

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 3006 and 3204
STATE OF NEW JERSEY
221st LEGISLATURE
ADOPTED JUNE 26, 2024

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Testa, Steinhardt, Amato, Assemblymen Bailey, Hutchison, Miller,
Wimberly and Sampson

SYNOPSIS
Establishes crimes of home invasion burglary and residential burglary.

CURRENT VERSION OF TEXT
Substitute as adopted by the Senate Budget and Appropriations
Committee.

AN ACT concerning burglary of residential dwellings, supplementing Title 2C of the New Jersey Statutes, and amending various parts of the statutory law.

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

1. (New section) a. A person is guilty of home invasion burglary if, with purpose to commit an offense therein or thereon, the person, without license or privilege to do so, enters or surreptitiously remains in a residential dwelling or accommodation, or a separately secured portion thereof, and in the course of committing the offense, the person:

(1) Purposely, knowingly or recklessly inflicts, attempts to inflict, or threatens to inflict bodily injury on anyone; or

(2) Is armed with or displays what appear to be explosives or a deadly weapon.

An act shall be deemed “in the course of committing” an offense if it occurs in an attempt to commit an offense or in immediate flight after the attempt or commission.

b. Home invasion burglary is a crime of the first degree, subject to section 2 of P.L.1997, c.117 (C.2C:43-7.2).

2. (New section) a. A person is guilty of residential burglary if, with purpose to commit an offense therein or thereon, the person:

(1) Enters a residential dwelling or accommodation, or a separately secured portion thereof, unless the actor is licensed or privileged to enter; or

(2) Surreptitiously remains in a residential dwelling or accommodation, or a separately secured portion thereof, knowing that the actor is not licensed or privileged to do so.

b. For the purposes of subsection a. of this section, it is not an element of the offense that the actor knew that any other person was present in the residential dwelling or accommodation when the actor entered or surreptitiously remained therein, and it shall not be a defense that the actor did not know that any other person was present in the residential dwelling or accommodation when the actor entered or surreptitiously remained therein.

c. Residential burglary is a crime of the second degree, subject to section 2 of P.L.1997, c.117 (C.2C:43-7.2), unless the actor demonstrates by a preponderance of evidence that the actor reasonably believed that no resident or any other person, other than a person acting in concert with the actor, was present in the residential dwelling or accommodation when the actor entered or surreptitiously remained therein, in which case the offense is a

crime of the second degree, not subject to section 2 of P.L.1997, c.117 (C.2C:43-7.2).

3. Section 1 of P.L.2015, c.89 (C.2A:4A-26.1) is amended to read as follows:

1. a. A prosecutor seeking waiver of jurisdiction of a juvenile delinquency case by the Superior Court, Chancery Division, Family Part to an appropriate court and prosecuting authority without the consent of the juvenile shall file a motion within 60 days after the receipt of the complaint, which time may be extended for good cause shown. The motion shall be accompanied by a written statement of reasons clearly setting forth the facts used in assessing all factors contained in paragraph (3) of subsection c. of this section, together with an explanation as to how evaluation of those facts support waiver for each particular juvenile.

b. At a hearing, the court shall receive the evidence offered by the State and by the juvenile. The State shall provide proof to satisfy the requirements set forth in paragraphs (1) and (2) of subsection c. of this section. The court also shall review whether the State considered the factors set forth in paragraph (3) of subsection c. of this section.

c. Except as provided in paragraph (3) of this subsection, the court shall waive jurisdiction of a juvenile delinquency case without the juvenile's consent and shall refer the case to the appropriate court and prosecuting authority having jurisdiction if:

(1) The juvenile was 15 years of age or older at the time of the alleged delinquent act; and

(2) There is probable cause to believe that the juvenile committed a delinquent act which if committed by an adult would constitute:

(a) criminal homicide, other than death by auto;

(b) strict liability for drug-induced deaths;

(c) first degree robbery;

(d) carjacking;

(e) aggravated sexual assault;

(f) sexual assault;

(g) second degree aggravated assault;

(h) kidnapping;

(i) aggravated arson;

(j) possession of a firearm with a purpose to use it unlawfully against the person of another under subsection a. of N.J.S.2C:39-4, or possession of a firearm while committing or attempting to commit, including the immediate flight therefrom, aggravated assault, aggravated criminal sexual contact, burglary, home invasion burglary, residential burglary, or escape;

(k) a violation of N.J.S.2C:35-3 (Leader of a Narcotics Trafficking Network);

(l) a violation of N.J.S.2C:35-4 (Maintaining and Operating a CDS Production Facility);

(m) a violation of section 1 of P.L.1998, c.26 (C.2C:39-4.1) (Weapons Possession while Committing certain CDS Offenses);

(n) an attempt or conspiracy to commit any of the crimes enumerated in subparagraphs (a) through (m) of this paragraph; or

(o) a crime committed at a time when the juvenile previously had been sentenced and confined in an adult correctional facility.

(3) The court may deny a motion by the prosecutor to waive jurisdiction of a juvenile delinquency case if it is clearly convinced that the prosecutor abused his discretion in considering the following factors in deciding whether to seek a waiver:

(a) The nature and circumstances of the offense charged;

(b) Whether the offense was against a person or property, allocating more weight for crimes against the person;

(c) Degree of the juvenile's culpability;

(d) Age and maturity of the juvenile;

(e) Any classification that the juvenile is eligible for special education to the extent this information is provided to the prosecution by the juvenile or by the court;

(f) Degree of criminal sophistication exhibited by the juvenile;

(g) Nature and extent of any prior history of delinquency of the juvenile and dispositions imposed for those adjudications;

(h) If the juvenile previously served a custodial disposition in a State juvenile facility operated by the Juvenile Justice Commission, and the response of the juvenile to the programs provided at the facility to the extent this information is provided to the prosecution by the Juvenile Justice Commission;

(i) Current or prior involvement of the juvenile with child welfare agencies;

(j) Evidence of mental health concerns, substance use disorder, or emotional instability of the juvenile to the extent this information is provided to the prosecution by the juvenile or by the court; and

(k) If there is an identifiable victim, the input of the victim or victim's family.

The Attorney General may develop for dissemination to the county prosecutors those guidelines or directives deemed necessary or appropriate to ensure the uniform application of this section throughout the State.

d. An order waiving jurisdiction over a case and referring the case to the appropriate court and prosecuting authority shall specify the alleged act upon which the referral is based and all

other delinquent acts charged against the juvenile arising out of or related to the same transaction.

e. Testimony of a juvenile at a hearing to determine referral under this section shall not be admissible for any purpose in any subsequent hearing to determine delinquency or guilt of any offense.

f. Upon waiver of jurisdiction and referral to the appropriate court and prosecuting authority having jurisdiction:

(1) The case shall proceed as if it originated in that court and shall be subject to the sentencing provisions available to that court; provided, however, upon conviction for any offense which is subject to waiver pursuant to paragraph (2) of subsection c. of this section, there shall be a presumption that the juvenile shall serve any custodial sentence imposed in a State juvenile facility operated by the Juvenile Justice Commission until the juvenile reaches the age of 21, except that:

(a) a juvenile who has not reached the age of 21 may, in the discretion of the Juvenile Justice Commission, be transferred to the Department of Corrections in accordance with the plan established pursuant to subsection e. of section 7 of P.L.1995, c.284 (C.52:17B-175) and regulations adopted pursuant to that section; and

(b) a juvenile who has reached or exceeds the age of 21 may continue to serve a sentence in a State juvenile facility operated by the Juvenile Justice Commission in the discretion of the Juvenile Justice Commission and if the juvenile so consents; otherwise the juvenile shall serve the remainder of the custodial sentence in a State correctional facility;

(2) If a juvenile is not convicted of an offense set forth in paragraph (2) of subsection c. of this section, a conviction for any other offense shall be deemed a juvenile adjudication and be remanded to the Superior Court, Chancery Division, Family Part for disposition, in accordance with the dispositional options available to that court and all records related to the act of delinquency shall be subject to the provisions of section 1 of P.L.1982, c.79 (C.2A:4A-60);

(3) With the consent of the defense and the prosecutor, at any point in the proceedings subsequent to the decision ordering waiver the court may remand to the Superior Court, Chancery Division, Family Part if it appears that:

(a) the interests of the public and the best interests of the juvenile require access to programs or procedures uniquely available to that court; and

(b) the interests of the public are no longer served by waiver.

g. (1) The Juvenile Justice Commission, in consultation with the Attorney General, shall establish a program to collect, record, and analyze data regarding waiver of jurisdiction of a juvenile

delinquency case by the Superior Court, Chancery Division, Family Part to an appropriate court and prosecuting authority. In furtherance of this program, the Juvenile Justice Commission shall, in cooperation with the Administrative Office of the Courts, Attorney General, and county prosecutors, collect data related to the decision to seek waiver of jurisdiction of a juvenile delinquency case, which shall include but not be limited to data concerning:

(a) youth demographics, including age, gender, race, and ethnicity;

(b) case characteristics, including the degree of the offense waived, the degree of the offense convicted, and the final court resolution;

(c) case processing times; and

(d) waiver rates by race and ethnicity.

(2) The commission shall prepare and publish on its Internet website biennial reports summarizing the data collected, recorded, and analyzed pursuant to paragraph (1) of this subsection.

(3) The commission shall, pursuant to section 2 of P.L. 1991, c.164 (C.52:14-19.1), biennially prepare and transmit to the Governor and the Legislature the reports required in paragraph (2) of this subsection, along with any recommendations the commission may have for legislation concerning waiver of jurisdiction of juvenile delinquency cases.

(cf: P.L.2023, c.177, s.1)

4. N.J.S.2C:18-1 is amended to read as follows:

2C:18-1. In this chapter, unless a different meaning plainly is required:

“Structure” means any building, room, ship, vessel, car, vehicle or airplane, and also means any place [adapted for overnight accommodation of persons, or] for carrying on business therein, whether or not a person is actually present.

“Utility Company Property” means property[;] (1) owned by a public utility, as defined in R.S.48:2-13, or by a municipality, county, water district, authority or other public agency[;] and (2) which is used for the purpose of providing electric, gas or water utility service.

“Operational area” means any portion of a public airport, from which access by the public is prohibited by fences or appropriate signs, and includes runways, taxiways, all ramps, cargo ramps and apron areas, aircraft parking and storage areas, fuel storage areas, maintenance areas, and any other area of a public airport used or intended to be used for landing, takeoff or surface maneuvering of aircraft.

“Sterile area” means a portion of an airport, as set forth in an airport security program approved by the Transportation Security Administration, that provides passengers access to boarding aircraft and to which the access generally is controlled by the Transportation Security Administration, an aircraft operator pursuant to 49 C.F.R. part 1544, or an air carrier pursuant to 49 C.F.R. part 1546, through the screening of persons and property.

“Residential dwelling or accommodation” means a permanent structure intended as and currently being utilized as a residence by a private person or persons, and any place adapted for overnight accommodation of persons.

(cf: P.L.2013, c.138, s.1)

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5. N.J.S.2C:18-2 is amended to read as follows:

2C:18-2. Burglary. a. Burglary defined. A person is guilty of burglary if, with purpose to commit an offense therein or thereon, **[he] the person**:

(1) Enters a research facility, structure other than a residential dwelling, or a separately secured or occupied portion thereof unless the structure was at the time open to the public or the actor is licensed or privileged to enter;

(2) Surreptitiously remains in a research facility, structure other than a residential dwelling, or a separately secured or occupied portion thereof knowing that **[he] the person** is not licensed or privileged to do so; or

(3) Trespasses in or upon utility company property where public notice prohibiting trespass is given by conspicuous posting, or fencing or other enclosure manifestly designed to exclude intruders.

b. Grading. Burglary is a crime of the second degree if in the course of committing the offense, the actor:

(1) Purposely, knowingly or recklessly inflicts, attempts to inflict or threatens to inflict bodily injury on anyone; or

(2) Is armed with or displays what appear to be explosives or a deadly weapon.

Otherwise burglary is a crime of the third degree. An act shall be deemed “in the course of committing” an offense if it occurs in an attempt to commit an offense or in immediate flight after the attempt or commission.

(cf: P.L.2009, c.283, s.2)

6. N.J.S.2C:35-14 is amended to read as follows:

2C:35-14. Rehabilitation Program for Persons with a Substance Use Disorder Subject to a Presumption of Incarceration or a Mandatory Minimum Period of Parole Ineligibility; Criteria for Imposing Special Probation; Ineligible Offenders; Commitment to Residential Treatment Facilities or

Participation in a Nonresidential Treatment Program; Presumption of Revocation; Brief Incarceration in Lieu of Permanent Revocation.

a. Any person who is ineligible for probation due to a conviction for a crime which is subject to a presumption of incarceration or a mandatory minimum period of parole ineligibility may be sentenced to a term of special probation in accordance with this section, and may not apply for treatment for substance use disorder pursuant to N.J.S.2C:45-1. Nothing in this section shall be construed to prohibit a person who is eligible for probation in accordance with N.J.S.2C:45-1 due to a conviction for an offense which is not subject to a presumption of incarceration or a mandatory minimum period of parole ineligibility from applying for treatment for substance use disorder as a condition of probation pursuant to N.J.S.2C:45-1; provided, however, that a person in need of treatment as defined in subsection f. of section 2 of P.L.2012, c.23 (C.2C:35-14.2) shall be sentenced in accordance with that section. Notwithstanding the presumption of incarceration pursuant to the provisions of subsection d. of N.J.S.2C:44-1, whenever a person with a substance use disorder who is subject to sentencing under this section is convicted of or adjudicated delinquent for an offense, other than one described in subsection b. of this section, the court, upon notice to the prosecutor, may, on motion of the person, or on the court's own motion, place the person on special probation, which shall be for a term of five years, provided that the court finds on the record that:

(1) the person has undergone a professional diagnostic assessment to determine whether and to what extent the person has a substance use disorder and would benefit from treatment; and

(2) the person has a substance use disorder within the meaning of N.J.S.2C:35-2 and was with a substance use disorder at the time of the commission of the present offense; and

(3) the present offense was committed while the person was under the influence of a controlled dangerous substance, controlled substance analog or alcohol or was committed to acquire property or monies in order to support the person's substance use disorder; and

(4) substance use disorder treatment and monitoring will serve to benefit the person by addressing the person's substance use disorder and will thereby reduce the likelihood that the person will thereafter commit another offense; and

(5) the person did not possess a firearm at the time of the present offense and did not possess a firearm at the time of any pending criminal charge; and

(6) the person has not been previously convicted on two or more separate occasions of crimes of the first or second degree, other than those listed in paragraph (7); or the person has not been previously convicted on two or more separate occasions, where one of the offenses is a crime of the third degree, other than crimes defined in N.J.S.2C:35-10, and one of the offenses is a crime of the first or second degree; and

(7) the person has not been previously convicted or adjudicated delinquent for, and does not have a pending charge of murder, aggravated manslaughter, manslaughter, kidnapping, aggravated assault, aggravated sexual assault or sexual assault, or a similar crime under the laws of any other state or the United States; and

(8) a suitable treatment facility licensed and approved by the Division of Mental Health and Addiction Services in the Department of Human Services is able and has agreed to provide appropriate treatment services in accordance with the requirements of this section; and

(9) no danger to the community will result from the person being placed on special probation pursuant to this section.

In determining whether to sentence the person pursuant to this section, the court shall consider all relevant circumstances, and shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing or other court proceedings, and shall also consider the presentence report and the results of the professional diagnostic assessment to determine whether and to what extent the person has a substance use disorder and would benefit from treatment. The court shall give priority to a person who has moved to be sentenced to special probation over a person who is being considered for a sentence to special probation on the court's own motion or in accordance with the provisions of section 2 of P.L.2012, c.23 (C.2C:35-14.2).

As a condition of special probation, the court shall order the person to enter a residential treatment program at a facility licensed and approved by the Division of Mental Health and Addiction Services in the Department of Human Services or a program of nonresidential treatment by a licensed and approved treatment provider, which program may include the use of medication-assisted treatment as defined in paragraph (7) of subsection f. of this section, to comply with program rules and the requirements of the course of treatment, to cooperate fully with the treatment provider, and to comply with such other reasonable terms and conditions as may be required by the court or by law, pursuant to N.J.S.2C:45-1, and which shall include periodic urine testing for drug or alcohol usage throughout the period of special probation. In determining whether to order the person to participate in a nonresidential rather than a residential

treatment program, the court shall follow the procedure set forth in subsection j. of this section. Subject to the requirements of subsection d. of this section, the conditions of special probation may include different methods and levels of community-based or residential supervision.

b. A person shall not be eligible for special probation pursuant to this section if the person is convicted of or adjudicated delinquent for:

(1) a crime of the first degree;

(2) a crime of the first or second degree enumerated in subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), other than a crime of the second degree involving N.J.S.2C:15-1 (robbery), [or] N.J.S.2C:18-2 (burglary), or section 2 of P.L.____, c.____ (C.____) (pending before the Legislature as this bill), residential burglary;

(3) a crime, other than that defined in section 1 of P.L.1987, c.101 (C.2C:35-7), for which a mandatory minimum period of incarceration is prescribed under chapter 35 of this Title or any other law; or

(4) an offense that involved the distribution or the conspiracy or attempt to distribute a controlled dangerous substance or controlled substance analog to a juvenile near or on school property.

c. (Deleted by amendment, P.L.2012, c.23)

d. Except as otherwise provided in subsection j. of this section, a person convicted of or adjudicated delinquent for a crime of the second degree or of a violation of section 1 of P.L.1987, c.101 (C.2C:35-7), or who previously has been convicted of or adjudicated delinquent for an offense under subsection a. of N.J.S.2C:35-5 or a similar offense under any other law of this State, any other state or the United States, who is placed on special probation under this section shall be committed to the custody of a residential substance use disorder treatment facility licensed and approved by the Division of Mental Health and Addiction Services in the Department of Human Services. Subject to the authority of the court to temporarily suspend imposition of all or any portion of the term of commitment to a residential treatment facility pursuant to subsection j. of this section, the person shall be committed to the residential treatment facility immediately, unless the facility cannot accommodate the person, in which case the person shall be incarcerated to await commitment to the residential treatment facility. The term of such commitment shall be for a minimum of six months, or until the court, upon recommendation of the treatment provider, determines that the person has successfully completed the residential treatment program, whichever is later, except that no person shall remain in the custody of a residential

treatment facility pursuant to this section for a period in excess of five years. Upon successful completion of the required residential treatment program, the person shall complete the period of special probation, as authorized by subsection a. of this section, with credit for time served for any imprisonment served as a condition of probation and credit for each day during which the person satisfactorily complied with the terms and conditions of special probation while committed pursuant to this section to a residential treatment facility. Except as otherwise provided in subsection l. of this section, the person shall not be eligible for early discharge of special probation pursuant to N.J.S.2C:45-2, or any other provision of the law. The court, in determining the number of credits for time spent in residential treatment, shall consider the recommendations of the treatment provider. A person placed into a residential treatment facility pursuant to this section shall be deemed to be subject to official detention for the purposes of N.J.S.2C:29-5 (escape).

e. The probation department or other appropriate agency designated by the court to monitor or supervise the person's special probation shall report periodically to the court as to the person's progress in treatment and compliance with court-imposed terms and conditions. The treatment provider shall promptly report to the probation department or other appropriate agency all significant failures by the person to comply with any court-imposed term or condition of special probation or any requirements of the course of treatment, including but not limited to a positive drug or alcohol test, which shall only constitute a violation for a person using medication-assisted treatment as defined in paragraph (7) of subsection f. of this section if the positive test is unrelated to the person's medication-assisted treatment, or the unexcused failure to attend any session or activity, and shall immediately report any act that would constitute an escape. The probation department or other appropriate agency shall immediately notify the court and the prosecutor in the event that the person refuses to submit to a periodic drug or alcohol test or for any reason terminates the person's participation in the course of treatment, or commits any act that would constitute an escape.

f. (1) Upon a first violation of any term or condition of the special probation authorized by this section or of any requirements of the course of treatment, the court in its discretion may permanently revoke the person's special probation.

(2) Upon a second or subsequent violation of any term or condition of the special probation authorized by this section or of any requirements of the course of treatment, the court shall, subject only to the provisions of subsection g. of this section, permanently revoke the person's special probation unless the

court finds on the record that there is a substantial likelihood that the person will successfully complete the treatment program if permitted to continue on special probation, and the court is clearly convinced, considering the nature and seriousness of the violations, that no danger to the community will result from permitting the person to continue on special probation pursuant to this section. The court's determination to permit the person to continue on special probation following a second or subsequent violation pursuant to this paragraph may be appealed by the prosecution.

(3) In making its determination whether to revoke special probation, and whether to overcome the presumption of revocation established in paragraph (2) of this subsection, the court shall consider the nature and seriousness of the present infraction and any past infractions in relation to the person's overall progress in the course of treatment, and shall also consider the recommendations of the treatment provider. The court shall give added weight to the treatment provider's recommendation that the person's special probation be permanently revoked, or to the treatment provider's opinion that the person is not amenable to treatment or is not likely to complete the treatment program successfully.

(4) If the court permanently revokes the person's special probation pursuant to this subsection, the court shall impose any sentence that might have been imposed, or that would have been required to be imposed, originally for the offense for which the person was convicted or adjudicated delinquent. The court shall conduct a de novo review of any aggravating and mitigating factors present at the time of both original sentencing and resentencing. If the court determines or is required pursuant to any other provision of this chapter or any other law to impose a term of imprisonment, the person shall receive credit for any time served in custody pursuant to N.J.S.2C:45-1 or while awaiting placement in a treatment facility pursuant to this section, and for each day during which the person satisfactorily complied with the terms and conditions of special probation while committed pursuant to this section to a residential treatment facility. The court, in determining the number of credits for time spent in a residential treatment facility, shall consider the recommendations of the treatment provider.

(5) Following a violation, if the court permits the person to continue on special probation pursuant to this section, the court shall order the person to comply with such additional terms and conditions, including but not limited to more frequent drug or alcohol testing, as are necessary to deter and promptly detect any further violation.

(6) Notwithstanding any other provision of this subsection, if the person at any time refuses to undergo urine testing for drug or alcohol usage as provided in subsection a. of this section, the court shall, subject only to the provisions of subsection g. of this section, permanently revoke the person's special probation. Notwithstanding any other provision of this section, if the person at any time while committed to the custody of a residential treatment facility pursuant to this section commits an act that would constitute an escape, the court shall forthwith permanently revoke the person's special probation.

(7) An action for a violation under this section may be brought by a probation officer or prosecutor or on the court's own motion. Failure to complete successfully the required treatment program shall constitute a violation of the person's special probation. In the case of the temporary or continued management of a person's substance use disorder by means of medication-assisted treatment as defined herein, whenever supported by a report from the treatment provider of existing satisfactory progress and reasonably predictable long-term success with or without further medication-assisted treatment, the person's use of the medication-assisted treatment, even if continuing, shall not be the basis to constitute a failure to complete successfully the treatment program. A person who fails to comply with the terms of the person's special probation pursuant to this section and is thereafter sentenced to imprisonment in accordance with this subsection shall thereafter be ineligible for entry into the Intensive Supervision Program, provided however that this provision shall not affect the person's eligibility for entry into the Intensive Supervision Program for a subsequent conviction.

As used in this section, the term "medication-assisted treatment" means the use of any medications approved by the federal Food and Drug Administration to treat substance use disorders, including extended-release naltrexone, methadone, and buprenorphine, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders.

g. When a person on special probation is subject to a presumption of revocation on a second or subsequent violation pursuant to paragraph (2) of subsection f. of this section, or when the person refuses to undergo drug or alcohol testing pursuant to paragraph (6) of subsection f. of this section, the court may, in lieu of permanently revoking the person's special probation, impose a term of incarceration for a period of not less than 30 days nor more than six months, after which the person's term of special probation pursuant to this section may be reinstated. In determining whether to order a period of incarceration in lieu of permanent revocation pursuant to this subsection, the court shall

consider the recommendations of the treatment provider with respect to the likelihood that such confinement would serve to motivate the person to make satisfactory progress in treatment once special probation is reinstated. This disposition may occur only once with respect to any person unless the court is clearly convinced that there are compelling and extraordinary reasons to justify reimposing this disposition with respect to the person. Any such determination by the court to reimpose this disposition may be appealed by the prosecution. Nothing in this subsection shall be construed to limit the authority of the court at any time during the period of special probation to order a person on special probation who is not subject to a presumption of revocation pursuant to paragraph (2) of subsection f. of this section to be incarcerated over the course of a weekend, or for any other reasonable period of time, when the court in its discretion determines that such incarceration would help to motivate the person to make satisfactory progress in treatment.

h. The court, as a condition of its order, and after considering the person's financial resources, shall require the person to pay that portion of the costs associated with the person's participation in any residential or nonresidential treatment program imposed pursuant to this section which, in the opinion of the court, is consistent with the person's ability to pay, taking into account the court's authority to order payment or reimbursement to be made over time and in installments.

i. The court shall impose, as a condition of the special probation, any fine, penalty, fee or restitution applicable to the offense for which the person was convicted or adjudicated delinquent.

j. Where the court finds that a person has satisfied all of the eligibility criteria for special probation and would otherwise be required to be committed to the custody of a residential substance use disorders treatment facility pursuant to the provisions of subsection d. of this section, the court may temporarily suspend imposition of all or any portion of the term of commitment to a residential treatment facility and may instead order the person to enter a nonresidential treatment program, provided that the court finds on the record that:

(1) the person conducting the diagnostic assessment required pursuant to paragraph (1) of subsection a. of this section has recommended in writing that the proposed course of nonresidential treatment services is clinically appropriate and adequate to address the person's treatment needs; and

(2) no danger to the community would result from the person participating in the proposed course of nonresidential treatment services; and

(3) a suitable treatment provider is able and has agreed to provide clinically appropriate nonresidential treatment services.

If the prosecutor objects to the court's decision to suspend the commitment of the person to a residential treatment facility pursuant to this subsection, the sentence of special probation imposed pursuant to this section shall not become final for 10 days in order to permit the appeal by the prosecution of the court's decision.

After a period of six months of nonresidential treatment, if the court, considering all available information including but not limited to the recommendation of the treatment provider, finds that the person has made satisfactory progress in treatment and that there is a substantial likelihood that the person will successfully complete the nonresidential treatment program and period of special probation, the court, on notice to the prosecutor, may permanently suspend the commitment of the person to the custody of a residential treatment program, in which event the special monitoring provisions set forth in subsection k. of this section shall no longer apply.

Nothing in this subsection shall be construed to limit the authority of the court at any time during the term of special probation to order the person to be committed to a residential or nonresidential treatment facility if the court determines that such treatment is clinically appropriate and necessary to address the person's present treatment needs.

k. (1) When the court temporarily suspends the commitment of the person to a residential treatment facility pursuant to subsection j. of this section, the court shall, in addition to ordering participation in a prescribed course of nonresidential treatment and any other appropriate terms or conditions authorized or required by law, order the person to undergo urine testing for drug or alcohol use not less than once per week unless otherwise ordered by the court. The court-ordered testing shall be conducted by the probation department or the treatment provider. The results of all tests shall be reported promptly to the court and to the prosecutor. If the person is involved with a program that is providing the person medication-assisted treatment as defined in paragraph (7) of subsection f. of this section, only a positive urine test for drug or alcohol use unrelated to the medication-assisted treatment shall constitute a violation of the terms and conditions of special probation. In addition, the court shall impose appropriate curfews or other restrictions on the person's movements, and may order the person to wear electronic monitoring devices to enforce such curfews or other restrictions as a condition of special probation.

(2) The probation department or other appropriate agency shall immediately notify the court and the prosecutor in the event

that the person fails or refuses to submit to a drug or alcohol test, knowingly defrauds the administration of a drug or alcohol test, terminates the person's participation in the course of treatment, or commits any act that would constitute absconding from parole. If the person at any time while entered in a nonresidential treatment program pursuant to subsection j. of this section knowingly defrauds the administration of a drug or alcohol test, goes into hiding, or leaves the State with a purpose of avoiding supervision, the court shall permanently revoke the person's special probation.

1. If the court finds that the person has made exemplary progress in the course of treatment, the court may, upon recommendation of the person's supervising probation officer or on the court's own motion, and upon notice to the prosecutor, grant early discharge from a term of special probation provided that the person: (1) has satisfactorily completed the treatment program ordered by the court; (2) has served at least two years of special probation; (3) within the preceding 12 months, did not commit a substantial violation of any term or condition of special probation, including but not limited to a positive urine test, which shall only constitute a violation for a person using medication-assisted treatment as defined in paragraph (7) of subsection f. of this section if the positive test is unrelated to the person's medication-assisted treatment; and (4) is not likely to relapse or commit an offense if probation supervision and related services are discontinued.

m. (1) The Superior Court may order the expungement of all records and information relating to all prior arrests, detentions, convictions, and proceedings for any offense enumerated in Title 2C of the New Jersey Statutes upon successful discharge from a term of special probation as provided in this section, regardless of whether the person was sentenced to special probation under this section, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, if the person satisfactorily completed a substance use disorder treatment program as ordered by the court and was not convicted of any crime, or adjudged a disorderly person or petty disorderly person, during the term of special probation. The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14 shall not apply to an expungement pursuant to this paragraph and no fee shall be charged to a person eligible for relief pursuant to this paragraph. The court shall grant the relief requested unless it finds that the need for the availability of the records outweighs the desirability of having the person freed from any disabilities associated with their availability, or it finds that the person is otherwise ineligible for expungement pursuant to paragraph (2) of this subsection. An expungement under this paragraph shall

proceed in accordance with rules and procedures developed by the Supreme Court.

(2) A person shall not be eligible for expungement under paragraph (1) of this subsection if the records include a conviction for any offense barred from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2. It shall be the obligation of the prosecutor to notify the court of any disqualifying convictions or any other factors related to public safety that should be considered by the court when deciding to grant an expungement under paragraph (1) of this subsection.

(3) The Superior Court shall provide a copy of the expungement order granted pursuant to paragraph (1) of this subsection to the prosecutor and to the person and, if the person was represented by the Public Defender, to the Public Defender. The person or, if the person was represented by the Public Defender, the Public Defender on behalf of the person, shall promptly distribute copies of the expungement order to appropriate agencies who have custody and control of the records specified in the order so that the agencies may comply with the requirements of N.J.S.2C:52-15.

(4) If the person whose records are expunged pursuant to paragraph (1) of this subsection is convicted of any crime following discharge from special probation, the full record of arrests and convictions may be restored to public access and no future expungement shall be granted to such person.

(5) A person who, prior to the effective date of P.L.2015, c.261, was successfully discharged from a term of special probation as provided in this section, regardless of whether the person was sentenced to special probation under this section, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, may seek an expungement of all records and information relating to all arrests, detentions, convictions, and proceedings for any offense enumerated in Title 2C of the New Jersey Statutes that existed at the time of discharge from special probation by presenting an application to the Superior Court in the county in which the person was sentenced to special probation, which contains a duly verified petition as provided in N.J.S.2C:52-7 for each crime or offense sought to be expunged. The petition for expungement shall proceed pursuant to N.J.S.2C:52-1 et seq. except that the requirements related to the expiration of the time periods specified in N.J.S.2C:52-2 through section 1 of P.L.1980, c.163 (C.2C:52-4.1) shall not apply. A person who was convicted of any offense barred from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2, or who has been convicted of any crime or offense since the date of discharge from special probation shall not be eligible to apply for an expungement under this paragraph. In addition, no application for expungement shall be

considered until any pending charges are disposed. It shall be the obligation of the prosecutor to notify the court of any disqualifying convictions or any other factors related to public safety that should be considered by the court when deciding to grant an expungement under this paragraph. The Superior Court shall consider the person's verified petition and may order the expungement of all records and information relating to all arrests, detentions, convictions, and proceedings of the person that existed at the time of discharge from special probation as appropriate. The court shall grant the relief requested unless it finds that the need for the availability of the records outweighs the desirability of having the person freed from any disabilities associated with their availability, or it finds that the person is otherwise ineligible for expungement pursuant to this paragraph. No fee shall be charged to a person eligible for relief pursuant to this paragraph.

(6) (a) A person who is not eligible for expungement relief pursuant to paragraph (1) or (5) of this subsection because of a conviction occurring prior to, on, or after the effective date of P.L.2021, c.460, for any offense set forth in paragraph (2) of subsection a. of N.J.S.2C:24-4, involving endangering the welfare of a child, which is barred from expungement pursuant to subsection b. of N.J.S.2C:52-2 and therefore renders the person ineligible under those paragraphs, may be eligible to seek expungement relief pursuant to this paragraph. The person shall have been successfully discharged from a term of special probation as provided in this section, regardless of whether the person was sentenced to special probation under this section, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, for a period of at least 10 years prior to seeking an expungement of all records and information relating to all arrests, detentions, convictions, and proceedings for any offense enumerated in Title 2C of the New Jersey Statutes that existed at the time of discharge from special probation. The person shall present an application to the Superior Court in the county in which the person was sentenced to special probation, which contains a duly verified petition as provided in N.J.S.2C:52-7 for each crime or offense sought to be expunged. The petition for expungement shall proceed pursuant to N.J.S.2C:52-1 et seq. A person shall not be eligible to apply for an expungement under this paragraph if that person was convicted of any offense barred from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2, other than a conviction for endangering the welfare of a child under paragraph (2) of subsection a. of N.J.S.2C:24-4, which crime is also determined by the court, based upon a review by the prosecutor in accordance with subparagraph (b) of this paragraph, to have been nonviolent with respect to the facts and elements of

the criminal act, or if that person has been convicted of any crime or offense since the date of discharge from special probation. In addition, no application for expungement shall be considered until any pending charges are disposed. It shall be the obligation of the prosecutor to notify the court of any disqualifying convictions, any conviction for endangering the welfare of a child reviewed by the prosecutor and found to be violent, or any other factors related to public safety that should be considered by the court when deciding to grant an expungement under this paragraph. The Superior Court shall consider the person's verified petition and may order the expungement of all records and information relating to all arrests, detentions, convictions, and proceedings of the person that existed at the time of discharge from special probation as appropriate. The court shall grant the relief requested unless it finds that the need for the availability of the records outweighs the desirability of having the person freed from any disabilities associated with their availability, or it finds that the person is otherwise ineligible for expungement pursuant to this paragraph. No fee shall be charged to a person eligible for relief pursuant to this paragraph.

(b) The prosecutor, when reviewing a conviction for endangering the welfare of a child under paragraph (2) of subsection a. of N.J.S.2C:24-4 as to whether the facts and elements of the criminal act were nonviolent and therefore do not prevent, as to this conviction, a person's eligibility for expungement relief under this paragraph, shall consider any act which falls under the following definitions to be violent acts, and render the person ineligible for expungement relief:

any act of "abuse," as defined in R.S.9:6-1, that is specifically listed in part (c) of the definition, employing or permitting a child to be employed in any occupation, employment or vocation dangerous to the morals of such child; part (e) of the definition, the performing of any indecent, immoral or unlawful act or deed, in the presence of a child, that may tend to debauch or endanger or degrade the morals of the child; part (f) of the definition, permitting or allowing any other person to perform any indecent, immoral or unlawful act in the presence of the child that may tend to debauch or endanger the morals of such child; or part (g) of the definition, using excessive physical restraint on the child under circumstances which do not indicate that the child's behavior is harmful to himself, others or property;

any act of "cruelty," as defined in R.S.9:6-1; and

any act resulting in an "abused or neglected child," as defined by subsection c. of section 1 of P.L.1974, c.119 (C.9:6-8.21), that is specifically listed in paragraph (1) of the definition, inflicting or allowing to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial

risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; paragraph (2) of the definition, creating or allowing to be created a substantial or ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ; paragraph (3) of the definition, committing or allowing to be committed an act of sexual abuse against the child; subparagraph (b) of paragraph (4) of the definition, solely as to a child whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of the child's parent or guardian to exercise a minimum degree of care in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted excessive corporal punishment, or the substantial risk thereof; paragraph (6) of the definition, for a child upon whom excessive physical restraint has been used under circumstances which do not indicate that the child's behavior is harmful to himself, others, or property; or paragraph (7) of the definition, for a child who is in an institution and, pursuant to subparagraph (a) of that paragraph, has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being or, pursuant to subparagraph (b) of that paragraph, who has been willfully isolated from ordinary social contact under circumstances which indicate emotional or social deprivation. (cf.: P.L.2023, c.177, s.7)

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

2C:43-6. a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows:

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

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

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

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

b. As part of a sentence for any crime, where the court is clearly convinced that the aggravating factors substantially outweigh the mitigating factors, as set forth in subsections a. and b. of 2C:44-1, or the court finds that the aggravating factor set forth in paragraph (5) of subsection a. of N.J.S.2C:44-1 applies, the court may fix a minimum term not to exceed one-half of the term set pursuant to subsection a., or one-half of the term set pursuant to a maximum period of incarceration for a crime set forth in any statute other than this code, during which the defendant shall not be eligible for parole; provided that no defendant shall be eligible for parole at a date earlier than otherwise provided by the law governing parole.

c. A person who has been convicted under subsection b. or d. of N.J.S.2C:39-3, subsection a. of N.J.S.2C:39-4, subsection a. of section 1 of P.L.1998, c.26 (C.2C:39-4.1), subsection a., b., c., or f. of N.J.S.2C:39-5, subsection a. or paragraph (2) or (3) of subsection b. of section 6 of P.L.1979, c.179 (C.2C:39-7), or subsection a., b., e. or g. of N.J.S.2C:39-9, or of a crime under any of the following sections: N.J.S.2C:11-3, N.J.S.2C:11-4, [2C:12-1b.] subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, [2C:14-2a., 2C:14-3a.] subsection a of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3, N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-5, section 1 of P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill), or section 2 of P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill), who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a firearm as defined in 2C:39-1f., shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at one-half of the sentence imposed by the court or 42 months, whichever is greater, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

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

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

d. (1) The court shall not impose a mandatory sentence pursuant to subsection c. of this section, 2C:43-7c. or 2C:44-3d., unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

(2) The court shall not impose a mandatory sentence pursuant to subsection c. of this section for a violation of paragraph (2) of subsection b. of N.J.S.2C:39-5; a violation of paragraph (2) of subsection c. of N.J.S.2C:39-5, if that rifle or shotgun is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person; or a violation of paragraph (1) of subsection c. of N.J.S.2C:39-5.

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

f. A person convicted of manufacturing, distributing, dispensing or possessing with intent to distribute any dangerous substance or controlled substance analog under N.J.S.2C:35-5, of maintaining or operating a controlled dangerous substance production facility under N.J.S.2C:35-4, of employing a juvenile in a drug distribution scheme under N.J.S.2C:35-6, leader of a narcotics trafficking network under N.J.S.2C:35-3, or of distributing, dispensing or possessing with intent to distribute on or near school property or buses under section 1 of P.L.1987, c.101 (C.2C:35-7), who has been previously convicted of manufacturing, distributing, dispensing or possessing with intent to distribute a controlled dangerous substance or controlled substance analog, shall upon application of the prosecuting attorney be sentenced by the court to an extended term as authorized by subsection c. of N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily discretionary with the court. The term of imprisonment shall, except as may be provided in

N.J.S.2C:35-12, include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, not less than seven years if the person is convicted of a violation of N.J.S.2C:35-6, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

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

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

g. Any person who has been convicted under subsection a. of N.J.S.2C:39-4 or of a crime under any of the following sections: N.J.S.2C:11-3, N.J.S.2C:11-4, [N.J.S.2C:12-1b.] subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, [N.J.S.2C:14-2a., N.J.S.2C:14-3a.] subsection a of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3, N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-5, N.J.S.2C:35-5, section 1 of P.L. ___, c. ___ (C. ___) (pending before the Legislature as this bill), or section 2 of P.L. ___, c. ___ (C. ___) (pending before the Legislature as this bill), who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a machine gun or assault firearm shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at 10 years for a crime of the first or second degree, five years for a crime of the third degree, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

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

A person who has been convicted of an offense enumerated in this subsection and who used or possessed a machine gun or

assault firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of any firearm as defined in subsection d. of N.J.S.2C:44-3, shall be sentenced by the court to an extended term as authorized by subsection d. of N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily discretionary with the court.

h. The court shall not impose a mandatory sentence pursuant to subsection g. of this section, subsection d. of N.J.S.2C:43-7 or N.J.S.2C:44-3, unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a machine gun or assault firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

i. A person who has been convicted under paragraph (6) of subsection b. of 2C:12-1 of causing bodily injury while eluding shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between one-third and one-half of the sentence imposed by the court. The minimum term established by this subsection shall not prevent the court from imposing a presumptive term of imprisonment pursuant to paragraph (1) of subsection f. of 2C:44-1.

(cf.: P.L.2013, c.113, s.2)

8. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to read as follows:

2. a. A court imposing a sentence of incarceration for a crime of the first or second degree enumerated in subsection d. of this section shall fix a minimum term of 85% of the sentence imposed, during which the defendant shall not be eligible for parole.

b. The minimum term required by subsection a. of this section shall be fixed as a part of every sentence of incarceration imposed upon every conviction of a crime enumerated in subsection d. of this section, whether the sentence of incarceration is determined pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any other provision of law, and shall be calculated based upon the sentence of incarceration actually imposed. The provisions of subsection a. of this section shall not be construed or applied to reduce the time that must be served before eligibility for parole by an inmate sentenced to a mandatory minimum period of incarceration. Solely for the

purpose of calculating the minimum term of parole ineligibility pursuant to subsection a. of this section, a sentence of life imprisonment shall be deemed to be 75 years.

c. Notwithstanding any other provision of law to the contrary and in addition to any other sentence imposed, a court imposing a minimum period of parole ineligibility of 85 percent of the sentence pursuant to this section shall also impose a five-year term of parole supervision if the defendant is being sentenced for a crime of the first degree, or a three-year term of parole supervision if the defendant is being sentenced for a crime of the second degree. The term of parole supervision shall commence upon the completion of the sentence of incarceration imposed by the court pursuant to subsection a. of this section unless the defendant is serving a sentence of incarceration for another crime at the time ~~[he]~~ the defendant completes the sentence of incarceration imposed pursuant to subsection a., in which case the term of parole supervision shall commence immediately upon the defendant's release from incarceration. During the term of parole supervision the defendant shall remain in release status in the community in the legal custody of the Commissioner of the Department of Corrections and shall be supervised by the State Parole Board as if on parole and shall be subject to the provisions and conditions of section 3 of P.L.1997, c.117 (C.30:4-123.51b).

d. The court shall impose sentence pursuant to subsection a. of this section upon conviction of the following crimes or an attempt or conspiracy to commit any of these crimes:

- (1) N.J.S.2C:11-3, murder;
- (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- (3) N.J.S.2C:11-5, vehicular homicide;
- (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- (5) subsection b. of section 1 of P.L.1996, c.14 (2C:12-11), disarming a law enforcement officer;
- (6) N.J.S.2C:13-1, kidnapping;
- (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of subsection c. of N.J.S.2C:14-2, sexual assault;
- (9) N.J.S.2C:15-1, robbery;
- (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
- (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated arson;
- (12) N.J.S.2C:18-2, burglary;
- (13) subsection a. of N.J.S.2C:20-5, extortion;
- (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1), booby traps in manufacturing or distribution facilities;
- (15) N.J.S.2C:35-9, strict liability for drug induced deaths;
- (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;

(17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or possessing chemical weapons, biological agents or nuclear or radiological devices;

(18) N.J.S.2C:41-2, racketeering, when it is a crime of the first degree~~[:]~~;

(19) subsection i. of N.J.S.2C:39-9, firearms trafficking; ~~[or]~~

(20) paragraph (3) of subsection b. of N.J.S.2C:24-4, causing or permitting a child to engage in a prohibited sexual act, knowing that the act may be reproduced or reconstructed in any manner, or be part of an exhibition or performance;

~~(21) section 1 of P.L.____, c.____ (C.____) (pending before the Legislature as this bill), home invasion burglary; or~~

~~(22) section 2 of P.L.____, c.____ (C.____) (pending before the Legislature as this bill), residential burglary.~~

e. (Deleted by amendment, P.L.2001, c.129).

(cf: P.L.2013, c.136, s.4)

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

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 it finds one or more of the grounds specified in subsection a., b., c., or f. of this section. If the grounds specified in subsection d. are found, and the person is being sentenced for commission of any of the offenses enumerated in ~~[N.J.S.2C:43-6c. or N.J.S.2C:43-6g.]~~ subsections c. or g. of N.J.S.2C:43-6, the court shall sentence the defendant to an extended term as required by ~~[N.J.S.2C:43-6c. or N.J.S.2C:43-6g.]~~ subsections c. or g. of N.J.S.2C:43-6, and application by the prosecutor shall not be required. The court shall, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime under N.J.S.2C:14-2 or N.J.S.2C:14-3 to an extended term of imprisonment if the grounds specified in subsection g. of this section are found. The court shall, upon application of the prosecuting attorney, sentence a person to an extended term if the imposition of such term is required pursuant to the provisions of section 2 of P.L.1994, c.130 (C.2C:43-6.4). The finding of the court shall be incorporated in the record.

a. The defendant has been convicted of a crime of the first, second or third degree and is a persistent offender. A persistent offender is a person who at the time of the commission of the crime is 21 years of age or over, who has been previously convicted on at least two separate occasions of two crimes, committed at different times, when he was at least 18 years of age, if the latest in time of these crimes or the date of the defendant's last release from confinement, whichever is later, is

within 10 years of the date of the crime for which the defendant is being sentenced.

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

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

d. Second offender with a firearm. The defendant is at least 18 years of age and has been previously convicted of any of the following crimes: N.J.S.2C:11-3, N.J.S.2C:11-4, [2C:12-1b.] subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, [2C:14-2a., 2C:14-3a.] subsection a. of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3, N.J.S.2C:15-1, N.J.S.2C:18-2, section 1 of P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill), N.J.S.2C:29-5, [2C:39-4a.] subsection a. of N.J.S.2C:39-4, or has been previously convicted of an offense under Title 2A of the New Jersey Statutes or under any statute of the United States or any other state which is substantially equivalent to the offenses enumerated in this subsection and he used or possessed a firearm, as defined in [2C:39-1f.] N.J.S.2C:39-1, in the course of committing or attempting to commit any of these crimes, including the immediate flight therefrom.

e. (Deleted by amendment, P.L.2001, c.443).

f. The defendant has been convicted of a crime under any of the following sections: N.J.S.2C:11-4, [N.J.S.2C:12-1b.] subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, [N.J.S.2C:14-2a., N.J.S.2C:14-3a.] subsection a. of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3, N.J.S.2C:15-1, N.J.S.2C:18-2, section 1 of P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill), section 2 of P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill), [N.J.S.2C:29-2b.] subsection b. of N.J.S.2C:29-2, N.J.S.2C:29-5, N.J.S.2C:35-5, and in the course of committing or attempting to commit the crime, including the immediate flight therefrom, the defendant used or was in possession of a stolen motor vehicle.

g. The defendant has been convicted of a crime under N.J.S.2C:14-2 or N.J.S.2C:14-3 involving violence or the threat

of violence and the victim of the crime was 16 years of age or less.

For purposes of this subsection, a crime involves violence or the threat of violence if the victim sustains serious bodily injury as defined in subsection b. of N.J.S.2C:11-1, or the actor is armed with and uses a deadly weapon or threatens by word or gesture to use a deadly weapon as defined in subsection c. of N.J.S.2C:11-1, or threatens to inflict serious bodily injury.

h. (Deleted by amendment, P.L.2007, c.341).
(cf: P.L.2007, c.341, s.8)

10. Section 3 of P.L.1989, c.331 (C.34:8-44) is amended to read as follows:

3. In addition to any other procedure, condition or information required by this act:

a. Every applicant shall file a disclosure statement with the chief stating whether or not the applicant has been convicted of any crime, which for the purposes of this act shall mean a violation of any of the following provisions of the “New Jersey Code of Criminal Justice,” Title 2C of the New Jersey Statutes as amended and supplemented, or the equivalent under the laws of any other jurisdiction:

(1) Any crime of the first degree;

(2) Any crime which is a second or third degree crime and is a violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes; or

(3) Any other crime which is a violation of N.J.S.2C:5-1, N.J.S.2C:5-2, N.J.S.2C:11-2 through N.J.S.2C:11-4, N.J.S.2C:12-1, N.J.S.2C:12-3, N.J.S.2C:13-1, N.J.S.2C:14-2, N.J.S.2C:15-1, subsection a. or b. of N.J.S.2C:17-1, subsection a. or b. of N.J.S.2C:17-2, N.J.S.2C:18-2, section 1 of P.L.____, c.____ (C.____) (pending before the Legislature as this bill), section 2 of P.L.____, c.____ (C.____) (pending before the Legislature as this bill), N.J.S.2C:20-1, N.J.S.2C:20-2, N.J.S.2C:20-4, N.J.S.2C:20-5, N.J.S.2C:20-7, section 1 or 2 of P.L.2023, c.101 (C.2C:20-10.1 or C.2C:20-10.2), N.J.S.2C:20-9, N.J.S.2C:21-2 through N.J.S.2C:21-4, N.J.S.2C:21-6, N.J.S.2C:21-7, N.J.S.2C:21-12, N.J.S.2C:21-14, N.J.S.2C:21-15, or N.J.S.2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, N.J.S.2C:30-3, N.J.S.2C:35-5, N.J.S.2C:35-10, or N.J.S.2C:37-1 through N.J.S.2C:37-4.

b. Each disclosure statement may be reviewed and used by the director as grounds for denying licensure or registration, except that in cases in which the provisions of P.L.1968, c.282 (C.2A:168A-1 et seq.) apply, the director shall comply with the requirements of that act.

c. An applicant who is denied licensure or registration pursuant to this section shall, upon a written request transmitted to the director within 30 calendar days of the denial, be afforded an opportunity for a hearing in the manner provided for contested cases pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

d. An applicant shall have the continuing duty to provide any assistance or information requested by the director, and to cooperate in any inquiry, investigation, or hearing conducted by the director.

e. If any of the information required to be included in the disclosure statement changes, or if any additional information should be added after the filing of the statement, the applicant shall provide that information to the chief, in writing, within 30 calendar days of the change or addition.

(cf: P.L.2023, c.101, s.6)

11. This act shall take effect immediately.

