

2C:44-3

LEGISLATIVE HISTORY CHECKLIST
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(Stolen vehicles--crimes)

NJSA: 2C:44-3

LAWS OF: 1993 CHAPTER: 132

BILL NO: S1090

SPONSOR(S) Bubba

DATE INTRODUCED: August 3, 1992

COMMITTEE: ASSEMBLY: Judiciary
SENATE: Judiciary

AMENDED DURING PASSAGE: No Senate committee substitute enacted

DATE OF PASSAGE: ASSEMBLY: May 13, 1993
SENATE: October 19, 1992

DATE OF APPROVAL: June 3, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: ~~No~~ YES

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See Legislative History of L.1993 C133 for hearings and newspaper clippings.

STATE OF NEW JERSEY

ADOPTED OCTOBER 8, 1992

Sponsored by Senators BUBBA and RICE

1 AN ACT concerning the penalties for certain crimes committed
2 with stolen motor vehicles and amending N.J.S.2C:44-1 and
3 N.J.S.2C:44-3.

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

7 1. N.J.S.2C:44-1 is amended to read as follows:

8 2C:44-1. Criteria for Withholding or Imposing Sentence of
9 Imprisonment. a. In determining the appropriate sentence to be
10 imposed on a person who has been convicted of an offense, the
11 court shall consider the following aggravating circumstances:

12 (1) The nature and circumstances of the offense, and the role
13 of the actor therein, including whether or not it was committed
14 in an especially heinous, cruel, or depraved manner;

15 (2) The gravity and seriousness of harm inflicted on the victim,
16 including whether or not the defendant knew or reasonably should
17 have known that the victim of the offense was particularly
18 vulnerable or incapable of resistance due to advanced age,
19 ill-health, or extreme youth, or was for any other reason
20 substantially incapable of exercising normal physical or mental
21 power of resistance;

22 (3) The risk that the defendant will commit another offense;

23 (4) A lesser sentence will depreciate the seriousness of the
24 defendant's offense because it involved a breach of the public
25 trust under chapters 27 and 30, or the defendant took advantage
26 of a position of trust or confidence to commit the offense;

27 (5) There is a substantial likelihood that the defendant is
28 involved in organized criminal activity;

29 (6) The extent of the defendant's prior criminal record and the
30 seriousness of the offenses of which he has been convicted;

31 (7) The defendant committed the offense pursuant to an
32 agreement that he either pay or be paid for the commission of
33 the offense and the pecuniary incentive was beyond that inherent
34 in the offense itself;

35 (8) The defendant committed the offense against a police or
36 other law enforcement officer, correctional employee or fireman,
37 acting in the performance of his duties while in uniform or
38 exhibiting evidence of his authority, or the defendant committed
39 the offense because of the status of the victim as a public
40 servant;

41 (9) The need for deterring the defendant and others from
42 violating the law;

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 (10) The offense involved fraudulent or deceptive practices
2 committed against any department or division of State
3 government;

4 (11) The imposition of a fine, penalty or order of restitution
5 without also imposing a term of imprisonment would be perceived
6 by the defendant or others merely as part of the cost of doing
7 business, or as an acceptable contingent business or operating
8 expense associated with the initial decision to resort to unlawful
9 practices;

10 (12) The defendant committed the offense against a person who
11 he knew or should have known was 60 years of age or older, or
12 disabled;

13 (13) The defendant, while in the course of committing or
14 attempting to commit the crime, including the immediate flight
15 therefrom, used or was in possession of a stolen motor vehicle.

16 b. In determining the appropriate sentence to be imposed on a
17 person who has been convicted of an offense, the court may
18 properly consider the following mitigating circumstances:

19 (1) The defendant's conduct neither caused nor threatened
20 serious harm;

21 (2) The defendant did not contemplate that his conduct would
22 cause or threaten serious harm;

23 (3) The defendant acted under a strong provocation;

24 (4) There were substantial grounds tending to excuse or justify
25 the defendant's conduct, though failing to establish a defense;

26 (5) The victim of the defendant's conduct induced or
27 facilitated its commission;

28 (6) The defendant has compensated or will compensate the
29 victim of his conduct for the damage or injury that he sustained,
30 or will participate in a program of community service;

31 (7) The defendant has no history of prior delinquency or
32 criminal activity or has led a law-abiding life for a substantial
33 period of time before the commission of the present offense;

34 (8) The defendant's conduct was the result of circumstances
35 unlikely to recur;

36 (9) The character and attitude of the defendant indicate that
37 he is unlikely to commit another offense;

38 (10) The defendant is particularly likely to respond
39 affirmatively to probationary treatment;

40 (11) The imprisonment of the defendant would entail excessive
41 hardship to himself or his dependents;

42 (12) The willingness of the defendant to cooperate with law
43 enforcement authorities;

44 (13) The conduct of a youthful defendant was substantially
45 influenced by another person more mature than the defendant.

46 c. (1) A plea of guilty by a defendant or failure to so plead
47 shall not be considered in withholding or imposing a sentence of
48 imprisonment.

49 (2) When imposing a sentence of imprisonment the court shall
50 consider the defendant's eligibility for release under the law
51 governing parole, including time credits awarded pursuant to
52 Title 30 of the Revised Statutes, in determining the appropriate
53 term of imprisonment.

54 d. Presumption of imprisonment. The court shall deal with a

1 person who has been convicted of a crime of the first or second
2 degree by imposing a sentence of imprisonment unless, having
3 regard to the character and condition of the defendant, it is of
4 the opinion that his imprisonment would be a serious injustice
5 which overrides the need to deter such conduct by others.

6 e. The court shall deal with a person convicted of an offense
7 other than a crime of the first or second degree, who has not
8 previously been convicted of an offense, without imposing
9 sentence of imprisonment unless, having regard to the nature and
10 circumstances of the offense and the history, character and
11 condition of the defendant, it is of the opinion that his
12 imprisonment is necessary for the protection of the public under
13 the criteria set forth in subsection a.

14 f. Presumptive Sentences. (1) Except for the crime of murder,
15 unless the preponderance of aggravating or mitigating factors, as
16 set forth in subsections a. and b., weighs in favor of a higher or
17 lower term within the limits provided in N.J.S. 2C:43-6, when a
18 court determines that a sentence of imprisonment is warranted,
19 it shall impose sentence as follows:

20 (a) To a term of 20 years for aggravated manslaughter or
21 kidnapping pursuant to paragraph (1) of subsection c. of N.J.S.
22 2C:13-1 when the offense constitutes a crime of the first degree;

23 (b) Except as provided in paragraph (a) of this subsection to a
24 term of 15 years for a crime of the first degree;

25 (c) To a term of seven years for a crime of the second degree;

26 (d) To a term of four years for a crime of the third degree; and

27 (e) To a term of nine months for a crime of the fourth degree.

28 In imposing a minimum term pursuant to 2C:43-6b., the
29 sentencing court shall specifically place on the record the
30 aggravating factors set forth in this section which justify the
31 imposition of a minimum term.

32 Unless the preponderance of mitigating factors set forth in
33 subsection b. weighs in favor of a lower term within the limits
34 authorized, sentences imposed pursuant to 2C:43-7a.(1) shall have
35 a presumptive term of life imprisonment. Unless the
36 preponderance of aggravating and mitigating factors set forth in
37 subsections a. and b. weighs in favor of a higher or lower term
38 within the limits authorized, sentences imposed pursuant to
39 2C:43-7a.(2) shall have a presumptive term of 50 years'
40 imprisonment; sentences imposed pursuant to 2C:43-7a.(3) shall
41 have a presumptive term of 15 years' imprisonment; and
42 sentences imposed pursuant to 2C:43-7a.(4) shall have a
43 presumptive term of seven years' imprisonment.

44 In imposing a minimum term pursuant to 2C:43-7b., the
45 sentencing court shall specifically place on the record the
46 aggravating factors set forth in this section which justify the
47 imposition of a minimum term.

48 (2) In cases of convictions for crimes of the first or second
49 degree where the court is clearly convinced that the mitigating
50 factors substantially outweigh the aggravating factors and where
51 the interest of justice demands, the court may sentence the
52 defendant to a term appropriate to a crime of one degree lower
53 than that of the crime for which he was convicted. If the court
54 does impose sentence pursuant to this paragraph, or if the court

1 imposes a noncustodial or probationary sentence upon conviction
2 for a crime of the first or second degree, such sentence shall not
3 become final for 10 days in order to permit the appeal of such
4 sentence by the prosecution.

5 g. Imposition of Noncustodial Sentences in Certain Cases. If
6 the court, in considering the aggravating factors set forth in
7 subsection a., finds the aggravating factor in paragraph a.(2) or
8 a.(12) and does not impose a custodial sentence, the court shall
9 specifically place on the record the mitigating factors which
10 justify the imposition of a noncustodial sentence.

11 (cf: P.L.1989, c.23, s.4)

12 2. N.J.S.2C:44-3 is amended to read as follows:

13 2C:44-3. Criteria for Sentence of Extended Term of
14 Imprisonment.

15 The court may, upon application of the prosecuting attorney,
16 sentence a person who has been convicted of a crime of the first,
17 second or third degree to an extended term of imprisonment if it
18 finds one or more of the grounds specified in subsections a., b.,
19 c., or f. of this section. The court shall, upon application of the
20 prosecuting attorney, sentence a person who has been convicted
21 of a crime, other than a violation of N.J.S.2C:12-1a.,
22 N.J.S.2C:33-4 or a violation of section 1 or 2 of P.L.1981, c.282
23 (C.2C:33-10 or 2C:33-11), to an extended term if it finds, by a
24 preponderance of the evidence, the grounds in subsection e. If the
25 grounds specified in subsection d. are found, and the person is
26 being sentenced for commission of any of the offenses
27 enumerated in N.J.S.2C:43-6c. or N.J.S.2C:43-6g., the court shall
28 sentence the defendant to an extended term as required by
29 N.J.S.2C:43-6c. or N.J.S.2C:43-6g., and application by the
30 prosecutor shall not be required. The finding of the court shall be
31 incorporated in the record.

32 a. The defendant has been convicted of a crime of the first,
33 second or third degree and is a persistent offender. A persistent
34 offender is a person who at the time of the commission of the
35 crime is 21 years of age or over, who has been previously
36 convicted on at least two separate occasions of two crimes,
37 committed at different times, when he was at least 18 years of
38 age, if the latest in time of these crimes or the date of the
39 defendant's last release from confinement, whichever is later, is
40 within 10 years of the date of the crime for which the defendant
41 is being sentenced.

42 b. The defendant has been convicted of a crime of the first,
43 second or third degree and is a professional criminal. A
44 professional criminal is a person who committed a crime as part
45 of a continuing criminal activity in concert with two or more
46 persons, and the circumstances of the crime show he has
47 knowingly devoted himself to criminal activity as a major source
48 of livelihood.

49 c. The defendant has been convicted of a crime of the first,
50 second or third degree and committed the crime as consideration
51 for the receipt, or in expectation of the receipt, of anything of
52 pecuniary value the amount of which was unrelated to the
53 proceeds of the crime or he procured the commission of the
54 offense by payment or promise of payment of anything of
55 pecuniary value.

1 d. Second offender with a firearm. The defendant is at least
2 18 years of age and has been previously convicted of any of the
3 following crimes: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1,
4 2C:14-2a., 2C:14-3a., 2C:15-1, 2C:18-2, 2C:29-5, 2C:39-4a., or
5 has been previously convicted of an offense under Title 2A of the
6 New Jersey Statutes which is equivalent of the offenses
7 enumerated in this subsection and he used or possessed a firearm,
8 as defined in 2C:39-1f., in the course of committing or
9 attempting to commit any of these crimes, including the
10 immediate flight therefrom.

11 e. The defendant in committing the crime acted, at least in
12 part, with ill will, hatred or bias toward, and with a purpose to
13 intimidate, an individual or group of individuals because of race,
14 color, religion, sexual orientation or ethnicity.

15 f. The defendant has been convicted of a crime under any of
16 the following sections: N.J.S.2C:11-4, N.J.S.2C:12-1b.,
17 N.J.S.2C:13-1, N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1,
18 N.J.S.2C:18-2, N.J.S.2C:29-2b., N.J.S.2C:29-5, N.J.S.2C:35-5,
19 and in the course of committing or attempting to commit the
20 crime, including the immediate flight therefrom, the defendant
21 used or was in possession of a stolen motor vehicle.

22 (cf: P.L.1990, c.87, s.4)

23 3. This act shall take effect immediately.

24

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27

28 Provides extended terms of imprisonment for persons who use
29 stolen motor vehicles to commit certain crimes.

SENATE, No. 1090

STATE OF NEW JERSEY

INTRODUCED AUGUST 3, 1992

By Senators BUBBA and RICE

1 AN ACT concerning the penalties for crimes committed with
2 stolen automobiles and amending N.J.S.2C:43-6.

3

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

6 1. N.J.S.2C:43-6 is amended to read as follows:

7 2C:43-6. Sentence of Imprisonment for Crime; Ordinary
8 Terms; Mandatory Terms. a. Except as otherwise provided, a
9 person who has been convicted of a crime may be sentenced to
10 imprisonment, as follows:

11 (1) In the case of a crime of the first degree, for a specific
12 term of years which shall be fixed by the court and shall be
13 between 10 years and 20 years;

14 (2) In the case of a crime of the second degree, for a specific
15 term of years which shall be fixed by the court and shall be
16 between five years and 10 years;

17 (3) In the case of a crime of the third degree, for a specific
18 term of years which shall be fixed by the court and shall be
19 between three years and five years;

20 (4) In the case of a crime of the fourth degree, for a specific
21 term which shall be fixed by the court and shall not exceed 18
22 months.

23 b. As part of a sentence for any crime, where the court is
24 clearly convinced that the aggravating factors substantially
25 outweigh the mitigating factors, as set forth in subsections a. and
26 b. of 2C:44-1, the court may fix a minimum term not to exceed
27 one-half of the term set pursuant to subsection a., or one-half of
28 the term set pursuant to a maximum period of incarceration for a
29 crime set forth in any statute other than this code, during which
30 the defendant shall not be eligible for parole; provided that no
31 defendant shall be eligible for parole at a date earlier than
32 otherwise provided by the law governing parole.

33 c. A person who has been convicted under 2C:39-4a. of
34 possession of a firearm with intent to use it against the person of
35 another, or of a crime under any of the following sections:
36 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-3a.,
37 2C:15-1, 2C:18-2, 2C:29-5, who, while in the course of
38 committing or attempting to commit the crime, including the
39 immediate flight therefrom, used or was in possession of a
40 firearm as defined in 2C:39-1f. shall be sentenced to a term of
41 imprisonment by the court. The term of imprisonment shall
42 include the imposition of a minimum term. The minimum term
43 shall be fixed at, or between, one-third and one-half of the

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

Matter underlined thus is new matter.

1 sentence imposed by the court or three years, whichever is
2 greater, or 18 months in the case of a fourth degree crime, during
3 which the defendant shall be ineligible for parole.

4 The minimum terms established by this section shall not
5 prevent the court from imposing presumptive terms of
6 imprisonment pursuant to 2C:44-1f. (1) except in cases of crimes
7 of the fourth degree.

8 A person who has been convicted of an offense enumerated by
9 this subsection and who used or possessed a firearm during its
10 commission, attempted commission or flight therefrom and who
11 has been previously convicted of an offense involving the use or
12 possession of a firearm as defined in 2C:44-3d., shall be
13 sentenced by the court to an extended term as authorized by
14 2C:43-7c.. notwithstanding that extended terms are ordinarily
15 discretionary with the court.

16 d. The court shall not impose a mandatory sentence pursuant
17 to subsection c. of this section, 2C:43-7c. or 2C:44-3d., unless
18 the ground therefor has been established at a hearing. At the
19 hearing, which may occur at the time of sentencing, the
20 prosecutor shall establish by a preponderance of the evidence
21 that the weapon used or possessed was a firearm. In making its
22 finding, the court shall take judicial notice of any evidence,
23 testimony or information adduced at the trial, plea hearing, or
24 other court proceedings and shall also consider the presentence
25 report and any other relevant information.

26 e. A person convicted of a third or subsequent offense
27 involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any
28 other provision of this code, or under any of the provisions of
29 Title 54 of the Revised Statutes, or Title 54A of the New Jersey
30 Statutes, as amended and supplemented, shall be sentenced to a
31 term of imprisonment by the court. This shall not preclude an
32 application for and imposition of an extended term of
33 imprisonment under N.J.S.2C:44-3 if the provisions of that
34 section are applicable to the offender.

35 f. A person convicted of manufacturing, distributing,
36 dispensing or possessing with intent to distribute any dangerous
37 substance or controlled substance analog under N.J.S.2C:35-5, of
38 maintaining or operating a controlled dangerous substance
39 production facility under N.J.S.2C:35-4, of employing a juvenile
40 in a drug distribution scheme under N.J.S.2C:35-6, leader of a
41 narcotics trafficking network under N.J.S.2C:35-3, or of
42 distributing, dispensing or possessing with intent to distribute on
43 or near school property or buses under section 1 of P.L.1987,
44 c.101 (C.2C:35-7), who has been previously convicted of
45 manufacturing, distributing, dispensing or possessing with intent
46 to distribute a controlled dangerous substance or controlled
47 substance analog, shall upon application of the prosecuting
48 attorney be sentenced by the court to an extended term as
49 authorized by subsection c. of N.J.S.2C:43-7, notwithstanding
50 that extended terms are ordinarily discretionary with the court.
51 The term of imprisonment shall, except as may be provided in
52 N.J.S.2C:35-12, include the imposition of a minimum term. The
53 minimum term shall be fixed at, or between, one-third and
54 one-half of the sentence imposed by the court or three years,

1 whichever is greater, not less than seven years if the person is
2 convicted of a violation of N.J.S.2C:35-6, or 18 months in the
3 case of a fourth degree crime, during which the defendant shall
4 be ineligible for parole.

5 The court shall not impose an extended term pursuant to this
6 subsection unless the ground therefor has been established at a
7 hearing. At the hearing, which may occur at the time of
8 sentencing, the prosecutor shall establish the ground therefor by
9 a preponderance of the evidence. In making its finding, the court
10 shall take judicial notice of any evidence, testimony or
11 information adduced at the trial, plea hearing, or other court
12 proceedings and shall also consider the presentence report and
13 any other relevant information.

14 For the purpose of this subsection, a previous conviction exists
15 where the actor has at any time been convicted under chapter 35
16 of this title or Title 24 of the Revised Statutes or under any
17 similar statute of the United States, this State, or any other state
18 for an offense that is substantially equivalent to N.J.S.2C:35-3,
19 N.J.S.2C:35-4, N.J.S.2C:35-5, N.J.S.2C:35-6 or section 1 of
20 P.L.1987, c.101 (C.2C:35-7).

21 g. Any person who has been convicted under subsection a. of
22 N.J.S.2C:39-4 of possessing a machine gun or assault firearm
23 with intent to use it against the person of another, or of a crime
24 under any of the following sections: N.J.S.2C:11-3,
25 N.J.S.2C:11-4, N.J.S.2C:12-1b., N.J.S.2C:13-1, N.J.S.2C:14-2a.,
26 N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-5,
27 N.J.S.2C:35-5, who, while in the course of committing or
28 attempting to commit the crime, including the immediate flight
29 therefrom, used or was in possession of a machine gun or assault
30 firearm shall be sentenced to a term of imprisonment by the
31 court. The term of imprisonment shall include the imposition of
32 a minimum term. The minimum term shall be fixed at 10 years
33 for a crime of the first or second degree, five years for a crime
34 of the third degree, or 18 months in the case of a fourth degree
35 crime, during which the defendant shall be ineligible for parole.

36 The minimum terms established by this section shall not
37 prevent the court from imposing presumptive terms of
38 imprisonment pursuant to paragraph (1) of subsection f. of
39 N.J.S.2C:44-1 for crimes of the first degree.

40 A person who has been convicted of an offense enumerated in
41 this subsection and who used or possessed a machine gun or
42 assault firearm during its commission, attempted commission or
43 flight therefrom and who has been previously convicted of an
44 offense involving the use or possession of any firearm as defined
45 in subsection d. of N.J.S.2C:44-3, shall be sentenced by the court
46 to an extended term as authorized by subsection d. of
47 N.J.S.2C:43-7, notwithstanding that extended terms are
48 ordinarily discretionary with the court.

49 h. The court shall not impose a mandatory sentence pursuant
50 to subsection g. of this section, subsections d. of N.J.S.2C:43-7 or
51 N.J.S.2C:44-3, unless the ground therefor has been established at
52 a hearing. At the hearing, which may occur at the time of
53 sentencing, the prosecutor shall establish by a preponderance of
54 the evidence that the weapon used or possessed was a machine

1 gun or assault firearm. In making its finding, the court shall take
2 judicial notice of any evidence, testimony or information adduced
3 at the trial, plea hearing, or other court proceedings and shall
4 also consider the presentence report and any other relevant
5 information.

6 i. (1) Any person convicted of a crime under any of the
7 following sections: N.J.S.2C:11-4, N.J.S.2C:12-1b.,
8 N.J.S.2C:13-1, N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1,
9 N.J.S.2C:18-2, N.J.S.2C:29-5, N.J.S.2C:35-5, who, while in the
10 course of committing or attempting to commit the crime,
11 including the immediate flight therefrom, used or was in
12 possession of a stolen automobile shall be sentenced to a term of
13 imprisonment by the court. In cases of convictions for crimes of
14 the fourth, third or second degree, the court shall sentence the
15 defendant to a term appropriate to a crime one degree higher
16 than that of the crime for which the person was convicted. In
17 cases of convictions of crimes of the first degree, the defendant
18 shall, notwithstanding the provisions of paragraph (1) of
19 subsection a. of N.J.S.2C:43-6, be subject to a term of
20 imprisonment of between 15 and 30 years.

21 (2) The provisions of paragraph (1) of this subsection shall
22 preclude an application for and imposition of an extended term of
23 imprisonment under N.J.S.2C:44-3 if the provisions of that
24 section are applicable to the offender.

25 (3) The court shall not impose a term pursuant to this
26 subsection unless the ground therefor has been established at a
27 hearing. At the hearing, which may occur at the time of
28 sentencing, the prosecutor shall establish the ground therefor by
29 a preponderance of the evidence. In making its finding, the court
30 shall take judicial notice of any evidence, testimony or
31 information adduced at the trial, plea hearing, or other court
32 proceedings and shall also consider the presentence report and
33 any other relevant information.

34 (cf: P.L.1990, c.32, s.6)

35 2. This act shall take effect immediately.

36
37
38 STATEMENT

39
40 This bill would require the imposition of a term of
41 imprisonment on persons who use stolen automobiles to commit
42 certain crimes (i.e. robbery, aggravated assault, manslaughter).
43 The bill also provides that if the offense for which the person was
44 convicted is graded as a crime of the fourth, third or second
45 degree and a stolen automobile was involved, the court shall
46 sentence the defendant to a term appropriate to a crime one
47 degree higher than that of the crime for which the person was
48 convicted. In cases involving crimes of the first degree when a
49 stolen automobile is involved, the court would sentence the
50 defendant to a term of imprisonment of between 15 and 30
51 years. The normal term of imprisonment for crimes of the first
52 degree is between 10 and 20 years.

S1090

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3 Upgrades penalties for certain crimes committed with a stolen

4 automobile.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1090

STATE OF NEW JERSEY

DATED: APRIL 5, 1993

The Assembly Judiciary, Law and Public Safety Committee reports favorably Senate Committee Substitute for Senate Bill No. 1090.

The substitute would provide that persons who commit certain crimes with stolen motor vehicles would be eligible, upon application of the prosecutor, for an extended term of imprisonment. The substitute would also provide that if the offense was committed with a stolen motor vehicle it would be an aggravating factor to be considered by a sentencing court in all cases by adding a new subsection f. to N.J.S.2C:44-3.

The offenses covered by the committee substitute include manslaughter, aggravated assault, kidnapping, sexual assault, robbery, burglary, eluding, escape and drug trafficking.

The substitute also amends N.J.S.2C:44-3 concerning criteria for extended terms. The substitute amends some of the criteria to add qualifying language that the crime is of the first, second or third degree.. The substitute amends the persistent offender, professional criminal and receipt of consideration criteria.

The substitute amends N.J.S.2C:44-1 to add a new aggravating factor for consideration by the court when imposing sentence. The factor is: 13) The defendant, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a stolen motor vehicle.

This Senate Committee Substitute is identical to the Assembly Committee Substitute for Assembly Bills Nos. 1719 and 1841.

SENATE JUDICIARY COMMITTEE
STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1090
STATE OF NEW JERSEY

DATED: OCTOBER 8, 1992

The Senate Judiciary Committee reports favorably a Senate Committee Substitute for Senate Bill No. 1090.

The substitute adopted by the committee would provide that persons who commit certain crimes with stolen motor vehicles would be eligible, upon application of the prosecutor, for an extended term of imprisonment. The committee substitute would also provide that if the offense was committed with a stolen motor vehicle it would be an aggravating factor to be considered by a sentencing court in all cases.

The offenses covered by the committee substitute include manslaughter, aggravated assault, kidnapping, sexual assault, robbery, burglary, eluding, escape and drug trafficking.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

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Release: Thursday
June 3, 1993

GOVERNOR SIGNS LAWS GIVING POLICE NEW WEAPONS AGAINST CAR THEFT

PLAINFIELD -- Giving police new weapons in the fight to keep New Jersey safe and secure, Governor Jim Florio today signed into law a comprehensive plan aimed at cracking down on car theft through tougher penalties aimed at both adults and juveniles. The legislation was developed by Attorney General Robert Del Tufo at the Governor's request following a rash of car theft incidents last summer.

"Car theft isn't a game. It's a reckless and increasingly violent crime. People who steal cars need to know that there's a steep price to pay even if they are juveniles," said Governor Florio, as he signed the four-bill package at the Plainfield Police Department. "These bills give police four powerful new weapons in their efforts to create a safe and secure New Jersey."

"We're sending a message to car thieves: from now on, if you do the crime, you do the time even if you're a first-time offender," he said.

The comprehensive plan

- *increases penalties for crimes involving motor vehicle thefts.*
- *establishes mandatory penalties for juveniles involved in motor vehicle-related crimes.*
- *provides extended prison terms for persons who use stolen vehicles to commit certain crimes.*
- *imposes jail terms for repeat offenders convicted of vehicle-related offenses.*

Under the new laws, parents who neglect to exercise reasonable supervision and control over a child who commits car theft may be ordered to pay restitution to car theft victims.

"The signing of these bills today is the culmination of the most comprehensive and effective law enforcement program in recent memory," said Frederick DeVesa, First Assistant Attorney General. "Punishment for car theft will be more certain. Jail terms for

CAR THEFT CRIME PACKAGE FACT SHEET

- **INCREASED PENALTIES FOR CRIMES INVOLVING MOTOR VEHICLE THEFTS**

Previously, joyriding was punishable as a disorderly persons offense with jail terms of up to six months and a \$1,000 fine. Under the new law, "joyriding" is classified as a fourth degree crime. If the stolen vehicle is also operated in a way that creates a risk of injury or property damage, the crime would be upgraded to third degree, carrying a penalty of three to five years in jail and a maximum \$7,500 fine. The penalty for a fourth-degree crime is 18 months in prison and a maximum \$7,500 fine.

For both third and fourth-degree offenses, there is a presumption against incarceration for first-time offenders. Under another law signed by the Governor as part of the package, the presumption against incarceration would be eliminated in cases involving joyriding that creates a risk of injury and auto theft. The new law also permits occupants who knowingly ride in a stolen vehicle to be charged with a fourth-degree crime. The offense was previously graded as a petty disorderly persons offense.

S 1207/A 47; sponsored by Senators Joe Bubba and Ronald Rice, and Assemblypersons Marion Crecco and John Hartmann.

- **ESTABLISHES MANDATORY PENALTIES FOR JUVENILES INVOLVED
IN MOTOR VEHICLE-RELATED CRIMES**

Under previous law, penalties for juveniles were within the discretion of the court. The new law sets the following mandatory penalties for juveniles who commit certain motor vehicle-related offenses:

- Minimum 60 days incarceration for any juvenile guilty of aggravated assault who causes injury as the result of joyriding or eluding police, or for eluding if the offense creates a risk of injury, or for motor vehicle theft by a repeat offender.
- Minimum 30 days incarceration for repeated offenders guilty of joyriding or for eluding police which does not create a risk of injury.
- Sixty days mandatory community service, or a term of incarceration, for first offenders guilty of motor vehicle theft, for joyriding which creates a risk of injury or for eluding which does not create a risk of injury.
- Thirty days mandatory community service or some term of incarceration for joyriding which does not create a risk of injury.

Parents who neglect to exercise reasonable supervision and control over a child who commits car theft may be ordered to pay restitution to car theft victims.

S 1206/A 46/314: sponsored by Senators Louis Bassano and Randy Corman, and Assemblypersons Paul DiGaetano, John Kelly and Marion Crecco.