agents or nuclear or radiological devices pursuant
3 to section 3 of P.L. c. (C.) (now pending before the
4 Legislature as section 3 of this bill); burglary pursuant to
5 N.J.S.2C:18-2; possession of prohibited weapons and devices pursuant
6 to N.J.S.2C:39-3; possession of weapons for unlawful purposes
7 pursuant to N.J.S.2C:39-4; unlawful possession of weapons pursuant
8 to N.J.S.2C:39-5; weapons training for illegal activities pursuant to
9 section 1 of P.L.1983, c.229 (C.2C:39-14); racketeering pursuant to
10 N.J.S.2C:41-1 et seq.; and any other crime involving a risk of death or
11 serious bodily injury to any person.

12

13 3. (New section) Producing or Possessing Chemical Weapons,
14 Biological Agents or Nuclear or Radiological Devices.

15 a. A person who, purposely or knowingly, unlawfully develops,
16 produces, otherwise acquires, transfers, receives, stockpiles, retains,
17 owns, possesses or uses, or threatens to use, any chemical weapon,
18 biological agent, toxin, vector or delivery system for use as a weapon,
19 or nuclear or radiological device commits a crime of the first degree.

20 b. Any manufacturer, distributor, transferor, possessor or user of
21 any toxic chemical, biological agent, toxin or vector, or radioactive
22 material that is related to a lawful industrial, agricultural, research,
23 medical, pharmaceutical or other activity, who recklessly allows an
24 unauthorized individual to obtain access to the toxic chemical or
25 biological agent, toxin or vector or radioactive material, commits a
26 crime of the second degree and, notwithstanding the provisions of
27 subsection a. of N.J.S.2C:43-3, shall be subject to a fine of up to
28 \$250,000 for each violation.

29 c. For the purposes of this section:

30 (1) "Chemical weapon" means:

31 (a) a toxic chemical and its precursors, except where intended for
32 a lawful purpose as long as the type and quantity is consistent with
33 such a purpose. "Chemical weapon" shall include, but not be limited
34 to:

35 (i) nerve agents, including GA (Tabun) cyanide irreversible
36 inhibitor, Sarin (GB), GB (Soman) fluorine, reversible "slow aging,"
37 GF, and VX sulfur, irreversible;

38 (ii) choking agents, including Phosgene (CG) and Diphosgene
39 (DP);

40 (iii) blood agents, including Hydrogen Cyanide (AC), Cyanogen
41 Chloride (CK), and Arsine (SA); and

42 (iv) blister agents, including mustards (H, HD {sulfur mustard},
43 HN-1, HN-2, HN-3 {nitrogen mustard}), arsenicals, such as Lewisite
44 (L), and urticants, including CX; and

45 (v) incapacitating agents, including BZ ; or

46 (b) a munition or device specifically designed to cause death or

1 other harm through the toxic properties of those chemical weapons
2 defined in subparagraph (a) of paragraph (1) of subsection c. of this
3 section, which would be released as a result of the employment of such
4 munition or device; or

5 (c) any equipment specifically designed for use directly in
6 connection with the employment of munitions or devices specified in
7 subparagraph (b) of paragraph (1) of subsection c. of this section.

8 (2) "Biological agent" means any microorganism, virus, bacteria,
9 rickettsiae, fungi, toxin, infectious substance or biological product that
10 may be engineered as a result of biotechnology, or any naturally
11 occurring or bioengineered component of any such microorganism,
12 virus, bacteria, rickettsiae, fungi, infectious substance or biological
13 product, capable of causing:

14 (a) death, disease, or other biological malfunction in a human, an
15 animal, a plant, or another living organism; or

16 (b) deterioration of food, water, equipment, supplies, or material
17 of any kind; or

18 (c) deleterious alteration of the environment.

19 "Biological agent" shall include, but not be limited to: viruses,
20 including Crimean-Congo hemorrhagic fever virus, eastern equine
21 encephalitis virus, ebola viruses, equine morbilli virus, lasa fever virus,
22 marburg virus, Rift Valley fever virus, South American hemorrhagic
23 fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito), tick-borne
24 encephalitis complex viruses, variola major virus (smallpox virus),
25 Venezuelan equine encephalitis virus, viruses causing hantavirus
26 pulmonary syndrome, and yellow fever virus; bacteria including
27 *Bacillus anthracis* (commonly known as anthrax), *Brucella abortus*,
28 *Brucella melitensis*, *Brucella suis*, *Burkholderia (pseudomonas) mallei*,
29 *Burkholderia (pseudomonas) pseudomallei*, *Clostridium botulinum*,
30 *Francisella tularensis*, *Yersinia pestis* (commonly known as plague);
31 rickettsiae, including *Coxiella burnetii*, *Rickettsia prowazekii* and
32 *Rickettsia rickettsii*; *Coccidioides immitis* fungus; and toxins, including
33 abrin, aflatoxins, *Botulinum* toxins, *Clostridium perringes* epsilon
34 toxin, conotoxins, diacetoxyscirpenol, ricin, saxitoxin, shigatoxin,
35 *Staphylococcal* enterotoxins, tetrodotoxins and T-2 toxin.

36 (3) "Toxin" means the toxic material of plants, animals,
37 microorganisms, viruses, fungi, or infectious substances, or a
38 recombinant molecule, whatever its origin or method of production,
39 including:

40 (a) any poisonous substance or biological product that may be
41 engineered as a result of biotechnology or produced by a living
42 organism; or

43 (b) any poisonous isomer or biological product, homolog, or
44 derivative of such a substance.

1 (4) "Vector" means a living organism or molecule, including a
2 recombinant molecule, or biological product that may be engineered
3 as a result of biotechnology, capable of carrying a biological agent or
4 toxin to a host.

5 (5) "Nuclear or radiological device" includes any nuclear device
6 which is an explosive device designed to cause a nuclear yield, a
7 radiological dispersal device which is an explosive device used to
8 spread radioactive material or a simple radiological dispersal device
9 which is any act or container or any other device used to release
10 radiological material for use as a weapon.

11 (6) "Delivery system" means any apparatus, equipment, device, or
12 means of delivery specifically designed to deliver or disseminate a
13 biological agent, toxin or vector.

14 (7) "For use as a weapon" means all situations in which the
15 defendant had any purpose other than a prophylactic, protective or
16 peaceful purpose.

17 d. This section shall not apply to the development, production,
18 acquisition, transfer, receipt, possession or use of any toxic chemical,
19 biological agent, toxin or vector that is related to a lawful industrial,
20 agricultural, research, medical, pharmaceutical, or other activity.

21 e. This section shall not apply to any device whose possession is
22 otherwise lawful pursuant to N.J.S.2C:39-6.

23 f. Nothing contained in this section shall be deemed to preclude, if
24 the evidence so warrants, an indictment and conviction for murder
25 under the provisions of N.J.S.2C:11-3 or any other offense.

26
27 4. (New section) Harboring, Concealing, Assisting or Providing
28 Aid to Terrorist.

29 a. A person is guilty of a crime of the first degree if he harbors,
30 conceals, assists or provides or aids in providing weapons, money,
31 transportation, disguise or other means of avoiding discovery or
32 apprehension or effecting escape to a person who has committed an
33 act of terrorism.

34 b. A person is guilty of a crime of the second degree if he:

35 (1) suppresses any evidence of an act of terrorism or tampers with
36 a witness, informant, document or other source of information,
37 regardless of its admissibility in evidence, which might aid in the
38 discovery or apprehension of such person or in the lodging of a charge
39 against that person;

40 (2) warns a person who has committed an act of terrorism of the
41 other's impending discovery or apprehension;

42 (3) prevents or obstructs, by means of force, intimidation or
43 deception, anyone from performing an act which might aid in the
44 discovery or apprehension of such person or in the lodging of a charge
45 against the person; or

46 (4) gives false information to a law enforcement officer.

1 c. A person is guilty of a crime of the third degree if he warns a
2 person who has committed an act of terrorism of the other's impending
3 discovery or apprehension.

4
5 5. (New section) Soliciting or Providing Material Support or
6 Resources for Terrorism.

7 a. As used in this section:

8 "Charitable organization" means: (1) any person determined by the
9 federal Internal Revenue Service to be a tax exempt organization
10 pursuant to section 501(c)(3) of the Internal Revenue Code of 1986,
11 26 U.S.C. s.501(c)(3); or

12 (2) any person who is, or holds himself out to be, established for
13 any benevolent, philanthropic, humane, social welfare, public health,
14 or other eleemosynary purpose, or for the benefit of law enforcement
15 personnel, firefighters or other persons who protect the public safety,
16 or any person who in any manner employs a charitable appeal as the
17 basis of any solicitation, or an appeal which has a tendency to suggest
18 there is a charitable purpose to any such solicitation.

19 "Charitable purpose" means: (1) any purpose described in section
20 501 (c)(3), of the Internal Revenue Code of 1986, 26 U.S.C.
21 s.501(c)(3); or (2) any benevolent, philanthropic, humane, social
22 welfare, public health, or other eleemosynary objective, or an objective
23 that benefits law enforcement personnel, firefighters, or other persons
24 who protect the public safety.

25 "Material support or resources" means: (1) expert services or
26 assistance with knowledge or purpose that the services or assistance
27 will or is intended to be used in preparing for or carrying out
28 terrorism;

29 (2) currency, financial securities or other monetary instruments,
30 financial services, lodging, training, safehouses, false documentation
31 or identification, communications equipment, facilities weapons, lethal
32 substances, explosives, personnel, transportation and other physical
33 assets;

34 (3) any chemical weapon, or any biological agent, toxin, vector or
35 delivery system intended for use as a weapon, or any nuclear or
36 radiological device, as defined in subsection c. of section 3 of P.L.

37 c. (C.) (now pending before the Legislature as this bill).

38 "Professional fund raiser" means any person who for compensation
39 performs for a charitable organization any service in connection with
40 which contributions are, or will be solicited in this State by that
41 compensated person or by any compensated person he employs,
42 procures, or engages, directly or indirectly to solicit contributions. A
43 bona fide salaried officer, employee, or volunteer of a charitable
44 organization shall not be deemed to be an independent paid fund
45 raiser. No attorney, accountant or banker who advises a person to
46 make a charitable contribution during the course of rendering

1 professional services to that person shall be deemed, as a result of that
2 advice, to be an independent paid fund raiser.

3 b. (1) It shall be unlawful for any person, charitable organization
4 or professional fund raiser to solicit, transport or otherwise provide
5 material support or resources with the purpose or knowledge that such
6 material support or resources will or are intended to be used, in whole
7 or in part, to aid, plan, prepare or carry out an act of terrorism or with
8 the purpose or knowledge that such material support or resources are
9 or are intended to be given, in whole or in part, to a person or an
10 organization that has committed or has the purpose to commit or has
11 threatened to commit terrorism.

12 (2) It shall be unlawful for any person, charitable organization or
13 professional fund raiser to solicit, transport or otherwise provide
14 material support or resources to or on behalf of a person or an
15 organization that is designated as a foreign terrorist organization by
16 the United States Secretary of State pursuant to 8 U.S.C. §1189. It
17 shall not be a defense to a prosecution for a violation of this section
18 that the actor did not know that the person or organization is
19 designated as a foreign terrorist organization.

20 c. A person who violates the provisions of subsection b. of this
21 section shall be guilty of a crime of the first degree.

22

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

25 8. The Attorney General, county prosecutor or a person designated
26 to act for such an official and to perform his duties in and during his
27 actual absence or disability, may authorize, in writing, an ex parte
28 application to a judge designated to receive the same for an order
29 authorizing the interception of a wire, or electronic or oral
30 communication by the investigative or law enforcement officers or
31 agency having responsibility for an investigation when such
32 interception may provide evidence of the commission of the offense of
33 murder, kidnapping, gambling, robbery, bribery, a violation of
34 paragraph (1) or (2) of subsection b. of N.J.S.2C:12-1, a violation of
35 section 3 of P.L. 1997, c.353 (C.2C:21-4.3), a violation of
36 N.J.S.2C:21-19 punishable by imprisonment for more than one year,
37 a violation of P.L.1994, c.121 (C.2C:21-23 et seq.), a violation of
38 sections 1 through 5 of P.L. c. (C.) (now pending before the
39 Legislature as sections 1 through 5 of this bill), a violation of
40 N.J.S.2C:33-3, a violation of N.J.S.2C:17-2, a violation of sections 1
41 through 3 of P.L.1983, c.480 (C.2C:17-7 through 2C:17-9),
42 [terroristic threats] a violation of N.J.S.2C:12-3 (terroristic threats),
43 violations of N.J.S.2C:35-3, N.J.S.2C:35-4 and N.J.S.2C:35-5,
44 violations 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), arson,
46 burglary, theft and related offenses punishable by imprisonment for

1 more than one year, endangering the welfare of a child pursuant to
2 N.J.S.2C:24-4, escape, forgery and fraudulent practices punishable by
3 imprisonment for more than one year, alteration of motor vehicle
4 identification numbers, unlawful manufacture, purchase, use, or
5 transfer of firearms, unlawful possession or use of destructive devices
6 or explosives, weapons training for illegal activities pursuant to section
7 1 of P.L.1983, c.229 (C.2C:39-14), racketeering or a violation of
8 subsection g. of N.J.S.2C:5-2, leader of organized crime, organized
9 criminal activity directed toward the unlawful transportation, storage,
10 disposal, discharge, release, abandonment or disposition of any
11 harmful, hazardous, toxic, destructive, or polluting substance, or any
12 conspiracy to commit any of the foregoing offenses or which may
13 provide evidence aiding in the apprehension of the perpetrator or
14 perpetrators of any of the foregoing offenses.
15 (cf: P.L.1999, c.151, s.4).

16

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

18 2C:1-6. Time Limitations. a. A prosecution for any offense set
19 forth in N.J.S.2C:11-3, N.J.S.2C:11-4 [or], N.J.S.2C:14-2 or sections
20 1 through 5 of P.L. c. (C.)(now pending before the Legislature
21 as sections 1 through 5 of this bill) may be commenced at any time.

22 b. Except as otherwise provided in this section, prosecutions for
23 other offenses are subject to the following periods of limitations:

24 (1) A prosecution for a crime must be commenced within five years
25 after it is committed;

26 (2) A prosecution for a disorderly persons offense or petty
27 disorderly persons offense must be commenced within one year after
28 it is committed;

29 (3) A prosecution for any offense set forth in N.J.S.2C:27-2,
30 N.J.S.2C:27-4, N.J.S.2C:27-6, N.J.S.2C:27-7, N.J.S.2C:29-4,
31 N.J.S.2C:30-2, N.J.S.2C:30-3, or any attempt or conspiracy to commit
32 such an offense, must be commenced within seven years after the
33 commission of the offense;

34 (4) A prosecution for an offense set forth in N.J.S.2C:14-3 or
35 N.J.S.2C:24-4, when the victim at the time of the offense is below the
36 age of 18 years, must be commenced within five years of the victim's
37 attaining the age of 18 or within two years of the discovery of the
38 offense by the victim, whichever is later;

39 (5) A prosecution for any offense set forth in paragraph (2) of
40 subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39
41 (C.13:1E-9), section 20 of P.L.1989, c.34 (C.13:1E-48.20), section 19
42 of P.L.1954, c.212 (C.26:2C-19), section 10 of P.L.1984, c.173
43 (C.34:5A-41), or section 10 of P.L.1977, c.74 (C.58:10A-10) must be
44 commenced within 10 years after the date of discovery of the offense
45 by a local law enforcement agency, a county prosecutor, or the
46 Department of Environmental Protection either directly by any of

1 those entities or indirectly by notice given to any of those entities.

2 c. An offense is committed either when every element occurs or,
3 if a legislative purpose to prohibit a continuing course of conduct
4 plainly appears, at the time when the course of conduct or the
5 defendant's complicity therein is terminated. Time starts to run on the
6 day after the offense is committed, except that when the prosecution
7 is supported by physical evidence that identifies the actor by means of
8 DNA testing or fingerprint analysis, time does not start to run until the
9 State is in possession of both the physical evidence and the DNA or
10 fingerprint evidence necessary to establish the identification of the
11 actor by means of comparison to the physical evidence.

12 d. A prosecution is commenced for a crime when an indictment is
13 found and for a nonindictable offense when a warrant or other process
14 is issued, provided that such warrant or process is executed without
15 unreasonable delay. Nothing contained in this section, however, shall
16 be deemed to prohibit the downgrading of an offense at any time if the
17 prosecution of the greater offense was commenced within the statute
18 of limitations applicable to the greater offense.

19 e. The period of limitation does not run during any time when a
20 prosecution against the accused for the same conduct is pending in this
21 State.

22 f. The limitations in this section shall not apply to any person
23 fleeing from justice.

24 g. Except as otherwise provided in this code, no civil action shall
25 be brought pursuant to this code more than five years after such action
26 accrues.

27 (cf: P.L.2001, c.308, s.1)

28

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

30 2C:5-2. Conspiracy. a. Definition of conspiracy. A person is
31 guilty of conspiracy with another person or persons to commit a crime
32 if with the purpose of promoting or facilitating its commission he:

33 (1) Agrees with such other person or persons that they or one or
34 more of them will engage in conduct which constitutes such crime or
35 an attempt or solicitation to commit such crime; or

36 (2) Agrees to aid such other person or persons in the planning or
37 commission of such crime or of an attempt or solicitation to commit
38 such crime.

39 b. Scope of conspiratorial relationship. If a person guilty of
40 conspiracy, as defined by subsection a. of this section, knows that a
41 person with whom he conspires to commit a crime has conspired with
42 another person or persons to commit the same crime, he is guilty of
43 conspiring with such other person or persons, whether or not he
44 knows their identity, to commit such crime.

45 c. Conspiracy with multiple objectives. If a person conspires to
46 commit a number of crimes, he is guilty of only one conspiracy so long

1 as such multiple crimes are the object of the same agreement or
2 continuous conspiratorial relationship. It shall not be a defense to a
3 charge under this section that one or more of the objectives of the
4 conspiracy was not criminal; provided that one or more of its
5 objectives or the means of promoting or facilitating an objective of the
6 conspiracy is criminal.

7 d. Overt act. No person may be convicted of conspiracy to commit
8 a crime other than a crime of the first or second degree or distribution
9 or possession with intent to distribute a controlled dangerous
10 substance or controlled substance analog as defined in chapter 35 of
11 this title, unless an overt act in pursuance of such conspiracy is proved
12 to have been done by him or by a person with whom he conspired.

13 e. Renunciation of purpose. It is an affirmative defense which the
14 actor must prove by a preponderance of the evidence that he, after
15 conspiring to commit a crime, informed the authority of the existence
16 of the conspiracy and his participation therein, and thwarted or caused
17 to be thwarted the commission of any offense in furtherance of the
18 conspiracy, under circumstances manifesting a complete and voluntary
19 renunciation of criminal purpose as defined in N.J.S.2C:5-1d.;
20 provided, however, that an attempt as defined in N.J.S.2C:5-1 shall
21 not be considered an offense for purposes of renunciation under this
22 subsection.

23 f. Duration of conspiracy. For the purpose of [section]
24 N.J.S.2C:1-6d.:

25 (1) Conspiracy is a continuing course of conduct which terminates
26 when the crime or crimes which are its object are committed or the
27 agreement that they be committed is abandoned by the defendant and
28 by those with whom he conspired; and

29 (2) Such abandonment is presumed with respect to a crime other
30 than one of the first or second degree if neither the defendant nor
31 anyone with whom he conspired does any overt act in pursuance of the
32 conspiracy during the applicable period of limitation; and

33 (3) If an individual abandons the agreement, the conspiracy is
34 terminated as to him only if and when he advises those with whom he
35 conspired of his abandonment or he informs the law enforcement
36 authorities of the existence of the conspiracy and of his participation
37 therein.

38 g. Leader of organized crime. A person is a leader of organized
39 crime if he purposefully conspires with others as an organizer,
40 supervisor [or], manager[,], or financier to commit a continuing series
41 of crimes which constitute a pattern of racketeering activity under the
42 provisions of N.J.S. 2C:41-1, provided, however, that notwithstanding
43 2C:1-8a. (2), a conviction of leader of organized crime shall not merge
44 with the conviction of any other crime which constitutes racketeering
45 activity under 2C:41-1. As used in this section, "financier" means a
46 person who provides money, credit or a thing of value with the

1 purpose or knowledge that it will be used to finance or support the
2 operations of a conspiracy to commit a series of crimes which
3 constitute a pattern of racketeering activity, including but not limited
4 to the purchase of materials to be used in the commission of crimes,
5 buying or renting housing or vehicles, purchasing transportation for
6 members of the conspiracy or otherwise facilitating the commission of
7 crimes which constitute a pattern of racketeering activity.

8 (cf: P.L.1987, c.106, s.4)

9

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

11 2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation
12 in Cases of Lesser Danger. a. Grading. Except as provided in
13 subsections c. and d., an attempt or conspiracy to commit a crime of
14 the first degree is a crime of the second degree; except that an attempt
15 or conspiracy to commit murder or terrorism is a crime of the first
16 degree. Otherwise an attempt is a crime of the same degree as the
17 most serious crime which is attempted, and conspiracy is a crime of
18 the same degree as the most serious crime which is the object of the
19 conspiracy; provided that, leader of organized crime is a crime of the
20 second degree. An attempt or conspiracy to commit an offense
21 defined by a statute outside the code shall be graded as a crime of the
22 same degree as the offense is graded pursuant to sections 2C:1-4 and
23 2C:43-1.

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

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

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

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

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

41 (cf: P.L.1999, c.25, s.2).

42

43 10. N.J.S.2C:12-3 is amended to read as follows:

44 2C:12-3. Terroristic threats.

45 a. A person is guilty of a crime of the ~~[third]~~ second degree if he
46 threatens to commit any crime of violence with purpose to terrorize

1 another or to cause evacuation of a building, place of assembly, or
2 facility of public transportation, or otherwise to cause serious public
3 inconvenience, or in reckless disregard of the risk of causing such
4 terror or inconvenience.

5 b. A person is guilty of a crime of the ~~[third]~~ second degree if he
6 threatens to kill another with purpose to put him in imminent fear of
7 death under circumstances reasonably causing the victim to believe the
8 immediacy of the threat and the likelihood that it will be carried out.
9 (cf: P.L.1981, c.290, s.15)

10
11 11. N.J.S.2C:17-2 is amended to read as follows:

12 2C:17-2. Causing or Risking Widespread Injury or Damage.

13 a. (1) A person who, purposely or knowingly, unlawfully causes
14 an explosion, flood, avalanche, collapse of a building, release or
15 abandonment of poison gas, radioactive material or any other harmful
16 or destructive substance commits a crime of the second degree. A
17 person who, purposely or knowingly, unlawfully causes widespread
18 injury or damage in any manner commits a crime of the second degree.

19 (2) A person who, purposely or knowingly, unlawfully causes a
20 hazardous discharge required to be reported pursuant to the "Spill
21 Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et
22 seq.) or any rules and regulations adopted pursuant thereto, or who,
23 purposely or knowingly, unlawfully causes a release or abandonment
24 of hazardous waste as defined in section 1 of P.L.1976, c.99
25 (C.13:1E-38) or a toxic pollutant as defined in section 3 of P.L.1977,
26 c.74 (C.58:10A-3) commits a crime of the second degree. Any person
27 who recklessly violates the provisions of this paragraph is guilty of a
28 crime of the ~~[third]~~ second degree.

29 b. A person who recklessly causes widespread injury or damage is
30 guilty of a crime of the third degree.

31 c. A person who recklessly creates a risk of widespread injury or
32 damage commits a crime of the ~~[fourth]~~ third degree, even if no such
33 injury or damage occurs.

34 d. A person who knowingly or recklessly fails to take reasonable
35 measures to prevent or mitigate widespread injury or damage commits
36 a crime of the fourth degree, if:

37 (1) He knows that he is under an official, contractual or other legal
38 duty to take such measures; or

39 (2) He did or assented to the act causing or threatening the injury
40 or damage.

41 e. For purposes of this section, widespread injury or damage means
42 serious bodily injury to 10 or more people or damage to 10 or more
43 habitations or to a building which would normally have contained 50
44 or more persons at the time of the offense.

45 (cf: P.L.1997, c.325, s.2).

46

1 12. Section 1 of P.L.1983, c. 480 (C.2C:17-7) is amended to read
2 as follows:

3 1. The provisions of N.J.S.2C:17-2 to the contrary notwithstanding,
4 any person who purposely or knowingly damages or tampers with any
5 machinery, device, or equipment at a nuclear electric generating plant
6 with the ~~[intent]~~ purpose to cause or threaten to cause an
7 unauthorized release of radiation commits a crime of the ~~[third]~~ first
8 degree, and may be sentenced to an extended term of imprisonment as
9 set forth in paragraph (4) of subsection a. of N.J.S.2C:43-7,
10 notwithstanding the provisions of N.J.S. 2C:44-3.

11 (cf: P.L.1983, c.480, s.1)

12

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

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

16 a. transports or possesses property which he knew or reasonably
17 should have known to be derived from criminal activity; or

18 b. engages in a transaction involving property which he knew or
19 reasonably should have known to be derived from criminal activity

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

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

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

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

26 c. directs, organizes, finances, plans, manages, supervises, or
27 controls the transportation of or transactions in property which the
28 person knew or reasonably should have known to be derived from
29 criminal activity.

30 d. For the purposes of this act, property is known to be derived
31 from criminal activity if the person ~~[knows]~~ knew or reasonably
32 should have known that the property involved represents proceeds
33 from some form, though not necessarily which form, of criminal
34 activity. Among the factors that the finder of fact may consider in
35 determining that a transaction has been designed to avoid a transaction
36 reporting requirement shall be whether the person, acting alone or with
37 others, conducted one or more transactions in currency, in any
38 amount, at one or more financial institutions, on one or more days, in
39 any manner. The phrase "in any manner" includes the breaking down
40 of a single sum of currency exceeding the transaction reporting
41 requirement into smaller sums, including sums at or below the
42 transaction reporting requirement, or the conduct of a transaction, or
43 series of currency transactions, including transactions at or below the
44 transaction reporting requirement. The transaction or transactions
45 need not exceed the transaction reporting threshold at any single
46 financial institution on any single day in order to demonstrate a
47 violation of subparagraph (b) of paragraph (2) of subsection b. of this

1 section.
2 (cf: P.L.1999, c.25, s.3).
3

4 14. N.J.S.2C:33-3 is amended to read as follows:

5 2C:33-3. False Public Alarms. a. Except as provided in subsection
6 b. or c., a person is guilty of a crime of the ~~[third]~~ second degree if
7 he initiates or circulates a report or warning of an impending fire,
8 explosion, bombing, crime, catastrophe or emergency knowing that the
9 report or warning is false or baseless and that it is likely to cause
10 evacuation of a building, place of assembly, or facility of public
11 transport, or to cause public inconveniences or alarm. A person is
12 guilty of a crime of the ~~[third]~~ second degree if he knowingly causes
13 such false alarm to be transmitted to or within any organization,
14 official or volunteer, for dealing with emergencies involving danger to
15 life or property.

16 b. A person is guilty of a crime of the ~~[third]~~ second degree if in
17 addition to the report or warning initiated, circulated or transmitted
18 under subsection a., he places or causes to be placed any false or
19 facsimile bomb in a building, place of assembly, or facility of public
20 transport or in a place likely to cause public inconvenience or alarm.

21 c. A person is guilty of a crime of the ~~[second]~~ first degree if a
22 violation of subsection a. of this section in fact results in serious bodily
23 injury to another person. A person is guilty of a crime of the ~~[second]~~
24 first degree if a violation of subsection a. of this section in fact results
25 in death.

26 d. For the purposes of this section, "in fact" means that strict
27 liability is imposed.

28 e. A person is guilty of a ~~[disorderly persons offense]~~ fourth
29 degree if the person knowingly places a call to a 9-1-1 emergency
30 telephone system without purpose of reporting the need for 9-1-1
31 service.

32 (cf: P.L.1999, c.195, s.1).
33

34 15. Section 3 of P.L. 1999, c.195 (C.2C:33-3.2) is amended to
35 read as follows:

36 3. Any person who violates the provisions of N.J.S.2C:33-3 shall
37 be liable for a civil penalty of not less than ~~[\$1,000.00]~~ \$20,000.00 or
38 actual costs incurred by or resulting from the law enforcement and
39 emergency services response to the false alarm, whichever is higher.
40 Any monies collected pursuant to this section shall be made payable to
41 the municipality or other entity providing the law enforcement or
42 emergency services response to the false alarm. "Emergency services"
43 includes, but is not limited to, paid or volunteer fire fighters,
44 paramedics, members of an ambulance team, rescue squad or mobile
45 intensive care unit.

46 (cf: P.L.1999, c.195, s.3)

1

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

3 2C:41-1. Definitions.

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

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

9 (a) murder

10 (b) kidnapping

11 (c) gambling

12 (d) promoting prostitution

13 (e) obscenity

14 (f) robbery

15 (g) bribery

16 (h) extortion

17 (i) criminal usury

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

19 (k) violations of Title 54A of the New Jersey Statutes and Title 54
20 of the Revised Statutes

21 (l) arson

22 (m) burglary

23 (n) theft and all crimes defined in chapter 20 of Title 2C of the
24 New Jersey Statutes

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

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

28 (q) alteration of motor vehicle identification numbers

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

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

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

33 (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6
34 and all crimes involving illegal distribution of a controlled dangerous
35 substance or controlled substance analog, except possession of less
36 than one ounce of marijuana

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

39 (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16), leader
40 of firearms trafficking network

41 (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14),
42 weapons training for illegal activities

1 (y) violation of section 2 of of P.L. _____ c. (C. _____), terrorism.

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

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

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

12 d. "Pattern of racketeering activity" requires

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

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

22 e. "Unlawful debt" means a debt

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

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

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

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

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

41 (cf: P.L.1999, c.25, s.5).

42

43 17. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to read
44 as follows:

45 2. a. A court imposing a sentence of incarceration for a crime of
46 the first or second degree enumerated in subsection d. of this section
47 shall fix a minimum term of 85% of the sentence imposed, during

1 which the defendant shall not be eligible for parole.

2 b. The minimum term required by subsection a. of this section shall
3 be fixed as a part of every sentence of incarceration imposed upon
4 every conviction of a crime enumerated in subsection d. of this section,
5 whether the sentence of incarceration is determined pursuant to
6 N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any other provision
7 of law, and shall be calculated based upon the sentence of
8 incarceration actually imposed. The provisions of subsection a. of this
9 section shall not be construed or applied to reduce the time that must
10 be served before eligibility for parole by an inmate sentenced to a
11 mandatory minimum period of incarceration. Solely for the purpose
12 of calculating the minimum term of parole ineligibility pursuant to
13 subsection a. of this section, a sentence of life imprisonment shall be
14 deemed to be 75 years.

15 c. Notwithstanding any other provision of law to the contrary and
16 in addition to any other sentence imposed, a court imposing a
17 minimum period of parole ineligibility of 85 percent of the sentence
18 pursuant to this section shall also impose a five-year term of parole
19 supervision if the defendant is being sentenced for a crime of the first
20 degree, or a three-year term of parole supervision if the defendant is
21 being sentenced for a crime of the second degree. The term of parole
22 supervision shall commence upon the completion of the sentence of
23 incarceration imposed by the court pursuant to subsection a. of this
24 section unless the defendant is serving a sentence of incarceration for
25 another crime at the time he completes the sentence of incarceration
26 imposed pursuant to subsection a., in which case the term of parole
27 supervision shall commence immediately upon the defendant's release
28 from incarceration. During the term of parole supervision the
29 defendant shall remain in release status in the community in the legal
30 custody of the Commissioner of the Department of Corrections and
31 shall be supervised by the State Parole Board as if on parole and shall
32 be subject to the provisions and conditions of section 3 of P.L.1997,
33 c.117 (C.30:4-123.51b).

34 d. The court shall impose sentence pursuant to subsection a. of this
35 section upon conviction of the following crimes or an attempt or
36 conspiracy to commit any of these crimes:

- 37 (1) N.J.S.2C:11-3, murder;
- 38 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 39 (3) N.J.S.2C:11-5, vehicular homicide;
- 40 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 41 (5) subsection b. of N.J.S.2C:12-11, disarming a law enforcement
42 officer;
- 43 (6) N.J.S.2C:13-1, kidnapping;
- 44 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 45 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of subsection
46 c. of N.J.S.2C:14-2, sexual assault;
- 47 (9) N.J.S.2C:15-1, robbery;

- 1 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
2 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
3 arson;
4 (12) N.J.S.2C:18-2, burglary;
5 (13) subsection a. of N.J.S.2C:20-5, extortion;
6 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
7 booby traps in manufacturing or distribution facilities; or
8 (15) N.J.S.2C:35-9, strict liability for drug induced deaths.
9 (16) section 2 of P.L. c. (C.)(now pending before the
10 Legislature as section 2 of this bill), terrorism; or
11 (17) section 3 of P.L. c. (C.)(now pending before the
12 Legislature as section 3 of this bill), producing or possessing chemical
13 weapons, biological agents or nuclear or radiological devices.
14 e. (Deleted by amendment, P.L.2001, c.129).
15 (cf: P.L.2001, c.129, s.1)

16

17 18. This act shall take effect immediately.

18

19

20

STATEMENT

21

22 September 11, 2001 will be remembered as the day that the most
23 devastating act of terrorism was perpetrated on the United States.
24 Terrorists were able to orchestrate the destructive events at the World
25 Trade Center and the Pentagon by establishing a network of terror
26 and creatively maneuver themselves around our existing criminal laws
27 to achieve their purpose. It is the sponsor's intent to provide a
28 comprehensive response to these acts of terror by providing law
29 enforcement with the essential tools to dismantle the networks of
30 terror and prevent further acts of terrorism.

31 This bill creates the new offenses of terrorism, producing or
32 possessing chemical weapons, biological agents or nuclear or
33 radiological devices, harboring, concealing, assisting or providing aid
34 to terrorists and soliciting or providing material support or resources
35 for terrorists. This bill also expands existing provisions in the criminal
36 code such as the statute of limitations, the wiretapping statute, the
37 RICO statute and the "No Early Release Act" to add terrorism. The
38 bill would also revise the criminal laws concerning terroristic threats,
39 causing widespread injury or damage, money laundering and making
40 a false public alarm.

41 **Terrorism.** This bill provides that a person is guilty of a crime of
42 terrorism if he commits or attempts, conspires or threatens to commit
43 certain enumerated crimes with the purpose to incite or induce others
44 to promote an act of terror or to influence the policy or affect the
45 conduct of government by terror or to cause the impairment or
46 interruption of public communications, public transportation, public or
47 private buildings, common carriers, public utilities or other public

1 services. Anyone convicted of terrorism would be sentenced to life
2 imprisonment, during which time he would not be eligible for parole.

3 **Producing or possessing chemical weapons, biological agents or**
4 **nuclear or radiological devices.** This bill addresses the development,
5 possession and use of nuclear, biological and chemical weapons which
6 pose a threat of large-scale loss of human life. Under the provisions
7 of the bill, it is a crime of the first degree to purposely and knowingly,
8 unlawfully develop, produce, receive, stockpile, own, possess or use
9 any chemical weapon, biological agent, nuclear or radiological device,
10 toxin or vector or delivery system for use as a weapon. It would be
11 a crime of the second degree any manufacturer, distributor, transferor,
12 possessor or user of any toxic chemical, biological agent, toxin or
13 vector, or radioactive material that is related to a lawful industrial,
14 agricultural, research, medical, pharmaceutical or other activity, who
15 recklessly allows an unauthorized individual to obtain access to the
16 toxic chemical or biological agent, toxin or vector or radioactive
17 material. A fine of up to \$250,000 would also be imposed.

18 **Harboring, Concealing, Assisting or Providing Aid to**
19 **Terrorist.** This bill makes it a crime of the first degree for any person
20 to harbor, conceal, assist or provide or aid in providing weapons,
21 money, transportation, disguise or other means of avoiding discovery
22 or apprehension or effecting escape to a person who has committed an
23 act of terrorism. It would be a crime of the second degree if a person
24 (1) suppresses any evidence of an act of terrorism or tampers with a
25 witness, informant, document or other source of information,
26 regardless of its admissibility in evidence, which might aid in the
27 discovery or apprehension of such person or in the lodging of a charge
28 against that person; (2) warns a person who has committed an act of
29 terrorism of the other's impending discovery or apprehension; (3)
30 prevents or obstructs, by means of force, intimidation or deception,
31 anyone from performing an act which might aid in the discovery or
32 apprehension of such person or in the lodging of a charge against the
33 person; or (4) gives false information to a law enforcement officer. If
34 a person warns another person who has committed an act of terrorism
35 of the other's impending discovery or apprehension it would be a crime
36 of the third degree.

37 **Soliciting or Providing Material Support or Resources for**
38 **Terrorism.** This bill would make it a crime of the first degree for any
39 person, charitable organization or professional fund raiser to solicit,
40 transport or otherwise provide material support or resources with the
41 purpose or knowledge that such material support or resources are used
42 or are intended to be used, in whole or in part, to aid, plan, prepare or
43 carry out an act of terrorism or with the purpose or knowledge that
44 such material support or resources are given or are intended to be
45 given, in whole or in part, to a person or an organization that has
46 committed or has the purpose to commit or has threatened to commit
47 terrorism. It would also be a crime of the first degree for any person,

1 charitable organization or professional fund raiser to solicit, transport
2 or otherwise provide material support or resources to or on behalf of
3 a person or an organization that is designated as a foreign terrorist
4 organization by the United States Secretary of State pursuant to
5 8 U.S.C. §1189. It would not be a defense to a prosecution for a
6 violation of this section that the actor did not know that the person or
7 organization is designated as a foreign terrorist organization.

8 **Wiretapping and electronic surveillance.** This bill would amend
9 the wiretapping statute to include the new crimes of terrorism,
10 producing or possessing chemical weapons, biological agents or
11 nuclear or radiological devices, harboring, concealing, assisting or
12 providing aid to a terrorist and soliciting or providing material
13 support or resources for terrorism within the enumerated offenses for
14 which a wiretap or electronic surveillance may be authorized. This bill
15 also amends the wiretapping statute to include false public alarms
16 (2C:33-3), causing or risking widespread injury or damage (2C:17-2),
17 damage to a nuclear plant (2C:17-7 through 2C:17-9) and weapons
18 training for illegal activity (2C:39-14).

19 **Statute of Limitations.** This bill would amend N.J.S.A.2C:1-6, the
20 statute of limitations provision in the criminal code, to provide that a
21 prosecution for terrorism, producing or possessing chemical weapons,
22 biological agents or nuclear or radiological devices, harboring,
23 concealing, assisting or providing aid to a terrorist and soliciting or
24 providing material support or resources for terrorism may be
25 commenced at any time.

26 **Conspiracy.** This bill would amend N.J.S.A.2C:5-2, the conspiracy
27 statute, to include in the definition of "leader of organized crime"
28 those persons who provide financial or other support for the operation
29 of a racketeering conspiracy.

30 **Grading of Attempt and Conspiracy.** This bill would amend
31 N.J.S.A.2C:5-4 to make an attempt or conspiracy to commit an act of
32 terrorism a crime of the first degree. Under the current provisions of
33 the statute an attempt or conspiracy to commit a crime of the first
34 degree is graded as a crime of the second degree, except for the crimes
35 of murder, aggravated arson or arson when the target of the crime is
36 a place of public worship.

37 **Terroristic Threats.** This bill would amend N.J.S.A.2C:12-3 to
38 upgrade to a crime of the second degree a threat to commit any crime
39 of violence with purpose to terrorize another or to cause evacuation
40 of a building, place of assembly, or facility of public transportation, or
41 otherwise to cause serious public inconvenience, or in reckless
42 disregard of the risk of causing such terror or inconvenience. This bill
43 would also upgrade to a crime of the second degree a threat to kill
44 another with purpose to put him in imminent fear of death under
45 circumstances reasonably causing the victim to believe the immediacy
46 of the threat and the likelihood that it will be carried out. Currently
47 these offenses are graded as crimes of the third degree.

1 **Causing or risking widespread injury or damage.** This bill would
2 amend N.J.S.A.2C:17-2 to upgrade to a crime of the second degree
3 the crime of creating a risk of widespread injury or damage by
4 recklessly causing a discharge of hazardous materials. Currently this
5 offense is graded as a crime of the third degree.

6 **Damaging or Tampering with nuclear electric generating plant.**
7 This bill would amend N.J.S.A.2C:17-7 to upgrade to a crime of the
8 first degree the crime of damaging a nuclear plant with the purpose to
9 cause or threaten to cause the unauthorized release of radiation.

10 **Money Laundering.** This bill would amend N.J.S.A. 2C:21-25,
11 the money laundering statute, to make it a crime for a person to
12 transport or possess property "which he knew or reasonably should
13 have known" was derived from criminal activity or to engage, direct
14 or organize such transactions. The person would be guilty of a crime
15 of the first, second or third degree depending on the amount of the
16 transaction. A transaction in the amount of \$500,000.00 or more
17 would be a crime of the first degree. If the amount is at least
18 \$75,000.00 but less than \$500,000.00 then the offense would
19 constitute a crime of the second degree, otherwise it would be a crime
20 of the third degree.

21 **False Public Alarms.** This bill would amend N.J.S.A.2C:33-3 to
22 make it a crime of the second degree if a person initiates or circulates
23 a report or warning of an impending fire, explosion, bombing, crime,
24 catastrophe or emergency knowing that the report or warning is false
25 or baseless and that it is likely to cause evacuation of a building, place
26 of assembly, or facility of public transport, or to cause public
27 inconveniences or alarm. It would also make it a crime of the second
28 degree if a person knowingly causes such false alarm to be transmitted
29 to or within any organization, official or volunteer, for dealing with
30 emergencies involving danger to life or property. It would also be a
31 crime of the second degree if in addition to the report or warning
32 initiated, circulated or transmitted the offender placed or caused to be
33 placed any false or facsimile bomb in a building, place of assembly, or
34 facility of public transport or in a place likely to cause public
35 inconvenience or alarm.

36 It would be a crime of the first degree if a violation of 2C:33-3
37 resulted in serious bodily injury to another person or in death.

38 It would be a crime of the fourth degree if a person knowingly
39 placed a call to a 9-1-1 emergency telephone system without purpose
40 of reporting the need for 9-1-1 service.

41 The bill would also provide that if a person is convicted of initiating
42 a false alarm under these circumstances he would be liable for a civil
43 penalty of not less than \$20,000.

44 **Racketeering.** N.J.S.A.2C:41-1 would be amended to include
45 terrorism within the enumerated offenses.

46 **No Early Release.** This bill would amend N.J.S.A. 2C:43-7.2,
47 NERA, to require the imposition of a term of parole ineligibility of not

- 1 less than 85% of the sentence imposed for the crimes of terrorism and
- 2 producing or possessing chemical weapons, biological agents or
- 3 nuclear or radiological devices.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 775 and 1296**

STATE OF NEW JERSEY

DATED: MARCH 14, 2002

The Senate Judiciary Committee reports favorably a committee substitute for Senate Bill Nos. 775 and 1296.

This substitute creates the new offenses of terrorism, producing or possessing chemical weapons, biological agents or nuclear or radiological devices, soliciting or providing material support or resources for terrorism, and hindering apprehension or prosecution for terrorism. This substitute would also expand existing provisions in the criminal code such as the statute of limitations, the wiretapping statute, the murder statute, the RICO statute and the "No Early Release Act" to add terrorism. In addition, the substitute would revise the criminal laws concerning terroristic threats, causing widespread injury or damage, money laundering and false public alarms.

Terrorism. Under the provisions of the substitute, a person is guilty of the crime of terrorism if he commits or attempts, conspires or threatens to commit certain enumerated crimes with the purpose: to promote an act of terror; or to terrorize five or more persons; or to influence the policy or affect the conduct of government by terror; or to cause the impairment or interruption of public communications, public transportation, public or private buildings, common carriers, public utilities or other public services. The crimes encompassed by this act are: murder pursuant to N.J.S.2C:11-3; aggravated manslaughter or manslaughter pursuant to N.J.S.2C:11-4; vehicular homicide pursuant to N.J.S.2C:11-5; aggravated assault pursuant to subsection b. of N.J.S.2C:12-1; terroristic threats pursuant to N.J.S.2C:12-3; disarming a law enforcement officer pursuant to section 1 of P.L.1996, c.14 (C.2C:12-11); kidnapping pursuant to N.J.S.2C:13-1; criminal restraint pursuant to N.J.S.2C:13-2; robbery pursuant to N.J.S.2C:15-1; carjacking pursuant to section 1 of P.L.1993, c.221 (C.2C:15-2); aggravated arson or arson pursuant to N.J.S.2C:17-1; causing or risking widespread injury or damage pursuant to N.J.S.2C:17-2; damage to nuclear plant with the purpose to cause or threaten to cause release of radiation pursuant to section 1 of P.L.1983, c.480 (C.2C:17-7); damage to nuclear plant resulting in death by radiation pursuant to section 2 of P.L.1983, c.480 (C.2C:17-8); damage to nuclear plant resulting in injury by radiation

pursuant to section 3 of P.L.1983, c.480 (C.2C:17-9); producing or possessing chemical weapons, biological agents or nuclear or radiological devices; burglary pursuant to N.J.S.2C:18-2; possession of prohibited weapons and devices pursuant to N.J.S.2C:39-3; possession of weapons for unlawful purposes pursuant to N.J.S.2C:39-4; unlawful possession of weapons pursuant to N.J.S.2C:39-5; weapons training for illegal activities pursuant to section 1 of P.L.1983, c.229 (C.2C:39-14); racketeering pursuant to N.J.S.2C:41-1 et seq.; and any other crime involving a risk of death or serious bodily injury to any person.

A person convicted of terrorism would be sentenced to a specific term of years which would be a term of 30 years without parole, or a specific term of years between 30 years and life imprisonment, of which the person shall serve not less than 30 years before being eligible for parole. If the crime of terrorism resulted in death, the person would be sentenced to life imprisonment without parole.

The substitute defines the terms "government," "serious bodily injury," "terror" and "terrorize."

The substitute provides that a prosecution for the crime of terrorism may be brought by the Attorney General or by a county prosecutor if the county prosecutor is expressly authorized in writing by the Attorney General to prosecute such crime.

In addition, the substitute provides that a conviction for terrorism would not merge with a conviction for any other offense.

Producing or possessing chemical weapons, biological agents or nuclear or radiological devices. This substitute also addresses the development, possession and use of nuclear, biological and chemical weapons which pose a threat of large-scale loss of human life. Under the provisions of the substitute, it is a crime of the first degree to unlawfully develop, produce, receive, stockpile, own, possess or use any chemical weapon, biological agent, nuclear or radiological device, toxin or vector. A person convicted under this subsection would be sentenced to a term of 30 years without parole, or a specific term of years between 30 years and life imprisonment, of which the person would serve not less than 30 years before being eligible for parole. If death resulted from this crime, the term of imprisonment would be life without parole.

This substitute also provides that it would be a crime of the second degree if any manufacturer, distributor, transferor, possessor or user of any toxic chemical, biological agent, toxin or vector, or radioactive material related to a lawful industrial, agricultural, medical, pharmaceutical or other activity, recklessly allowed an unauthorized individual to obtain access to such chemical, agent, toxin, vector, or radioactive material. A fine of up to \$250,000 would be imposed under the provisions of this subsection.

The substitute's definitional subsection defines the term "for use as a weapon" to include all situations in which the circumstances indicate

that the person intended to employ an item's ready capacity of lethal use or an item's capacity for inflicting serious bodily injury.

Hindering apprehension or prosecution for terrorism. The substitute makes it a crime for a person, with the purpose to hinder the detention, apprehension, investigation, prosecution, conviction or punishment of another person for the crime of terrorism, to: (1) harbor or conceal the other person; (2) provide or aid in providing a weapon, money, transportation, disguise or other means of avoiding discovery or apprehension or effecting escape; (3) suppress, by way of concealment or destruction, any evidence of the crime, or tamper with a witness, informant, document or other source of information, regardless of its admissibility in evidence, which might aid in the discovery or apprehension of such person or in the lodging of a charge against him; (4) warn the other person of impending discovery or apprehension, except that this does not apply to a warning given in connection with an effort to bring another into compliance with the law; (5) prevent or obstruct, by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of such person or in the lodging of a charge against him; (6) aid such person to protect or expeditiously profit from an advantage derived from such crime; or (7) give false information to a law enforcement officer.

This offense would be graded as a crime of the first degree if the crime of terrorism resulted in death. Otherwise, it would be a crime of the second degree.

Soliciting or providing material support or resources for terrorism. This substitute makes it a crime for any person, charitable organization or professional fund raiser to solicit, transport or otherwise provide material support or resources with the purpose or knowledge that such material support or resources will be used, in whole or in part, to aid, plan, prepare or carry out an act of terrorism or with the purpose or knowledge that such material support or resources are to be given, in whole or in part, to a person or an organization that has committed or has the purpose to commit or has threatened to commit an act of terrorism. It would also be a crime for any person, charitable organization or professional fund raiser to solicit, transport or otherwise provide material support or resources to or on behalf of a person or an organization that is designated as a foreign terrorist organization by the United States Secretary of State pursuant to 8 U.S.C. §1189. It would not be a defense to any prosecution that the actor did not know that the person or organization is designated as a foreign terrorist organization.

Under the provisions of the substitute, a person found guilty of this offense would be guilty of a crime of the first degree if the terrorism results in death, otherwise it would be a crime of the second degree.

The substitute defines "material support or resources" to mean:

services or assistance with knowledge or purpose that the services or assistance will be used in preparing for or carrying out an act of terrorism; currency, financial securities or other monetary instruments, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation and other physical assets or anything of value; or any chemical weapon, biological agent, toxin, vector or delivery system for use as a weapon, or any nuclear or radiological device.

Wiretapping and electronic surveillance. This substitute would amend the wiretapping statute to include the new crimes of terrorism, producing or possessing chemical weapons, biological agents or nuclear or radiological devices, hindering apprehension or prosecution for terrorism, and soliciting or providing material support or resources for terrorism within the enumerated offenses. This substitute also amends the wiretapping statute to include false public alarms (2C:33-3), causing or risking widespread injury (2C:17-2), damage to a nuclear plant (2C:17-7 through 2C:17-9) and weapons training for illegal activity (2C:39-14).

Statute of limitations. This substitute would amend N.J.S.2C:1-6, the statute of limitations provision in the criminal code, to provide that a prosecution for terrorism, producing or possessing chemical weapons, biological agents or nuclear or radiological devices, hindering apprehension or prosecution for terrorism, and soliciting or providing material support or resources for terrorism could be commenced at any time.

Conspiracy. This substitute would amend N.J.S.2C:5-2 to include in the definition of "leader of organized crime" those persons who provide financial or other support for the operation of a racketeering conspiracy.

Grading of attempt and conspiracy. Currently N.J.S.2C:5-4 provides that an attempt or conspiracy to commit a crime of the first degree is a crime of the second degree, except that an attempt to commit murder is a crime of the first degree. This substitute would amend this provision and provide that an attempt or conspiracy to commit murder or terrorism is a crime of the first degree, provided that if the person attempted or conspired to murder five or more persons, the person would be sentenced to a term of 30 years without parole, or to a specific term between 30 years and life imprisonment, of which not less than 30 years would be served without parole.

Murder statute. The bill would add terrorism to the list of predicate crimes for felony murder. The bill also provides that any person who participated directly in a crime of terrorism is eligible for the death penalty. The bill adds to the list of aggravating factors for the death penalty statute that are considered at the guilt determination phase of the trial. In addition, the bill adds "carjacking" to subsection g. of the aggravating factors to make it consistent with the predicate

crimes for felony murder.

Terroristic threats. The substitute would amend the provisions of subsection a. of N.J.S.2C:12-3 to upgrade the crime of making terroristic threats from a crime of the third degree to a crime of the second degree if the crime occurs during a declared period of national, State or county emergency. The current provisions make it a crime of the third degree to threaten to commit any crime of violence with the purpose to terrorize another or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public inconvenience, or in reckless disregard of the risk of causing such terror or inconvenience. The substitute would hold the actor strictly liable and make this activity a crime of the second degree upon proof that the crime occurred, in fact, during a declared period of emergency. It would not be a defense under the provisions of the substitute that the person did not know that there was a declared period of emergency at the time the crime occurred would not be a defense.

Causing or risking widespread injury or damage. The substitute amends N.J.S.2C:17-2 to make it a crime of the third degree for a person to create a risk of widespread injury or damage by recklessly handling or storing hazardous materials. The substitute would also make it a crime of the second degree if the handling or storing of hazardous materials violated any law, rule or regulation intended to protect the public health and safety.

Under the current provisions of this law, "widespread injury or damage" is defined as serious bodily injury to 10 or more people or damage to 10 or more habitations or to a building which would normally have contained 50 or more people. This substitute would change the definition of "widespread injury or damage" to mean serious bodily injury to five or more people or damage to five or more habitations or to a building which would normally contain 25 or more people.

Damaging or tampering with nuclear electric generating plant. This substitute also upgrades from a crime of the third degree to a crime of the first degree a violation of the existing law against damaging a nuclear plant resulting in the release of radiation, N.J.S.2C:17-7. The term of imprisonment would be 15 to 30 years in prison if an extended term of imprisonment was not imposed.

Money laundering. This substitute would amend N.J.S.2C:21-25, the money laundering statute, to make it a crime for a person to transport or possess property, engage in a transaction, or direct, organize or control the transportation of property known "or which a reasonable person would believe to be derived" from criminal activity.

The substitute would also make it a crime of the third degree for a person, with the purpose to evade a federal or State transaction reporting requirement: (1) to cause or attempt to cause a financial institution, including a foreign or domestic money transmitter or an authorized delegate thereof, casino, check casher, person engaged in

a trade or business or any other individual or entity required by State or federal law to file a report regarding currency transactions or suspicious transactions, to fail to file a report; (2) to cause or attempt to cause such financial institution to file a report regarding currency transactions or suspicious transactions that contains a material omission or misstatement of fact; or (3) to structure, assist or attempt to structure or assist in structuring any transaction with one or more such financial institutions.

The substitute defines "structure" or "structuring" as a person, acting alone, or in conjunction with, or on behalf of, other persons, who conducts or attempts to conduct one or more transactions in currency, in any amount, at one or more financial institutions, on one or more days, in any manner, for the purpose of evading currency transaction reporting requirements provided by State or federal law.

Grading of money laundering. Under the current provisions of N.J.S.2C:21-27 a person is guilty of a crime of the first, second or third degree depending on the amount of the transaction. A transaction in the amount of \$500,000.00 or more would be a crime of the first degree. If the amount is at least \$75,000.00 but less than \$500,000.00 then the offense would constitute a crime of the second degree; otherwise, it would be a crime of the third degree. This substitute amends this section to cross-reference the new third degree offense of evading a State or federal transaction reporting requirement set out in new subsection e. of N.J.S.2C:25-21.

False public alarms. The substitute would amend N.J.S.2C:33-3 to upgrade from a crime of the third degree to a crime of the second degree if a person places a false bomb in addition to initiating or circulating a false public alarm. This offense would be a crime of the first degree if it occurred, in fact, during a declared period of national, State or county emergency.

In addition, the substitute would make it a crime of the first degree if a person initiates a false alarm and if the crime in fact results in death.

The substitute would hold the actor strictly liable upon proof that the crime occurred, in fact, during a declared period of national, State or county emergency. It would not be a defense under the provisions of the substitute that the defendant did not know that there was a declared period of emergency at the time the crime occurred.

The substitute would also provide that any person who is convicted of initiating a false alarm under these circumstances would be liable for a civil penalty of not less than \$2,000 or actual costs incurred as a result of the law enforcement or emergency services response to the false alarm, whichever is higher.

Racketeering. In addition, the racketeering statute, N.J.S.2C:41-1, would be amended to include terrorism, weapons training for illegal activities, and leader of firearms trafficking network within the enumerated offenses.

No early release. This substitute would amend N.J.S.2C:43-7.2,

the "No Early Release Act" (NERA), to require the imposition of a term of parole ineligibility of not less than 85% of the sentence imposed for the crimes of terrorism and producing or possessing chemical weapons, biological agents or nuclear or radiological devices.

STATEMENT TO
SENATE COMMITTEE SUBSTITUTE
SENATE, Nos. 775 and 1296

with Senate Floor Amendments
(Proposed By Senator KENNY)

ADOPTED: MARCH 21, 2002

This bill creates the new offense of terrorism as well as the new offenses of producing or possessing chemical weapons, biological agents or nuclear or radiological devices, soliciting or providing material support or resources for terrorism, and hindering apprehension or prosecution for terrorism and revises other criminal statutes.

This floor amendment would amend section 10 of the substitute concerning the murder statute to remove the language which would have changed one of the aggravating factors to provide that at the guilt determination phase of the trial, the defendant was found guilty of murdering more than one person.

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[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 775 and 1296

STATE OF NEW JERSEY
210th LEGISLATURE

ADOPTED MARCH 14, 2002

Sponsored by:

Senator GERALD CARDINALE

District 39 (Bergen)

Senator GARRY J. FURNARI

District 36 (Bergen, Essex and Passaic)

Senator ROBERT J. MARTIN

District 26 (Morris and Passaic)

Co-Sponsored by:

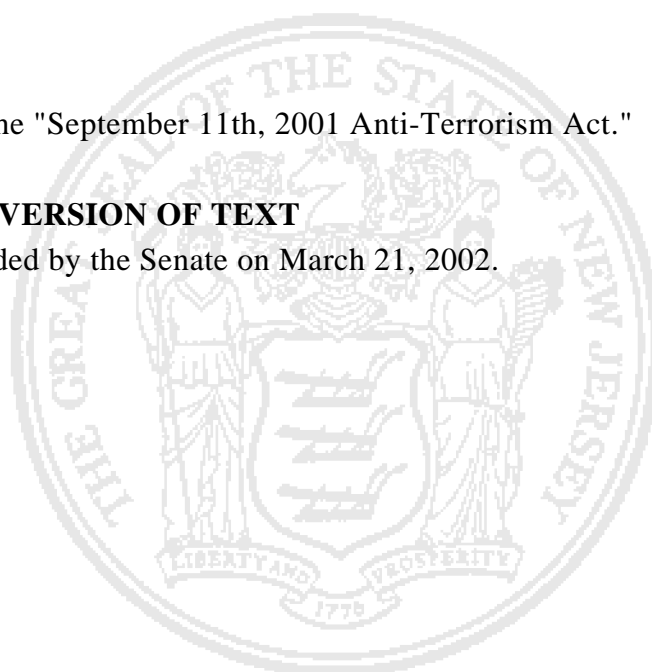
**Senators Gormley, Adler, Bagger, Bennett, Cafiero, Girgenti, Matheussen,
Sacco, Lance, Connors, Bark, Kyrillos, Littell, Inverso, Bucco, Singer,
McNamara, Palaia, Kavanaugh, Allen and Ciesla**

SYNOPSIS

Creates the "September 11th, 2001 Anti-Terrorism Act."

CURRENT VERSION OF TEXT

As amended by the Senate on March 21, 2002.



(Sponsorship Updated As Of: 3/26/2002)

1 AN ACT creating the "September 11th, 2001 Anti-Terrorism Act" and
2 revising various parts of the statutory law.

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

6
7 1. (New section) Sections 1 through 5 of this act shall be known
8 and may be cited as the "September 11th, 2001 Anti-Terrorism Act."

9
10 2. (New section) a. A person is guilty of the crime of terrorism
11 if he commits or attempts, conspires or threatens to commit any crime
12 enumerated in subsection c. of this section with the purpose :

13 (1) to promote an act of terror ; or

14 (2) to terrorize five or more persons; or

15 (3) to influence the policy or affect the conduct of government by
16 terror ;or

17 (4) to cause ¹by an act of terror¹ the impairment or interruption
18 of public communications, public transportation, public or private
19 buildings, common carriers, public utilities or other public services.

20 b. Terrorism is a crime of the first degree.

21 (1) Notwithstanding any other provision of law to the contrary,
22 any person convicted under this section shall be sentenced to a term
23 of 30 years, during which the person shall not be eligible for parole, or
24 to a specific term of years which shall be between 30 years and life
25 imprisonment, of which the person shall serve not less than 30 years
26 before being eligible for parole.

27 (2) If a violation of this section results in death, the person shall
28 be sentenced to a term of life imprisonment, during which time the
29 person shall not be eligible for parole.

30 c. The crimes encompassed by this section are: murder pursuant
31 to N.J.S.2C:11-3; aggravated manslaughter or manslaughter pursuant
32 to N.J.S.2C:11-4; vehicular homicide pursuant to N.J.S.2C:11-5;
33 aggravated assault pursuant to subsection b. of N.J.S.2C:12-1;
34 ¹[terroristic threats pursuant to N.J.S.2C:12-3;]¹ disarming a law
35 enforcement officer pursuant to section 1 of P.L.1996, c.14 (C.2C:12-
36 11); kidnapping pursuant to N.J.S.2C:13-1; criminal restraint pursuant
37 to N.J.S.2C:13-2; robbery pursuant to N.J.S.2C:15-1; carjacking
38 pursuant to section 1 of P.L.1993, c.221 (C.2C:15-2); aggravated
39 arson or arson pursuant to N.J.S.2C:17-1; causing or risking
40 widespread injury or damage pursuant to N.J.S.2C:17-2; damage to
41 nuclear plant with the purpose to cause or threat to cause release 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 floor amendments adopted March 21, 2002.

1 radiation pursuant to section 1 of P.L.1983, c.480 (C.2C:17-7);
2 damage to nuclear plant resulting in death by radiation pursuant to
3 section 2 of P.L.1983, c.480 (C.2C:17-8); damage to nuclear plant
4 resulting in injury by radiation pursuant to section 3 of P.L.1983,
5 c.480 (C.2C:17-9); producing or possessing chemical weapons,
6 biological agents or nuclear or radiological devices pursuant to section
7 3 of P.L. c. (C.) (now pending before the Legislature as
8 section 3 of this bill); burglary pursuant to N.J.S.2C:18-2; possession
9 of prohibited weapons and devices pursuant to N.J.S.2C:39-3;
10 possession of weapons for unlawful purposes pursuant to N.J.S.2C:39-
11 4; unlawful possession of weapons pursuant to N.J.S.2C:39-5;
12 weapons training for illegal activities pursuant to section 1 of
13 P.L.1983, c.229 (C.2C:39-14); racketeering pursuant to N.J.S.2C:41-1
14 et seq.; and any other crime involving a risk of death or serious bodily
15 injury to any person.

16 d. Definitions. For the purposes of this section:

17 "Government" means the United States, any State, county,
18 municipality, or other political unit, or any department, agency or
19 subdivision of any of the foregoing, or any corporation or other
20 association carrying out the functions of government.

21 "Serious bodily injury" means bodily injury which creates a
22 substantial risk of death or which causes serious, permanent
23 disfigurement, or protracted loss or impairment of the function of any
24 bodily member or organ.

25 "Terror" means the menace or fear of death or serious bodily
26 injury.

27 "Terrorize" means to convey the menace or fear of death or serious
28 bodily injury by words or actions.

29 e. A prosecution pursuant to this section may be brought by the
30 Attorney General, his assistants and deputies within the Division of
31 Criminal Justice, or by a county prosecutor or a designated assistant
32 prosecutor if the county prosecutor is expressly authorized in writing
33 by the Attorney General to prosecute a violation of this section.

34 f. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
35 provision of law, a conviction of terrorism under this section shall not
36 merge with a conviction of any other offense, nor shall such other
37 conviction merge with a conviction under this section, and the court
38 shall impose separate sentences upon each violation of this section and
39 any other offense.

40 g. Nothing contained in this section shall be deemed to preclude,
41 if the evidence so warrants, an indictment and conviction for murder
42 under the provisions of N.J.S.2C:11-3 or any other offense.

43

44 3. (New section) Producing or Possessing Chemical Weapons,
45 Biological Agents or Nuclear or Radiological Devices.

46 a. A person who, purposely or knowingly, unlawfully develops,

1 produces, otherwise acquires, transfers, receives, stockpiles, retains,
2 owns, possesses or uses, or threatens to use, any chemical weapon,
3 biological agent, toxin, vector or delivery system for use as a weapon,
4 or nuclear or radiological device commits a crime of the first degree,
5 except that:

6 (1) Notwithstanding any other provision of law to the contrary,
7 any person convicted under this subsection shall be sentenced to a
8 term of 30 years, during which the person shall not be eligible for
9 parole, or to a specific term of years which shall be between 30 years
10 and life imprisonment, of which the person shall serve not less than
11 30 years before being eligible for parole.

12 (2) If a violation of this section results in death, the person shall
13 be sentenced to a term of life imprisonment, during which time the
14 person shall not be eligible for parole.

15 b. Any manufacturer, distributor, transferor, possessor or user of
16 any toxic chemical, biological agent, toxin or vector, or radioactive
17 material that is related to a lawful industrial, agricultural, research,
18 medical, pharmaceutical or other activity, who recklessly allows an
19 unauthorized individual to obtain access to the toxic chemical or
20 biological agent, toxin or vector or radioactive material, commits a
21 crime of the second degree and, notwithstanding the provisions of
22 subsection a. of N.J.S.2C:43-3, shall be subject to a fine of up to
23 \$250,000 for each violation.

24 c. For the purposes of this section:

25 (1) "Chemical weapon" means:

26 (a) a toxic chemical and its precursors, except where intended for
27 a lawful purpose as long as the type and quantity is consistent with
28 such a purpose. "Chemical weapon" shall include, but not be limited
29 to:

30 (i) nerve agents, including GA (Tabun) cyanide irreversible
31 inhibitor, Sarin (GB), GB (Soman) fluorine, reversible "slow aging,"
32 GF, and VX sulfur, irreversible;

33 (ii) choking agents, including Phosgene (CG) and Diphosgene
34 (DP);

35 (iii) blood agents, including Hydrogen Cyanide (AC), Cyanogen
36 Chloride (CK), and Arsine (SA); and

37 (iv) blister agents, including mustards (H, HD {sulfur mustard},
38 HN-1, HN-2, HN-3 {nitrogen mustard}), arsenicals, such as Lewisite
39 (L), and urticants, including CX; and

40 (v) incapacitating agents, including BZ ; or

41 (b) a munition or device specifically designed to cause death or
42 other harm through the toxic properties of those chemical weapons
43 defined in subparagraph (a) of paragraph (1) of subsection c. of this
44 section, which would be released as a result of the employment of such
45 munition or device; or

46 (c) any equipment specifically designed for use directly in

1 connection with the employment of munitions or devices specified in
2 subparagraph (b) of paragraph (1) of subsection c. of this section.

3 (2) "Biological agent" means any microorganism, virus, bacteria,
4 rickettsiae, fungi, toxin, infectious substance or biological product that
5 may be engineered as a result of biotechnology, or any naturally
6 occurring or bioengineered component of any such microorganism,
7 virus, bacteria, rickettsiae, fungi, infectious substance or biological
8 product, capable of causing:

9 (a) death, disease, or other biological malfunction in a human, an
10 animal, a plant, or another living organism; or

11 (b) deterioration of food, water, equipment, supplies, or material
12 of any kind; or

13 (c) deleterious alteration of the environment.

14 "Biological agent" shall include, but not be limited to: viruses,
15 including Crimean-Congo hemorrhagic fever virus, eastern equine
16 encephalitis virus, ebola viruses, equine morbilli virus, lasa fever virus,
17 marburg virus, Rift Valley fever virus, South American hemorrhagic
18 fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito), tick-borne
19 encephalitis complex viruses, variola major virus (smallpox virus),
20 Venezuelan equine encephalitis virus, viruses causing hantavirus
21 pulmonary syndrome, and yellow fever virus; bacteria including
22 *Bacillus anthracis* (commonly known as anthrax), *Brucella abortus*,
23 *Brucella melitensis*, *Brucella suis*, *Burkholderia (pseudomonas) mallei*,
24 *Burkholderia (pseudomonas) pseudomallei*, *Clostridium botulinum*,
25 *Francisella tularensis*, *Yersinia pestis* (commonly known as plague);
26 rickettsiae, including *Coxiella burnetii*, *Rickettsia prowazekii* and
27 *Rickettsia rickettsii*; *Coccidioides immitis* fungus; and toxins, including
28 abrin, aflatoxins, *Botulinum* toxins, *Clostridium perringes* epsilon
29 toxin, conotoxins, diacetoxyscirpenol, ricin, saxitoxin, shigatoxin,
30 Staphylococcal enterotoxins, tetrodotoxins and T-2 toxin.

31 (3) "Toxin" means the toxic material of plants, animals,
32 microorganisms, viruses, fungi, or infectious substances, or a
33 recombinant molecule, whatever its origin or method of production,
34 including:

35 (a) any poisonous substance or biological product that may be
36 engineered as a result of biotechnology or produced by a living
37 organism; or

38 (b) any poisonous isomer or biological product, homolog, or
39 derivative of such a substance.

40 (4) "Vector" means a living organism or molecule, including a
41 recombinant molecule, or biological product that may be engineered
42 as a result of biotechnology, capable of carrying a biological agent or
43 toxin to a host.

44 (5) "Nuclear or radiological device" includes : (a) any nuclear
45 device which is an explosive device designed to cause a nuclear yield;
46 (b) a radiological dispersal device which is an explosive device used to

1 spread radioactive material ; or (c) a simple radiological dispersal
2 device which is any act , container or any other device used to release
3 radiological material for use as a weapon.

4 (6) "Delivery system" means any apparatus, equipment, device, or
5 means of delivery specifically designed to deliver or disseminate a
6 biological agent, toxin or vector.

7 (7) "For use as a weapon" means all situations in which the
8 circumstances indicate that the person intended to employ an item's
9 ready capacity of lethal use or of inflicting serious bodily injury.

10 d. This section shall not apply to the development, production,
11 acquisition, transfer, receipt, possession or use of any toxic chemical,
12 biological agent, toxin or vector that is related to a lawful industrial,
13 agricultural, research, medical, pharmaceutical, or other activity.

14 e. This section shall not apply to any device whose possession is
15 otherwise lawful pursuant to N.J.S.2C:39-6.

16 f. Nothing contained in this section shall be deemed to preclude,
17 if the evidence so warrants, an indictment and conviction for murder
18 under the provisions of N.J.S.2C:11-3 or any other offense.

19

20 4. (New section) Hindering Apprehension or Prosecution for
21 Terrorism.

22 a. A person commits a crime if, with the purpose to hinder the
23 detention, apprehension, investigation, prosecution, conviction or
24 punishment of another for the crime of terrorism, he:

25 (1) Harbors or conceals the other;

26 (2) Provides or aids in providing a weapon, money, transportation,
27 disguise or other means of avoiding discovery or apprehension or
28 effecting escape;

29 (3) Suppresses, by way of concealment or destruction, any
30 evidence of the crime, or tampers with a witness, informant, document
31 or other source of information, regardless of its admissibility in
32 evidence, which might aid in the discovery or apprehension of such
33 person or in the lodging of a charge against him;

34 (4) Warns the other of impending discovery or apprehension,
35 except that this paragraph does not apply to a warning given in
36 connection with an effort to bring another into compliance with law;

37 (5) Prevents or obstructs, by means of force, intimidation or
38 deception, anyone from performing an act which might aid in the
39 discovery or apprehension of such person or in the lodging of a charge
40 against him;

41 (6) Aids such person to protect or expeditiously profit from an
42 advantage derived from such crime; or

43 (7) Gives false information to a law enforcement officer.

44 b. A violation of subsection a. of this section is a crime of the first
45 degree if the crime of terrorism resulted in death. Otherwise, it is a
46 crime of the second degree.

1 5. (New section) Soliciting or Providing Material Support or
2 Resources for Terrorism.

3 a. As used in this section:

4 "Charitable organization" means: (1) any person determined by the
5 federal Internal Revenue Service to be a tax exempt organization
6 pursuant to section 501(c)(3) of the Internal Revenue Code of 1986,
7 26 U.S.C.s.501(c)(3); or

8 (2) any person who is, or holds himself out to be, established for
9 any benevolent, philanthropic, humane, social welfare, public health,
10 or other eleemosynary purpose, or for the benefit of law enforcement
11 personnel, firefighters or other persons who protect the public safety,
12 or any person who in any manner employs a charitable appeal as the
13 basis of any solicitation, or an appeal which has a tendency to suggest
14 there is a charitable purpose to any such solicitation.

15 "Charitable purpose" means: (1) any purpose described in section
16 501 (c)(3) of the Internal Revenue Code of 1986, 26 U.S.C.
17 s.501(c)(3); or (2) any benevolent, philanthropic, humane, social
18 welfare, public health, or other eleemosynary objective, or an objective
19 that benefits law enforcement personnel, firefighters, or other persons
20 who protect the public safety.

21 "Material support or resources" means: (1) services or assistance
22 with knowledge or purpose that the services or assistance will be used
23 in preparing for or carrying out an act of terrorism in violation of
24 section 2 of P.L. , c. (C.)(now pending before the Legislature
25 as section 2 of this bill);

26 (2) currency, financial securities or other monetary instruments,
27 financial services, lodging, training, safehouses, false documentation
28 or identification, communications equipment, facilities, weapons, lethal
29 substances, explosives, personnel, transportation and other physical
30 assets or anything of value; or

31 (3) any chemical weapon, or any biological agent, toxin, vector or
32 delivery system for use as a weapon, or any nuclear or radiological
33 device, as defined in subsection c. of section 3 of P.L. , c. (C.)
34 (now pending before the Legislature as this bill).

35 "Professional fund raiser" means any person who for
36 compensation performs for a charitable organization any service in
37 connection with which contributions are or will be solicited in this
38 State by that compensated person or by any compensated person he
39 employs, procures, or engages, directly or indirectly to solicit
40 contributions. A bona fide salaried officer, employee, or volunteer of
41 a charitable organization shall not be deemed to be a professional
42 fund raiser. No attorney, accountant or banker who advises a person
43 to make a charitable contribution during the course of rendering
44 professional services to that person shall be deemed, as a result of that
45 advice, to be a professional fund raiser.

46 b. (1) It shall be unlawful for any person, charitable organization

1 or professional fund raiser to solicit, transport or otherwise provide
2 material support or resources with the purpose or knowledge that such
3 material support or resources will be used, in whole or in part, to aid,
4 plan, prepare or carry out an act of terrorism in violation of section 2
5 of P.L. , c. (C.)(now pending before the Legislature as section 2
6 of this bill) or with the purpose or knowledge that such material
7 support or resources are to be given, in whole or in part, to a person
8 or an organization that has committed or has the purpose to commit
9 or has threatened to commit an act of terrorism in violation of section
10 2 of P.L. , c. (C.)(now pending before the Legislature as section
11 2 of this bill.

12 (2) It shall be unlawful for any person, charitable organization or
13 professional fund raiser to solicit, transport or otherwise provide
14 material support or resources to or on behalf of a person or an
15 organization that is designated as a foreign terrorist organization by
16 the United States Secretary of State pursuant to 8 U.S.C.§1189. It
17 shall not be a defense to a prosecution for a violation of this section
18 that the actor did not know that the person or organization is
19 designated as a foreign terrorist organization.

20 c. A person who violates the provisions of subsection b. of this
21 section shall be guilty of a crime of the first degree if the act of
22 terrorism in violation of section 2 of P.L. , c. (C.)(now pending
23 before the Legislature as section 2 of this bill) results in death.
24 Otherwise, it is a crime of the second degree.

25
26 6. Section 8 of P.L.1968, c.409 (C.2A:156A-8) is amended to
27 read as follows:

28 8. The Attorney General, county prosecutor or a person
29 designated to act for such an official and to perform his duties in and
30 during his actual absence or disability, may authorize, in writing, an ex
31 parte application to a judge designated to receive the same for an
32 order authorizing the interception of a wire, or electronic or oral
33 communication by the investigative or law enforcement officers or
34 agency having responsibility for an investigation when such
35 interception may provide evidence of the commission of the offense of
36 murder, kidnapping, gambling, robbery, bribery, a violation of
37 paragraph (1) or (2) of subsection b. of N.J.S.2C:12-1, a violation of
38 section 3 of P.L.1997, c.353 (C.2C:21-4.3), a violation of
39 N.J.S.2C:21-19 punishable by imprisonment for more than one year,
40 a violation of P.L.1994, c.121 (C.2C:21-23 et seq.), a violation of
41 sections 1 through 5 of P.L. , c. (C.)(now pending before the
42 Legislature as sections 1 through 5 of this bill), a violation of
43 N.J.S.2C:33-3, a violation of N.J.S.2C:17-2, a violation of sections 1
44 through 3 of P.L.1983, c.480 (C.2C:17-7 through 2C:17-9),
45 [terroristic threats] a violation of N.J.S.2C:12-3 (terroristic threats),
46 violations of N.J.S.2C:35-3, N.J.S.2C:35-4 and N.J.S.2C:35-5,

1 violations of sections 112 through 116, inclusive, of the "Casino
2 Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116), arson,
3 burglary, theft and related offenses punishable by imprisonment for
4 more than one year, endangering the welfare of a child pursuant to
5 N.J.S.2C:24-4, escape, forgery and fraudulent practices punishable by
6 imprisonment for more than one year, alteration of motor vehicle
7 identification numbers, unlawful manufacture, purchase, use, or
8 transfer of firearms, unlawful possession or use of destructive devices
9 or explosives, weapons training for illegal activities pursuant to section
10 1 of P.L.1983, c.229 (C.2C:39-14), racketeering or a violation of
11 subsection g. of N.J.S.2C:5-2, leader of organized crime, organized
12 criminal activity directed toward the unlawful transportation, storage,
13 disposal, discharge, release, abandonment or disposition of any
14 harmful, hazardous, toxic, destructive, or polluting substance, or any
15 conspiracy to commit any of the foregoing offenses or which may
16 provide evidence aiding in the apprehension of the perpetrator or
17 perpetrators of any of the foregoing offenses.
18 (cf: P.L.1999, c.151, s.4).

19

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

21 2C:1-6. Time Limitations. a. A prosecution for any offense set
22 forth in N.J.S.2C:11-3, N.J.S.2C:11-4 [or], N.J.S.2C:14-2 or sections
23 1 through 5 of P.L. , c. (C.)(now pending before the Legislature
24 as sections 1 through 5 of this bill) may be commenced at any time.

25 b. Except as otherwise provided in this section, prosecutions for
26 other offenses are subject to the following periods of limitations:

27 (1) A prosecution for a crime must be commenced within five
28 years after it is committed;

29 (2) A prosecution for a disorderly persons offense or petty
30 disorderly persons offense must be commenced within one year after
31 it is committed;

32 (3) A prosecution for any offense set forth in N.J.S.2C:27-2,
33 N.J.S.2C:27-4, N.J.S.2C:27-6, N.J.S.2C:27-7, N.J.S.2C:29-4,
34 N.J.S.2C:30-2, N.J.S.2C:30-3, or any attempt or conspiracy to commit
35 such an offense, must be commenced within seven years after the
36 commission of the offense;

37 (4) A prosecution for an offense set forth in N.J.S.2C:14-3 or
38 N.J.S.2C:24-4, when the victim at the time of the offense is below the
39 age of 18 years, must be commenced within five years of the victim's
40 attaining the age of 18 or within two years of the discovery of the
41 offense by the victim, whichever is later;

42 (5) A prosecution for any offense set forth in paragraph (2) of
43 subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39
44 (C.13:1E-9), section 20 of P.L.1989, c.34 (C.13:1E-48.20), section 19
45 of P.L.1954, c.212 (C.26:2C-19), section 10 of P.L.1984, c.173
46 (C.34:5A-41), or section 10 of P.L.1977, c.74 (C.58:10A-10) must be

1 commenced within 10 years after the date of discovery of the offense
2 by a local law enforcement agency, a county prosecutor, or the
3 Department of Environmental Protection either directly by any of
4 those entities or indirectly by notice given to any of those entities.

5 c. An offense is committed either when every element occurs or,
6 if a legislative purpose to prohibit a continuing course of conduct
7 plainly appears, at the time when the course of conduct or the
8 defendant's complicity therein is terminated. Time starts to run on the
9 day after the offense is committed, except that when the prosecution
10 is supported by physical evidence that identifies the actor by means of
11 DNA testing or fingerprint analysis, time does not start to run until the
12 State is in possession of both the physical evidence and the DNA or
13 fingerprint evidence necessary to establish the identification of the
14 actor by means of comparison to the physical evidence.

15 d. A prosecution is commenced for a crime when an indictment is
16 found and for a nonindictable offense when a warrant or other process
17 is issued, provided that such warrant or process is executed without
18 unreasonable delay. Nothing contained in this section, however, shall
19 be deemed to prohibit the downgrading of an offense at any time if the
20 prosecution of the greater offense was commenced within the statute
21 of limitations applicable to the greater offense.

22 e. The period of limitation does not run during any time when a
23 prosecution against the accused for the same conduct is pending in this
24 State.

25 f. The limitations in this section shall not apply to any person
26 fleeing from justice.

27 g. Except as otherwise provided in this code, no civil action shall
28 be brought pursuant to this code more than five years after such action
29 accrues.

30 (cf: P.L.2001, c.308, s.1)

31
32 8. N.J.S.2C:5-2 is amended to read as follows:

33 2C:5-2. Conspiracy. a. Definition of conspiracy. A person is
34 guilty of conspiracy with another person or persons to commit a crime
35 if with the purpose of promoting or facilitating its commission he:

36 (1) Agrees with such other person or persons that they or one or
37 more of them will engage in conduct which constitutes such crime or
38 an attempt or solicitation to commit such crime; or

39 (2) Agrees to aid such other person or persons in the planning or
40 commission of such crime or of an attempt or solicitation to commit
41 such crime.

42 b. Scope of conspiratorial relationship. If a person guilty of
43 conspiracy, as defined by subsection a. of this section, knows that a
44 person with whom he conspires to commit a crime has conspired with
45 another person or persons to commit the same crime, he is guilty of
46 conspiring with such other person or persons, whether or not he

1 knows their identity, to commit such crime.

2 c. Conspiracy with multiple objectives. If a person conspires to
3 commit a number of crimes, he is guilty of only one conspiracy so long
4 as such multiple crimes are the object of the same agreement or
5 continuous conspiratorial relationship. It shall not be a defense to a
6 charge under this section that one or more of the objectives of the
7 conspiracy was not criminal; provided that one or more of its
8 objectives or the means of promoting or facilitating an objective of the
9 conspiracy is criminal.

10 d. Overt act. No person may be convicted of conspiracy to
11 commit a crime other than a crime of the first or second degree or
12 distribution or possession with intent to distribute a controlled
13 dangerous substance or controlled substance analog as defined in
14 chapter 35 of this title, unless an overt act in pursuance of such
15 conspiracy is proved to have been done by him or by a person with
16 whom he conspired.

17 e. Renunciation of purpose. It is an affirmative defense which the
18 actor must prove by a preponderance of the evidence that he, after
19 conspiring to commit a crime, informed the authority of the existence
20 of the conspiracy and his participation therein, and thwarted or caused
21 to be thwarted the commission of any offense in furtherance of the
22 conspiracy, under circumstances manifesting a complete and voluntary
23 renunciation of criminal purpose as defined in N.J.S.2C:5-1d.;
24 provided, however, that an attempt as defined in N.J.S.2C:5-1 shall
25 not be considered an offense for purposes of renunciation under this
26 subsection.

27 f. Duration of conspiracy. For the purpose of [section]
28 N.J.S.2C:1-6d.:

29 (1) Conspiracy is a continuing course of conduct which terminates
30 when the crime or crimes which are its object are committed or the
31 agreement that they be committed is abandoned by the defendant and
32 by those with whom he conspired; and

33 (2) Such abandonment is presumed with respect to a crime other
34 than one of the first or second degree if neither the defendant nor
35 anyone with whom he conspired does any overt act in pursuance of the
36 conspiracy during the applicable period of limitation; and

37 (3) If an individual abandons the agreement, the conspiracy is
38 terminated as to him only if and when he advises those with whom he
39 conspired of his abandonment or he informs the law enforcement
40 authorities of the existence of the conspiracy and of his participation
41 therein.

42 g. Leader of organized crime. A person is a leader of organized
43 crime if he purposefully conspires with others as an organizer,
44 supervisor [or], manager[,], or financier to commit a continuing series
45 of crimes which constitute a pattern of racketeering activity under the
46 provisions of N.J.S.2C:41-1, provided, however, that notwithstanding

1 2C:1-8a. (2), a conviction of leader of organized crime shall not merge
2 with the conviction of any other crime which constitutes racketeering
3 activity under 2C:41-1. As used in this section, "financier" means a
4 person who provides money, credit or a thing of value with the
5 purpose or knowledge that it will be used to finance or support the
6 operations of a conspiracy to commit a series of crimes which
7 constitute a pattern of racketeering activity, including but not limited
8 to the purchase of materials to be used in the commission of crimes,
9 buying or renting housing or vehicles, purchasing transportation for
10 members of the conspiracy or otherwise facilitating the commission of
11 crimes which constitute a pattern of racketeering activity.
12 (cf: P.L.1987, c.106, s.4)

13

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

15 2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation
16 in Cases of Lesser Danger. a. Grading. Except as provided in
17 subsections c. and d., an attempt or conspiracy to commit a crime of
18 the first degree is a crime of the second degree; except that an attempt
19 or conspiracy to commit murder or terrorism is a crime of the first
20 degree .provided, however, that if the person attempted or conspired
21 to murder five or more persons, the person shall be sentenced by the
22 court to a term of 30 years, during which the person shall not be
23 eligible for parole, or to a specific term of years which shall be
24 between 30 years and life imprisonment, of which the person shall
25 serve not less than 30 years before eligibility for parole . Otherwise an
26 attempt is a crime of the same degree as the most serious crime which
27 is attempted, and conspiracy is a crime of the same degree as the most
28 serious crime which is the object of the conspiracy; provided that,
29 leader of organized crime is a crime of the second degree. An attempt
30 or conspiracy to commit an offense defined by a statute outside the
31 code shall be graded as a crime of the same degree as the offense is
32 graded pursuant to [sections] N.J.S.2C:1-4 and N.J.S.2C:43-1.

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

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

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

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

46 d. Notwithstanding the provisions of subsection a. of this section,

1 conspiracy to commit a crime as set forth in P.L.1994, c.121
2 (C.2C:21-23 et seq.) is a crime of the same degree as the most serious
3 crime that was conspired to be committed.
4 (cf: P.L.1999, c.25, s.2).

5

6 10. 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 or terrorism pursuant to section 2 of P.L. .c. (C.) (now
19 pending before the Legislature as section 2 of this bill), and in the
20 course of such crime or of immediate flight therefrom, any person
21 causes the death of a person other than one of the participants; except
22 that in any prosecution under this subsection, in which the defendant
23 was not the only participant in the underlying crime, it is an affirmative
24 defense that the defendant:

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

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

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

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

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

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

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 (4) If the defendant was subject to sentencing pursuant to
13 subsection c. and the jury or court found the existence of one or more
14 aggravating factors, but that such factors did not outweigh the
15 mitigating factors found to exist by the jury or court or the jury was
16 unable to reach a unanimous verdict as to the weight of the factors, the
17 defendant shall be sentenced by the court to a term of life
18 imprisonment during which the defendant shall not be eligible for
19 parole.

20 With respect to a sentence imposed pursuant to this subsection, the
21 defendant shall not be entitled to a deduction of commutation and
22 work credits from that sentence.

23 c. Any person convicted under subsection a.(1) or (2) who
24 committed the homicidal act by his own conduct; or who as an
25 accomplice procured the commission of the offense by payment or
26 promise of payment of anything of pecuniary value; or who, as a leader
27 of a narcotics trafficking network as defined in N.J.S.2C:35-3 and in
28 furtherance of a conspiracy enumerated in N.J.S.2C:35-3, commanded
29 or by threat or promise solicited the commission of the offense, or, if
30 the murder occurred during the commission of the crime of terrorism,
31 any person who committed the crime of terrorism, shall be sentenced
32 as provided hereinafter:

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

36 Where the defendant has been tried by a jury, the proceeding shall
37 be conducted by the judge who presided at the trial and before the jury
38 which determined the defendant's guilt, except that, for good cause,
39 the court may discharge that jury and conduct the proceeding before
40 a jury empaneled for the purpose of the proceeding. Where the
41 defendant has entered a plea of guilty or has been tried without a jury,
42 the proceeding shall be conducted by the judge who accepted the
43 defendant's plea or who determined the defendant's guilt and before a
44 jury empaneled for the purpose of the proceeding. On motion of the
45 defendant and with consent of the prosecuting attorney the court may
46 conduct a proceeding without a jury. Nothing in this subsection shall

1 be construed to prevent the participation of an alternate juror in the
2 sentencing proceeding if one of the jurors who rendered the guilty
3 verdict becomes ill or is otherwise unable to proceed before or during
4 the sentencing proceeding.

5 (2) (a) At the proceeding, the State shall have the burden of
6 establishing beyond a reasonable doubt the existence of any
7 aggravating factors set forth in paragraph (4) of this subsection. The
8 defendant shall have the burden of producing evidence of the existence
9 of any mitigating factors set forth in paragraph (5) of this subsection
10 but shall not have a burden with regard to the establishment of a
11 mitigating factor.

12 (b) The admissibility of evidence offered by the State to establish
13 any of the aggravating factors shall be governed by the rules governing
14 the admission of evidence at criminal trials. The defendant may offer,
15 without regard to the rules governing the admission of evidence at
16 criminal trials, reliable evidence relevant to any of the mitigating
17 factors. If the defendant produces evidence in mitigation which would
18 not be admissible under the rules governing the admission of evidence
19 at criminal trials, the State may rebut that evidence without regard to
20 the rules governing the admission of evidence at criminal trials.

21 (c) Evidence admitted at the trial, which is relevant to the
22 aggravating and mitigating factors set forth in paragraphs (4) and (5)
23 of this subsection, shall be considered without the necessity of
24 reintroducing that evidence at the sentencing proceeding; provided
25 that the fact finder at the sentencing proceeding was present as either
26 the fact finder or the judge at the trial.

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

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

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

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

45 (a) If the jury or the court finds that any aggravating factors exist
46 and that all of the aggravating factors outweigh beyond a reasonable

1 doubt all of the mitigating factors, the court shall sentence the
2 defendant to death.

3 (b) If the jury or the court finds that no aggravating factors exist,
4 or that all of the aggravating factors which exist do not outweigh all
5 of the mitigating factors, the court shall sentence the defendant
6 pursuant to subsection b.

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

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

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

15 (b) [In] ¹[At the guilt determination phase of the trial, the
16 defendant was found guilty of murdering more than one person, or in
17 In¹ the commission of the murder, the defendant purposely or
18 knowingly created a grave risk of death to another person in addition
19 to the victim;

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

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

25 (e) The defendant procured the commission of the [offense]
26 murder by payment or promise of payment of anything of pecuniary
27 value;

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

31 (g) The [offense] murder was committed while the defendant was
32 engaged in the commission of, or an attempt to commit, or flight after
33 committing or attempting to commit murder, robbery, sexual assault,
34 arson, burglary [or], kidnapping, carjacking or the crime of contempt
35 in violation of N.J.S.2C:29-9b.;

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

39 (i) The defendant: (i) as a leader of a narcotics trafficking
40 network as defined in N.J.S.2C:35-3 and in furtherance of a conspiracy
41 enumerated in N.J.S.2C:35-3, committed, commanded or by threat or
42 promise solicited the commission of the [offense] murder or (ii)
43 committed the [offense] murder at the direction of a leader of a
44 narcotics trafficking network as defined in N.J.S.2C:35-3 in
45 furtherance of a conspiracy enumerated in N.J.S.2C:35-3;

46 (j) The homicidal act that the defendant committed or procured

1 was in violation of paragraph (1) of subsection a. of N.J.S.2C:17-2;

2 [or]

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

4 (l) The murder was committed during the commission of, or an
5 attempt to commit, or flight after committing or attempting to commit,
6 terrorism pursuant to section 2 of P.L. c. (C.)(now pending
7 before the Legislature as section 2 of this bill).

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

10 (a) The defendant was under the influence of extreme mental or
11 emotional disturbance insufficient to constitute a defense to
12 prosecution;

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

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

16 (d) The defendant's capacity to appreciate the wrongfulness of his
17 conduct or to conform his conduct to the requirements of the law was
18 significantly impaired as the result of mental disease or defect or
19 intoxication, but not to a degree sufficient to constitute a defense to
20 prosecution;

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

23 (f) The defendant has no significant history of prior criminal
24 activity;

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

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

29 (6) When a defendant at a sentencing proceeding presents evidence
30 of the defendant's character or record pursuant to subparagraph (h) of
31 paragraph (5) of this subsection, the State may present evidence of the
32 murder victim's character and background and of the impact of the
33 murder on the victim's survivors. If the jury finds that the State has
34 proven at least one aggravating factor beyond a reasonable doubt and
35 the jury finds the existence of a mitigating factor pursuant to
36 subparagraph (h) of paragraph (5) of this subsection, the jury may
37 consider the victim and survivor evidence presented by the State
38 pursuant to this paragraph in determining the appropriate weight to
39 give mitigating evidence presented pursuant to subparagraph (h) of
40 paragraph (5) of this subsection. As used in this paragraph "victim
41 and survivor evidence" may include the display of a photograph of the
42 victim taken before the homicide.

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

45 e. Every judgment of conviction which results in a sentence of
46 death under this section shall be appealed, pursuant to the Rules of

1 Court, to the Supreme Court. Upon the request of the defendant, the
2 Supreme Court shall also determine whether the sentence is
3 disproportionate to the penalty imposed in similar cases, considering
4 both the crime and the defendant. Proportionality review under this
5 section shall be limited to a comparison of similar cases in which a
6 sentence of death has been imposed under subsection c. of this section.
7 In any instance in which the defendant fails, or refuses to appeal, the
8 appeal shall be taken by the Office of the Public Defender or other
9 counsel appointed by the Supreme Court for that purpose.

10 f. Prior to the jury's sentencing deliberations, the trial court shall
11 inform the jury of the sentences which may be imposed pursuant to
12 subsection b. of this section on the defendant if the defendant is not
13 sentenced to death. The jury shall also be informed that a failure to
14 reach a unanimous verdict shall result in sentencing by the court
15 pursuant to subsection b.

16 g. A juvenile who has been tried as an adult and convicted of
17 murder shall not be sentenced pursuant to the provisions of subsection
18 c. but shall be sentenced pursuant to the provisions of subsection b. of
19 this section.

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

23 i. For purposes of this section the term "homicidal act" shall mean
24 conduct that causes death or serious bodily injury resulting in death.

25 j. In a sentencing proceeding conducted pursuant to this section,
26 the display of a photograph of the victim taken before the homicide
27 shall be permitted.

28 (cf: P.L.2000, c.88, s.1)

29
30 11.N.J.S.2C:12-3 is amended to read as follows:

31 2C:12-3. Terroristic threats.

32 a. A person is guilty of a crime of the third degree if he threatens
33 to commit any crime of violence with the purpose to terrorize another
34 or to cause evacuation of a building, place of assembly, or facility of
35 public transportation, or otherwise to cause serious public
36 inconvenience, or in reckless disregard of the risk of causing such
37 terror or inconvenience. A violation of this subsection is a crime of the
38 second degree if it occurs during a declared period of national, State
39 or county emergency. The actor shall be strictly liable upon proof that
40 the crime occurred, in fact, during a declared period of national, State
41 or county emergency. It shall not be a defense that the actor did not
42 know that there was a declared period of emergency at the time the
43 crime occurred.

44 b. A person is guilty of a crime of the third degree if he threatens
45 to kill another with the purpose to put him in imminent fear of death
46 under circumstances reasonably causing the victim to believe the

1 immediacy of the threat and the likelihood that it will be carried out.
2 (cf: P.L.1981, c.290, s.15)

3

4 12. N.J.S.2C:17-2 is amended to read as follows:

5 2C:17-2. Causing or Risking Widespread Injury or Damage.

6 a. (1) A person who, purposely or knowingly, unlawfully causes
7 an explosion, flood, avalanche, collapse of a building, release or
8 abandonment of poison gas, radioactive material or any other harmful
9 or destructive substance commits a crime of the second degree. A
10 person who, purposely or knowingly, unlawfully causes widespread
11 injury or damage in any manner commits a crime of the second degree.

12 (2) A person who, purposely or knowingly, unlawfully causes a
13 hazardous discharge required to be reported pursuant to the "Spill
14 Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et
15 seq.) or any rules and regulations adopted pursuant thereto, or who,
16 purposely or knowingly, unlawfully causes a release or abandonment
17 of hazardous waste as defined in section 1 of P.L.1976, c.99
18 (C.13:1E-38) or a toxic pollutant as defined in section 3 of P.L.1977,
19 c.74 (C.58:10A-3) commits a crime of the second degree. Any person
20 who recklessly violates the provisions of this paragraph is guilty of a
21 crime of the third degree.

22 b. A person who recklessly causes widespread injury or damage
23 is guilty of a crime of the third degree.

24 c. A person who recklessly creates a risk of widespread injury or
25 damage commits a crime of the fourth degree, even if no such injury
26 or damage occurs. A violation of this subsection is a crime of the third
27 degree if the risk of widespread injury or damage results from the
28 reckless handling or storage of hazardous materials. A violation of
29 this subsection is a crime of the second degree if the handling or
30 storage of hazardous materials violated any law, rule or regulation
31 intended to protect the public health and safety.

32 d. A person who knowingly or recklessly fails to take reasonable
33 measures to prevent or mitigate widespread injury or damage commits
34 a crime of the fourth degree, if:

35 (1) He knows that he is under an official, contractual or other
36 legal duty to take such measures; or

37 (2) He did or assented to the act causing or threatening the injury
38 or damage.

39 e. For purposes of this section, widespread injury or damage
40 means serious bodily injury to [10] five or more people or damage to
41 [10] five or more habitations or to a building which would normally
42 have contained [50] 25 or more persons at the time of the offense.

43 (cf: P.L.1997, c.325, s.2).

44

45 13. Section 1 of P.L.1983, c. 480 (C.2C:17-7) is amended to read
46 as follows:

1 1. The provisions of N.J.S.2C:17-2 to the contrary
2 notwithstanding, any person who purposely or knowingly damages or
3 tampers with any machinery, device, or equipment at a nuclear electric
4 generating plant with the ~~[intent]~~ purpose to cause or threaten to
5 cause an unauthorized release of radiation commits a crime of the
6 ~~[third]~~ first degree, and may be sentenced to an extended term of
7 imprisonment as set forth in paragraph ~~[(4)]~~ (2) of subsection a. of
8 N.J.S.2C:43-7, notwithstanding the provisions of N.J.S.2C:44-3;
9 provided, however, that if the defendant is not sentenced to an
10 extended term of imprisonment, the defendant shall be sentenced to an
11 ordinary term of imprisonment between 15 and 30 years.

12 (cf: P.L.1983, c.480, s.1)

13

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

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

17 a. transports or possesses property known or which a reasonable
18 person would believe to be derived from criminal activity; or

19 b. engages in a transaction involving property known or which a
20 reasonable person would believe to be derived from criminal activity

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

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

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

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

27 c. directs, organizes, finances, plans, manages, supervises, or
28 controls the transportation of or transactions in property known or
29 which a reasonable person would believe to be derived from criminal
30 activity.

31 d. For the purposes of this act, property is known to be derived
32 from criminal activity if the person knows that the property involved
33 represents proceeds from some form, though not necessarily which
34 form, of criminal activity. Among the factors that the finder of fact
35 may consider in determining that a transaction has been designed to
36 avoid a transaction reporting requirement shall be whether the person,
37 acting alone or with others, conducted one or more transactions in
38 currency, in any amount, at one or more financial institutions, on one
39 or more days, in any manner. The phrase "in any manner" includes the
40 breaking down of a single sum of currency exceeding the transaction
41 reporting requirement into smaller sums, including sums at or below
42 the transaction reporting requirement, or the conduct of a transaction,
43 or series of currency transactions, including transactions at or below
44 the transaction reporting requirement. The transaction or transactions
45 need not exceed the transaction reporting threshold at any single
46 financial institution on any single day in order to demonstrate a

1 violation of subparagraph (b) of paragraph (2) of subsection b. of this
2 section.

3 e. A person is guilty of a crime if, with the purpose to evade a
4 transaction reporting requirement of this State or of 31 U.S.C.§5311
5 et seq. or 31 C.F.R.§103 et seq., or any rules or regulations adopted
6 under those chapters and sections, he:

7 (1) causes or attempts to cause a financial institution, including a
8 foreign or domestic money transmitter or an authorized delegate
9 thereof, casino, check casher, person engaged in a trade or business or
10 any other individual or entity required by State or federal law to file a
11 report regarding currency transactions or suspicious transactions to
12 fail to file a report; or

13 (2) causes or attempts to cause a financial institution, including a
14 foreign or domestic money transmitter or an authorized delegate
15 thereof, casino, check casher, person engaged in a trade or business or
16 any other individual or entity required by State or federal law to file a
17 report regarding currency transactions or suspicious transactions to
18 file a report that contains a material omission or misstatement of fact;
19 or

20 (3) structures or assists in structuring, or attempts to structure or
21 assist in structuring any transaction with one or more financial
22 institutions, including foreign or domestic money transmitters or an
23 authorized delegate thereof, casinos, check cashers, persons engaged
24 in a trade or business or any other individuals or entities required by
25 State or federal law to file a report regarding currency transactions or
26 suspicious transactions. “Structure” or “structuring” means that a
27 person, acting alone, or in conjunction with, or on behalf of, other
28 persons, conducts or attempts to conduct one or more transactions in
29 currency, in any amount, at one or more financial institutions, on one
30 or more days, in any manner, for the purpose of evading currency
31 transaction reporting requirements provided by State or federal law.
32 “In any manner” includes, but is not limited to, the breaking down into
33 smaller sums of a single sum of currency meeting or exceeding that
34 which is necessary to trigger a currency reporting requirement or the
35 conduct of a transaction, or series of currency transactions, at or
36 below the reporting requirement. The transaction or transactions need
37 not exceed the reporting threshold at any single financial institution on
38 any single day in order to meet the definition of “structure” or
39 “structuring” provided in this paragraph.

40 (cf: P.L.1999, c.25, s.3)

41

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

44 5. a. The offense defined in subsections a. b. and c. of section 3
45 of P.L.1994, c.121 (C.2C:21-25) constitutes a crime of the first
46 degree if the amount involved is \$500,000.00 or more. If the amount

1 involved is at least \$75,000.00 but less than \$500,000.00 the offense
2 constitutes a crime of the second degree; otherwise, the offense
3 constitutes a crime of the third degree. The offense defined in
4 subsection e. of section 3 of P.L.1994, c.121 (C.2C:21-25) constitutes
5 a crime of the third degree. Notwithstanding the provisions of
6 N.J.S.2C:43-3, the court may also impose a fine up to \$500,000.00.
7 The amount involved in a prosecution for violation of this section shall
8 be determined by the trier of fact. Amounts involved in transactions
9 conducted pursuant to one scheme or course of conduct may be
10 aggregated in determining the degree of the offense. Notwithstanding
11 the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, a
12 person convicted of a crime of the first degree pursuant to the
13 provisions of this subsection shall be sentenced to a term of
14 imprisonment that shall include the imposition of a minimum term
15 which shall be fixed at, or between, one-third and one-half of the
16 sentence imposed, during which time the defendant shall not be eligible
17 for parole.

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 P.L.1994, c.121 (C.2C:21-28).

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 P.L.1994, c.121 (C.2C:21-25), and the
29 sentence imposed upon a conviction of any offense defined in section
30 3 of P.L.1994, c.121 (C.2C:21-25) shall be ordered to be served
31 consecutively to that imposed for a conviction of any offense
32 constituting the criminal activity involved or from which the property
33 was derived. Nothing in P.L.1994, c.121 (C.2C:21-23 et. seq.) shall
34 be construed in any way to preclude or limit a prosecution or
35 conviction for any other offense defined in this Title or any other
36 criminal law of this State.

37 (cf: P.L.1999, c.25, s.4)

38

39 16. N.J.S.2C:33-3 is amended to read as follows:

40 2C:33-3. False Public Alarms. a. Except as provided in
41 subsection b. or c. of this section, a person is guilty of a crime of the
42 third degree if he initiates or circulates a report or warning of an
43 impending fire, explosion, bombing, crime, catastrophe or emergency
44 knowing that the report or warning is false or baseless and that it is
45 likely to cause evacuation of a building, place of assembly, or facility
46 of public transport, or to cause public [inconveniences] inconvenience

1 or alarm. A person is guilty of a crime of the third degree if he
2 knowingly causes such false alarm to be transmitted to or within any
3 organization, official or volunteer, for dealing with emergencies
4 involving danger to life or property.

5 b. A person is guilty of a crime of the ~~[third]~~ second degree if in
6 addition to the report or warning initiated, circulated or transmitted
7 under subsection a. of this section, he places or causes to be placed
8 any false or facsimile bomb in a building, place of assembly, or facility
9 of public transport or in a place likely to cause public inconvenience
10 or alarm. A violation of this subsection is a crime of the first degree if
11 it occurs during a declared period of national, State or county
12 emergency.

13 c. A person is guilty of a crime of the second degree if a violation
14 of subsection a. of this section in fact results in serious bodily injury
15 to another person or occurs during a declared period of national, State
16 or county emergency. A person is guilty of a crime of the ~~[second]~~
17 first degree if a violation of subsection a. of this section in fact results
18 in death.

19 d. For the purposes of this section, "in fact" means that strict
20 liability is imposed. It shall not be a defense that the death or serious
21 bodily injury was not a foreseeable consequence of the person's acts
22 or that the death or serious bodily injury was caused by the actions of
23 another person or by circumstances beyond the control of the actor.
24 The actor shall be strictly liable upon proof that the crime occurred
25 during a declared period of national, State or county emergency. It
26 shall not be a defense that the actor did not know that there was a
27 declared period of emergency at the time the crime occurred.

28 e. A person is guilty of a ~~[disorderly persons offense]~~ crime of the
29 fourth degree if the person knowingly places a call to a 9-1-1
30 emergency telephone system without purpose of reporting the need for
31 9-1-1 service.

32 (cf: P.L.1999, c.195, s.1).

33

34 17. Section 3 of P.L.1999, c.195 (C.2C:33-3.2) is amended to
35 read as follows:

36 3. Any person who violates the provisions of N.J.S.2C:33-3 shall
37 be liable for a civil penalty of not less than ~~[\$1,000.00]~~ \$2,000 or
38 actual costs incurred by or resulting from the law enforcement and
39 emergency services response to the false alarm, whichever is higher.
40 Any monies collected pursuant to this section shall be made payable to
41 the municipality or other entity providing the law enforcement or
42 emergency services response to the false alarm. "Emergency services"
43 includes, but is not limited to, paid or volunteer fire fighters,
44 paramedics, members of an ambulance team, rescue squad or mobile
45 intensive care unit.

46 (cf: P.L.1999, c.195, s.3)

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

2 2C:41-1. Definitions.

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

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

8 (a) murder

9 (b) kidnapping

10 (c) gambling

11 (d) promoting prostitution

12 (e) obscenity

13 (f) robbery

14 (g) bribery

15 (h) extortion

16 (i) criminal usury

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

18 (k) violations of Title 54A of the New Jersey Statutes and Title 54
19 of the Revised Statutes

20 (l) arson

21 (m) burglary

22 (n) theft and all crimes defined in chapter 20 of Title 2C of the
23 New Jersey Statutes

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

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

27 (q) alteration of motor vehicle identification numbers

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

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

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

32 (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6
33 and all crimes involving illegal distribution of a controlled dangerous
34 substance or controlled substance analog, except possession of less
35 than one ounce of marijuana

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

38 (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16), leader
39 of firearms trafficking network

40 (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14),
41 weapons training for illegal activities

42 (y) violation of section 2 of of P.L. , c. (C.), terrorism.

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

45 b. "Person" includes any individual or entity or enterprise as
46 defined herein holding or capable of holding a legal or beneficial

1 interest in property.

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

7 d. "Pattern of racketeering activity" requires

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

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

17 e. "Unlawful debt" means a debt

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

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

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

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

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

36 (cf: P.L.1999, c.25, s.5).

37

38 19. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to
39 read as follows:

40 2. a. A court imposing a sentence of incarceration for a crime of
41 the first or second degree enumerated in subsection d. of this section
42 shall fix a minimum term of 85% of the sentence imposed, during
43 which the defendant shall not be eligible for parole.

44 b. The minimum term required by subsection a. of this section
45 shall be fixed as a part of every sentence of incarceration imposed
46 upon every conviction of a crime enumerated in subsection d. of this

1 section, whether the sentence of incarceration is determined pursuant
2 to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any other
3 provision of law, and shall be calculated based upon the sentence of
4 incarceration actually imposed. The provisions of subsection a. of this
5 section shall not be construed or applied to reduce the time that must
6 be served before eligibility for parole by an inmate sentenced to a
7 mandatory minimum period of incarceration. Solely for the purpose
8 of calculating the minimum term of parole ineligibility pursuant to
9 subsection a. of this section, a sentence of life imprisonment shall be
10 deemed to be 75 years.

11 c. Notwithstanding any other provision of law to the contrary and
12 in addition to any other sentence imposed, a court imposing a
13 minimum period of parole ineligibility of 85 percent of the sentence
14 pursuant to this section shall also impose a five-year term of parole
15 supervision if the defendant is being sentenced for a crime of the first
16 degree, or a three-year term of parole supervision if the defendant is
17 being sentenced for a crime of the second degree. The term of parole
18 supervision shall commence upon the completion of the sentence of
19 incarceration imposed by the court pursuant to subsection a. of this
20 section unless the defendant is serving a sentence of incarceration for
21 another crime at the time he completes the sentence of incarceration
22 imposed pursuant to subsection a., in which case the term of parole
23 supervision shall commence immediately upon the defendant's release
24 from incarceration. During the term of parole supervision the
25 defendant shall remain in release status in the community in the legal
26 custody of the Commissioner of the Department of Corrections and
27 shall be supervised by the State Parole Board as if on parole and shall
28 be subject to the provisions and conditions of section 3 of P.L.1997,
29 c.117 (C.30:4-123.51b).

30 d. The court shall impose sentence pursuant to subsection a. of
31 this section upon conviction of the following crimes or an attempt or
32 conspiracy to commit any of these crimes:

- 33 (1) N.J.S.2C:11-3, murder;
- 34 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 35 (3) N.J.S.2C:11-5, vehicular homicide;
- 36 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 37 (5) subsection b. of N.J.S.2C:12-11, disarming a law enforcement
38 officer;
- 39 (6) N.J.S.2C:13-1, kidnapping;
- 40 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 41 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of
42 subsection c. of N.J.S.2C:14-2, sexual assault;
- 43 (9) N.J.S.2C:15-1, robbery;
- 44 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
- 45 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
46 arson;

- 1 (12) N.J.S.2C:18-2, burglary;
- 2 (13) subsection a. of N.J.S.2C:20-5, extortion;
- 3 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
- 4 booby traps in manufacturing or distribution facilities; or
- 5 (15) N.J.S.2C:35-9, strict liability for drug induced deaths.
- 6 (16) section 2 of P.L. , c. (C.)(now pending before the
- 7 Legislature as section 2 of this bill), terrorism; or
- 8 (17) section 3 of P.L. , c. (C.)(now pending before the
- 9 Legislature as section 3 of this bill), producing or possessing chemical
- 10 weapons, biological agents or nuclear or radiological devices.
- 11 e. (Deleted by amendment, P.L.2001, c.129).
- 12 (cf: P.L.2001, c.129, s.1)
- 13
- 14 20. This act shall take effect immediately.



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McGreevey Signs "September 11th 2001 Anti-Terrorism Act" Into Law

Acts of terror resulting in loss of life will be punishable by the death penalty under new law

(TRENTON)—Governor James E. McGreevey signed into law today the "September 11th 2001 Anti-Terrorism Act," which makes a number of terrorism-related offenses part of New Jersey's Criminal Code. The law also adds a new aggravating factor to the death penalty statute for murder committed in the course of a terrorist act.

"The September 11th 2001 Anti-Terrorism Act makes a number of terrorism-related offenses part of the State's Criminal Code, it establishes terrorism as a first-degree crime, and it takes a number of significant steps which will enhance our ability to fight terrorism here in New Jersey," said McGreevey.

The Governor was joined by Attorney General David Samson, First Assistant Attorney General Peter Harvey and Assistant Attorney General for Counter Terrorism Kathy Flicker for the bill signing. Several of the bill sponsors attended the signing as well, including Assemblyman Neil Cohen and Senators Garry Furnari and Robert Martin.

"I would like to thank the Senate and Assembly sponsors of this legislation for their leadership and efforts in making New Jersey a state that is tough on terrorism," said McGreevey. "Whether harboring terrorists or providing them with financial support, New Jersey will not tolerate such cowardly actions and the laws of this State appropriately reflect our commitment to combating terror."

"Since September 11, we face a new world in which terrorist organizations are targeting Americans with their hatred and violence," said Samson. "Because we live under the rule of law in this country, we must ensure that our laws change to protect our citizens. Our existing laws do not adequately address the methods used by these terrorists and the terrible crimes they perpetrate. This new law will provide us with the essential legal tools to deal with terrorists and bring them to justice."

Specifically, the new law establishes terrorism as a first-degree crime, which is punishable by life imprisonment without parole. The new law defines terrorism as the commission of certain offenses that promote an act of terror; influence the policy or affect the conduct of government by terror; cause the interruption of public communication, transportation or impairs public or private buildings, utilities or other public services; or terrorizes five or

more persons.

The law also criminalizes the production, development and possession of certain chemical weapons—including choking agents, cyanide and biological agents such as viruses—as first-degree crimes. Upon conviction, an offender shall be sentenced to a term of imprisonment between 30 years and life, and if the actions resulted in a victim’s death, life without parole.

The Act also creates several other terrorism-related offenses including first and second-degree crimes for concealing terrorists or providing financial support to terrorists, a second-degree crime for suppressing evidence of terrorism and a third-degree crime for warning a terrorist regarding a terrorism investigation.

In addition, the law upgrades a number of other existing crimes that have the potential to cause widespread injury or death. Purposely causing an unauthorized release of radiation will become a first degree-crime, rather than its current level as a third degree offense. Initiating a false public alarm during a national, State or county emergency will become a second-degree crime, upgraded from its current status as a third degree crime.

The law also amends the Wiretap Act to include terrorism among the crimes for which wiretaps may be sought. It also puts terrorism on the same level as murder and certain sex offenses by amending the statute of limitations provision in the criminal code. This change will allow prosecution for committing an act of terrorism, providing material support or resources for an act of terrorism or harboring or aiding terrorists.

The Assembly version of the bill, A-911 passed unanimously, 77-0, on June 13th. The prime sponsors of the bill include Assemblypersons Neil Cohen (D-Union), John Burzichelli (D-Cumberland/ Gloucester/ Salem), Paul Sarlo (D-Bergen/ Essex/ Passaic) and Joan Quigley (D-Bergen/ Hudson).

The Senate version of the bill passed the upper house in March, 39-0, and was sponsored by Senators Garry Furnari (D-Bergen/ Essex/ Passaic), Gerald Cardinale (R-Bergen) and Robert Martin (R-Morris, Passaic).

The September 11th 2001 Anti-Terrorism Act will take effect immediately.

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