

2C:43-2

LEGISLATIVE HISTORY CHECKLIST
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(Sentencing)

NJSA: 2C:43-2

LAWS OF: 1994 **CHAPTER:** 155

BILL NO: A722

SPONSOR(S): DeCroce and others

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Judiciary

SENATE: Law & Public Safety

AMENDED DURING PASSAGE: Yes Amendments during passage
First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** August 29, 1994

SENATE: October 27, 1994

DATE OF APPROVAL: December 9, 1994

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

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

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PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblymen DeCROCE, AZZOLINA, Arnone, Bagger, Cottrell, Assemblywoman Crecco, Assemblymen Foley, Frelinghuysen, Gaffney, Assemblywoman Haines, Assemblymen Kavanaugh, Malone, Assemblywoman Murphy, Assemblymen Pascrell, Roma, T. Smith, Williams, Wolfe, Assemblywoman Wright, Assemblymen Zangari, Zisa, Albohn, Catania, Doria, Geist, Gibson, Haytaian, Kamin, Kelly, Mikulak, Oros, Solomon, Bateman, Garcia, Garrett, Dalton, Zecker, DiGaetano, Felice, Assemblywoman Gregory-Scocchi, Assemblyman Rocco, Assemblywoman J. Smith, Assemblymen Warsh, Lance and Assemblywoman Heck

1 AN ACT concerning statements on the record at sentencing and
2 amending N.J.S.2C:43-2.

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

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

7 2C:43-2. Sentence in accordance with code; authorized
8 dispositions. a. Except as otherwise provided by this code, all
9 persons convicted of an offense or offenses shall be sentenced in
10 accordance with this chapter.

11 b. Except as provided in subsection a. of this section and
12 subject to the applicable provisions of the code, the court may
13 suspend the imposition of sentence on a person who has been
14 convicted of an offense, or may sentence him as follows:

15 (1) To pay a fine or make restitution authorized by section
16 2C:43-3; or

17 (2) To be placed on probation and, in the case of a person
18 convicted of a crime, to imprisonment for a term fixed by the
19 court not exceeding 364 days to be served as a condition of
20 probation, or in the case of a person convicted of a disorderly
21 persons offense, to imprisonment for a term fixed by the court
22 not exceeding 90 days to be served as a condition of probation; or

23 (3) To imprisonment for a term authorized by sections
24 2C:11-3, 2C:43-5, 2C:43-6, 2C:43-7, and 2C:43-8 or 2C:44-5; or

25 (4) To pay a fine, make restitution and probation, or fine,
26 restitution and imprisonment; or

27 (5) To release under supervision in the community or to require
28 the performance of community-related service; or

29 (6) To a halfway house or other residential facility in the
30 community, including agencies which are not operated by the
31 Department of Human Services; or

32 (7) To imprisonment at night or on weekends with liberty to
33 work or to participate in training or educational programs.

34 c. Instead of or in addition to any disposition made according
35 to this section, the court may postpone, suspend, or revoke for a

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:
Assembly AJL committee amendments adopted June 23, 1994.

1 period not to exceed two years the driver's license, registration
2 certificate, or both of any person convicted of a crime, disorderly
3 persons offense, or petty disorderly persons offense in the course
4 of which a motor vehicle was used. In imposing this disposition
5 and in deciding the duration of the postponement, suspension, or
6 revocation, the court shall consider the severity of the crime or
7 offense and the potential effect of the loss of driving privileges
8 on the person's ability to be rehabilitated. Any postponement,
9 suspension, or revocation shall be imposed consecutively with any
10 custodial sentence.

11 d. This chapter does not deprive the court of any authority
12 conferred by law to decree a forfeiture of property, suspend or
13 cancel a license, remove a person from office, or impose any
14 other civil penalty. Such a judgment or order may be included in
15 the sentence.

16 e. The court shall state on the record the reasons for imposing
17 the sentence, including its findings pursuant to the criteria for
18 withholding or imposing imprisonment or fines under sections
19 2C:44-1 to 2C:44-3, where imprisonment is imposed,
20 consideration of the defendant's eligibility for release under the
21 law governing parole and the factual basis supporting its findings
22 of particular aggravating or mitigating factors affecting
23 sentence. ¹[The court shall explain the parole laws as they apply
24 to the sentence, stating what portion of the sentence the
25 defendant must serve prior to parole eligibility and that the
26 defendant will be eligible for jail credits to be determined
27 consistent with the provisions of P.L.1979, c.441 (C.30:4-123.45
28 et seq.). The court shall also advise the defendant of his right to
29 apply for participation in the Intensive Supervision Program.]

30 f. The court shall explain the parole laws as they apply to the
31 sentence and shall state:

32 (1) the approximate period of time in years and months the
33 defendant will serve in custody before parole eligibility;

34 (2) the jail credits or the amount of time the defendant has
35 already served;

36 (3) that the defendant may be entitled to good time and work
37 credits; and

38 (4) that the defendant may be eligible for participation in the
39 Intensive Supervision Program.¹

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

41 2. This act shall take effect on the 30th day after enactment.

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46 Clarifies statements on the record by the court at imposition of
47 sentence.

1 on the person's ability to be rehabilitated. Any postponement,
2 suspension, or revocation shall be imposed consecutively with any
3 custodial sentence.

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5 conferred by law to decree a forfeiture of property, suspend or
6 cancel a license, remove a person from office, or impose any
7 other civil penalty. Such a judgment or order may be included in
8 the sentence.

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10 the sentence, including its findings pursuant to the criteria for
11 withholding or imposing imprisonment or fines under sections
12 2C:44-1 to 2C:44-3, where imprisonment is imposed,
13 consideration of the defendant's eligibility for release under the
14 law governing parole and the factual basis supporting its findings
15 of particular aggravating or mitigating factors affecting
16 sentence. The court shall explain the parole laws as they apply to
17 the sentence, stating what portion of the sentence the defendant
18 must serve prior to parole eligibility and that the defendant will
19 be eligible for jail credits to be determined consistent with the
20 provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The court
21 shall also advise the defendant of his right to apply for
22 participation in the Intensive Supervision Program.

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

24 2. This act shall take effect on the 30th day after enactment.

25 26 27 STATEMENT

28
29 This bill amends N.J.S.2C:43-2 to clarify matters which a court
30 must state on the record at the time of sentencing.

31 The language in subsection e. of N.J.S.2C:43-2 provides that
32 the court shall explain the parole laws as they apply to the
33 sentence, stating what portion of the sentence the defendant
34 must serve prior to parole eligibility and that the defendant will
35 be eligible for jail credits to be determined consistent with the
36 provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The court
37 shall also advise the defendant of his right to apply for
38 participation in the Intensive Supervision Program. These
39 changes will account for the occasions when the court may not be
40 able to determine the "earliest possible parole date" due to
41 circumstances which are not before the judge at the time of
42 sentencing or within the control of the judiciary. The
43 amendments will require the judge to explain the parole laws, on
44 the record, as they apply to the sentence in order to achieve the
45 purpose of the bill which is to achieve "truth in sentencing".

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50 Clarifies statements on the record by the court at imposition of
51 sentence.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

FOR LIBRARY USE ONLY ASSEMBLY, No. 722
DO NOT CIRCULATE with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 23, 1994

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 722.

This bill would require the judge to explain the parole laws, on the record, as they apply to the sentence in order achieve "truth in sentencing". Specifically, the bill amends subsection e. of N.J.S.2C:43-2 to require the court to state what portion of the sentence the defendant would be required to serve in custody prior to parole eligibility. The court would also be required to advise the defendant that he may be eligible for jail credits or time served and good time and work credits as well as be eligible for participation in the Intensive Supervision Program (ISP). The committee amended the bill to make certain changes in the language in light of the recent rule change by the New Jersey Supreme Court to R. 3:21-4.

This bill as amended is identical to Senate Bill No. 718 (1R).

This bill was prefiled for introduction in the 1994 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 722

STATE OF NEW JERSEY

DATED: SEPTEMBER 26, 1994

The Senate Law and Public Safety Committee favorably reports Assembly Bill No. 722 (1R).

This bill amends N.J.S.2C:43-2 to clarify matters which a court must state on the record at the time of sentencing.

This bill requires the court to explain the parole laws as they apply to the sentence, specifically stating the approximate period of time in years and months the defendant will serve in custody before parole eligibility; the jail credits or amount of time the defendant has already served; that the defendant may be entitled to good time and work credits; and that the defendant may be eligible for participation in the Intensive Supervision Program.

The amendments will require the judge to explain the parole laws, on the record, as they apply to the sentence imposed in order to achieve "truth in sentencing." The bill comports with a recent change by the New Jersey Supreme Court to the language of a court rule.

As amended and released by the committee, this bill is identical to Senate Bill No. 718 (1R).