

CHAPTER 16

AN ACT concerning assaults on corrections and law enforcement officers and amending N.J.S. 2C:44-5.

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

1. N.J.S. 2C:44-5 is amended to read as follows:

Multiple sentences; concurrent and consecutive terms.

2C:44-5. Multiple Sentences; Concurrent and Consecutive Terms.

a. Sentences of imprisonment for more than one offense. When multiple sentences of imprisonment are imposed on a defendant for more than one offense, including an offense for which a previous suspended sentence or sentence of probation has been revoked, such multiple sentences shall run concurrently or consecutively as the court determines at the time of sentence, except that:

(1) The aggregate of consecutive terms to a county institution shall not exceed 18 months; and

(2) Not more than one sentence for an extended term shall be imposed.

There shall be no overall outer limit on the cumulation of consecutive sentences for multiple offenses.

b. Sentences of imprisonment imposed at different times. When a defendant who has previously been sentenced to imprisonment is subsequently sentenced to another term for an offense committed prior to the former sentence, other than an offense committed while in custody:

(1) The multiple sentences imposed shall so far as possible conform to subsection a. of this section; and

(2) Whether the court determines that the terms shall run concurrently or consecutively, the defendant shall be credited with time served in imprisonment on the prior sentence in determining the permissible aggregate length of the term or terms remaining to be served; and

(3) When a new sentence is imposed on a prisoner who is on parole, the balance of the parole term on the former sentence shall not be deemed to run during the period of the new imprisonment unless the court determines otherwise at the time of sentencing.

c. Sentence of imprisonment for offense committed while on parole. When a defendant is sentenced to imprisonment for an offense committed while on parole in this State, such term of imprisonment and any period of reimprisonment that the parole board may require the defendant to serve upon the revocation of his parole shall run consecutively unless the court orders these sentences to run concurrently.

d. Multiple sentences of imprisonment in other cases. Except as otherwise provided in this section, multiple terms of imprisonment shall run concurrently or consecutively as the court determines when the second or subsequent sentence is imposed.

e. Calculation of concurrent and consecutive terms of imprisonment.

(1) When terms of imprisonment run concurrently, the shorter terms merge in and are satisfied by discharge of the longest term.

(2) When terms of imprisonment run consecutively, the terms are added to arrive at an aggregate term to be served equal to the sum of all terms.

f. Suspension of sentence or probation and imprisonment; multiple terms of suspension and probation. When a defendant is sentenced for more than one offense or a defendant already under sentence is sentenced for another offense committed prior to the former sentence:

(1) The court shall not sentence to probation a defendant who is under sentence of imprisonment, except as authorized by paragraph (2) of subsection b. of N.J.S.2C:43-2;

(2) Multiple periods of suspension or probation shall run consecutively, unless the court orders these sentences to run concurrently from the date of the first such disposition;

(3) When a sentence of imprisonment in excess of one year is imposed, the service of such sentence shall satisfy a suspended sentence on another count or prior suspended sentence or sentence to probation, unless the suspended sentence or probation has been violated in which case any imprisonment for the violation shall run consecutively; and

(4) When a sentence of imprisonment of one year or less is imposed, the period of a suspended sentence on another count or a prior suspended sentence or sentence to probation

shall run during the period of such imprisonment, unless the suspended sentence or probation has been violated in which case any imprisonment for the violation shall run consecutively.

g. Offense committed while under suspension of sentence or probation. When a defendant is convicted of an offense committed while under suspension of sentence or on probation and such suspension or probation is not revoked:

(1) If the defendant is sentenced to imprisonment in excess of one year, the service of such sentence shall not satisfy the prior suspended sentence or sentence to probation, unless the court determines otherwise at the time of sentencing;

(2) If the defendant is sentenced to imprisonment of one year or less, the period of the suspension or probation shall not run during the period of such imprisonment; and

(3) If sentence is suspended or the defendant is sentenced to probation, the period of such suspension or probation shall run concurrently with or consecutively to the remainder of the prior periods, as the court determines at the time of sentence.

h. Offense committed while released pending disposition of a previous offense. When a defendant is sentenced to imprisonment for an offense committed while released, with or without bail, pending disposition of a previous offense, the term of imprisonment shall run consecutively to any sentence of imprisonment imposed for the previous offense, unless the court, in consideration of the character and conditions of the defendant, finds that imposition of consecutive sentences would be a serious injustice which overrides the need to deter such conduct by others.

i. Sentence of imprisonment for assault on corrections employee. Any term of imprisonment imposed on an inmate of a State or county correctional facility for an assault on a Department of Corrections employee, an employee of a county correctional facility, an employee of a State juvenile facility or a county juvenile detention facility, county sheriff's department employee or any State, county or municipal law enforcement officer while in the performance of his duties shall run consecutively to any term of imprisonment currently being served and to any other term imposed for any other offense committed at the time of the assault.

2. This act shall take effect immediately.

Approved January 29, 2001.