

2C:11-3

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 2C:11-3 (Law enforcement--protect)

LAWS OF: 1996 **CHAPTER:** 115

BILL NO: A1836

SPONSOR(S): Heck

DATE INTRODUCED: May 2, 1996

ASSEMBLY: Appropriations; Law & Public Safety
SENATE: ---

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

DATE OF PASSAGE: **ASSEMBLY:** June 27, 1996
SENATE: June 27, 1996

DATE OF APPROVAL: September 11, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes Also attached: statement
adopted 6-17-96 & 6-28-96

COMMITTEE STATEMENT: **ASSEMBLY:** Yes 5-13-96 & 5-13-96
SENATE: No

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: Yes

HEARINGS: No

974.90 New Jersey. Law Enforcement Officers Study commission.
P766 Final report October 26, 1995. Trenton, 1995.
1995 [see especially pp. 22 and Appendix]

Guidelines governing "Internal Affairs Policy & Procedures"

NJ KFN New Jersey. Police Bureau.
2239 Police management manual. Trenton, 1991-
A81
1991

See newspaper clippings--attached:

"Whitman signs bill denying cop killers a parole option," 9-12-96, The Record.

"Whitman in spotlight for cop-killer legislation," 9-12-96, Star Ledger.

"Whitman uses law signing as campaign springboard," 9-12-96, Trenton Times.

KBP:pp

[Fifth Reprint]
ASSEMBLY, No. 1836

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Assemblywoman HECK and Assemblyman Kelly

1 AN ACT concerning law enforcement officers, and amending and
2 supplementing parts of statutory law.

3

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

6

7 ²[1. (New section) As used in this act, unless another meaning is
8 clearly apparent from the language or context:

9 "Law enforcement agency" means any public agency, other than the
10 Department of Law and Public Safety, any police force, department or
11 division within the State of New Jersey, or any county or municipality
12 thereof, which is empowered by statute to act for the detection,
13 investigation, arrest, conviction, detention, or rehabilitation of persons
14 violating the criminal law of this State.

15 "Law enforcement officer" means any person who is employed as
16 a permanent full-time member of any State, county or municipal law
17 enforcement agency, department, or division of those governments
18 who is statutorily empowered to act for the detection, investigation,
19 arrest, conviction, detention, or rehabilitation of persons violating the
20 criminal law of this State and statutorily required to successfully
21 complete a training course approved by or certified as substantially
22 equivalent by the Police Training Commission.]²

23

24 ²[2.] 1.² N.J.S.2C:11-3 is amended to read as follows:

25 2C:11-3. Murder.

26 a. Except as provided in N.J.S.2C:11-4 criminal homicide
27 constitutes murder when:

28 (1) The actor purposely causes death or serious bodily injury
29 resulting in death; or

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:

¹ Assembly ALP committee amendments adopted May 13, 1996.

² Assembly AAP committee amendments adopted June 17, 1996.

³ Assembly floor amendments adopted June 17, 1996.

⁴ Senate floor amendments adopted June 27, 1996.

⁵ Senate floor amendments adopted June 27, 1996.

1 (2) The actor knowingly causes death or serious bodily injury
2 resulting in death; or

3 (3) It is committed when the actor, acting either alone or with one
4 or more other persons, is engaged in the commission of, or an attempt
5 to commit, or flight after committing or attempting to commit robbery,
6 sexual assault, arson, burglary, kidnapping or criminal escape, and in
7 the course of such crime or of immediate flight therefrom, any person
8 causes the death of a person other than one of the participants; except
9 that in any prosecution under this subsection, in which the defendant
10 was not the only participant in the underlying crime, it is an affirmative
11 defense that the defendant:

12 (a) Did not commit the homicidal act or in any way solicit, request,
13 command, importune, cause or aid the commission thereof; and

14 (b) Was not armed with a deadly weapon, or any instrument, article
15 or substance readily capable of causing death or serious physical injury
16 and of a sort not ordinarily carried in public places by law-abiding
17 persons; and

18 (c) Had no reasonable ground to believe that any other participant
19 was armed with such a weapon, instrument, article or substance; and

20 (d) Had no reasonable ground to believe that any other participant
21 intended to engage in conduct likely to result in death or serious
22 physical injury.

23 b. (1) Murder is a crime of the first degree but a person convicted
24 of murder shall be sentenced, except as provided in subsection c. of
25 this section, by the court to a term of 30 years, during which the
26 person shall not be eligible for parole or to a specific term of years
27 which shall be between 30 years and life imprisonment of which the
28 person shall serve 30 years before being eligible for parole.

29 (2) If the victim was a law enforcement officer and was murdered
30 while performing his official duties or was murdered because of his
31 status as a law enforcement officer, the person convicted of that
32 murder shall be sentenced, except as otherwise provided in subsection
33 c. of this section, by the court to a term of life imprisonment ² [, during
34 which the person shall not be eligible for parole] ³ [with no eligibility
35 for parole, as defined in subsection e. of section 2 of P.L.1995, c.126
36 (C.2C:43-7.1)²] , during which the person shall not be eligible for
37 parole³ .

38 c. Any person convicted under subsection a.(1) or (2) who
39 committed the homicidal act by his own conduct; or who as an
40 accomplice procured the commission of the offense by payment or
41 promise of payment of anything of pecuniary value; or who, as a leader
42 of a narcotics trafficking network as defined in N.J.S.2C:35-3 and in
43 furtherance of a conspiracy enumerated in N.J.S.2C:35-3, commanded
44 or by threat or promise solicited the commission of the offense, shall
45 be sentenced as provided hereinafter:

46 (1) The court shall conduct a separate sentencing proceeding to

1 determine whether the defendant should be sentenced to death or
2 pursuant to the provisions of subsection b. of this section.

3 Where the defendant has been tried by a jury, the proceeding shall
4 be conducted by the judge who presided at the trial and before the jury
5 which determined the defendant's guilt, except that, for good cause,
6 the court may discharge that jury and conduct the proceeding before
7 a jury empaneled for the purpose of the proceeding. Where the
8 defendant has entered a plea of guilty or has been tried without a jury,
9 the proceeding shall be conducted by the judge who accepted the
10 defendant's plea or who determined the defendant's guilt and before a
11 jury empaneled for the purpose of the proceeding. On motion of the
12 defendant and with consent of the prosecuting attorney the court may
13 conduct a proceeding without a jury. Nothing in this subsection shall
14 be construed to prevent the participation of an alternate juror in the
15 sentencing proceeding if one of the jurors who rendered the guilty
16 verdict becomes ill or is otherwise unable to proceed before or during
17 the sentencing proceeding.

18 (2) (a) At the proceeding, the State shall have the burden of
19 establishing beyond a reasonable doubt the existence of any
20 aggravating factors set forth in paragraph (4) of this subsection. The
21 defendant shall have the burden of producing evidence of the existence
22 of any mitigating factors set forth in paragraph (5) of this subsection
23 but shall not have a burden with regard to the establishment of a
24 mitigating factor.

25 (b) The admissibility of evidence offered by the State to establish
26 any of the aggravating factors shall be governed by the rules governing
27 the admission of evidence at criminal trials. The defendant may offer,
28 without regard to the rules governing the admission of evidence at
29 criminal trials, reliable evidence relevant to any of the mitigating
30 factors. If the defendant produces evidence in mitigation which would
31 not be admissible under the rules governing the admission of evidence
32 at criminal trials, the State may rebut that evidence without regard to
33 the rules governing the admission of evidence at criminal trials.

34 (c) Evidence admitted at the trial, which is relevant to the
35 aggravating and mitigating factors set forth in paragraphs (4) and (5)
36 of this subsection, shall be considered without the necessity of
37 reintroducing that evidence at the sentencing proceeding; provided
38 that the fact finder at the sentencing proceeding was present as either
39 the fact finder or the judge at the trial.

40 (d) The State and the defendant shall be permitted to rebut any
41 evidence presented by the other party at the sentencing proceeding and
42 to present argument as to the adequacy of the evidence to establish the
43 existence of any aggravating or mitigating factor.

44 (e) Prior to the commencement of the sentencing proceeding, or at
45 such time as he has knowledge of the existence of an aggravating
46 factor, the prosecuting attorney shall give notice to the defendant of

1 the aggravating factors which he intends to prove in the proceeding.

2 (f) Evidence offered by the State with regard to the establishment
3 of a prior homicide conviction pursuant to paragraph (4)(a) of this
4 subsection may include the identity and age of the victim, the manner
5 of death and the relationship, if any, of the victim to the defendant.

6 (3) The jury or, if there is no jury, the court shall return a special
7 verdict setting forth in writing the existence or nonexistence of each
8 of the aggravating and mitigating factors set forth in paragraphs (4)
9 and (5) of this subsection. If any aggravating factor is found to exist,
10 the verdict shall also state whether it outweighs beyond a reasonable
11 doubt any one or more mitigating factors.

12 (a) If the jury or the court finds that any aggravating factors exist
13 and that all of the aggravating factors outweigh beyond a reasonable
14 doubt all of the mitigating factors, the court shall sentence the
15 defendant to death.

16 (b) If the jury or the court finds that no aggravating factors exist,
17 or that all of the aggravating factors which exist do not outweigh all
18 of the mitigating factors, the court shall sentence the defendant
19 pursuant to subsection b.

20 (c) If the jury is unable to reach a unanimous verdict, the court
21 shall sentence the defendant pursuant to subsection b.

22 (4) The aggravating factors which may be found by the jury or the
23 court are:

24 (a) The defendant has been convicted, at any time, of another
25 murder. For purposes of this section, a conviction shall be deemed
26 final when sentence is imposed and may be used as an aggravating
27 factor regardless of whether it is on appeal;

28 (b) In the commission of the murder, the defendant purposely or
29 knowingly created a grave risk of death to another person in addition
30 to the victim;

31 (c) The murder was outrageously or wantonly vile, horrible or
32 inhuman in that it involved torture, depravity of mind, or an
33 aggravated assault to the victim;

34 (d) The defendant committed the murder as consideration for the
35 receipt, or in expectation of the receipt of anything of pecuniary value;

36 (e) The defendant procured the commission of the offense by
37 payment or promise of payment of anything of pecuniary value;

38 (f) The murder was committed for the purpose of escaping
39 detection, apprehension, trial, punishment or confinement for another
40 offense committed by the defendant or another;

41 (g) The offense was committed while the defendant was engaged
42 in the commission of, or an attempt to commit, or flight after
43 committing or attempting to commit murder, robbery, sexual assault,
44 arson, burglary or kidnapping;

45 (h) The defendant murdered a public servant, as defined in
46 N.J.S.2C:27-1, while the victim was engaged in the performance of his

1 official duties, or because of the victim's status as a public servant;

2 (i) The defendant: (i) as a leader of a narcotics trafficking network
3 as defined in N.J.S.2C:35-3 and in furtherance of a conspiracy
4 enumerated in N.J.S.2C:35-3, committed, commanded or by threat or
5 promise solicited the commission of the offense or (ii) committed the
6 offense at the direction of a leader of a narcotics trafficking network
7 as defined in N.J.S.2C:35-3 in furtherance of a conspiracy enumerated
8 in N.J.S.2C:35-3;

9 (j) The homicidal act that the defendant committed or procured
10 was in violation of paragraph (1) of subsection a. of N.J.S.2C:17-2; or

11 (k) The victim was less than 14 years old.

12 (5) The mitigating factors which may be found by the jury or the
13 court are:

14 (a) The defendant was under the influence of extreme mental or
15 emotional disturbance insufficient to constitute a defense to
16 prosecution;

17 (b) The victim solicited, participated in or consented to the
18 conduct which resulted in his death;

19 (c) The age of the defendant at the time of the murder;

20 (d) The defendant's capacity to appreciate the wrongfulness of his
21 conduct or to conform his conduct to the requirements of the law was
22 significantly impaired as the result of mental disease or defect or
23 intoxication, but not to a degree sufficient to constitute a defense to
24 prosecution;

25 (e) The defendant was under unusual and substantial duress
26 insufficient to constitute a defense to prosecution;

27 (f) The defendant has no significant history of prior criminal
28 activity;

29 (g) The defendant rendered substantial assistance to the State in
30 the prosecution of another person for the crime of murder; or

31 (h) Any other factor which is relevant to the defendant's character
32 or record or to the circumstances of the offense.

33 (6) When a defendant at a sentencing proceeding presents evidence
34 of the defendant's character or record pursuant to subparagraph (h) of
35 paragraph (5) of this subsection, the State may present evidence of the
36 murder victim's character and background and of the impact of the
37 murder on the victim's survivors. If the jury finds that the State has
38 proven at least one aggravating factor beyond a reasonable doubt and
39 the jury finds the existence of a mitigating factor pursuant to
40 subparagraph (h) of paragraph (5) of this subsection, the jury may
41 consider the victim and survivor evidence presented by the State
42 pursuant to this paragraph in determining the appropriate weight to
43 give mitigating evidence presented pursuant to subparagraph (h) of
44 paragraph (5) of this subsection.

45 d. The sentencing proceeding set forth in subsection c. of this
46 section shall not be waived by the prosecuting attorney.

1 e. Every judgment of conviction which results in a sentence of
2 death under this section shall be appealed, pursuant to the Rules of
3 Court, to the Supreme Court. Upon the request of the defendant, the
4 Supreme Court shall also determine whether the sentence is
5 disproportionate to the penalty imposed in similar cases, considering
6 both the crime and the defendant. Proportionality review under this
7 section shall be limited to a comparison of similar cases in which a
8 sentence of death has been imposed under subsection c. of this section.
9 In any instance in which the defendant fails, or refuses to appeal, the
10 appeal shall be taken by the Office of the Public Defender or other
11 counsel appointed by the Supreme Court for that purpose.

12 f. Prior to the jury's sentencing deliberations, the trial court shall
13 inform the jury of the sentences which may be imposed pursuant to
14 subsection b. of this section on the defendant if the defendant is not
15 sentenced to death. The jury shall also be informed that a failure to
16 reach a unanimous verdict shall result in sentencing by the court
17 pursuant to subsection b.

18 g. A juvenile who has been tried as an adult and convicted of
19 murder shall not be sentenced pursuant to the provisions of subsection
20 c. but shall be sentenced pursuant to the provisions of subsection b. of
21 this section.

22 h. In a sentencing proceeding conducted pursuant to this section,
23 no evidence shall be admissible concerning the method or manner of
24 execution which would be imposed on a defendant sentenced to death.

25 i. For purposes of this section the term "homicidal act" shall mean
26 conduct that causes death or serious bodily injury resulting in death.
27 (cf: P.L.1995, c.123, s.1)

28

29 ²[3. N.J.S.40A:14-117 is amended to read as follows:

30 40A:14-117. Whenever a member or officer of a county police, or
31 county park police, department or force is a defendant in any action or
32 legal proceeding arising out of or incidental to the performance of his
33 duties, the governing body of the county, or county park commission,
34 as the case may be, shall provide said member or officer with
35 necessary means for the defense of such action or proceeding, other
36 than for his defense in a disciplinary proceeding instituted against him
37 by the county or park commission, or in a criminal proceeding
38 instituted as a result of a complaint on behalf of the county or park
39 commission. **[If] Notwithstanding the provisions of this section, if**
40 **any such disciplinary or criminal proceeding instituted by or on**
41 **complaint of the county or park commission, or any other legal**
42 **proceeding** ¹**arising out of or incidental to the performance of his**
43 **duties**¹ **in which the member or officer is the defendant** shall be
44 dismissed or finally determined in favor of the member or officer, he
45 shall be reimbursed for the expense of his defense.

46 (cf: P.L.1977, c.455, s.1)]²

1 ²[4.] 2.² N.J.S.40A:14-147 is amended to read as follows:

2 40A:14-147. Except as otherwise provided by law, no permanent
3 member or officer of the police department or force shall be removed
4 from his office, employment or position for political reasons or for any
5 cause other than incapacity, misconduct, or disobedience of rules and
6 regulations established for the government of the police department
7 and force, nor shall such member or officer be suspended, removed,
8 fined or reduced in rank from or in office, employment, or position
9 therein, except for just cause as hereinbefore provided and then only
10 upon a written complaint setting forth the charge or charges against
11 such member or officer. **[Said]** The complaint shall be filed in the
12 office of the body, officer or officers having charge of the department
13 or force wherein the complaint is made and a copy shall be served
14 upon the member or officer so charged, with notice of a designated
15 hearing thereon by the proper authorities, which shall be not less than
16 10 nor more than 30 days from date of service of the complaint.

17 A complaint charging a violation of the internal rules and
18 regulations established for the conduct of a law enforcement unit shall
19 be filed no later than the 45th day after the date on which the person
20 filing the complaint obtained sufficient information to file the matter
21 upon which the complaint is based. The 45-day time limit shall not
22 apply if an investigation of a law enforcement officer for a violation of
23 the internal rules or regulations of the law enforcement unit is included
24 directly or indirectly within a concurrent investigation of that officer
25 for a violation of the criminal laws of this State. The 45-day limit shall
26 begin on the day after the disposition of the criminal investigation.
27 The 45-day requirement of this paragraph for the filing of a complaint
28 against an officer shall not apply to a filing of a complaint by a private
29 individual.

30 A failure to comply with said provisions as to the service of the
31 complaint and the time within which a complaint is to be filed shall
32 require a dismissal of the complaint.

33 ¹[Notwithstanding any provisions of this Title or Title 11A to the
34 contrary, any person designated to consider a complaint filed pursuant
35 to the provisions of this section shall not be an officer, agent,
36 representative, elected or appointed official, or employee of the
37 municipality or county or any subdivision thereof.]¹ The law
38 enforcement officer may waive the right to a hearing and may appeal
39 the charges directly to any available authority specified by ²[any
40 other]² law ¹[of] or ¹ ²[the Department of Personnel] regulation² ,
41 or follow any other procedure recognized by a contract, as permitted
42 by law.

43 ²[No penalty shall be imposed ¹in any administrative proceeding¹
44 pending the final outcome of this appeal] ⁵[Prior to imposition of
45 discipline, a member or officer employed by a municipality that has not
46 adopted the provisions of Title 11A of the New Jersey Statutes shall

1 be afforded procedural protections substantially equivalent to those
 2 afforded under Title 11A of the New Jersey Statutes and the
 3 regulations adopted pursuant thereto².]⁵

4 (cf: P.L.1988, c.145, s.1)

5
 6 ²[5. N.J.S.40A:14-155 is amended to read as follows:

7 40A:14-155. Whenever a member or officer of a municipal police
 8 department or force is a defendant in any action or legal proceeding
 9 arising out of and directly related to the lawful exercise of police
 10 powers in the furtherance of his official duties, the governing body of
 11 the municipality shall provide said member or officer with necessary
 12 means for the defense of such action or proceeding, but not for his
 13 defense in a disciplinary proceeding instituted against him by the
 14 municipality or in criminal proceeding instituted as a result of a
 15 complaint on behalf of the municipality. **[If]** Notwithstanding the
 16 provisions of this section, if any such disciplinary or criminal
 17 proceeding instituted by or on the complaint of the municipality, or if
 18 any other legal [action or] proceeding [instituted by or on complaint
 19 of the municipality] ¹arising out of and directly related to the lawful
 20 exercise of police powers in the furtherance of his official duties¹ in
 21 which the member or officer is the defendant shall be dismissed or
 22 finally determined in favor of the member or officer, **[he]** the officer
 23 shall be reimbursed for the expense of his defense.

24 (cf: P.L.1985, c.457, s.1)]²

25
 26 ²[6] 3.². Section 1 of P.L.1977, c.437 (C.40A:14-152.2) is
 27 amended to read as follows:

28 1. Whenever any municipal police officer ²[or other law
 29 enforcement officer, as defined in section 2 of P.L. , c. (C.)
 30 (now pending before the Legislature as this bill),]² ⁴or other law
 31 enforcement officer⁴ has been conferred with Statewide police powers
 32 and is acting under lawful authority beyond the territorial limits of his
 33 employing municipality or other appointing authority, said police
 34 officer or law enforcement officer, as the case may be, shall have all of
 35 the immunities from tort liability and shall have all of the pension,
 36 relief, disability, workmen's compensation, insurance, and other
 37 benefits enjoyed while performing duties within said employing
 38 municipality or the jurisdictional responsibility of the other appointing
 39 authority, as the case may be⁴ ; provided, however, in the case of a
 40 law enforcement officer other than a municipal police officer or a
 41 county law enforcement officer afforded such immunities and benefits
 42 under the provisions of section 1 of P.L.1977, c.439 (C.40A:14-
 43 107.1), the immunities from tort liability and other benefits enjoyed
 44 while performing duties within the jurisdictional responsibility of the
 45 appointing authority shall be extended only in those instances where

1 (1) the law enforcement officer has been requested by the other
2 jurisdiction to perform law enforcement duties within its boundaries;
3 or (2) the law enforcement officer is performing law enforcement
4 duties within another jurisdiction upon the orders of his superiors ⁴.

5 ²As used in this section, "law enforcement officer" means any
6 person who is employed as a permanent full-time member of any State,
7 county or municipal law enforcement agency, department, or division
8 of those governments who is statutorily empowered to act for the
9 detection, investigation, arrest, conviction, detention, or rehabilitation
10 of persons violating the criminal laws of this State and statutorily
11 required to successfully complete a training course approved by, or
12 certified as being substantially equivalent to such an approved course,
13 by the Police Training Commission pursuant to P.L.1961, c.56
14 (C.52:17B-66 et seq.). "Law enforcement agency" means any public
15 agency, other than the Department of Law and Public Safety, any
16 police force, department or division within the State of New Jersey, or
17 any county or municipality thereof, which is empowered by statute to
18 act for the detection, investigation, arrest, conviction, detention, or
19 rehabilitation of persons violating the criminal laws of this State. ²

20 (cf: P.L.1977, c.437, s.1)

21
22 ²**[7. Section 1 of P.L.1973, c.353 (C.40:37-11.5) is amended to**
23 **read as follows:**

24 1. Whenever a member or officer of a county park police system
25 is a defendant in any action or legal proceeding arising out of or
26 incidental to the performance of his duties, the county park
27 commission shall provide said member or officer with necessary and
28 reasonable means for the defense of such action or proceeding, other
29 than for his defense in a disciplinary proceeding instituted against him
30 by the county park commission or in a criminal proceeding instituted
31 as a result of a complaint on behalf of the park commission. **[If**
32 **Notwithstanding the provisions of this section, if** any such disciplinary
33 or criminal proceeding instituted by or on complaint of the park
34 commission, **or if any other legal proceeding** ¹**arising out of or**
35 **incidental to the performance of his duties** ¹ **in which the member or**
36 **officer is the defendant** shall be dismissed or finally determined in
37 favor of the member or officer, he shall be reimbursed for the
38 reasonable expense of his defense.

39 (cf: P.L.1973, c.353, c.1)] ²

40
41 ²**[8. Section 4 of P.L.1970, c.211 (C.18A:6-4.5) is amended to**
42 **read as follows:**

43 4. Every person so appointed and commissioned shall possess all
44 the powers of policemen and constables in criminal cases and offenses
45 against the law anywhere in the State of New Jersey **[**, pursuant to any
46 limitations as may be imposed by the governing body of the institution

1 which appointed and commissioned the person].

2 (cf: P.L.1991, c.327, s.1)]²

3

4 ²[9.] 4.² Section 7 of P.L.1968, c.303 (C.34:13A-5.3) is amended
5 to read as follows:

6 7. Except as hereinafter provided, public employees shall have, and
7 shall be protected in the exercise of, the right, freely and without fear
8 of penalty or reprisal, to form, join and assist any employee
9 organization or to refrain from any such activity; provided, however,
10 that this right shall not extend to elected officials, members of boards
11 and commissions, managerial executives, or confidential employees,
12 except in a school district the term managerial executive shall mean the
13 superintendent of schools or his equivalent, nor, except where
14 established practice, prior agreement or special circumstances, dictate
15 the contrary, shall any supervisor having the power to hire, discharge,
16 discipline, or to effectively recommend the same, have the right to be
17 represented in collective negotiations by an employee organization that
18 admits nonsupervisory personnel to membership, and the fact that any
19 organization has such supervisory employees as members shall not
20 deny the right of that organization to represent the appropriate unit in
21 collective negotiations; and provided further, that, except where
22 established practice, prior agreement, or special circumstances dictate
23 the contrary, no policeman shall have the right to join an employee
24 organization that admits employees other than policemen to
25 membership. The negotiating unit shall be defined with due regard for
26 the community of interest among the employees concerned, but the
27 commission shall not intervene in matters of recognition and unit
28 definition except in the event of a dispute.

29 Representatives designated or selected by public employees for the
30 purposes of collective negotiation by the majority of the employees in
31 a unit appropriate for such purposes or by the majority of the
32 employees voting in an election conducted by the commission as
33 authorized by this act shall be the exclusive representatives for
34 collective negotiation concerning the terms and conditions of
35 employment of the employees in such unit. Nothing herein shall be
36 construed to prevent any official from meeting with an employee
37 organization for the purpose of hearing the views and requests of its
38 members in such unit so long as (a) the majority representative is
39 informed of the meeting; (b) any changes or modifications in terms and
40 conditions of employment are made only through negotiation with the
41 majority representative; and (c) a minority organization shall not
42 present or process grievances. Nothing herein shall be construed to
43 deny to any individual employee his rights under Civil Service laws or
44 regulations. When no majority representative has been selected as the
45 bargaining agent for the unit of which an individual employee is a part,
46 he may present his own grievance either personally or through an

1 appropriate representative or an organization of which he is a member
2 and have such grievance adjusted.

3 A majority representative of public employees in an appropriate unit
4 shall be entitled to act for and to negotiate agreements covering all
5 employees in the unit and shall be responsible for representing the
6 interest of all such employees without discrimination and without
7 regard to employee organization membership. Proposed new rules or
8 modifications of existing rules governing working conditions shall be
9 negotiated with the majority representative before they are established.
10 In addition, the majority representative and designated representatives
11 of the public employer shall meet at reasonable times and negotiate in
12 good faith with respect to grievances, disciplinary disputes, and other
13 terms and conditions of employment. Nothing herein shall be
14 construed as permitting negotiation of the standards or criteria for
15 employee performance.

16 When an agreement is reached on the terms and conditions of
17 employment, it shall be embodied in writing and signed by the
18 authorized representatives of the public employer and the majority
19 representative.

20 Public employers shall negotiate written policies setting forth
21 grievance and disciplinary review procedures by means of which their
22 employees or representatives of employees may appeal the
23 interpretation, application or violation of policies, agreements, and
24 administrative decisions, including disciplinary determinations,
25 affecting them, provided that such grievance and disciplinary review
26 procedures shall be included in any agreement entered into between
27 the public employer and the representative organization. Such
28 grievance and disciplinary review procedures may provide for binding
29 arbitration as a means for resolving disputes. The procedures agreed
30 to by the parties may not replace or be inconsistent with any alternate
31 statutory appeal procedure [nor may they provide for binding
32 arbitration of disputes involving the discipline of employees with
33 statutory protection under] ²[for the specific form of discipline
34 imposed, but may provide for binding arbitration of any form of
35 discipline which is not specifically covered by] nor may they provide
36 for binding arbitration of disputes involving the discipline of
37 employees with statutory protection under² tenure or civil service laws
38 ², except that such procedures may provide for binding arbitration of
39 disputes involving the minor discipline of any public employees
40 protected under the provisions of P.L.1968, c.303 (C.34:13A-5.3),
41 other than public employees subject to discipline pursuant to R.S.53:1-
42 10². Grievance and disciplinary review procedures established by
43 agreement between the public employer and the representative
44 organization shall be utilized for any dispute covered by the terms of
45 such agreement. ²[The provisions of this paragraph shall apply to all
46 public employees and employers.] For the purposes of this section,

1 minor discipline shall mean a suspension or fine of less than five days
2 unless the employee has been suspended or fined an aggregate of 15
3 or more days or received more than three suspensions or fines of five
4 days or less in one calendar year.²

5 (cf: P.L.1982, c.103, s.1)

6

7 ²[10. Section 1 of P.L.1963, c.140 (C.2A:62A-1) is amended to
8 read as follows:

9 1. Any individual, including (a) a person licensed to practice any
10 method of treatment of human ailments, disease, pain, injury,
11 deformity, mental or physical condition, or licensed to render services
12 ancillary thereto, or (b) any person who is a volunteer member of a
13 duly incorporated first aid and emergency or volunteer ambulance or
14 rescue squad association, or (c) any municipal, county or State law
15 enforcement officer, who ¹ in good faith ¹ and provided reasonable
16 care is exercised,¹ renders emergency care at the scene of an accident
17 or emergency to the victim or victims thereof, or while transporting
18 the victim or victims thereof to a hospital or other facility where
19 treatment or care is to be rendered, shall not be liable for any civil
20 damages as a result of any acts or omissions by such person in
21 rendering the emergency care.

22 (cf: P.L.1987, c.296, s.1)]²

23

24 ²5. (New section) A municipal, county or State law enforcement
25 officer is not liable for any civil damages as a result of any acts or
26 omissions undertaken in good faith in rendering care at the scene of an
27 accident or emergency to any victim thereof, or in transporting any
28 such victim to a hospital or other facility where treatment or care is to
29 be rendered; provided, however, that nothing in this section shall
30 exonerate a law enforcement officer for gross negligence.²

31

32 ²[11.] 6.² Section 6 of P.L.1961, c.56 (C.52:17B-71) is amended
33 to read as follows:

34 ¹[52:17-71 Power of commission]¹

35 6. The commission is vested with the power, responsibility and
36 duty:

37 a. To prescribe standards for the approval and continuation of
38 approval of schools at which police training courses authorized by this
39 act and in-service police training courses shall be conducted, including
40 but not limited to presently existing regional, county, municipal and
41 police chief association police training schools or at which basic
42 training courses and in-service training courses shall be conducted for
43 State and county juvenile and adult corrections officers and juvenile
44 detention officers;

45 b. To approve and issue certificates of approval to such schools,
46 to inspect such schools from time to time, and to revoke any approval

- 1 or certificate issued to such schools;
- 2 c. To prescribe the curriculum, the minimum courses of study,
3 attendance requirements, equipment and facilities, and standards of
4 operation for such schools. Courses of study in crime prevention may
5 be recommended to the Police Training Commission by the Crime
6 Prevention Advisory Committee, established by section 2 of P.L.1985,
7 c.1 (C.52:17B-77.1). The Police Training Commission may prescribe
8 psychological and psychiatric examinations for police recruits while in
9 such schools;
- 10 d. To prescribe minimum qualifications for instructors at such
11 schools and to certify, as qualified, instructors for approved police
12 training schools and to issue appropriate certificates to such
13 instructors;
- 14 e. To certify police officers, corrections officers, juvenile
15 corrections officers and juvenile detention officers who have
16 satisfactorily completed training programs and to issue appropriate
17 certificates to such police officers, corrections officers, juvenile
18 corrections officers and juvenile detention officers;
- 19 f. To advise and consent in the appointment of an administrator of
20 police services by the Attorney General pursuant to section 8 of
21 P.L.1961, c.56 (C.52:17B-73);
- 22 g. (Deleted by amendment, P.L.1985, c.491.)
- 23 h. To make such rules and regulations as may be reasonably
24 necessary or appropriate to accomplish the purposes and objectives of
25 this act;
- 26 i. To make a continuous study of police training methods and
27 training methods for corrections officers, juvenile corrections officers
28 and juvenile detention officers and to consult and accept the
29 cooperation of any recognized federal or State law enforcement
30 agency or educational institution;
- 31 j. To consult and cooperate with universities, colleges and
32 institutes in the State for the development of specialized courses of
33 study for police officers in police science and police administration;
- 34 k. To consult and cooperate with other departments and agencies
35 of the State concerned with police training or the training of
36 corrections officers, juvenile corrections officers and juvenile detention
37 officers;
- 38 l. To participate in unified programs and projects relating to police
39 training and the training of corrections officers, juvenile corrections
40 officers and juvenile detention officers sponsored by any federal, State,
41 or other public or private agency;
- 42 m. To perform such other acts as may be necessary or appropriate
43 to carry out its functions and duties as set forth in this act;
- 44 n. To extend the time limit for satisfactory completion of police
45 training programs or programs for the training of corrections officers,
46 juvenile corrections officers and juvenile detention officers upon a

1 finding that health, extraordinary workload or other factors have,
 2 singly or in combination, effected a delay in the satisfactory
 3 completion of such training program;

4 o. To furnish approved schools, for inclusion in their regular police
 5 training courses and curriculum, with information concerning the
 6 advisability of high speed chases, the risk caused thereby, and the
 7 benefits resulting therefrom;

8 p. To review and approve new standards and course curricula
 9 developed by the Department of Corrections for both basic and
 10 in-service training of State and county corrections officers and juvenile
 11 detention officers. These courses for the State corrections officers and
 12 juvenile detention officers shall be centrally provided at the
 13 Corrections Officers' Training Academy of the Department of
 14 Corrections. Courses for the county corrections officers and juvenile
 15 detention officers shall also be centrally provided at the Corrections
 16 Officers' Training Academy unless an off-grounds training program is
 17 established by the county. A county may elect to establish and
 18 conduct a basic training program for corrections officers and juvenile
 19 detention officers seeking permanent appointment in that county. The
 20 Corrections Officers' Training Academy shall develop the curriculum
 21 of the basic training program to be conducted by a county.;

22 q. To administer and distribute the monies in the Law Enforcement
 23 Officers Training and Equipment Fund established by section ²1[17]
 24 16¹ 9² of P.L....., c.... (C.....)(now pending before the Legislature
 25 as this bill) and make such rules and regulations for the administration
 26 and distribution of the monies as may be necessary or appropriate to
 27 accomplish the purpose for which the fund was established.

28 (cf: P.L.1995, c.280, s.55)

29

30 ²12. (New section) Notwithstanding any provisions of law to the
 31 contrary, a law enforcement officer who is authorized to carry a
 32 firearm under the provisions of N.J.S.2C:39-6, and who in the lawful
 33 exercise of his police powers in the furtherance of his official duties,
 34 and consistent with all applicable departmental policies and guidelines,
 35 discharges or fires that weapon shall not be liable in any civil action for
 36 damages resulting from that discharging or firing. Nothing in this
 37 section shall be deemed to grant immunity to any law enforcement
 38 officer causing any damage by his willful, wanton, or grossly negligent
 39 act of commission or omission.]²

40

41 ²13.] 7.² (New section) a. In addition to any other disposition
 42 made pursuant to law, a court shall order a person convicted of,
 43 indicted for or formally charged with a criminal offense, a disorderly
 44 persons offense or a petty disorderly persons offense, to submit to an
 45 approved serological test for acquired immune deficiency syndrome
 46 (AIDS) or infection with the human immunodeficiency virus (HIV) or

1 any other related virus identified as a probable causative agent of
2 AIDS if:

3 (1) in the course of the commission of the offense, including the
4 immediate flight thereafter or during any investigation or arrest related
5 to that offense, a law enforcement officer, the victim or other person
6 suffered a prick from a hypodermic needle, provided there is probable
7 cause to believe that the defendant is an intravenous user of controlled
8 dangerous substances; or

9 (2) in the course of the commission of the offense, including the
10 immediate flight thereafter or during any investigation or arrest related
11 to that offense, a law enforcement officer, the victim or other person
12 had contact with the defendant which involved or was likely to involve
13 the transmission of bodily fluids.

14 The court may order a person to submit to an approved serological
15 test for AIDS or infection with the HIV or any other related virus
16 identified as a probable cause agent of AIDS if in the course of the
17 performance of any other law enforcement duties, a law enforcement
18 officer suffers a prick from a hyperdermic needle, provided that there
19 is probable cause to believe that the defendant is an intravenous user
20 of controlled dangerous substances, or had contact with the defendant
21 which involved or was likely to involve the transmission of bodily
22 fluids. The court shall issue such an order only upon the request of the
23 law enforcement officer, victim of the offense or other affected person
24 made at the time of indictment, charge or conviction. If a county
25 prosecutor declines to make such an application within 72 hours of
26 being requested to do so by the law enforcement officer, the law
27 enforcement officer may appeal to the Division of Criminal Justice in
28 the Department of Law and Public Safety for that officer to bring the
29 application. The person shall be ordered by the court to submit to
30 such repeat or confirmatory tests as may be medically necessary.

31 As used in this section, "formal charge" includes a proceeding by
32 accusation in the event that the defendant has waived the right to an
33 indictment.

34 b. A court order issued pursuant to subsection a. of this section
35 shall require testing to be performed as soon as practicable by the
36 Commissioner of the Department of Corrections pursuant to authority
37 granted to the commissioner by sections 6 and 10 of P.L.1976, c.98
38 (C.30:1B-6 and 30:1B-10) or by a provider of health care or at a
39 health care facility licensed pursuant to section 12 of P.L.1971, c.136
40 (C.26:2H-12). The order shall also require that the results of the test
41 be reported to the offender, the appropriate Office of Victim-Witness
42 Advocacy if a victim of an offense is tested, and the affected law
43 enforcement officer. Upon receipt of the result of a test ordered
44 pursuant to subsection a. of this section, the Office of Victim-Witness
45 Advocacy shall provide the victim with appropriate counseling, referral
46 for counseling and if appropriate, referral for health care. The office

1 shall notify the victim or make appropriate arrangements for the victim
2 to be notified of the test result.

3 c. In addition to any other disposition authorized, a court may
4 order an offender at the time of sentencing to reimburse the State for
5 the costs of the tests ordered pursuant to subsection a. of this section.

6 d. The result of a test ordered pursuant to subsection a. of this
7 section shall be confidential and health care providers and employees
8 of the Department of Corrections, the Office of Victim-Witness
9 Advocacy, a health care facility or counseling service shall not disclose
10 the result of a test performed pursuant to this section except as
11 authorized herein or as otherwise authorized by law or court order.
12 The provisions of this section shall not be deemed to prohibit
13 disclosure of a test result to the person tested.

14 e. Persons who perform tests ordered pursuant to subsection a. of
15 this section in accordance with accepted medical standards for the
16 performance of such tests shall be immune from civil and criminal
17 liability arising from their conduct.

18 f. This section shall not be construed to preclude or limit any other
19 testing for AIDS or infection with the HIV or any other related virus
20 identified as a probable causative agent of AIDS which is otherwise
21 permitted by statute, court rule or common law.

22

23 ²[14.] §.2 (New section) a. In addition to any other disposition
24 made pursuant to law, a court shall order a juvenile charged with
25 delinquency or adjudicated delinquent for an act which, if committed
26 by an adult would constitute a crime, a disorderly persons offense or
27 a petty disorderly persons offense, to submit to an approved
28 serological test for acquired immune deficiency syndrome (AIDS) or
29 infection with the human immunodeficiency virus (HIV) or any other
30 related virus identified as a probable causative agent of AIDS if:

31 (1) in the course of the commission of the act, including the
32 immediate flight thereafter or during any investigation or arrest related
33 to that act, a law enforcement officer, the victim or other person
34 suffered a prick from a hypodermic needle, provided there is probable
35 cause to believe that the juvenile is an intravenous user of controlled
36 dangerous substances; or

37 (2) in the course of the commission of the act, including the
38 immediate flight thereafter or during any investigation or arrest related
39 to that act, a law enforcement officer, the victim or other person had
40 contact with the juvenile which involved or was likely to involve the
41 transmission of bodily fluids.

42 The court may order a juvenile to submit to an approved serological
43 test for AIDS or infection with the HIV or any other related virus
44 identified as a probable cause agent of AIDS if in the course of the
45 performance of any other law enforcement duties, a law enforcement
46 officer suffers a prick from a hyperdermic needle, provided that there

1 is probable cause to believe that the defendant is an intravenous user
2 of controlled dangerous substances, or had contact with the defendant
3 which involved or was likely to involve the transmission of bodily
4 fluids. The court shall issue such an order only upon the request of the
5 law enforcement officer, victim of the offense or other affected person
6 made at the time of indictment, charge or conviction. If a county
7 prosecutor declines to make such an application within 72 hours of
8 being requested to do so by the law enforcement officer, the law
9 enforcement officer may appeal to the Division of Criminal Justice in
10 the Department of Law and Public Safety for that officer to bring the
11 application. The juvenile shall be ordered by the court to submit to
12 such repeat or confirmatory tests as may be medically necessary.

13 b. A court order issued pursuant to subsection a. of this section
14 shall require testing to be performed as soon as practicable by the
15 Executive Director of the Juvenile Justice Commission pursuant to
16 authority granted to the executive director by sections 6 and 10 of
17 P.L.1976, c.98 (C.30:1B-6 and 30:1B-10) or by a provider of health
18 care or at a health care facility licensed pursuant to section 12 of
19 P.L.1971, c.136 (C.26:2H-12). The order shall also require that the
20 results of the test be reported to the offender, the appropriate Office
21 of Victim-Witness Advocacy if a victim of an offense is tested , and
22 the affected law enforcement officer. Upon receipt of the result of a
23 test ordered pursuant to subsection a. of this section, the Office of
24 Victim-Witness Advocacy shall provide the victim with appropriate
25 counseling, referral for counseling and if appropriate, referral for
26 health care. The office shall notify the victim or make appropriate
27 arrangements for the victim to be notified of the test result.

28 c. In addition to any other disposition authorized, a court may
29 order a juvenile at the time of sentencing to reimburse the State for the
30 costs of the tests ordered by subsection a. of this section.

31 d. The result of a test ordered pursuant to subsection a. of this
32 section shall be confidential and health care providers and employees
33 of the Juvenile Justice Commission, the Office of Victim-Witness
34 Advocacy, a health care facility or counseling service shall not disclose
35 the result of a test performed pursuant to this section except as
36 authorized herein or as otherwise authorized by law or court order.
37 The provisions of this section shall not be deemed to prohibit
38 disclosure of a test result to the person tested.

39 e. Persons who perform tests ordered pursuant to subsection a. of
40 this section in accordance with accepted medical standards for the
41 performance of such tests shall be immune from civil and criminal
42 liability arising from their conduct.

43 f. This section shall not be construed to preclude or limit any other
44 testing for AIDS or infection with the HIV or any other related virus
45 identified as a probable causative agent of AIDS which is otherwise
46 permitted by statute, court rule or common law.

1 ²[15. (New section) Whenever a county correctional officer is a
2 defendant in any action or legal proceeding arising out of and directly
3 related to or incident to the lawful exercise of his official duties, the
4 governing body of the county shall provide that officer with the
5 necessary means for the defense of such action or proceeding, other
6 than for his defense in a disciplinary proceeding instituted against him
7 by the county or in a criminal proceeding instituted as a result of a
8 complaint on behalf of the county. Notwithstanding the provisions of
9 this section, if any such disciplinary or criminal proceeding instituted
10 by or on the complaint of the county, or if any other legal proceeding
11 in which the officer is the defendant shall be dismissed or finally
12 determined in favor of the officer, the officer shall be reimbursed for
13 the expense of his defense.]²

14

15 ²[16.] 9.² (New section) a. In addition to any disposition made
16 pursuant to the provisions of Title 2C of the New Jersey Statutes, any
17 person convicted of a crime shall be assessed a penalty of \$30.

18 b. In addition to any other disposition made pursuant to the
19 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43) or any other
20 statute indicating the dispositions that may be ordered for
21 adjudications of delinquency, a juvenile adjudicated delinquent for an
22 offense which if committed by an adult would be a crime shall be
23 assessed a penalty of \$15.

24 c. The penalties assessed under subsections a. and b. of this section
25 shall be collected as provided for the collection of fines and restitution
26 in section 3 of P.L.1979, c.396 (C.2C:46-4) and forwarded to the
27 State Treasury for deposit in a separate account to be known as the
28 "Law Enforcement Officers Training and Equipment Fund." The
29 penalty assessed in this section shall be collected only after a penalty
30 assessed in section 2 of P.L.1979, c.396 (C.2C:43-3.1) and any
31 restitution ordered is collected.

32 The fund shall be used to support the development and provision of
33 basic and in-service training courses for law enforcement officers by
34 police training schools approved pursuant to P.L.1961, c.56
35 (C.52:17B-66 et seq.). In addition, the fund shall also be used to
36 enable police training schools to purchase equipment needed for the
37 training of law enforcement officers. Distributions from the fund shall
38 only be made directly to such approved schools.

39 d. The Police Training Commission in the Department of Law and
40 Public Safety shall be responsible for the administration and
41 distribution of the fund pursuant to its authority under section 6 of
42 P.L.1961, c.56 (C.52:17B-71).

43 e. An adult prisoner of a State correctional institution who does
44 not pay the penalty imposed pursuant to this section shall have the
45 penalty deducted from any income the inmate receives as a result of
46 labor performed at the institution or any type of work release program.

1 If any person, including an inmate, fails to pay the penalty imposed
 2 pursuant to this section, the court may order the suspension of the
 3 person's driver's license or nonresident reciprocity privilege, or
 4 prohibit the person from receiving or obtaining a license until the
 5 assessment is paid. The court shall notify the Director of the Division
 6 of Motor Vehicles of such an action. Prior to any action being taken
 7 pursuant to this subsection, the person shall be given notice and a
 8 hearing before the court to contest the charge of the failure to pay the
 9 assessment.

10

11 ²[¹17.] 10. ² (New section) ²[A] Every ² law enforcement agency
 12 ²[, as defined in section 1 of P.L. , c. (C.)(now pending
 13 before the Legislature as this bill),] ² shall adopt and implement
 14 ²guidelines which shall be consistent with ² the guidelines governing
 15 the "Internal Affairs Policy and Procedures" of the Police
 16 Management Manual promulgated by the Police Bureau of the
 17 Division of Criminal Justice in the Department of Law and Public
 18 Safety² , and shall be consistent with any tenure or civil service laws,
 19 and shall not supersede any existing contractual agreements² .¹

20

21 ¹[17.] ²[18.1] 11. ² This act shall take effect ²[immediately] on
 22 the 120th day following enactment².

23

24

25

26

27 "Law Enforcement Officers' Protection Act."

1 b. In addition to any other disposition made pursuant to the
2 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43) or any other
3 statute indicating the dispositions that may be ordered for
4 adjudications of delinquency, a juvenile adjudicated delinquent for an
5 offense which if committed by an adult would be a crime shall be
6 assessed a penalty of \$15.

7 c. The penalties assessed under subsections a. and b. of this section
8 shall be collected as provided for the collection of fines and restitution
9 in section 3 of P.L.1979, c.396 (C.2C:46-4) and forwarded to the
10 State Treasury for deposit in a separate account to be known as the
11 "Law Enforcement Officers Training and Equipment Fund." The
12 penalty assessed in this section shall be collected only after a penalty
13 assessed in section 2 of P.L.1979, c.396 (C.2C:43-3.1) and any
14 restitution ordered is collected.

15 The fund shall be used to support the development and provision of
16 basic and in-service training courses for law enforcement officers by
17 police training schools approved pursuant to P.L.1961, c.56
18 (C.52:17B-66 et seq.). In addition, the fund shall also be used to
19 enable police training schools to purchase equipment needed for the
20 training of law enforcement officers. Distributions from the fund shall
21 only be made directly to such approved schools.

22 d. The Police Training Commission in the Department of Law and
23 Public Safety shall be responsible for the administration and
24 distribution of the fund pursuant to its authority under section 6 of
25 P.L.1961, c.56 (C.52:17B-71).

26 e. An adult prisoner of a State correctional institution who does
27 not pay the penalty imposed pursuant to this section shall have the
28 penalty deducted from any income the inmate receives as a result of
29 labor performed at the institution or any type of work release program.
30 If any person, including an inmate, fails to pay the penalty imposed
31 pursuant to this section, the court may order the suspension of the
32 person's driver's license or nonresident reciprocity privilege, or
33 prohibit the person from receiving or obtaining a license until the
34 assessment is paid. The court shall notify the Director of the Division
35 of Motor Vehicles of such an action. Prior to any action being taken
36 pursuant to this subsection, the person shall be given notice and a
37 hearing before the court to contest the charge of the failure to pay the
38 assessment.

39

40 17. This act shall take effect immediately.

41

42

43 *SPONSORS'* STATEMENT

44

45 This bill, the "Law Enforcement Officers' Protection Act," clarifies
46 and codifies certain law enforcement officer powers, protections,

1 privileges, and rights. It also establishes a Law Enforcement Officers
2 Training and Equipment Fund and provides for its funding by imposing
3 additional monetary penalties upon adults convicted of crimes and
4 juveniles adjudicated delinquent.

5

6 The bill:

7 (1) Provides for life imprisonment without parole for murderers
8 convicted of killing law enforcement officers but who escape the death
9 penalty;

10 (2) Establishes and extends certain tort coverages and immunities
11 to law enforcement officers, most notably in rendering good faith
12 assistance to victims of an accident or in times of emergency, for
13 duties performed outside their employment jurisdiction, and relating
14 to the firing of their weapon in the performance of their official duties;

15 (3) Entitles all local law enforcement officers, including county
16 correctional officers, to reimbursements of legal fees in certain civil
17 suits and disciplinary hearings;

18 (4) Requires HIV and AIDS testing whenever body fluids have
19 been transmitted between a law enforcement officer and any person
20 (adult or juvenile) the officer arrests for an offense;

21 (5) Provides that law enforcement agencies shall adopt and
22 implement the guidelines set forth in the "Internal Affairs Policy and
23 Procedures" promulgated by the Attorney General;

24 (6) Stipulates that any person designated to hear charges shall not
25 be an officer, agent, representative, elected or appointed official or
26 employee of the employing governmental unit; and

27 (7) Extends the jurisdictional law enforcement duties and
28 responsibilities of campus police officers.

29

30

31

32

33 "Law Enforcement Officers' Protection Act."

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1836

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 13, 1996

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 1836.

Assembly Bill 1836, the "Law Enforcement Officers' Protection Act," amends and supplements parts of statutory law to clarify and codify certain law enforcement officer powers, protections, privileges and rights.

The provisions of the bill:

(1) Provide for life imprisonment without parole for murderers convicted of killing law enforcement officers but who escape the death penalty;

(2) Establish and extend certain tort coverages and immunities to law enforcement officers, most notably in rendering good faith assistance to victims of an accident or in times of emergency, for duties performed outside their employment jurisdiction, and relating to the firing of their weapon in the performance of their official duties;

(3) Entitle all local law enforcement officers, including county correctional officers, to reimbursements of legal fees in certain civil suits and disciplinary hearings;

(4) Require HIV and AIDS testing whenever body fluids have been transmitted between a law enforcement officer and any other person (adult or juvenile) the officer may arrest for an offense;

(5) Stipulate that any person designated to hear charges filed against a law enforcement officer shall not be an officer, agent, representative, elected or appointed official, or employee of the employing governmental unit; and

(6) Extend the jurisdictional law enforcement duties and responsibilities of campus police officers.

The bill also establishes a Law Enforcement Officers Training and Equipment Fund and provides for its funding by imposing additional monetary penalties upon adults convicted of crimes and juveniles adjudicated delinquent.

The committee, at the request of the sponsor, amended the bill to provide that law enforcement agencies be required to adopt and implement the guidelines set forth in the "Internal Affairs Policy and

Procedures" of the Police Management Manual promulgated by the Attorney General.

The committee also amended the bill to clarify that the indemnification for legal expenses authorized for county officers under N.J.S.40A-14-117, municipal officers under N.J.S.40A:14-155, and county park officers under section 1 of P.L.1973, c.353 (C.40:37-11.5) applies only to those legal proceedings arising out of or incidental to the performance of the officer's duties.

In addition, the committee amended section 4 of the bill to remove the amendatory language which would have precluded any "officer, agent, representative, elected or appointed official, or employee of the municipality or county or any subdivision thereof" to hear a complaint filed against an officer. The committee further amended the section to clarify that the limitation on imposing penalties pending the final outcome of all appeals applies only to administrative proceedings.

Finally, the committee amended section 10 of the bill to provide that the immunity from civil liability afforded law enforcement officers under section 1 of P.L.1963, c.140 (C.2A:62A-1) applies only when the officer acts in good faith and when "reasonable care is exercised."

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1836

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 13, 1996

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1836 (1R), with committee amendments

Assembly No. 1836 (1R), as amended, the "Law Enforcement Officers' Protection Act," amends and supplements parts of statutory law to clarify and codify certain law enforcement officer powers, protections, privileges and rights.

The provisions of the bill are as follows:

(1) Provide for life imprisonment without parole, as defined in subsection e. of section 2 of the "Persistent Offenders Accountability Act" (P.L.1995, c.126; C.2C:43-7.1), for murderers convicted of killing law enforcement officers but who escape the death penalty;

(2) Establish tort coverage under the "New Jersey Torts Claims Act," N.J.S.59:1-1 et seq., for law enforcement officers rendering good faith assistance to victims of an accident or in times of emergency, and extend immunities for duties performed outside their employment jurisdiction;

(3) Require HIV and AIDS testing whenever body fluids have been transmitted between a law enforcement officer and any other person (adult or juvenile) the officer may arrest for an offense;

(4) Establish a Law Enforcement Officers Training and Equipment Fund and provide for its funding by imposing additional monetary penalties upon adults convicted of crimes and juveniles adjudicated delinquent;

(5) Require law enforcement agencies to adopt and implement guidelines consistent with those set forth in the "Internal Affairs Policy and Procedures" of the Police Management Manual promulgated by the Attorney General and any tenure or civil service laws. These guidelines shall not supersede any existing contractual agreements;

(6) Clarify that in certain disciplinary matters, law enforcement officers employed by municipalities that have not adopted the provisions of Title 11A of the New Jersey Statutes (Civil Service) shall be afforded procedural protections substantially equivalent to those accorded under Title 11A and the regulations adopted pursuant

thereto; and

(7) Clarify that, by agreement with the employer, binding arbitration may be adopted as a procedure for disputes involving minor discipline for all public employees (including law enforcement officers) protected under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), except for members and officers of the State Police.

FISCAL IMPACT:

The Administrative Office of the Courts (AOC) estimated revenue generated for the Law Enforcement Training and Equipment Fund, based on over 27,000 convictions, could be approximately \$816,000 annually. However, since many offenders are indigent, these fines often go unpaid. No other data are available for costs.

COMMITTEE AMENDMENTS:

The committee amendments delete provisions:

(1) Entitling all local law enforcement officers to reimbursements of legal fees in certain civil suits and disciplinary hearings;

(2) Extending the jurisdictional law enforcement duties and responsibilities of campus police officers;

(3) Immunizing from liability a law enforcement officer who discharges his weapon in the lawful exercise of his police powers in the furtherance of his official duties; and

(4) Defining law enforcement officer and law enforcement agency. In place of a general definitional section, the committee inserted the definitions of those terms in those sections of the bill where necessary and appropriate.

FISCAL NOTE TO

[First Reprint]
ASSEMBLY, No. 1836

STATE OF NEW JERSEY

DATED: JUNE 13, 1996

Assembly Bill No. 1836 (1R) of 1996 is the "Law Enforcement Officers' Protection Act. The provisions of the bill: (1) Provide for life imprisonment without parole for murderers convicted of killing law enforcement officers but who escape the death penalty; (2) Establish and extend certain tort coverages and immunities to law enforcement officers, most notably in rendering good faith assistance to victims of an accident or in times of emergency, for duties performed outside their employment jurisdiction, and relating to the firing of their weapon in the performance of their official duties; (3) Entitle all local law enforcement officers, including county correctional officers, to reimbursements of legal fees in certain civil suits and disciplinary hearings; (4) Require HIV and AIDS testing whenever body fluids have been transmitted between a law enforcement officer and any other person (adult or juvenile) the officer may arrest for an offense; (5) Stipulate that any person designated to hear charges filed against a law enforcement officer shall not be an officer, agent, representative, elected or appointed official, or employee of the employing governmental unit; and (6) Extend the jurisdictional law enforcement duties and responsibilities of campus police officers.

The bill also establishes a Law Enforcement Officers Training and Equipment Fund and provides for its funding by imposing additional monetary penalties upon adults convicted of crimes and juveniles adjudicated delinquent.

The Administrative Office of the Courts (AOC) states that from August 1982 to November 1995, five murder victims were law enforcement officers. Three of the five people convicted of the first degree murder of a police officer did not receive a sentence of death. Based on this total, the AOC estimates that approximately two offenders per decade would be affected by the "life without parole" provision of the proposed bill.

The AOC also notes, that with regards to the revenue to be generated for the Law Enforcement Training and Equipment Fund, based on 27,213 convictions for Title 2C offenses, the fund would realize approximately \$816,390 per year in collections.

The Office of Legislative Services (OLS) notes that many individuals convicted of crimes and incarcerated have a variety of other fees and fines imposed which take precedence over the proposed fee. Because many offenders are indigent, these fines often go unpaid. As a result, the OLS notes that the annual revenue stated by the AOC

is probably higher than what actual collections would be.

With regards to the provisions of the bill concerning tort coverages and legal fee reimbursements, the OLS notes that there are no data available to estimate the potential impact of these provisions. Likewise, it not possible to estimate the number of instances where bodily fluids have been transmitted between law enforcement officers and individuals being arrested, or the need for HIV testing. The OLS states that the average cost of HIV testing is nominal.

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

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 1836

with Assembly Floor Amendments
(Proposed By Assemblywoman HECK)

ADOPTED: JUNE 17, 1996

The purpose of this Assembly Amendment to Assembly Bill, No.1836 (2R) is to clarify the parole eligibility of a person found guilty of murdering a law enforcement officer.

Under the provisions of this amendment, any person who is found guilty of murdering a law enforcement officer, but who is sentenced to life imprisonment rather than the death penalty, would never be eligible for parole.

In the bill's present form, such a criminal could be eligible for parole when two criteria are met: (1) the murderer has served at least 35 years in prison and (2) is 70 years of age or older.

STATEMENT TO
[Third Reprint]
ASSEMBLY, No. 1836

with Senate Floor Amendments
(Proposed By Senator LaROSSA)

ADOPTED: JUNE 27, 1996

Assembly Bill No. 1836 (3R), the "Law Enforcement Officers' Protection Act," amends and supplements parts of statutory law to clarify and codify certain law enforcement officer powers, protections, privileges and rights.

These Senate amendments are designed to "hold harmless" those law enforcement officers who are statutorily afforded tort immunities and other benefits in those instances where they are performing law enforcement duties outside their employing jurisdiction. The amendments also extend those immunities and benefits to other law enforcement officers whenever they are requested by another jurisdiction to perform law enforcement duties within its boundaries, or they perform such duties in another jurisdiction upon the orders of their superiors.

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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

TRENTON, NJ 08625

CONTACT: Becky Taylor
Jayne Rebovich
(609)777-2600

RELEASE: Wed., Sept. 11, 1996

Gov. Christie Whitman demonstrated her support for law enforcement and her commitment to keeping New Jersey's streets and neighborhoods safe today when she signed into law the Law Enforcement Officers' Protection Act.

The legislation eliminates parole for defendants convicted of murdering a law enforcement officer in the line of duty.

"This legislation sends a strong message: if you kill a cop in New Jersey, you will pay the heaviest of prices -- you will forfeit your life or spend the rest of your life behind bars, with no possibility of parole," said Gov. Whitman.

"The Law Enforcement Officers' Protection Act will give New Jersey's police officers the rights and responsibilities, the protections and privileges they deserve and expect," said Gov. Whitman. "They will never stand alone in the struggle to make our homes, our schools, and our communities the safest in America."

The legislation also amends and supplements existing law to ensure the protection and the rights of state, county and local law enforcement officers as follows:

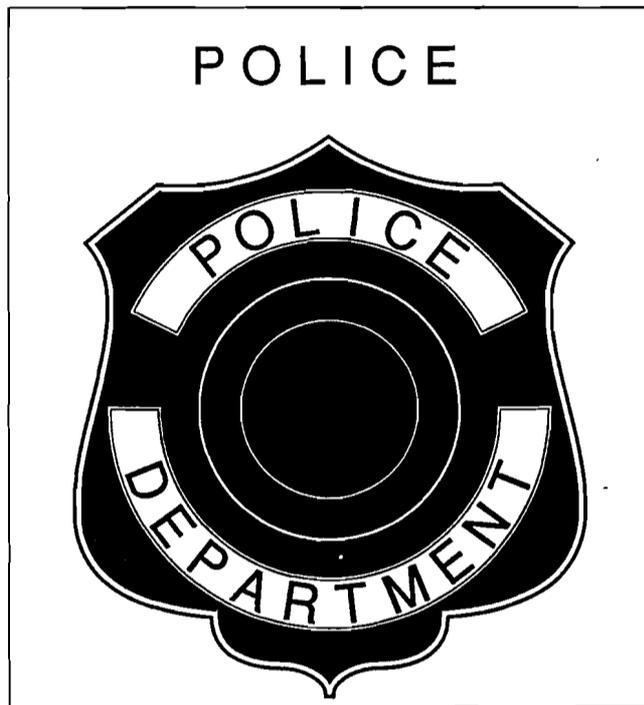
- Penalties will be assessed on adult defendants and juvenile delinquents at the time of sentencing which will be used to enable police training schools to purchase necessary equipment for the proper training of law enforcement officers. Adult defendants will pay a \$30 penalty, and juveniles are to pay \$15.
- HIV or AIDS tests will be required for defendants believed to be intravenous drug users when a law enforcement officer or victim suffers a prick from a hypodermic needle during an incident;
- Law enforcement officers will not be liable for civil damages resulting from good faith efforts at the scene of an accident or emergency;
- Procedures regarding discipline of law enforcement officers will be revised to allow officers to appeal a complaint directly to the designated authority, to allow municipalities and police unions to negotiate for binding arbitration in disputes involving minor disciplinary actions for certain law enforcement officers, and to require law enforcement agencies to adopt guidelines consistent with internal affairs policy and procedure as set forth by the Police Bureau of the Division of Criminal Justice;
- And finally, law enforcement officers with statewide powers acting under lawful authority outside of their employing municipality will be empowered with the same benefits and immunity from tort liability they have within their municipality.

From the beginning of her administration, Gov. Whitman has made public safety a top priority. She has toughened laws against criminal activity, created new crime-fighting prevention programs, strengthened the rights of victims and dealt with one of the fastest growing public safety concerns -- juvenile justice. She signed legislation to keep three-time violent offenders behind bars for life, and signed Megan's Law to help protect the state's children from sexual predators. Gov. Whitman's juvenile justice reform takes a continuum approach to the problem -- from prevention and early intervention to military-style boot camps with treatment and after care.

A-1836/S1259 was sponsored by Assembly Member Rose Heck (R-Bergen) and Senators Dick LaRossa (R-Mercer) and Peter Inverso (R-Mercer/Middlesex).



LAW ENFORCEMENT OFFICERS STUDY COMMISSION



FINAL REPORT
October 26, 1995



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No. 3046 and Assembly Bill No. 3045 for the purpose of developing and implementing a pilot program to provide such support and counseling services for law enforcement officers.

FINDING: **The personal security and job safety of New Jersey's law enforcement officers is a legislative priority. With that objective in mind, a comprehensive revision, both amendatory and supplementary in nature, of the statutes that directly and indirectly affect the personal security, job safety and professional well-being of our law enforcement officers is appropriate.*

RECOMMENDATION: The commission recommends the Legislature consider the comprehensive revisions proposed in Assembly Bill No. 2883, the "Law Enforcement Officer Protection Act." This legislation codifies certain law enforcement powers, protections, privileges and rights and should be reviewed in order to provide adequate protection to the law enforcement community.

FINDING: **The "Safe and Secure Communities" program is a good mechanism for funding law enforcement projects. The financial assistance available under the program can be used either to hire additional law enforcement officers, purchase necessary law enforcement equipment, or defray the costs of special law enforcement programs.*

RECOMMENDATION: The commission recommends that the Legislature review

APPENDIX

**SUMMARY OF LEGISLATIVE RECOMMENDATIONS OF THE
LAW ENFORCEMENT OFFICERS STUDY COMMISSION**

RECOMMENDATION:

Abandon practice of downgrading charges against defendants who have assaulted law enforcement officers.

RECOMMENDATION:

Legislation to incorporate the court's finding in Fielder v. Stonack (A-115-94) as the general guideline for affording law enforcement officers immunity while in the performance of their duties.

RECOMMENDATION:

Promulgate guidelines to assist prosecutors in identifying and dismissing frivolous and baseless complaints against law enforcement officers.

RECOMMENDATION:

Develop guidelines and standards for body armor (bullet resistant vests) to assist law enforcement agencies in obtaining the highest quality body armor for their officers.

RECOMMENDATION:

Establish a "Body Armor Replacement Fund" which would use State forfeiture moneys to fund a continuing vest replacement program for local law enforcement officers.

RECOMMENDATION:

Review and evaluate the effectiveness of the State's emergency communications network and, if appropriate, develop system providing regional and Statewide dedicated communication frequencies for law enforcement and emergency agencies.

RECOMMENDATION:

Establish a specialized equipment fund within the "Safe and Secure Communities" program.

RECOMMENDATION:

Legislation to prohibit the addition of any tinting material to the windshield and front passenger windows of motor vehicles.

RECOMMENDATION:

Legislation prohibiting the sale and possession of "Saturday Night Specials." These cheap handguns would be identified by their low melting points.

RECOMMENDATION:

Legislation revising the definition for identifying illegal body armor penetrating ammunition, using "performance" rather than "hardness" as the primary criterion.

RECOMMENDATION:

Legislation requiring all law enforcement agencies to adopt and follow any Standard Operation Procedure promulgated or issued by the Attorney General.

RECOMMENDATION:

All employers be statutorily required to follow the Attorney General's Standard Operation Procedures governing disciplinary actions and internal investigations and procedures.

RECOMMENDATION:

Legislation affording an aggrieved party in a non-civil service local unit the right to appeal an administrative disposition to the Office of Administrative Law or some other impartial arbitration panel.

RECOMMENDATION:

Develop more training programs which focus on management skills and supervisory issues.

RECOMMENDATION:

Legislation to develop and implement a comprehensive, mandatory continuing training program for all law enforcement officers.

RECOMMENDATION:

Review, in consultation with experienced law enforcement officers, the current domestic violence training program.

RECOMMENDATION:

Permit retired law enforcement officers to carry handguns under certain conditions.

RECOMMENDATION:

Legislation to establish a funding mechanism to provide moneys the periodic replacement of older, high-mileage vehicles used by the State Police and local law enforcement agencies patrol purposes.

RECOMMENDATION:

Legislation to establish a pilot program to provide support and counseling services law enforcement officers.

RECOMMENDATION:

Legislation codifying certain law enforcement powers, protections, privileges and rights.

RECOMMENDATION:

Legislation to provide additional funding for the "Safe and Secure Communities" program.

The Commission would like to thank the representatives of the Attorney General's Office and all the law enforcement officers and officials who testified. Their expertise, professional insights, and thoughtful analyses were invaluable.

TESTIMONY

Attorney General's Office	Ron Susswein; Dr. Wayne Fisher
N.J. PBA	Rob Nixon
N.J. FOP	Rick Walen; Tony Fusco
N.J. State Police	Major Kevin McPartland; Mike Fedorko
N.J. Association of Police Chief's	Al Lisicki
N.J. Sheriff Association	Jim Forcentino
N.J. State Troopers Fraternal Assoc.	Thomas Isryscki; Doug Jabloski
N.J. Forensic I.D. & Crime Detection Professional Association	Cpl. David Zuracio
U.S. Customs Service	Andrew Rakowsky
Vest-A-Cop Inc.	Sgt. Richard Grey
Barrington P.D.	Chief Jack Kaiser
Berlin Twp. P.D.	Chief Joseph Batten
Audubon P.D.	Chief William Tulane
Washington Twp. P.D.	James Murphy
Eatontown P.D.	Chief Varnshaw

ASSEMBLY RESOLUTION No. 156

STATE OF NEW JERSEY

INTRODUCED MAY 15, 1995

By Assemblymen SOLOMON, T. SMITH, Oros,
Assemblywoman Heck and Assemblyman Geist

1 AN ASSEMBLY RESOLUTION to establish a commission to study
2 issues relating to the protection, personal safety, and
3 professional well-being of law enforcement officers in this
4 State.

5
6 WHEREAS, Law enforcement officers perform unique and
7 essential services for the citizens of this State; and

8 WHEREAS, Empowered and sworn to uphold and enforce the laws
9 of this State and the various ordinances and regulations of its
10 counties and municipalities, the men and women of New
11 Jersey's law enforcement agencies are on duty 24 hours a day,
12 serving to protect, defend, and preserve the public well-being
13 and safety; and

14 WHEREAS, Although fully cognizant of the life threatening
15 dangers they regularly confront in the daily pursuit of their
16 public mission, these public servants are unhesitating guardians
17 and defenders of the law-abiding members of society; and

18 WHEREAS, The recent tragedies in Camden and Gloucester
19 Counties where three local law enforcement officers were
20 brutally and heinously gunned down while performing their
21 official duties are grievous and painful examples of the perilous
22 nature of law enforcement; and

23 WHEREAS, In recognition of the ever present dangers facing the
24 men and women of New Jersey's law enforcement agencies, it
25 is altogether fitting and proper, and within the public interest,
26 to establish a commission to study issues relating to the
27 protection, personal safety and professional well-being of law
28 enforcement officers in this State; now, therefore

29
30 BE IT RESOLVED by the General Assembly of the State of
31 New Jersey:

32 1. a. There is hereby established a commission to study issues
33 relating to the protection, personal safety and professional
34 well-being of law enforcement officers in this State. The
35 commission shall consist of seven members of the General
36 Assembly to be appointed by the Speaker thereof. No more than
37 five of the members shall be of the same political party.

38 b. The commission shall undertake a thorough review of issues
39 relating to the protection, personal safety and professional
40 well-being of law enforcement officers in this State. The issues
41 reviewed by the commission may include the various statutory
42 protections and immunities afforded law enforcement officers
43 and the adequacy of those protections and immunities; the ready
44 availability of proper and adequate law enforcement equipment
45 and personal safety gear; the funding sources for such equipment

1 and gear; the availability of specialized, supplemental training
2 programs; and such other issues as the commission may deem
3 important or relevant to the protection, personal safety, and
4 professional well-being of law enforcement officers.

5 2. a. The commission shall organize as soon as possible after
6 the appointment of its members. The Speaker shall appoint a
7 chairman and a vice-chairman from among its members. The
8 chairman may appoint a secretary who need not be a member of
9 the commission.

10 b. The commission may meet and conduct public hearings at
11 such times and in such places as it may deem appropriate and
12 necessary to fulfill its charge.

13 3. a. The commission shall be entitled to call to its assistance
14 and avail itself of the services of employees of any State, county
15 or municipal department, board, bureau, commission or agency as
16 it may require and as may be available to it for its purposes.

17 b. The commission shall further be entitled to employ
18 stenographic and clerical assistance and incur traveling and other
19 miscellaneous expenses as it may deem necessary in order to
20 perform its duties, within the limits of funds appropriated or
21 otherwise made available to it for its purposes.

22 4. The commission shall file a report with the General
23 Assembly, along with any recommendations it may have for
24 legislative bills, within 90 days after it shall organize.

25
26

27 STATEMENT

28

29 This Assembly resolution establishes a seven-member
30 commission to study issues relating to the protection, personal
31 safety, and professional well-being of law enforcement officers
32 in this State. The members, who are all to be members of the
33 General Assembly, are to be appointed by the Speaker. No more
34 than five of the appointees may be from the same political party.

35 The commission's responsibility is to study issues relating to
36 the protection, personal safety, and professional well-being of
37 law enforcement officers and to report its findings, along with
38 any recommendations it may have for legislative bills, to the
39 General Assembly within 90 days of its organizational meeting.

40
41

42

43 Establishes a commission to study issues relating to protection,
44 personal safety, and professional well-being of law enforcement
45 officers.