

2C:13-1

LEGISLATIVE HISTORY CHECK
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LAWS OF: 1999 CHAPTER: 190
NJSA: 2C:13-1 (Kidnapping)
BILL NO: S446 (Substituted for A3010)

SPONSOR(S): Girgenti and Gormley

DATE INTRODUCED: February 10, 1998

COMMITTEE: ASSEMBLY: Judiciary
SENATE: Judiciary

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: ASSEMBLY: May ¹⁰~~24~~, 1998
SENATE: May ²⁴~~15~~, 1998

DATE OF APPROVAL: August 31, 1999

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: 2nd Reprint
(Amendments during passage denoted by superscript numbers)

S446

SPONSORS STATEMENT: (Begins on page 5 of original bill) Yes
COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes
FLOOR AMENDMENT STATEMENTS: No
LEGISLATIVE FISCAL ESTIMATE: No

A3010

SPONSORS STATEMENT: (Begins on page 5 of original bill) Yes
Bill and Sponsors statement identical to S446
COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: No
FLOOR AMENDMENT STATEMENTS: No
LEGISLATIVE FISCAL ESTIMATE: No

(continued)

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No

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Yes

"Governor enacts tougher kidnap law," 9-1-99, Newark Star Ledger, p. 21.

KBP:pp
11-4-99

[Second Reprint]

SENATE, No. 446

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED FEBRUARY 10, 1998

Sponsored by:

Senator JOHN A. GIRGENTI

District 35 (Passaic)

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Co-Sponsored by:

Senator Robertson, Assemblywoman Pou, Assemblymen Russo and Steele

SYNOPSIS

Clarifies the crime of kidnapping; upgrades interference with custody in certain circumstances.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on March 25, 1999, with amendments.

(Sponsorship Updated As Of: 5/11/1999)

1 AN ACT concerning kidnapping and interference with custody in
2 certain circumstances and amending N.J.S.2C:13-1 and
3 N.J.S.2C:13-4.

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

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

9 2C:13-1. Kidnapping. a. Holding for ransom, reward or as a
10 hostage. A person is guilty of kidnapping if he unlawfully removes
11 another from the place where he is found or if he unlawfully confines
12 another with the purpose of holding that person for ransom or reward
13 or as a shield or hostage.

14 b. Holding for other purposes. A person is guilty of kidnapping if
15 he unlawfully removes another from his place of residence or business,
16 or a substantial distance from the vicinity where he is found, or if he
17 unlawfully confines another for a substantial period, with any of the
18 following purposes:

19 (1) To facilitate commission of any crime or flight thereafter;

20 (2) To inflict bodily injury on or to terrorize the victim or another;

21 **[or]**

22 (3) To interfere with the performance of any governmental or
23 political function; or

24 (4) To permanently deprive a parent, guardian or other lawful
25 custodian of custody of the victim.

26 c. Grading of kidnapping. (1) Except as provided in paragraph (2)
27 of this subsection, kidnapping is a crime of the first degree and upon
28 conviction thereof, a person may, notwithstanding the provisions of
29 paragraph (1) of subsection a. of N.J.S.2C:43-6, be sentenced to an
30 ordinary term of imprisonment between 15 and 30 years. If the actor
31 releases the victim unharmed and in a safe place prior to apprehension,
32 it is a crime of the second degree.

33 (2) Kidnapping is a crime of the first degree and upon conviction
34 thereof, an actor shall be sentenced to a term of imprisonment by the
35 court, if the victim of the kidnapping is less than 16 years of age and
36 if during the kidnapping:

37 (a) A crime under N.J.S.2C:14-2 or subsection a. of N.J.S.2C:14-3
38 is committed against the victim;

39 (b) A crime under subsection b. of N.J.S.2C:24-4 is committed
40 against the victim; or

41 (c) The actor sells or delivers the victim to another person for

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SJU committee amendments adopted March 2, 1998.

² Assembly AJU committee amendments adopted March 25, 1999.

1 pecuniary gain other than in circumstances which lead to the return of
2 the victim to a parent, guardian or other person responsible for the
3 general supervision of the victim.

4 Notwithstanding the provisions of paragraph (1) of subsection a. of
5 N.J.S.2C:43-6, the term of imprisonment imposed under this
6 paragraph shall be either a term of 25 years during which the actor
7 shall not be eligible for parole, or a specific term between 25 years and
8 life imprisonment, of which the actor shall serve 25 years before being
9 eligible for parole: provided, however, that the crime of kidnapping
10 under this paragraph and underlying aggravating crimes listed in
11 subparagraph (a), (b) or (c) of this paragraph shall merge for purposes
12 of sentencing. If the actor is convicted of the criminal homicide of a
13 victim of a kidnapping under the provisions of chapter 11, any
14 sentence imposed under provisions of this paragraph shall be served
15 consecutively to any sentence imposed pursuant to the provisions of
16 chapter 11.

17 d. "Unlawful" removal or confinement. A removal or confinement
18 is unlawful within the meaning of this section and of sections 2C:13-2
19 and 2C:13-3, if it is accomplished by force, threat or deception, or, in
20 the case of a person who is under the age of 14 or is incompetent, if
21 it is accomplished without the consent of a parent, guardian or other
22 person responsible for general supervision of his welfare.

23 ¹e. It is an affirmative defense to a prosecution under paragraph (4)
24 of subsection b. of this section, which must be proved by clear and
25 convincing evidence, that:

26 (1) The actor reasonably believed that the action was necessary to
27 preserve the victim from imminent danger to his welfare. However, no
28 defense shall be available ²[to]² pursuant to this subsection if the
29 actor does not, as soon as reasonably practicable but in no event more
30 than 24 hours after taking a victim under his protection, give notice of
31 the victim's location to the police department of the municipality where
32 the victim resided, the office of the county prosecutor in the county
33 where the victim resided, or the Division of Youth and Family Services
34 in the Department of Human Services;

35 (2) The actor reasonably believed that the taking or detaining of
36 the victim was consented to by a parent, or by an authorized State
37 agency; or

38 (3) The victim, being at the time of the taking or concealment not
39 less than 14 years old, was taken away at his own volition ²by his
40 parent² and without purpose to commit a criminal offense with or
41 against the victim.

42 f. It is an affirmative defense to a prosecution under paragraph (4)
43 of subsection b. of this section that a parent having the right of
44 custody reasonably believed he was fleeing from imminent physical
45 danger from the other parent, provided that the parent having custody,
46 as soon as reasonably practicable;

1 (1) Gives notice of the victim's location to the police department
2 of the municipality where the victim resided, the office of the county
3 prosecutor in the county where the victim resided, or the Division of
4 Youth and Family Services in the Department of Human Services; or
5 (2) Commences an action affecting custody in an appropriate court.
6 g. As used in subsections e. and f. of this section, "parent" means
7 a parent, guardian or other lawful custodian of a victim.¹

8 (cf: P.L.1986, c.172, s.2)

9

10 2. N.J.S.2C:13-4 is amended to read as follows:

11 2C:13-4. Interference with custody. a. Custody of children. A
12 person, including a parent, guardian or other lawful custodian, is guilty
13 of interference with custody if he:

14 (1) Takes or detains a minor child with the purpose of concealing
15 the minor child and thereby depriving the child's other parent of
16 custody or ¹['visitation] parenting time with¹ of the minor child; or

17 (2) After being served with process or having actual knowledge of
18 an action affecting marriage or custody but prior to the issuance of a
19 temporary or final order determining custody and ¹['visitation]
20 parenting time¹ rights to a minor child, takes, detains, entices or
21 conceals the child within or outside the State for the purpose of
22 depriving the child's other parent of custody or ¹['visitation] parenting
23 time¹, or to evade the jurisdiction of the courts of this State;

24 (3) After being served with process or having actual knowledge of
25 an action affecting the protective services needs of a child pursuant to
26 Title 9 of the Revised Statutes in an action affecting custody, but prior
27 to the issuance of a temporary or final order determining custody
28 rights of a minor child, takes, detains, entices or conceals the child
29 within or outside the State for the purpose of evading the jurisdiction
30 of the courts of this State; or

31 (4) After the issuance of a temporary or final order specifying
32 custody, ¹['visitation or]¹ joint custody rights ¹or parenting time¹,
33 takes, detains, entices or conceals a minor child from the other parent
34 in violation of the custody or ²['visitation] parenting time² order.

35 Interference with custody is a crime of the second degree if the
36 child is taken, detained, enticed or concealed: ¹['(1)(i)¹ outside the
37 United States ²[:]or² ¹['(2)(ii)¹ for more than 24 hours ¹[:] or (3)
38 with the purpose of permanently depriving a parent of custody]¹.
39 Otherwise, interference with custody is a crime of the third degree but
40 the presumption of non-imprisonment set forth in subsection e. of
41 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall
42 not apply. **【However, if the child is taken, detained, enticed or**
43 **concealed outside the United States, interference with custody is a**
44 **crime of the second degree.】**

45 b. Custody of committed persons. A person is guilty of a crime of

1 the fourth degree if he knowingly takes or entices any committed
2 person away from lawful custody when he is not privileged to do so.
3 "Committed person" means, in addition to anyone committed under
4 judicial warrant, any orphan, neglected or delinquent child, mentally
5 defective or insane person, or other dependent or incompetent person
6 entrusted to another's custody by or through a recognized social
7 agency or otherwise by authority of law.

8 c. It is an affirmative defense to a prosecution under subsection a.
9 of this section, which must be proved by clear and convincing
10 evidence, that:

11 (1) The actor reasonably believed that the action was necessary to
12 preserve the child from imminent danger to his welfare. However, no
13 defense shall be available pursuant to this subsection if the actor does
14 not, as soon as reasonably practicable but in no event more than 24
15 hours after taking a child under his protection, give notice of the
16 child's location to the police department of the municipality where the
17 child resided, the office of the county prosecutor in the county where
18 the child resided, or the Division of Youth and Family Services in the
19 Department of Human Services;

20 (2) The actor reasonably believed that the taking or detaining of
21 the minor child was consented to by the other parent, or by an
22 authorized State agency; or

23 (3) The child, being at the time of the taking or concealment not
24 less than 14 years old, was taken away at his own volition and without
25 purpose to commit a criminal offense with or against the child.

26 d. It is an affirmative defense to a prosecution under subsection a.
27 of this section that a parent having the right of custody reasonably
28 believed he was fleeing from imminent physical danger from the other
29 parent, provided that the parent having custody, as soon as reasonably
30 practicable:

31 (1) Gives notice of the child's location to the police department of
32 the municipality where the child resided, the office of the county
33 prosecutor in the county where the child resided, or the Division of
34 Youth and Family Services in the Department of Human Services; or

35 (2) Commences an action affecting custody in an appropriate court.

36 e. The offenses enumerated in this section are continuous in nature
37 and continue for so long as the child is concealed or detained.

38 f. (1) In addition to any other disposition provided by law, a person
39 convicted under subsection a. of this section shall make restitution of
40 all reasonable expenses and costs, including reasonable counsel fees,
41 incurred by the other parent in securing the child's return.

42 (2) In imposing sentence under subsection a. of this section the
43 court shall consider, in addition to the factors enumerated in chapter
44 44 of Title 2C of the New Jersey Statutes:

45 (a) Whether the person returned the child voluntarily; and

46 (b) The length of time the child was concealed or detained.

S446 [2R] GIRGENTI, GORMLEY

6

- 1 g. As used in this section, "parent" means a parent, guardian or
- 2 other lawful custodian of a minor child.
- 3 (cf: P.L.1997, c.299, s.7)
- 4
- 5 3. This act shall take effect immediately.

1 e. The offenses enumerated in this section are continuous in nature
2 and continue for so long as the child is concealed or detained.

3 f. (1) In addition to any other disposition provided by law, a person
4 convicted under subsection a. of this section shall make restitution of
5 all reasonable expenses and costs, including reasonable counsel fees,
6 incurred by the other parent in securing the child's return.

7 (2) In imposing sentence under subsection a. of this section the
8 court shall consider, in addition to the factors enumerated in chapter
9 44 of Title 2C of the New Jersey Statutes:

10 (a) Whether the person returned the child voluntarily; and

11 (b) The length of time the child was concealed or detained.

12 g. As used in this section, "parent" means a parent, guardian or
13 other lawful custodian of a minor child.

14 (cf: P.L.1990,c.104,s.1)

15

16 3. This act shall take effect immediately.

17

18

19

STATEMENT

20

21 This bill would clarify that the unlawful taking or confining of a
22 child with the purpose of permanently depriving a parent or guardian
23 of custody constitutes the crime of kidnapping. The bill also upgrades
24 the crime of interference with custody from a crime of the third degree
25 to a crime of the second degree if the crime was committed with the
26 purpose of permanently depriving a parent or guardian of custody.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 446

STATE OF NEW JERSEY

DATED: FEBRUARY 10, 1998

The Senate Judiciary Committee reports favorably Senate Bill No. 446.

This bill would clarify that the unlawful taking or confining of a child with the purpose of permanently depriving a parent or guardian of custody constitutes the crime of kidnapping. The bill also upgrades the crime of interference with custody from a crime of the third degree to a crime of the second degree if the crime was committed with the purpose of permanently depriving a parent or guardian of custody.

This bill was prefiled in for introduction in the 1998 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 446

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 25, 1999

The Assembly Judiciary Committee reports favorably and with committee amendments Senate Bill No. 446 (1R).

Under the current kidnapping statute, a person may be charged with the crime of kidnapping if that person unlawfully removes another from a place or unlawfully confines another with the purpose of holding that person for ransom or reward or as a shield or hostage. The current law does not address where a person unlawfully takes a child intending to raise the child as the person's own. This bill would close this loophole in the law by clarifying that the unlawful taking or confining of a child with the purpose of permanently depriving a parent or guardian of custody constitutes the crime of kidnapping.

Previous committee amendments included in the bill affirmative defenses which parallel those available for interference with custody. However, the committee amended one of these affirmative defenses for kidnapping concerning a victim who is at least 14 years old and was taken away at his own volition to clarify that defense applies only to a parent, guardian or other lawful custodian of the victim. The committee felt that without such clarification persons could assert this defense inappropriately in cases such as those in which a minor may join a cult.

The bill also upgrades the crime of interference with custody from a crime of the third degree to a crime of the second degree if the child was taken, detained, enticed or concealed outside the United States or for more than 24 hours. The committee amendments would clarify that the crime of the second degree applies if the child is taken, detained, enticed or concealed outside the United States or for more than 24 hours. The "or" was omitted in error when the third circumstance was deleted by prior committee amendment. Otherwise, interference with custody is a crime of the third degree.

Other amendments make some technical changes and update the bill to reflect recently enacted legislation, P.L.1997. c. 299.

As amended, this bill is identical to Assembly, No. 3010 (1R).

ASSEMBLY, No. 3010

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MARCH 18, 1999

Sponsored by:

Assemblywoman NELLIE POU

District 35 (Passaic)

Assemblyman DAVID C. RUSSO

District 40 (Bergen and Passaic)

Co-Sponsored by:

Assemblyman Steele

SYNOPSIS

Clarifies the crime of kidnapping; upgrades interference with custody in certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



A3010 POU, RUSSO

2

1 AN ACT concerning kidnapping and interference with custody in
2 certain circumstances and amending N.J.S.2C:13-1 and
3 N.J.S.2C:13-4.

4

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

7

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

9 2C:13-1. Kidnapping. a. Holding for ransom, reward or as a
10 hostage. A person is guilty of kidnapping if he unlawfully removes
11 another from the place where he is found or if he unlawfully confines
12 another with the purpose of holding that person for ransom or reward
13 or as a shield or hostage.

14 b. Holding for other purposes. A person is guilty of kidnapping if
15 he unlawfully removes another from his place of residence or business,
16 or a substantial distance from the vicinity where he is found, or if he
17 unlawfully confines another for a substantial period, with any of the
18 following purposes:

19 (1) To facilitate commission of any crime or flight thereafter;

20 (2) To inflict bodily injury on or to terrorize the victim or another;

21 **[or]**

22 (3) To interfere with the performance of any governmental or
23 political function; or

24 (4) To permanently deprive a parent, guardian or other lawful
25 custodian of custody of the victim.

26 c. Grading of kidnapping. (1) Except as provided in paragraph (2)
27 of this subsection, kidnapping is a crime of the first degree and upon
28 conviction thereof, a person may, notwithstanding the provisions of
29 paragraph (1) of subsection a. of N.J.S.2C:43-6, be sentenced to an
30 ordinary term of imprisonment between 15 and 30 years. If the actor
31 releases the victim unharmed and in a safe place prior to apprehension,
32 it is a crime of the second degree.

33 (2) Kidnapping is a crime of the first degree and upon conviction
34 thereof, an actor shall be sentenced to a term of imprisonment by the
35 court, if the victim of the kidnapping is less than 16 years of age and
36 if during the kidnapping:

37 (a) A crime under N.J.S.2C:14-2 or subsection a. of N.J.S.2C:14-3
38 is committed against the victim;

39 (b) A crime under subsection b. of N.J.S.2C:24-4 is committed
40 against the victim; or

41 (c) The actor sells or delivers the victim to another person for
42 pecuniary gain other than in circumstances which lead to the return 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 the victim to a parent, guardian or other person responsible for the
2 general supervision of the victim.

3 Notwithstanding the provisions of paragraph (1) of subsection a. of
4 N.J.S.2C:43-6, the term of imprisonment imposed under this
5 paragraph shall be either a term of 25 years during which the actor
6 shall not be eligible for parole, or a specific term between 25 years and
7 life imprisonment, of which the actor shall serve 25 years before being
8 eligible for parole; provided, however, that the crime of kidnapping
9 under this paragraph and underlying aggravating crimes listed in
10 subparagraph (a), (b) or (c) of this paragraph shall merge for purposes
11 of sentencing. If the actor is convicted of the criminal homicide of a
12 victim of a kidnapping under the provisions of chapter 11, any
13 sentence imposed under provisions of this paragraph shall be served
14 consecutively to any sentence imposed pursuant to the provisions of
15 chapter 11.

16 d. "Unlawful" removal or confinement. A removal or confinement
17 is unlawful within the meaning of this section and of sections 2C:13-2
18 and 2C:13-3, if it is accomplished by force, threat or deception, or, in
19 the case of a person who is under the age of 14 or is incompetent, if
20 it is accomplished without the consent of a parent, guardian or other
21 person responsible for general supervision of his welfare.

22 e. It is an affirmative defense to a prosecution under paragraph (4)
23 of subsection b. of this section, which must be proved by clear and
24 convincing evidence, that:

25 (1) The actor reasonably believed that the action was necessary to
26 preserve the victim from imminent danger to his welfare. However, no
27 defense shall be available to pursuant to this subsection if the actor
28 does not, as soon as reasonably practicable but in no event more than
29 24 hours after taking a victim under his protection, give notice of the
30 victim's location to the police department of the municipality where the
31 victim resided, the office of the county prosecutor in the county where
32 the victim resided, or the Division of Youth and Family Services in the
33 Department of Human Services;

34 (2) The actor reasonably believed that the taking or detaining of
35 the victim was consented to by a parent, or by an authorized State
36 agency; or

37 (3) The victim, being at the time of the taking or concealment not
38 less than 14 years old, was taken away at his own volition and without
39 purpose to commit a criminal offense with or against the victim.

40 f. It is an affirmative defense to a prosecution under paragraph (4)
41 of subsection b. of this section that a parent having the right of
42 custody reasonably believed he was fleeing from imminent physical
43 danger from the other parent, provided that the parent having custody,
44 as soon as reasonably practicable:

45 (1) Gives notice of the victim's location to the police department
46 of the municipality where the victim resided, the office of the county

1 prosecutor in the county where the victim resided, or the Division of
2 Youth and Family Services in the Department of Human Services; or

3 (2) Commences an action affecting custody in an appropriate court.

4 g. As used in subsections e. and f. of this section, "parent" means
5 a parent, guardian or other lawful custodian of a victim.

6 (cf: P.L.1986, c.172, s.2)

7

8 2. N.J.S.2C:13-4 is amended to read as follows:

9 2C:13-4. Interference with custody. a. Custody of children. A
10 person, including a parent, guardian or other lawful custodian, is guilty
11 of interference with custody if he:

12 (1) Takes or detains a minor child with the purpose of concealing
13 the minor child and thereby depriving the child's other parent of
14 custody or **[visitation]** parenting time with of the minor child; or

15 (2) After being served with process or having actual knowledge of
16 an action affecting marriage or custody but prior to the issuance of a
17 temporary or final order determining custody and **[visitation]**
18 parenting time rights to a minor child, takes, detains, entices or
19 conceals the child within or outside the State for the purpose of
20 depriving the child's other parent of custody or **[visitation]** parenting
21 time, or to evade the jurisdiction of the courts of this State;

22 (3) After being served with process or having actual knowledge of
23 an action affecting the protective services needs of a child pursuant to
24 Title 9 of the Revised Statutes in an action affecting custody, but prior
25 to the issuance of a temporary or final order determining custody
26 rights of a minor child, takes, detains, entices or conceals the child
27 within or outside the State for the purpose of evading the jurisdiction
28 of the courts of this State; or

29 (4) After the issuance of a temporary or final order specifying
30 custody, **[visitation or]** joint custody rights or parenting time, takes,
31 detains, entices or conceals a minor child from the other parent in
32 violation of the custody or **[visitation]** parenting time order.

33 Interference with custody is a crime of the second degree if the
34 child is taken, detained, enticed or concealed: (i) outside the United
35 States; (ii) for more than 24 hours. Otherwise, interference with
36 custody is a crime of the third degree but the presumption of
37 non-imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first
38 offense of a crime of the third degree shall not apply. **[However, if**
39 **the child is taken, detained, enticed or concealed outside the United**
40 **States, interference with custody is a crime of the second degree.]**

41 b. Custody of committed persons. A person is guilty of a crime of
42 the fourth degree if he knowingly takes or entices any committed
43 person away from lawful custody when he is not privileged to do so.
44 "Committed person" means, in addition to anyone committed under
45 judicial warrant, any orphan, neglected or delinquent child, mentally
46 defective or insane person, or other dependent or incompetent person

1 entrusted to another's custody by or through a recognized social
2 agency or otherwise by authority of law.

3 c. It is an affirmative defense to a prosecution under subsection a.
4 of this section, which must be proved by clear and convincing
5 evidence, that:

6 (1) The actor reasonably believed that the action was necessary to
7 preserve the child from imminent danger to his welfare. However, no
8 defense shall be available pursuant to this subsection if the actor does
9 not, as soon as reasonably practicable but in no event more than 24
10 hours after taking a child under his protection, give notice of the
11 child's location to the police department of the municipality where the
12 child resided, the office of the county prosecutor in the county where
13 the child resided, or the Division of Youth and Family Services in the
14 Department of Human Services;

15 (2) The actor reasonably believed that the taking or detaining of
16 the minor child was consented to by the other parent, or by an
17 authorized State agency; or

18 (3) The child, being at the time of the taking or concealment not
19 less than 14 years old, was taken away at his own volition and without
20 purpose to commit a criminal offense with or against the child.

21 d. It is an affirmative defense to a prosecution under subsection a.
22 of this section that a parent having the right of custody reasonably
23 believed he was fleeing from imminent physical danger from the other
24 parent, provided that the parent having custody, as soon as reasonably
25 practicable:

26 (1) Gives notice of the child's location to the police department of
27 the municipality where the child resided, the office of the county
28 prosecutor in the county where the child resided, or the Division of
29 Youth and Family Services in the Department of Human Services; or

30 (2) Commences an action affecting custody in an appropriate court.

31 e. The offenses enumerated in this section are continuous in nature
32 and continue for so long as the child is concealed or detained.

33 f. (1) In addition to any other disposition provided by law, a person
34 convicted under subsection a. of this section shall make restitution of
35 all reasonable expenses and costs, including reasonable counsel fees,
36 incurred by the other parent in securing the child's return.

37 (2) In imposing sentence under subsection a. of this section the
38 court shall consider, in addition to the factors enumerated in chapter
39 44 of Title 2C of the New Jersey Statutes:

40 (a) Whether the person returned the child voluntarily; and

41 (b) The length of time the child was concealed or detained.

42 g. As used in this section, "parent" means a parent, guardian or
43 other lawful custodian of a minor child.

44 (cf: P.L.1997, c.299, s.7)

45

46 3. This act shall take effect immediately.

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STATEMENT

This bill would clarify that the unlawful taking or confining of a child with the purpose of permanently depriving a parent or guardian of custody constitutes the crime of kidnapping. The bill also upgrades the crime of interference with custody from a crime of the third degree to a crime of the second degree if the crime was committed with the purpose of permanently depriving a parent or guardian of custody.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3010

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 25, 1999

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 3010.

Under the current kidnapping statute, a person may be charged with the crime of kidnapping if that person unlawfully removes another from a place or unlawfully confines another with the purpose of holding that person for ransom or reward or as a shield or hostage. The current law does not address where a person unlawfully takes a child intending to raise the child as the person's own. This bill would close this loophole in the law by clarifying that the unlawful taking or confining of a child with the purpose of permanently depriving a parent or guardian of custody constitutes the crime of kidnapping.

The bill includes affirmative defenses which parallel those available for interference with custody. However, the committee amended one of these affirmative defenses for kidnapping concerning a victim who is at least 14 years old and was taken away at his own volition to clarify that defense applies only to a parent, guardian or other lawful custodian of the victim. The committee felt that without such clarification persons could assert this defense inappropriately in cases such as those in which a minor may join a cult.

The bill also upgrades the crime of interference with custody from a crime of the third degree to a crime of the second degree if the child was taken, detained, enticed or concealed outside the United States or for more than 24 hours. The committee amendments would clarify that the crime of the second degree applies if the child is taken, detained, enticed or concealed outside the United States **or** for more than 24 hours. The "or" was omitted in error. Otherwise, interference with custody is a crime of the third degree.

Other amendments adopted by the committee make technical corrections to the bill.

As amended, this bill is identical to Senate, No. 446 (2R).

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

November 21, 1983

ASSEMBLY BILL NO. 483 (OCR)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 483 (OCR) with my objections and recommendations for amendment.

This bill amends N.J.S. 2C:44-5 to provide that when a defendant is sentenced to a term of imprisonment for an offense committed while released pending the disposition of a previous offense, either while released with or without bail, the term of imprisonment for the second offense shall run consecutively to any sentence of imprisonment imposed for the previous offense unless the court orders the sentences to run concurrently.

I strongly support the changes proposed in A-483. I have long advocated that persons who commit a second offense while released on bail for a prior offense, should be required to serve consecutive rather than concurrent terms of imprisonment. Such an offender has breached the public trust, and the offender should not be given immediate leniency by the sentencing court.

This problem is broader than just committing an offense while out on bail. What about offenders who commit a subsequent offense while released on parole or probation, or who are serving a suspended sentence? A public trust is also reposed in these persons. If an offender violates that trust, why should society not expect that offender to serve a sentence consecutive to the sentence for the original offense? The offender committed two separate crimes and should be punished for having committed two separate crimes.

N.J.S. 2C:44-5 deals with all of the above issues. A-483 was released from the Assembly Judiciary, Law, Public Safety and Defense Committee after an agreement was reached between the Administration and the Assembly committee regarding comprehensive amendments to N.J.S. 2C:44-5. A-483 was released along with A-1550, and it was the intention of the committee that these two bills be treated as a package. The package has bipartisan support as A-483 is sponsored by a Democrat and A-1550 is sponsored by a Republican. The Assembly honored that commitment and passed A-483 (70-0) and A-1550 (69-0) on May 26, 1983. Both bills were referred to the Senate Judiciary Committee, and that committee

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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considered and released both bills one right after the other on June 27, 1983. At that time, testimony was presented to the committee by my office informing the Senators of the prior agreements regarding these bills which were concluded in the Assembly. When A-483 was posted on the Senate Board list for August 29, 1983, my office immediately contacted the Senate and requested that the earlier agreement be honored and that A-1550 be considered by the full Senate along with A-483. Since the passage of A-483, my office has requested at every Senate session that the Senate consider A-1550. To date this request has been denied.

A-483 and A-1550 should be treated as a package. Together, these two bills will effectuate a beneficial comprehensive change to our criminal statutes. Persons who commit multiple offenses while released under some form of public trust should be required to serve a separate sentence for each offense.

In light of the agreement reached between my Administration and the Assembly Judiciary, Law, Public Safety and Defense Committee, I herewith return Assembly Bill No. 483 (OCR) for reconsideration and recommend that it be amended as follows:

Page 1, Title, Line 1-2: DELETE "while" on line 1 and "released pending disposition of a previous offense" on line 2 INSERT "under certain circumstances"

Page 1, Section 1, Line 9: After "(1)" DELETE entire line.

Page 1, Section 1, Lines 10 and 11: DELETE entire lines.

Page 1, Section 1, Line 12: DELETE "(2)"

Page 1, Section 1, Line 14: DELETE "(3)" INSERT "(2)"

Page 2, Section 1, Line 29: After "shall" INSERT "not"

Page 2, Section 1, Line 30: After "imprisonment" INSERT "unless the court determines otherwise at the time of sentencing"

Page 2, Section 1, Line 36: After "run" INSERT "consecutively unless the court orders these sentences to run"

Page 2, Section 1, Lines 36 and 37: After "concurrently" DELETE ", unless the court orders them to run consecutively"

Page 2, Section 1, Line 57: After "run" INSERT "consecutively, unless the court orders these sentences to run"

Office of the Governor

PO BOX 004
TRENTON, NJ 08625

NEWS RELEASE

CONTACT: Gene Herman
609-777-2600

RELEASE: August 31, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

S-446, sponsored by Senators John A. Girgenti (D-Passaic) and William L. Gormley (R-Atlantic) and Assembly Members Nellie Pou (D- Passaic) and David C. Russo (R-Bergen/Passaic), clarifies the kidnapping statute by providing that the crime of kidnapping specifically includes the taking of a child in order to permanently deprive a parent, guardian or other lawful custodian of custody of that child. This offense, like other kidnapping offenses, is a first-degree crime that is punishable by a term of imprisonment between ten and 20 years, a \$200,000 fine, or both.

S-697, sponsored by Senator Robert W. Singer (R- Burlington/Monmouth/Ocean) and Assembly Members Melvin Cottrell (R- Burlington/Monmouth/Ocean) and Joseph R. Malone, 3d (R-Burlington/Monmouth/Ocean), allows municipalities, by ordinance, to designate speed limits on municipal streets under their jurisdiction that are not self-contained within the municipality. An ordinance designating such speed limits may only be adopted by the municipality if the municipal engineer first certifies that the new speed limit designation: (1) has been approved by the engineer after investigation; (2) appears to be in the interest of safety and expedition of traffic; and (3) conforms to the current standards prescribed by the Manual of Uniform Traffic Control Devices for Streets and Highways. Within 30 days of adoption of the ordinance, the municipality would be required to send the ordinance and engineer's designation to the Department of Transportation. The Commissioner of the Transportation Department has the discretion to invalidate the ordinance within 90 days of its receipt if he finds that the ordinance is inconsistent with accepted engineering standards, places an undue traffic burden on adjoining municipalities or otherwise creates an unsafe or hazardous condition.

S-1223, sponsored by Senator Joseph M. Kyrillos, Jr. (R- Middlesex/Monmouth) and Assembly Members Leonard Lance (R- Warren/Hunterdon/Mercer) and Francis J. Blee (R-Atlantic), requires moneys remaining in certain prepaid funeral agreements to be paid to the state. The bill amends current law regarding prepaid funeral arrangements to prevent those receiving certain state assistance from improperly sheltering assets. Many individuals who obtain state assistance, such as Medicaid or Supplemental Security Income (SSI), have either established prepaid funeral trusts or purchased funeral insurance policies which provide for that person's funeral expenses. These trusts and insurance policies are excluded from determining eligibility for state assistance.

A-1162, sponsored by Assembly Members Tom Smith, Sr. (R-Monmouth) and Jerry Green (D-Middlesex/Somerset/Union) and Senator Joseph A. Palaia (R-Monmouth), requires that counties accept bonds in lieu of cash from an applicant for a road opening permit. The purpose of the legislation is to remove the burden of paying a large amount of cash which, the Utility and transportation Contractors Association indicates, often times has prevented smaller contractors from bidding for jobs involving road opening permits.

S-1436, sponsored by Senators Andrew R. Ciesla (R-Monmouth/Ocean) and John H. Adler (D-Camden) and Assembly Members James W. Holzapfel (R- Monmouth/Ocean), Louis D. Greenwald (D-Camden), Guy F. Talarico (R- Bergen) and Kevin J. O'Toole (R-Essex/Union), upgrades the degree of crime of initiating false alarms under certain circumstances. The bill upgrades from a third-degree

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3010

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 25, 1999

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 3010.

Under the current kidnapping statute, a person may be charged with the crime of kidnapping if that person unlawfully removes another from a place or unlawfully confines another with the purpose of holding that person for ransom or reward or as a shield or hostage. The current law does not address where a person unlawfully takes a child intending to raise the child as the person's own. This bill would close this loophole in the law by clarifying that the unlawful taking or confining of a child with the purpose of permanently depriving a parent or guardian of custody constitutes the crime of kidnapping.

The bill includes affirmative defenses which parallel those available for interference with custody. However, the committee amended one of these affirmative defenses for kidnapping concerning a victim who is at least 14 years old and was taken away at his own volition to clarify that defense applies only to a parent, guardian or other lawful custodian of the victim. The committee felt that without such clarification persons could assert this defense inappropriately in cases such as those in which a minor may join a cult.

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Other amendments adopted by the committee make technical corrections to the bill.

As amended, this bill is identical to Senate, No. 446 (2R).