

2C:43-7

LEGISLATIVE HISTORY CHECKLIST  
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(Bail-penalties)

NJSA: 2C:43-7 et al

LAWS OF: 1997 CHAPTER: 410

BILL NO: A364

SPONSOR(S): Holzapfel

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Law & Public Safety  
SENATE: Budget; Law & Public Safety

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

DATE OF PASSAGE: ASSEMBLY: June 27 1996  
SENATE: December 1, 1997

DATE OF APPROVAL: January 19, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes Also attached: statement  
adopted 6-19-97

COMMITTEE STATEMENT: ASSEMBLY: Yes  
SENATE: Yes 2-10-97 & 10-7-96

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

LEGISLATIVE HISTORY COPY

KBP:pp

[Passed Both Houses]

[Second Reprint]

ASSEMBLY, No. 364

# STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen HOLZAPFEL, BLEE,  
Senators Ciesla, Sacco and Assemblyman Corodemus

1 AN ACT concerning penalties for committing an offense while released  
2 on bail and amending and supplementing Title 2C of the New Jersey  
3 Statutes.

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

7  
8 1. (New section) a. A person who <sup>2</sup>**[**commits a crime of the  
9 first, second or third degree while released on bail after being charged  
10 with committing a crime of the first, second or third degree, and who  
11 is subsequently convicted of committing that earlier offense] has been  
12 convicted under subsection a. of N.J.S.2C:39-4 of possession of a  
13 firearm with intent to use it unlawfully against the person of another;  
14 or a crime under N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1;  
15 subsection a. of N.J.S.2C:14-2; subsection a. of N.J.S.2C:14-3;  
16 N.J.S.2C:15-1; N.J.S.2C:18-2 if the burglary is a crime of the second  
17 degree or the structure was adapted for overnight accommodation of  
18 persons; or a crime of the first, second or third degree under  
19 subsection b. of N.J.S.2C:12-1;<sup>2</sup> shall <sup>2</sup>**[**, for the second crime,**]<sup>2</sup> be  
20 sentenced to an extended term of imprisonment pursuant to the  
21 provisions of N.J.S.2C:43-7 and shall be subject to double the fine  
22 authorized for that <sup>2</sup>**[**degree of**]<sup>2</sup> crime under the provisions of  
23 N.J.S.2C:43-3 <sup>2</sup>**[**if, at the time of the commission of the crime, the  
24 defendant was released on bail or on his own recognizance for one of  
25 the enumerated crimes and was convicted of that crime<sup>2</sup>.****

26 b. The court shall not impose a sentence of imprisonment pursuant  
27 to this <sup>1</sup>**[**subsection**]** section<sup>1</sup> unless the ground therefore has been

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SBA committee amendments adopted February 10, 1997.

<sup>2</sup> Senate floor amendments adopted June 19, 1997.

1 established at a hearing after the conviction of the defendant and on  
2 written notice to the defendant of the ground proposed. The  
3 defendant shall have the right to hear and controvert the evidence  
4 against <sup>1</sup> ~~his~~ the defendant<sup>1</sup> and to offer evidence upon the issue.

5  
6 2. N.J.S.2C:43-7 is amended to read:

7 2C:43-7. Sentence of Imprisonment for Crime; Extended Terms.

8 a. In the cases designated in section 2C:44-3, a person who has  
9 been convicted of a crime may be sentenced, and in the cases  
10 designated in subsection e. of section 2 of P.L.1994, c.130  
11 (C.2C:43-6.4) ~~and~~ in subsection b. of section 2 of P.L.1995, c.126  
12 (C.2C:43-7.1) and in the cases designated in section 1 of  
13 P.L. , c. ( ) (now pending before the Legislature as section 1 of  
14 this bill), a person who has been convicted of a crime shall be  
15 sentenced, to an extended term of imprisonment, as follows:

16 (1) In case of aggravated manslaughter sentenced under subsection  
17 c. of N.J.S.2C:11-4; or kidnapping when sentenced as a crime of the  
18 first degree under paragraph (1) of subsection c. of 2C:13-1; or  
19 aggravated sexual assault if the person is eligible for an extended term  
20 pursuant to the provisions of subsection g. of N.J.S.2C:44-3 for a  
21 specific term of years which shall be between 30 years and life  
22 imprisonment;

23 (2) Except for the crime of murder and except as provided in  
24 paragraph (1) of this subsection, in the case of a crime of the first  
25 degree, for a specific term of years which shall be fixed by the court  
26 and shall be between 20 years and life imprisonment;

27 (3) In the case of a crime of the second degree, for a term which  
28 shall be fixed by the court between 10 and 20 years;

29 (4) In the case of a crime of the third degree, for a term which shall  
30 be fixed by the court between five and 10 years;

31 (5) In the case of a crime of the fourth degree pursuant to  
32 2C:43-6c., 2C:44-3d., 2C:44-3e. for a term of five years, and in the  
33 case of a crime of the fourth degree pursuant to 2C:43-6f. and  
34 2C:43-6g. for a term which shall be fixed by the court between three  
35 and five years;

36 (6) In the case of the crime of murder, for a specific term of years  
37 which shall be fixed by the court between 35 years and life  
38 imprisonment, of which the defendant shall serve 35 years before being  
39 eligible for parole;

40 (7) In the case of kidnapping under paragraph (2) of subsection c.  
41 of 2C:13-1, for a specific term of years which shall be fixed by the  
42 court between 30 years and life imprisonment, of which the defendant  
43 shall serve 30 years before being eligible for parole.

44 b. As part of a sentence for an extended term and notwithstanding  
45 the provisions of 2C:43-9, the court may fix a minimum term not to  
46 exceed one-half of the term set pursuant to subsection a. during which

1 the defendant shall not be eligible for parole or a term of 25 years  
2 during which time the defendant shall not be eligible for parole where  
3 the sentence imposed was life imprisonment; provided that no  
4 defendant shall be eligible for parole at a date earlier than otherwise  
5 provided by the law governing parole.

6 c. In the case of a person sentenced to an extended term pursuant  
7 to 2C:43-6c., 2C:43-6f. and 2C:44-3d., the court shall impose a  
8 sentence within the ranges permitted by 2C:43-7a.(2), (3), (4) or (5)  
9 according to the degree or nature of the crime for which the defendant  
10 is being sentenced, which sentence shall include a minimum term which  
11 shall, except as may be specifically provided by N.J.S.2C:43-6f., be  
12 fixed at or between one-third and one-half of the sentence imposed by  
13 the court or five years, whichever is greater, during which the  
14 defendant shall not be eligible for parole. Where the sentence imposed  
15 is life imprisonment, the court shall impose a minimum term of 25  
16 years during which the defendant shall not be eligible for parole,  
17 except that where the term of life imprisonment is imposed on a person  
18 convicted for a violation of N.J.S.2C:35-3, the term of parole  
19 ineligibility shall be 30 years.

20 d. In the case of a person sentenced to an extended term pursuant  
21 to N.J.S.2C:43-6g., the court shall impose a sentence within the ranges  
22 permitted by N.J.S.2C:43-7a(2), (3), (4) or (5) according to the  
23 degree or nature of the crime for which the defendant is being  
24 sentenced, which sentence shall include a minimum term which shall  
25 be fixed at 15 years for a crime of the first or second degree, eight  
26 years for a crime of the third degree, or five years for a crime of the  
27 fourth degree during which the defendant shall not be eligible for  
28 parole. Where the sentence imposed is life imprisonment, the court  
29 shall impose a minimum term of 25 years during which the defendant  
30 shall not be eligible for parole, except that where the term of life  
31 imprisonment is imposed on a person convicted of a violation of  
32 N.J.S.2C:35-3, the term of parole eligibility shall be 30 years.

33 (cf: P.L.1995, c.126, s.3)

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35 3. This act shall take effect immediately.

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41 Increases penalties for committing serious offenses while released on  
bail.

1 convicted for a violation of N.J.S.2C:35-3, the term of parole  
2 ineligibility shall be 30 years.

3 d. In the case of a person sentenced to an extended term pursuant  
4 to N.J.S.2C:43-6g., the court shall impose a sentence within the ranges  
5 permitted by N.J.S.2C:43-7a(2), (3), (4) or (5) according to the  
6 degree or nature of the crime for which the defendant is being  
7 sentenced, which sentence shall include a minimum term which shall  
8 be fixed at 15 years for a crime of the first or second degree, eight  
9 years for a crime of the third degree, or five years for a crime of the  
10 fourth degree during which the defendant shall not be eligible for  
11 parole. Where the sentence imposed is life imprisonment, the court  
12 shall impose a minimum term of 25 years during which the defendant  
13 shall not be eligible for parole, except that where the term of life  
14 imprisonment is imposed on a person convicted of a violation of  
15 N.J.S.2C:35-3, the term of parole eligibility shall be 30 years.  
16 (cf: 1994, c.130, s.3)

17

18 3. This act shall take effect immediately.

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#### 21 STATEMENT

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23 This bill would ncrease the penalties for committing certain serious  
24 offenses while released on bail. Under the bill, if a person commits a  
25 crime of the first, second or third degree while released on bail after  
26 being charged with a crime of the first, second or third degree, and is  
27 subsequently convicted of committing the first offense, the individual  
28 shall be subject to an extended term of imprisonment and to double the  
29 fines ordinarily imposed for the second offense.

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35 Increases penalties for committing serious offenses while released on  
bail.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 364

**STATE OF NEW JERSEY**

DATED: JUNE 3, 1996

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 364.

Assembly Bill 364 supplements Title 2C of the New Jersey Statutes to authorize increased penalties for a person who commits a first, second or third degree crime while released on bail after being charged with committing a crime of the first, second or third degree and who is subsequently convicted of committing that earlier offense. The bill provides that upon conviction for the second crime the defendant be sentenced to an extended term of imprisonment, as provided under N.J.S.2C:43-7, and subject to a fine that is double that authorized for a crime of that degree under the provisions of N.J.S.2C:43-3.

Under current law (N.J.S.2C:44-3), the court may, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime of the first, second or third degree to an extended term of imprisonment if the individual has a prior conviction and is either a persistent offender, professional criminal, or committed the crime as consideration for anything of pecuniary value. In addition, the court, upon application of the prosecuting attorney, is required to impose an extended term sentence if the offender has a prior conviction of a crime of the first, second or third degree and (1) used or possessed a firearm in the course of committing the crime; (2) acted, in committing the crime, with ill-will, hatred, or bias and with a purpose to intimidate an individual or group of individuals because of race, color, religion, sexual orientation or ethnicity; or (3) has been convicted of a crime of sexual assault or criminal sexual contact involving violence or the threat of violence and the victim of the crime was 16 years of age or less.

This bill was pre-filed for introduction in the 1996 legislative 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

ASSEMBLY, No. 364

**STATE OF NEW JERSEY**

DATED: OCTOBER 7, 1996

The Senate Law and Public Safety Committee reports favorably Assembly Bill No. 364.

The bill supplements Title 2C of the New Jersey Statutes to authorize increased penalties for a person who commits a first, second or third degree crime while released on bail after being charged with committing a crime of the first, second or third degree and who is subsequently convicted of committing that earlier offense. Upon conviction for the second crime, the defendant would be sentenced to an extended term of imprisonment, as provided under N.J.S.2C:43-7, and subject to a fine that is double the fine authorized under the provisions of N.J.S.2C:43-3.

Under current law (N.J.S.2C:44-3), the court may, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime of the first, second or third degree to an extended term of imprisonment if the individual has a prior conviction and is a persistent offender, professional criminal, or committed the crime as consideration for anything of pecuniary value. In addition, the court, upon application of the prosecuting attorney, is required to impose an extended term sentence if the offender has a prior conviction for a crime of the first, second or third degree and (1) used or possessed a firearm in the course of committing the crime; (2) acted, in committing the crime, with ill-will, hatred, or bias and with a purpose to intimidate an individual or group of individuals because of race, color, religion, sexual orientation or ethnicity; or (3) has been convicted of a crime of sexual assault or criminal sexual contact involving violence or the threat of violence and the victim of the crime was 16 years of age or less.

This bill is identical to Senate Bill No. 1338, which also was released by the committee on this date.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 364**

with Senate committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 10, 1997

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 364 of 1996 with amendments.

Assembly Bill No. 364, as amended, requires the imposition of an extended prison term and a higher fine against a person who is convicted of a first, second or third degree crime committed while released on bail from a charge of committing a crime of the first, second or third degree for which the person is also convicted. Upon conviction for the second crime, the defendant would be sentenced to an extended term of imprisonment, as provided under N.J.S.2C:43-7, and subject to a fine that is double the fine authorized under the provisions of N.J.S.2C:43-3.

Under current law (N.J.S.2C:44-3), the court may, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime of the first, second or third degree to an extended term of imprisonment if the individual has a prior conviction and is a persistent offender, professional criminal, or committed the crime as consideration for anything of pecuniary value. In addition, the court, upon application of the prosecuting attorney, is required to impose an extended term sentence if the offender has a prior conviction for a crime of the first, second or third degree and (1) used or possessed a firearm in the course of committing the crime; (2) acted, in committing the crime, with ill-will, hatred, or bias and with a purpose to intimidate an individual or group of individuals because of race, color, religion, sexual orientation or ethnicity; or (3) had been convicted of a crime of sexual assault or criminal sexual contact involving violence or the threat of violence and the victim of the crime was 16 years of age or less.

As amended and reported, this bill is identical to Senate Bill No. 1338 of 1996 (Ciesla) as amended and reported by this committee on February 10, 1997.

#### COMMITTEE AMENDMENTS

The committee amended the bill to correct a reference and a grammatical error.



STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 364**

with Senate Floor Amendments  
(Proposed By Senator CIESLA)

ADOPTED: JUNE 19, 1997

Assembly Bill No. 364(1R) requires the imposition of an extended prison term and a higher fine against a person who is convicted of a first, second or third degree crime committed while released on bail from a charge of committing a crime of the first, second or third degree for which the person is also convicted. Upon conviction for the second crime, the defendant would be sentenced to an extended term of imprisonment, as provided under N.J.S.2C:43-7, and subject to a fine that is double the fine authorized under the provisions of N.J.S.2C:43-3.

Under this Senate amendment, a person who has been convicted of possession of a firearm with intent to use it unlawfully against another, murder, manslaughter, kidnapping, aggravated sexual assault, aggravated criminal sexual contact, robbery, burglary of the second degree or if the structure was adapted for overnight accommodation of persons, or aggravated assault of the first, second or third degree would be sentenced to an extended term of imprisonment pursuant to the provisions of N.J.S.2C:43-7 and be subject to double the fine authorized for that crime under N.J.S.2C:43-3 if, at the time of the commission of the crime, the defendant was released on bail or on his own recognizance for one of the enumerated crimes and was convicted of that crime.

FISCAL NOTE TO  
ASSEMBLY, No. 364  
**STATE OF NEW JERSEY**

DATED: JANUARY 13, 1997

Assembly Bill No. 364 of 1996 increases penalties for a person who commits a first, second or third degree crime while released on bail after being charged with committing a crime of the first, second or third degree and who is subsequently convicted of committing that earlier offense. Upon conviction for the second crime, the defendant would be sentenced to an extended term of imprisonment, and subject to a fine that is double the fine authorized.

The Department of Corrections states that no data are available to determine the number of offenders who commit additional offenses while on bail. Thus it is not possible to determine the bill's fiscal impact. The department notes, however, that any increase in offender length of stay would increase the department's prison population and operating costs.

The Office of Legislative Services concurs and adds that the cost of incarcerating an offender in one of the State's institutions totals about \$26,000 annually. If it becomes necessary to construct additional bed space to house these offenders, the State would incur one-time capital construction costs of \$80,000 per bed.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

FISCAL IMPACT

In a fiscal note prepared by the Office of Legislative Services on this bill, the Department of Corrections stated that no data are available to determine the number of offenders who commit additional offenses while on bail. Thus, it is not possible to determine the additional cost to the State that would result due to increases in incarceration stays resulting from this bill.