

2C:29-8
LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

LAWS OF: 2009 **CHAPTER:** 169

NJSA: 2C:29-8 (Increases penalties for the crime of jury tampering)

BILL NO: A3526 (Substituted for S2938)

SPONSOR(S) McKeon and Others

DATE INTRODUCED: December 15, 2008

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

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** February 5, 2009
 SENATE: January 7, 2010

DATE OF APPROVAL: January 9, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint enacted)

A3526

SPONSOR’S STATEMENT:	(Begins on page 3 of original bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY:	Yes
	SENATE:	Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No
LEGISLATIVE FISCAL NOTE:	Yes

S2938

SPONSOR’S STATEMENT:	(Begins on page 3 of original bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY:	No
	SENATE:	Yes
FLOOR AMENDMENT STATEMENT:	No	
LEGISLATIVE FISCAL NOTE:	Yes	

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

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

"Legislation stiffening penalties for jury tampering signed into law in New Jersey," NewJerseyNewsroom.com, 1-9-10.
<http://www.newjerseynewsroom.com/state/legislation-stiffening-penalties-for-jury-tampering-signed-into-law-in-new-jersey>

LAW/RWH

[First Reprint]

ASSEMBLY, No. 3526

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED DECEMBER 15, 2008

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblywoman MILA M. JASEY

District 27 (Essex)

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

Co-Sponsored by:

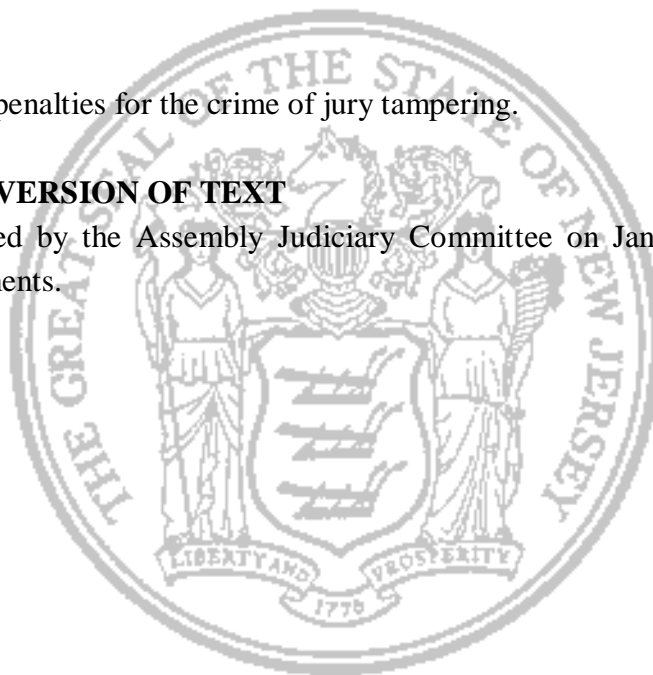
Senators Codey, Baroni and Turner

SYNOPSIS

Increases penalties for the crime of jury tampering.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on January 26, 2009,
with amendments.



(Sponsorship Updated As Of: 1/8/2010)

1 AN ACT concerning corrupting or influencing a jury and amending
2 N.J.S.2C:29-8.

3

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

6

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

8 2C:29-8. Corrupting or Influencing a Jury.

9 Any person who, directly or indirectly, corrupts, influences or
10 attempts to corrupt or influence a jury or juror to be more favorable
11 to the one side than to the other by promises, persuasions,
12 entreaties, threats, letters, money, entertainment or other sinister
13 means; or any person who employs any unfair or fraudulent
14 practice, art or contrivance to obtain a verdict, or attempts to
15 instruct a jury or juror beforehand at any place or time, or in any
16 manner or way, except in open court at the trial of the cause, by the
17 strength of the evidence, the arguments of the parties or their
18 counsel, or the opinion or charge of the court is guilty of a crime.

19 a. Corrupting or influencing a jury is a crime of the first degree
20 if the conduct occurs in connection with an official proceeding
21 involving any of the following crimes, as enumerated in subsection
22 d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), and the actor
23 employs force or threat of force:

24 (1) N.J.S.2C:11-3, murder;

25 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;

26 (3) N.J.S.2C:11-5, vehicular homicide;

27 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;

28 (5) subsection b. of section 1 of P.L.1996, c.14 (2C:12-11),
29 disarming a law enforcement officer;

30 (6) N.J.S.2C:13-1, kidnapping;

31 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;

32 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of
33 subsection c. of N.J.S.2C:14-2, sexual assault;

34 (9) N.J.S.2C:15-1, robbery;

35 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;

36 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
37 arson;

38 (12) N.J.S.2C:18-2, burglary;

39 (13) subsection a. of N.J.S.2C:20-5, extortion;

40 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
41 booby traps in manufacturing or distribution facilities;

42 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;

43 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;

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:

¹Assembly AJU committee amendments adopted January 26, 2009.

1 (17)section 3 of P.L.2002, c.26 (C.2C:38-3), producing or
2 possessing chemical weapons, biological agents or nuclear or
3 radiological devices; or

4 (18)N.J.S.2C:41-2, racketeering, when it is a crime of the first
5 degree.

6 b. Corrupting or influencing a jury is a crime of the second
7 degree if [it is committed by means of violence or the threat of
8 violence] the actor employs force or threat of force and the conduct
9 '[does not occur] occurs' in connection with '[an official
10 proceeding involving] an action which does not involve' any of the
11 crimes enumerated in subsection a. of this section.

12 c. Otherwise, [it] corrupting or influencing a jury is a crime of
13 the third degree, provided, however, that the presumption of
14 nonimprisonment set forth in subsection e. of 2C:44-1 for persons
15 who have not previously been convicted of an offense shall not
16 apply.

17 (cf: P.L.1986, c.140, s.1)

18

19 2. This act shall take effect immediately.

ASSEMBLY, No. 3526

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 15, 2008

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblywoman MILA M. JASEY

District 27 (Essex)

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

SYNOPSIS

Increases penalties for the crime of jury tampering.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/27/2009)

1 AN ACT concerning corrupting or influencing a jury and amending
2 N.J.S.2C:29-8.

3

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

6

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

8 2C:29-8. Corrupting or Influencing a Jury.

9 Any person who, directly or indirectly, corrupts, influences or
10 attempts to corrupt or influence a jury or juror to be more favorable
11 to the one side than to the other by promises, persuasions,
12 entreaties, threats, letters, money, entertainment or other sinister
13 means; or any person who employs any unfair or fraudulent
14 practice, art or contrivance to obtain a verdict, or attempts to
15 instruct a jury or juror beforehand at any place or time, or in any
16 manner or way, except in open court at the trial of the cause, by the
17 strength of the evidence, the arguments of the parties or their
18 counsel, or the opinion or charge of the court is guilty of a crime.

19 a. Corrupting or influencing a jury is a crime of the first degree
20 if the conduct occurs in connection with an official proceeding
21 involving any of the following crimes, as enumerated in subsection
22 d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), and the actor
23 employs force or threat of force:

24 (1) N.J.S.2C:11-3, murder;

25 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;

26 (3) N.J.S.2C:11-5, vehicular homicide;

27 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;

28 (5) subsection b. of section 1 of P.L.1996, c.14 (2C:12-11),
29 disarming a law enforcement officer;

30 (6) N.J.S.2C:13-1, kidnapping;

31 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;

32 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of
33 subsection c. of N.J.S.2C:14-2, sexual assault;

34 (9) N.J.S.2C:15-1, robbery;

35 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;

36 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
37 arson;

38 (12) N.J.S.2C:18-2, burglary;

39 (13) subsection a. of N.J.S.2C:20-5, extortion;

40 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
41 booby traps in manufacturing or distribution facilities;

42 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;

43 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;

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 (3) In all other cases, corrupting or influencing a jury would
2 continue to be a crime of the third degree without a presumption of
3 nonimprisonment.

4 A crime of the first degree is punishable by a term of
5 imprisonment of ten to 20 years or a fine of up to \$200,000, or both;
6 a crime of the second degree, by a term of five to ten years or a fine
7 up to \$150,000, or both; and a crime of the third degree, by a term
8 of three to five years or a fine up to \$15,000, or both.

9 The upgrade of the penalties for corrupting or influencing a jury
10 would be consistent with the Legislature's recent upgrade of the
11 penalties for tampering with witnesses or informants, in P.L.2008,
12 c.81. Prior to the enactment, N.J.S.A.2C:28-5 had provided that
13 tampering with witnesses or informants was a crime of the second
14 degree if the actor employed force or threat of force to induce a
15 witness or informant to testify or inform falsely or withhold
16 testimony; otherwise tampering was a crime of the third degree.
17 The enactment made tampering a crime of the first degree if the
18 conduct occurs in connection with an official proceeding or
19 investigation involving a "No Early Release Act" crime and the
20 actor employs force or threat of force.

21 It is the view of the sponsor that because the crime of tampering
22 with a juror, like the crime of tampering with a witness, is an attack
23 on the judicial system, penalties for this crime must be
24 commensurate with its seriousness.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3526

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 26, 2009

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No 3526.

This bill would upgrade the penalties for corrupting or influencing a jury. Under current law, set out in N.J.S.A.2C:29-8, corrupting or influencing a jury is a crime of the second degree if it is committed by means of violence or the threat of violence. Otherwise it is a crime of the third degree but without the “presumption of nonimprisonment” for third degree crimes that normally applies to first offenders.

The bill would create three separate crimes of corrupting or influencing a jury:

(1) It would be a crime of the first degree if the conduct occurs in connection with an official proceeding involving any crime enumerated in N.J.S.A.2C:43-7.2 and the actor employs force or threat of force. (The crimes set out in this section, which is known as the “No Early Release Act,” are murder, aggravated manslaughter, manslaughter, vehicular homicide, aggravated assault, disarming a law enforcement officer, kidnapping, aggravated sexual assault, sexual assault, robbery, carjacking, aggravated arson, burglary, extortion, booby traps in CDS manufacturing or distribution facilities, strict liability for drug induced deaths, terrorism, producing or possessing chemical weapons, biological agents or nuclear or radiological devices, and racketeering when it is a crime of the first degree).

(2) Corrupting or influencing a jury would be a crime of the second degree if the actor employs force or threat of force, but not in connection with a “No Early Release Act” crime.

(3) In all other cases, corrupting or influencing a jury would continue to be a crime of the third degree without a presumption of nonimprisonment.

A crime of the first degree is punishable by a term of imprisonment of ten to 20 years or a fine of up to \$200,000, or both; a crime of the second degree, by a term of five to ten years or a fine up to \$150,000, or both; and a crime of the third degree, by a term of three to five years or a fine up to \$15,000, or both.

The upgrade of the penalties for corrupting or influencing a jury would be consistent with the Legislature’s recent upgrade of the

penalties for tampering with witnesses or informants, in P.L.2008, c.81. Prior to the enactment, N.J.S.A.2C:28-5 had provided that tampering with witnesses or informants was a crime of the second degree if the actor employed force or threat of force to induce a witness or informant to testify or inform falsely or withhold testimony; otherwise tampering was a crime of the third degree. The enactment made tampering a crime of the first degree if the conduct occurs in connection with an official proceeding or investigation involving a “No Early Release Act” crime and the actor employs force or threat of force.

COMMITTEE AMENDMENTS

Section 1 of the bill was amended to clarify the language in subsection b. As introduced, the bill had provided that corrupting or influencing a jury is a crime of the second degree if the actor employs force or threat of force “*and the conduct does not occur in connection with an official proceeding involving*” any of the NERA crimes. The amendments remove the reference to “official proceeding” and change the language of the subsection so that it now provides that the actor is guilty of the crime if he employs force or threat of force “*and the conduct occurs in connection with an action which does not involve*” any of the NERA crimes.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3526

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Senate Judiciary Committee reports favorably Assembly Bill No. 3526 (1R).

This bill would upgrade the penalties for corrupting or influencing a jury. Under current law, set out in N.J.S.A.2C:29-8, corrupting or influencing a jury is a crime of the second degree if it is committed by means of violence or the threat of violence. Otherwise it is a crime of the third degree but without the “presumption of nonimprisonment” for third degree crimes that normally applies to first offenders.

The bill would create three separate categories of the crime of corrupting or influencing a jury:

(1) Corrupting or influencing a jury would be a crime of the first degree if the conduct occurs in connection with an official proceeding involving any crime enumerated in N.J.S.A.2C:43-7.2 and the actor employs force or threat of force. The crimes set out in this section, which is known as the “No Early Release Act,” are murder, aggravated manslaughter, manslaughter, vehicular homicide, aggravated assault, disarming a law enforcement officer, kidnapping, aggravated sexual assault, sexual assault, robbery, carjacking, aggravated arson, burglary, extortion, booby traps in CDS manufacturing or distribution facilities, strict liability for drug induced deaths, terrorism, producing or possessing chemical weapons, biological agents or nuclear or radiological devices, and racketeering when it is a crime of the first degree.

(2) Corrupting or influencing a jury would be a crime of the second degree if the actor employs force or threat of force and the conduct occurs in connection with an action that does not involve any of the “No Early Release Act” crimes.

(3) In all other cases, corrupting or influencing a jury would continue to be a crime of the third degree without a presumption of nonimprisonment.

A crime of the first degree ordinarily is punishable by a term of imprisonment of ten to 20 years or a fine of up to \$200,000, or both; a crime of the second degree, by a term of five to ten years or a fine up to \$150,000, or both; and a crime of the third degree, by a term of three to five years or a fine up to \$15,000, or both.

The upgrade of the penalties for corrupting or influencing a jury would be consistent with the Legislature's recent upgrade of the penalties for tampering with witnesses or informants, in P.L.2008, c.81. Prior to the enactment, N.J.S.A.2C:28-5 had provided that tampering with witnesses or informants was a crime of the second degree if the actor employed force or threat of force to induce a witness or informant to testify or inform falsely or withhold testimony; otherwise tampering was a crime of the third degree. The enactment made tampering a crime of the first degree if the conduct occurs in connection with an official proceeding or investigation involving a "No Early Release Act" crime and the actor employs force or threat of force.

This bill is identical to Senate Bill No. 2938.

FISCAL NOTE
 [First Reprint]
ASSEMBLY, No. 3526
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: FEBRUARY 9, 2009

SUMMARY

Synopsis: Increases penalties for the crime of jury tampering.

Type of Impact: General Fund expenditure

Agencies Affected: Judiciary, Department of Corrections

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate, probably minimal – See comments below		

- The Office of Legislative Services **concurs** with the Executive estimate, and adds that should an offender be convicted and sentenced to a prison term, Department of Corrections data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operating expenses of housing a State sentenced prison inmate is \$34,600 per year for the duration of that offender's incarceration.
- The bill would upgrade the penalties for corrupting or influencing a jury. Under current law, set out in N.J.S.A.2C:29-8, corrupting or influencing a jury is a crime of the second degree if it is committed by means of violence or the threat of violence. Otherwise it is a crime of the third degree but without the “presumption of nonimprisonment” for third degree crimes that normally applies to first offenders.
- The Administrative Office of the Courts (AOC) states that as corrupting or influencing a jury does not appear to be either a commonly occurring or commonly prosecuted crime, this bill would likely have only minimal effect on judicial resources. However, because the legislation seeks to create new offenses, the Judiciary has only limited basis to accurately project the number of offenses that may occur. Therefore, the Judiciary is unable to provide a reliable estimate as to the fiscal impact of the legislation.

BILL DESCRIPTION

Assembly Bill No. 3526 (1R) of 2008 would upgrade the penalties for corrupting or influencing a jury. Under current law, set out in N.J.S.A.2C:29-8, corrupting or influencing a jury is a crime of the second degree if it is committed by means of violence or the threat of violence. Otherwise it is a crime of the third degree but without the “presumption of nonimprisonment” for third degree crimes that normally applies to first offenders.

The bill would create three separate crimes of corrupting or influencing a jury:

(1) It would be a crime of the first degree if the conduct occurs in connection with an official proceeding involving any crime enumerated in N.J.S.A.2C:43-7.2 and the actor employs force or threat of force. (The crimes set out in this section, which is known as the “No Early Release Act,” are murder, aggravated manslaughter, manslaughter, vehicular homicide, aggravated assault, disarming a law enforcement officer, kidnapping, aggravated sexual assault, sexual assault, robbery, carjacking, aggravated arson, burglary, extortion, booby traps in CDS manufacturing or distribution facilities, strict liability for drug induced deaths, terrorism, producing or possessing chemical weapons, biological agents or nuclear or radiological devices, and racketeering when it is a crime of the first degree).

(2) Corrupting or influencing a jury would be a crime of the second degree if the actor employs force or threat of force, but not in connection with a “No Early Release Act” crime.

(3) In all other cases, corrupting or influencing a jury would continue to be a crime of the third degree without a presumption of nonimprisonment.

A crime of the first degree is punishable by a term of imprisonment of ten to 20 years or a fine of up to \$200,000, or both; a crime of the second degree, by a term of five to ten years or a fine up to \$150,000, or both; and a crime of the third degree, by a term of three to five years or a fine up to \$15,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Judiciary

The AOC states that according to data from the Judiciary’s automated Criminal case tracking system, PROMIS Gavel, during the 2008 court year, only one defendant was convicted of corrupting or influencing a jury pursuant to N.J.S.A. 2C:29-8. That person was convicted as the result of a guilty plea. The number of convictions remains generally constant, therefore it is expected that in future years projected impact would be stable, even with the introduction of new penalties. The AOC notes that as corrupting or influencing a jury does not appear to be either a commonly occurring or commonly prosecuted crime, this bill would likely have only minimal effect on judicial resources. However, because the legislation seeks to create new offenses, the Judiciary has only limited basis to accurately project the number of offenses that may occur. Therefore, the Judiciary is unable to provide a reliable estimate as to the fiscal impact of the legislation.

Department of Corrections

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate, and adds that should an offender be convicted and sentenced to a prison term, Department of Corrections data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operating expenses of housing a State sentenced prison inmate is \$34,600 per year for the duration of that offender's incarceration.

Section: Judiciary

*Analyst: Anne Raughley
 Principal Fiscal Analyst*

*Approved: David J. Rosen
 Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C. 52:13B-1 et seq.).

SENATE, No. 2938

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JUNE 15, 2009

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Senator BILL BARONI

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senator Turner

SYNOPSIS

Increases penalties for the crime of jury tampering.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/8/2010)

1 AN ACT concerning corrupting or influencing a jury and amending
2 N.J.S.2C:29-8.

3

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

6

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

8 2C:29-8. Corrupting or Influencing a Jury.

9 Any person who, directly or indirectly, corrupts, influences or
10 attempts to corrupt or influence a jury or juror to be more favorable
11 to the one side than to the other by promises, persuasions,
12 entreaties, threats, letters, money, entertainment or other sinister
13 means; or any person who employs any unfair or fraudulent
14 practice, art or contrivance to obtain a verdict, or attempts to
15 instruct a jury or juror beforehand at any place or time, or in any
16 manner or way, except in open court at the trial of the cause, by the
17 strength of the evidence, the arguments of the parties or their
18 counsel, or the opinion or charge of the court is guilty of a crime.

19 a. Corrupting or influencing a jury is a crime of the first degree
20 if the conduct occurs in connection with an official proceeding
21 involving any of the following crimes, as enumerated in subsection
22 d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), and the actor
23 employs force or threat of force:

24 (1) N.J.S.2C:11-3, murder;

25 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;

26 (3) N.J.S.2C:11-5, vehicular homicide;

27 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;

28 (5) subsection b. of section 1 of P.L.1996, c.14 (2C:12-11),

29 disarming a law enforcement officer;

30 (6) N.J.S.2C:13-1, kidnapping;

31 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;

32 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of

33 subsection c. of N.J.S.2C:14-2, sexual assault;

34 (9) N.J.S.2C:15-1, robbery;

35 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;

36 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated

37 arson;

38 (12) N.J.S.2C:18-2, burglary;

39 (13) subsection a. of N.J.S.2C:20-5, extortion;

40 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),

41 booby traps in manufacturing or distribution facilities;

42 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;

43 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;

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 (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or
2 possessing chemical weapons, biological agents or nuclear or
3 radiological devices; or

4 (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first
5 degree.

6 b. Corrupting or influencing a jury is a crime of the second
7 degree if [it is committed by means of violence or the threat of
8 violence] the actor employs force or threat of force and the conduct
9 occurs in connection with an action which does not involve any of
10 the crimes enumerated in subsection a. of this section.

11 c. Otherwise, [it] corrupting or influencing a jury is a crime of
12 the third degree, provided, however, that the presumption of
13 nonimprisonment set forth in subsection e. of 2C:44-1 for persons
14 who have not previously been convicted of an offense shall not
15 apply.

16 (cf: P.L.1986, c.140, s.1)

17

18 2. This act shall take effect immediately.

19

20

21

STATEMENT

22

23 This bill would upgrade the penalties for corrupting or
24 influencing a jury. Under current law, set out in N.J.S.A.2C:29-8,
25 corrupting or influencing a jury is a crime of the second degree if it
26 is committed by means of violence or the threat of violence.
27 Otherwise it is a crime of the third degree but without the
28 “presumption of nonimprisonment” for third degree crimes that
29 normally applies to first offenders.

30 The bill would create three separate crimes of corrupting or
31 influencing a jury:

32 (1) It would be a crime of the first degree if the conduct occurs
33 in connection with an official proceeding involving any crime
34 enumerated in N.J.S.A.2C:43-7.2 and the actor employs force or
35 threat of force. (The crimes set out in this section, which is known
36 as the “No Early Release Act,” are murder, aggravated
37 manslaughter, vehicular homicide, aggravated
38 assault, disarming a law enforcement officer, kidnapping,
39 aggravated sexual assault, sexual assault, robbery, carjacking,
40 aggravated arson, burglary, extortion, booby traps in CDS
41 manufacturing or distribution facilities, strict liability for drug
42 induced deaths, terrorism, producing or possessing chemical
43 weapons, biological agents or nuclear or radiological devices, and
44 racketeering when it is a crime of the first degree).

45 (2) Corrupting or influencing a jury would be a crime of the
46 second degree if the actor employs force or threat of force and the
47 conduct occurs in connection with an action which does not involve
48 any of the NERA crimes.

1 (3) In all other cases, corrupting or influencing a jury would
2 continue to be a crime of the third degree without a presumption of
3 nonimprisonment.

4 A crime of the first degree is punishable by a term of
5 imprisonment of ten to 20 years or a fine of up to \$200,000, or both;
6 a crime of the second degree, by a term of five to ten years or a fine
7 up to \$150,000, or both; and a crime of the third degree, by a term
8 of three to five years or a fine up to \$15,000, or both.

9 The upgrade of the penalties for corrupting or influencing a jury
10 would be consistent with the Legislature's recent upgrade of the
11 penalties for tampering with witnesses or informants, in P.L.2008,
12 c.81. Prior to the enactment, N.J.S.A.2C:28-5 had provided that
13 tampering with witnesses or informants was a crime of the second
14 degree if the actor employed force or threat of force to induce a
15 witness or informant to testify or inform falsely or withhold
16 testimony; otherwise tampering was a crime of the third degree.
17 The enactment made tampering a crime of the first degree if the
18 conduct occurs in connection with an official proceeding or
19 investigation involving a "No Early Release Act" crime and the
20 actor employs force or threat of force.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2938

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Senate Judiciary Committee reports favorably Senate Bill No. 2938.

This bill would upgrade the penalties for corrupting or influencing a jury. Under current law, set out in N.J.S.A.2C:29-8, corrupting or influencing a jury is a crime of the second degree if it is committed by means of violence or the threat of violence. Otherwise it is a crime of the third degree but without the “presumption of nonimprisonment” for third degree crimes that normally applies to first offenders.

The bill would create three separate categories of the crime of corrupting or influencing a jury:

(1) Corrupting or influencing a jury would be a crime of the first degree if the conduct occurs in connection with an official proceeding involving any crime enumerated in N.J.S.A.2C:43-7.2 and the actor employs force or threat of force. The crimes set out in this section, which is known as the “No Early Release Act,” are murder, aggravated manslaughter, manslaughter, vehicular homicide, aggravated assault, disarming a law enforcement officer, kidnapping, aggravated sexual assault, sexual assault, robbery, carjacking, aggravated arson, burglary, extortion, booby traps in CDS manufacturing or distribution facilities, strict liability for drug induced deaths, terrorism, producing or possessing chemical weapons, biological agents or nuclear or radiological devices, and racketeering when it is a crime of the first degree.

(2) Corrupting or influencing a jury would be a crime of the second degree if the actor employs force or threat of force and the conduct occurs in connection with an action which does not involve any of the “No Early Release Act” crimes.

(3) In all other cases, corrupting or influencing a jury would continue to be a crime of the third degree without a presumption of nonimprisonment.

A crime of the first degree ordinarily is punishable by a term of imprisonment of ten to 20 years or a fine of up to \$200,000, or both; a crime of the second degree, by a term of five to ten years or a fine up to \$150,000, or both; and a crime of the third degree, by a term of three to five years or a fine up to \$15,000, or both.

The upgrade of the penalties for corrupting or influencing a jury would be consistent with the Legislature’s recent upgrade of the

penalties for tampering with witnesses or informants, in P.L.2008, c.81. Prior to the enactment, N.J.S.A.2C:28-5 had provided that tampering with witnesses or informants was a crime of the second degree if the actor employed force or threat of force to induce a witness or informant to testify or inform falsely or withhold testimony; otherwise tampering was a crime of the third degree. The enactment made tampering a crime of the first degree if the conduct occurs in connection with an official proceeding or investigation involving a “No Early Release Act” crime and the actor employs force or threat of force.

This bill is identical to Assembly Bill No. 3526 (1R).

FISCAL NOTE
SENATE, No. 2938
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: NOVEMBER 2, 2009

SUMMARY

Synopsis: Increases penalties for the crime of jury tampering.

Type of Impact: General Fund expenditure

Agencies Affected: Judiciary, Department of Corrections

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate, probably minimal - See comments below		

- The Office of Legislative Services **concurs** with the Executive estimate, and adds that should an offender be convicted and sentenced to a prison term, Department of Corrections data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operating expenses of housing a State sentenced prison inmate is \$34,600 per year for the duration of that offender's incarceration.
- The bill would upgrade the penalties for corrupting or influencing a jury. Under current law, set out in N.J.S.A.2C:29-8, corrupting or influencing a jury is a crime of the second degree if it is committed by means of violence or the threat of violence. Otherwise it is a crime of the third degree but without the “presumption of nonimprisonment” for third degree crimes that normally applies to first offenders.
- The Administrative Office of the Courts (AOC) states that as corrupting or influencing a jury does not appear to be either a commonly occurring or commonly prosecuted crime, this bill would likely have only minimal effect on judicial resources. However, because the legislation seeks to create new offenses, the Judiciary has only limited basis to accurately project the number of offenses that may occur. Therefore, the Judiciary is unable to provide a reliable estimate as to the fiscal impact of the legislation.

BILL DESCRIPTION

Senate Bill No. 2938 of 2009 would upgrade the penalties for corrupting or influencing a jury. Under current law, set out in N.J.S.A.2C:29-8, corrupting or influencing a jury is a crime of the second degree if it is committed by means of violence or the threat of violence. Otherwise it is a crime of the third degree but without the “presumption of nonimprisonment” for third degree crimes that normally applies to first offenders.

The bill would create three separate crimes of corrupting or influencing a jury:

(1) It would be a crime of the first degree if the conduct occurs in connection with an official proceeding involving any crime enumerated in N.J.S.A.2C:43-7.2 and the actor employs force or threat of force. (The crimes set out in this section, which is known as the “No Early Release Act,” are murder, aggravated manslaughter, manslaughter, vehicular homicide, aggravated assault, disarming a law enforcement officer, kidnapping, aggravated sexual assault, sexual assault, robbery, carjacking, aggravated arson, burglary, extortion, booby traps in CDS manufacturing or distribution facilities, strict liability for drug induced deaths, terrorism, producing or possessing chemical weapons, biological agents or nuclear or radiological devices, and racketeering when it is a crime of the first degree).

(2) Corrupting or influencing a jury would be a crime of the second degree if the actor employs force or threat of force, but not in connection with a “No Early Release Act” crime.

(3) In all other cases, corrupting or influencing a jury would continue to be a crime of the third degree without a presumption of nonimprisonment.

A crime of the first degree is punishable by a term of imprisonment of ten to 20 years or a fine of up to \$200,000, or both; a crime of the second degree, by a term of five to ten years or a fine up to \$150,000, or both; and a crime of the third degree, by a term of three to five years or a fine up to \$15,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Judiciary

The AOC states that according to data from the Judiciary’s automated Criminal case tracking system, PROMIS Gavel, during the 2008 court year, only one defendant was convicted of corrupting or influencing a jury pursuant to N.J.S.A. 2C:29-8. That person was convicted as the result of a guilty plea. The number of convictions remains generally constant, therefore it is expected that in future years projected impact would be stable, even with the introduction of new penalties. The AOC notes that as corrupting or influencing a jury does not appear to be either a commonly occurring or commonly prosecuted crime, this bill would likely have only minimal effect on judicial resources. However, because the legislation seeks to create new offenses, the Judiciary has only limited basis to accurately project the number of offenses that may occur. Therefore, the Judiciary is unable to provide a reliable estimate as to the fiscal impact of the legislation.

Department of Corrections

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate, and adds that should an offender be convicted and sentenced to a prison term, Department of Corrections data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operating expenses of housing a State sentenced prison inmate is \$34,600 per year for the duration of that offender's incarceration.

Section: Judiciary

*Analyst: Anne Raughley
Principal Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C. 52:13B-6 et seq.).