

CHAPTER 26

AN ACT creating the "September 11th, 2001 Anti-Terrorism Act" and revising various parts of the statutory law.

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

C.2C:38-1 Short title.

1. Sections 1 through 5 of this act shall be known and may be cited as the "September 11th, 2001 Anti-Terrorism Act."

C.2C:38-2 Crime of terrorism; definitions.

2. a. A person is guilty of the crime of terrorism if he commits or attempts, conspires or threatens to commit any crime enumerated in subsection c. of this section with the purpose:

- (1) to promote an act of terror; or
- (2) to terrorize five or more persons; or
- (3) to influence the policy or affect the conduct of government by terror; or
- (4) to cause by an act of terror the impairment or interruption of public communications, public transportation, public or private buildings, common carriers, public utilities or other public services.

b. Terrorism is a crime of the first degree.

(1) Notwithstanding any other provision of law to the contrary, any person convicted under this section shall be sentenced to a term of 30 years, during which the person shall not be eligible for parole, or to a specific term of years which shall be between 30 years and life imprisonment, of which the person shall serve not less than 30 years before being eligible for parole.

(2) If a violation of this section results in death, the person shall be sentenced to a term of life imprisonment, during which time the person shall not be eligible for parole.

c. The crimes encompassed by this section are: murder pursuant to N.J.S.2C:11-3; aggravated manslaughter or manslaughter pursuant to N.J.S.2C:11-4; vehicular homicide pursuant to N.J.S.2C:11-5; aggravated assault pursuant to subsection b. of N.J.S.2C:12-1; disarming a law enforcement officer pursuant to section 1 of P.L.1996, c.14 (C.2C:12-11); kidnapping pursuant to N.J.S.2C:13-1; criminal restraint pursuant to N.J.S.2C:13-2; robbery pursuant to N.J.S.2C:15-1; carjacking pursuant to section 1 of P.L.1993, c.221 (C.2C:15-2); aggravated arson or arson pursuant to N.J.S.2C:17-1; causing or risking widespread injury or damage pursuant to N.J.S.2C:17-2; damage to nuclear plant with the purpose to cause or threat to cause release of radiation pursuant to section 1 of P.L.1983, c.480 (C.2C:17-7); damage to nuclear plant resulting in death by radiation pursuant to section 2 of P.L.1983, c.480 (C.2C:17-8); damage to nuclear plant resulting in injury by radiation pursuant to section 3 of P.L.1983, c.480 (C.2C:17-9); producing or possessing chemical weapons, biological agents or nuclear or radiological devices pursuant to section 3 of P.L.2002, c.26 (C.2C:38-3); burglary pursuant to N.J.S.2C:18-2; possession of prohibited weapons and devices pursuant to N.J.S.2C:39-3; possession of weapons for unlawful purposes pursuant to N.J.S.2C:39-4; unlawful possession of weapons pursuant to N.J.S.2C:39-5; weapons training for illegal activities pursuant to section 1 of P.L.1983, c.229 (C.2C:39-14); racketeering pursuant to N.J.S.2C:41-1 et seq.; and any other crime involving a risk of death or serious bodily injury to any person.

d. Definitions. For the purposes of this section:

"Government" means the United States, any State, county, municipality, or other political unit, or any department, agency or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government.

"Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

"Terror" means the menace or fear of death or serious bodily injury.

"Terrorize" means to convey the menace or fear of death or serious bodily injury by words or actions.

e. A prosecution pursuant to this section may be brought by the Attorney General, his assistants and deputies within the Division of Criminal Justice, or by a county prosecutor or a designated assistant prosecutor if the county prosecutor is expressly authorized in writing by the Attorney General to prosecute a violation of this section.

f. Notwithstanding the provisions of N.J.S.2C:1-8 or any other provision of law, a conviction of terrorism under this section shall not merge with a conviction of any other offense, nor shall such other conviction merge with a conviction under this section, and the court shall impose separate sentences upon each violation of this section and any other offense.

g. Nothing contained in this section shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for murder under the provisions of N.J.S.2C:11-3 or any other offense.

C.2C:38-3 Producing or possessing chemical weapons, biological agents or nuclear or radiological devices; definitions.

3. Producing or Possessing Chemical Weapons, Biological Agents or Nuclear or Radiological Devices.

a. A person who, purposely or knowingly, unlawfully develops, produces, otherwise acquires, transfers, receives, stockpiles, retains, owns, possesses or uses, or threatens to use, any chemical weapon, biological agent, toxin, vector or delivery system for use as a weapon, or nuclear or radiological device commits a crime of the first degree, except that:

(1) Notwithstanding any other provision of law to the contrary, any person convicted under this subsection shall be sentenced to a term of 30 years, during which the person shall not be eligible for parole, or to a specific term of years which shall be between 30 years and life imprisonment, of which the person shall serve not less than 30 years before being eligible for parole.

(2) If a violation of this section results in death, the person shall be sentenced to a term of life imprisonment, during which time the person shall not be eligible for parole.

b. Any manufacturer, distributor, transferor, possessor or user of any toxic chemical, biological agent, toxin or vector, or radioactive material that is related to a lawful industrial, agricultural, research, medical, pharmaceutical or other activity, who recklessly allows an unauthorized individual to obtain access to the toxic chemical or biological agent, toxin or vector or radioactive material, commits a crime of the second degree and, notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, shall be subject to a fine of up to \$250,000 for each violation.

c. For the purposes of this section:

(1) "Chemical weapon" means:

(a) a toxic chemical and its precursors, except where intended for a lawful purpose as long as the type and quantity is consistent with such a purpose. "Chemical weapon" shall include, but not be limited to:

(i) nerve agents, including GA (Tabun) cyanide irreversible inhibitor, Sarin (GB), GB (Soman) fluorine, reversible "slow aging," GF, and VX sulfur, irreversible;

(ii) choking agents, including Phosgene (CG) and Diphosgene (DP);

(iii) blood agents, including Hydrogen Cyanide (AC), Cyanogen Chloride (CK), and Arsine (SA); and

(iv) blister agents, including mustards (H, HD {sulfur mustard}, HN-1, HN-2, HN-3 {nitrogen mustard}), arsenicals, such as Lewisite (L), and urticants, including CX; and

(v) incapacitating agents, including BZ; or

(b) a munition or device specifically designed to cause death or other harm through the toxic properties of those chemical weapons defined in subparagraph (a) of paragraph (1) of subsection c. of this section, which would be released as a result of the employment of such munition or device; or

(c) any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (b) of paragraph (1) of subsection c. of this section.

(2) "Biological agent" means any microorganism, virus, bacteria, rickettsiae, fungi, toxin, infectious substance or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, bacteria, rickettsiae, fungi, infectious substance or biological product, capable of causing:

(a) death, disease, or other biological malfunction in a human, an animal, a plant, or another

living organism; or

- (b) deterioration of food, water, equipment, supplies, or material of any kind; or
- (c) deleterious alteration of the environment.

"Biological agent" shall include, but not be limited to: viruses, including Crimean-Congo hemorrhagic fever virus, eastern equine encephalitis virus, ebola viruses, equine morbilli virus, lassa fever virus, Marburg virus, Rift Valley fever virus, South American hemorrhagic fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito), tick-borne encephalitis complex viruses, variola major virus (smallpox virus), Venezuelan equine encephalitis virus, viruses causing hantavirus pulmonary syndrome, and yellow fever virus; bacteria including *Bacillus anthracis* (commonly known as anthrax), *Brucella abortus*, *Brucella melitensis*, *Brucella suis*, *Burkholderia (pseudomonas) mallei*, *Burkholderia (pseudomonas) pseudomallei*, *Clostridium botulinum*, *Francisella tularensis*, *Yersinia pestis* (commonly known as plague); rickettsiae, including *Coxiella burnetii*, *Rickettsia prowazekii* and *Rickettsia rickettsii*; *Coccidioides immitis* fungus; and toxins, including abrin, aflatoxins, Botulinum toxins, *Clostridium perringes* epsilon toxin, conotoxins, diacetoxyscirpenol, ricin, saxitoxin, shigatoxin, Staphylococcal enterotoxins, tetrodotoxins and T-2 toxin.

(3) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including:

(a) any poisonous substance or biological product that may be engineered as a result of biotechnology or produced by a living organism; or

(b) any poisonous isomer or biological product, homolog, or derivative of such a substance.

(4) "Vector" means a living organism or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host.

(5) "Nuclear or radiological device" includes: (a) any nuclear device which is an explosive device designed to cause a nuclear yield; (b) a radiological dispersal device which is an explosive device used to spread radioactive material; or (c) a simple radiological dispersal device which is any act, container or any other device used to release radiological material for use as a weapon.

(6) "Delivery system" means any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin or vector.

(7) "For use as a weapon" means all situations in which the circumstances indicate that the person intended to employ an item's ready capacity of lethal use or of inflicting serious bodily injury.

d. This section shall not apply to the development, production, acquisition, transfer, receipt, possession or use of any toxic chemical, biological agent, toxin or vector that is related to a lawful industrial, agricultural, research, medical, pharmaceutical, or other activity.

e. This section shall not apply to any device whose possession is otherwise lawful pursuant to N.J.S.2C:39-6.

f. Nothing contained in this section shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for murder under the provisions of N.J.S.2C:11-3 or any other offense.

C.2C:38-4 Hindering apprehension or prosecution for terrorism.

4. Hindering Apprehension or Prosecution for Terrorism.

a. A person commits a crime if, with the purpose to hinder the detention, apprehension, investigation, prosecution, conviction or punishment of another for the crime of terrorism, he:

(1) Harbors or conceals the other;

(2) Provides or aids in providing a weapon, money, transportation, disguise or other means of avoiding discovery or apprehension or effecting escape;

(3) Suppresses, by way of concealment or destruction, any evidence of the crime, or tampers with a witness, informant, document or other source of information, regardless of its admissibility in evidence, which might aid in the discovery or apprehension of such person or in the lodging of a charge against him;

(4) Warns the other of impending discovery or apprehension, except that this paragraph does not apply to a warning given in connection with an effort to bring another into compliance with law;

(5) Prevents or obstructs, by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of such person or in the lodging of a charge against him;

(6) Aids such person to protect or expeditiously profit from an advantage derived from such crime; or

(7) Gives false information to a law enforcement officer.

b. A violation of subsection a. of this section is a crime of the first degree if the crime of terrorism resulted in death. Otherwise, it is a crime of the second degree.

C.2C:38-5 Soliciting or providing material support or resources for terrorism; definitions.

5. Soliciting or Providing Material Support or Resources for Terrorism.

a. As used in this section:

"Charitable organization" means: (1) any person determined by the federal Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. s.501(c)(3); or

(2) any person who is, or holds himself out to be, established for any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary purpose, or for the benefit of law enforcement personnel, firefighters or other persons who protect the public safety, or any person who in any manner employs a charitable appeal as the basis of any solicitation, or an appeal which has a tendency to suggest there is a charitable purpose to any such solicitation.

"Charitable purpose" means: (1) any purpose described in section 501 (c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. s.501(c)(3); or (2) any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary objective, or an objective that benefits law enforcement personnel, firefighters, or other persons who protect the public safety.

"Material support or resources" means: (1) services or assistance with knowledge or purpose that the services or assistance will be used in preparing for or carrying out an act of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2);

(2) currency, financial securities or other monetary instruments, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation and other physical assets or anything of value; or

(3) any chemical weapon, or any biological agent, toxin, vector or delivery system for use as a weapon, or any nuclear or radiological device, as defined in subsection c. of section 3 of P.L.2002, c.26 (C.2C:38-3).

"Professional fund raiser" means any person who for compensation performs for a charitable organization any service in connection with which contributions are or will be solicited in this State by that compensated person or by any compensated person he employs, procures, or engages, directly or indirectly to solicit contributions. A bona fide salaried officer, employee, or volunteer of a charitable organization shall not be deemed to be a professional fund raiser. No attorney, accountant or banker who advises a person to make a charitable contribution during the course of rendering professional services to that person shall be deemed, as a result of that advice, to be a professional fund raiser.

b. (1) It shall be unlawful for any person, charitable organization or professional fund raiser to solicit, transport or otherwise provide material support or resources with the purpose or knowledge that such material support or resources will be used, in whole or in part, to aid, plan, prepare or carry out an act of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) or with the purpose or knowledge that such material support or resources are to be given, in whole or in part, to a person or an organization that has committed or has the purpose to commit or has threatened to commit an act of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2).

(2) It shall be unlawful for any person, charitable organization or professional fund raiser to

solicit, transport or otherwise provide material support or resources to or on behalf of a person or an organization that is designated as a foreign terrorist organization by the United States Secretary of State pursuant to 8 U.S.C. s.1189. It shall not be a defense to a prosecution for a violation of this section that the actor did not know that the person or organization is designated as a foreign terrorist organization.

c. A person who violates the provisions of subsection b. of this section shall be guilty of a crime of the first degree if the act of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) results in death. Otherwise, it is a crime of the second degree.

6. Section 8 of P.L.1968, c.409 (C.2A:156A-8) is amended to read as follows:

C.2A:156A-8 Authorization for application for order to intercept communications.

8. The Attorney General, county prosecutor or a person designated to act for such an official and to perform his duties in and during his actual absence or disability, may authorize, in writing, an ex parte application to a judge designated to receive the same for an order authorizing the interception of a wire, or electronic or oral communication by the investigative or law enforcement officers or agency having responsibility for an investigation when such interception may provide evidence of the commission of the offense of murder, kidnapping, gambling, robbery, bribery, a violation of paragraph (1) or (2) of subsection b. of N.J.S.2C:12-1, a violation of section 3 of P.L.1997, c.353 (C.2C:21-4.3), a violation of N.J.S.2C:21-19 punishable by imprisonment for more than one year, a violation of P.L.1994, c.121 (C.2C:21-23 et seq.), a violation of sections 1 through 5 of P.L.2002, c.26 (C.2C:38-1 through C.2C:38-5), a violation of N.J.S.2C:33-3, a violation of N.J.S.2C:17-2, a violation of sections 1 through 3 of P.L.1983, c.480 (C.2C:17-7 through 2C:17-9), a violation of N.J.S.2C:12-3 (terroristic threats), violations of N.J.S.2C:35-3, N.J.S.2C:35-4 and N.J.S.2C:35-5, violations of sections 112 through 116, inclusive, of the "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116), arson, burglary, theft and related offenses punishable by imprisonment for more than one year, endangering the welfare of a child pursuant to N.J.S.2C:24-4, escape, forgery and fraudulent practices punishable by imprisonment for more than one year, alteration of motor vehicle identification numbers, unlawful manufacture, purchase, use, or transfer of firearms, unlawful possession or use of destructive devices or explosives, weapons training for illegal activities pursuant to section 1 of P.L.1983, c.229 (C.2C:39-14), racketeering or a violation of subsection g. of N.J.S.2C:5-2, leader of organized crime, organized criminal activity directed toward the unlawful transportation, storage, disposal, discharge, release, abandonment or disposition of any harmful, hazardous, toxic, destructive, or polluting substance, or any conspiracy to commit any of the foregoing offenses or which may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the foregoing offenses.

7. N.J.S.2C:1-6 is amended to read as follows:

Time limitations.

2C:1-6. Time Limitations. a. A prosecution for any offense set forth in N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:14-2 or sections 1 through 5 of P.L.2002, c.26 (C.2C:38-1 through C.2C:38-5) may be commenced at any time.

b. Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitations:

(1) A prosecution for a crime must be commenced within five years after it is committed;

(2) A prosecution for a disorderly persons offense or petty disorderly persons offense must be commenced within one year after it is committed;

(3) A prosecution for any offense set forth in N.J.S.2C:27-2, N.J.S.2C:27-4, N.J.S.2C:27-6, N.J.S.2C:27-7, N.J.S.2C:29-4, N.J.S.2C:30-2, N.J.S.2C:30-3, or any attempt or conspiracy to commit such an offense, must be commenced within seven years after the commission of the offense;

(4) A prosecution for an offense set forth in N.J.S.2C:14-3 or N.J.S.2C:24-4, when the

victim at the time of the offense is below the age of 18 years, must be commenced within five years of the victim's attaining the age of 18 or within two years of the discovery of the offense by the victim, whichever is later;

(5) A prosecution for any offense set forth in paragraph (2) of subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39 (C.13:1E-9), section 20 of P.L.1989, c.34 (C.13:1E-48.20), section 19 of P.L.1954, c.212 (C.26:2C-19), section 10 of P.L.1984, c.173 (C.34:5A-41), or section 10 of P.L.1977, c.74 (C.58:10A-10) must be commenced within 10 years after the date of discovery of the offense by a local law enforcement agency, a county prosecutor, or the Department of Environmental Protection either directly by any of those entities or indirectly by notice given to any of those entities.

c. An offense is committed either when every element occurs or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed, except that when the prosecution is supported by physical evidence that identifies the actor by means of DNA testing or fingerprint analysis, time does not start to run until the State is in possession of both the physical evidence and the DNA or fingerprint evidence necessary to establish the identification of the actor by means of comparison to the physical evidence.

d. A prosecution is commenced for a crime when an indictment is found and for a nonindictable offense when a warrant or other process is issued, provided that such warrant or process is executed without unreasonable delay. Nothing contained in this section, however, shall be deemed to prohibit the downgrading of an offense at any time if the prosecution of the greater offense was commenced within the statute of limitations applicable to the greater offense.

e. The period of limitation does not run during any time when a prosecution against the accused for the same conduct is pending in this State.

f. The limitations in this section shall not apply to any person fleeing from justice.

g. Except as otherwise provided in this code, no civil action shall be brought pursuant to this code more than five years after such action accrues.

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

Conspiracy.

2C:5-2. Conspiracy. a. Definition of conspiracy. A person is guilty of conspiracy with another person or persons to commit a crime if with the purpose of promoting or facilitating its commission he:

(1) Agrees with such other person or persons that they or one or more of them will engage in conduct which constitutes such crime or an attempt or solicitation to commit such crime; or

(2) Agrees to aid such other person or persons in the planning or commission of such crime or of an attempt or solicitation to commit such crime.

b. Scope of conspiratorial relationship. If a person guilty of conspiracy, as defined by subsection a. of this section, knows that a person with whom he conspires to commit a crime has conspired with another person or persons to commit the same crime, he is guilty of conspiring with such other person or persons, whether or not he knows their identity, to commit such crime.

c. Conspiracy with multiple objectives. If a person conspires to commit a number of crimes, he is guilty of only one conspiracy so long as such multiple crimes are the object of the same agreement or continuous conspiratorial relationship. It shall not be a defense to a charge under this section that one or more of the objectives of the conspiracy was not criminal; provided that one or more of its objectives or the means of promoting or facilitating an objective of the conspiracy is criminal.

d. Overt act. No person may be convicted of conspiracy to commit a crime other than a crime of the first or second degree or distribution or possession with intent to distribute a controlled dangerous substance or controlled substance analog as defined in chapter 35 of this title, unless an overt act in pursuance of such conspiracy is proved to have been done by him or

by a person with whom he conspired.

e. Renunciation of purpose. It is an affirmative defense which the actor must prove by a preponderance of the evidence that he, after conspiring to commit a crime, informed the authority of the existence of the conspiracy and his participation therein, and thwarted or caused to be thwarted the commission of any offense in furtherance of the conspiracy, under circumstances manifesting a complete and voluntary renunciation of criminal purpose as defined in N.J.S.2C:5-1d.; provided, however, that an attempt as defined in N.J.S.2C:5-1 shall not be considered an offense for purposes of renunciation under this subsection.

f. Duration of conspiracy. For the purpose of N.J.S.2C:1-6d.:

(1) Conspiracy is a continuing course of conduct which terminates when the crime or crimes which are its object are committed or the agreement that they be committed is abandoned by the defendant and by those with whom he conspired; and

(2) Such abandonment is presumed with respect to a crime other than one of the first or second degree if neither the defendant nor anyone with whom he conspired does any overt act in pursuance of the conspiracy during the applicable period of limitation; and

(3) If an individual abandons the agreement, the conspiracy is terminated as to him only if and when he advises those with whom he conspired of his abandonment or he informs the law enforcement authorities of the existence of the conspiracy and of his participation therein.

g. Leader of organized crime. A person is a leader of organized crime if he purposefully conspires with others as an organizer, supervisor, manager or financier to commit a continuing series of crimes which constitute a pattern of racketeering activity under the provisions of N.J.S. 2C:41-1, provided, however, that notwithstanding 2C:1-8a. (2), a conviction of leader of organized crime shall not merge with the conviction of any other crime which constitutes racketeering activity under 2C:41-1. As used in this section, "financier" means a person who provides money, credit or a thing of value with the purpose or knowledge that it will be used to finance or support the operations of a conspiracy to commit a series of crimes which constitute a pattern of racketeering activity, including but not limited to the purchase of materials to be used in the commission of crimes, buying or renting housing or vehicles, purchasing transportation for members of the conspiracy or otherwise facilitating the commission of crimes which constitute a pattern of racketeering activity.

9. N.J.S.2C:5-4 is amended to read as follows:

Grading of criminal attempt and conspiracy; mitigation in case of lesser danger.

2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation in Cases of Lesser Danger. a. Grading. Except as provided in subsections c. and d., an attempt or conspiracy to commit a crime of the first degree is a crime of the second degree; except that an attempt or conspiracy to commit murder or terrorism is a crime of the first degree, provided, however, that if the person attempted or conspired to murder five or more persons, the person shall be sentenced by the court to a term of 30 years, during which the person shall not be eligible for parole, or to a specific term of years which shall be between 30 years and life imprisonment, of which the person shall serve not less than 30 years before eligibility for parole. Otherwise an attempt is a crime of the same degree as the most serious crime which is attempted, and conspiracy is a crime of the same degree as the most serious crime which is the object of the conspiracy; provided that, leader of organized crime is a crime of the second degree. An attempt or conspiracy to commit an offense defined by a statute outside the code shall be graded as a crime of the same degree as the offense is graded pursuant to N.J.S.2C:1-4 and N.J.S.2C:43-1.

b. Mitigation. The court may impose sentence for a crime of a lower grade or degree if neither the particular conduct charged nor the defendant presents a public danger warranting the grading provided for such crime under subsection a. because:

(1) The criminal attempt or conspiracy charged is so inherently unlikely to result or culminate in the commission of a crime; or

(2) The conspiracy, as to the particular defendant charged, is so peripherally related to the main unlawful enterprise.

c. Notwithstanding the provisions of subsection a. of this section, conspiracy to commit a crime set forth in subsection a., b., or d. of N.J.S.2C:17-1 where the structure which was the target of the crime was a church, synagogue, temple or other place of public worship is a crime of the first degree.

d. Notwithstanding the provisions of subsection a. of this section, conspiracy to commit a crime as set forth in P.L.1994, c.121 (C.2C:21-23 et seq.) is a crime of the same degree as the most serious crime that was conspired to be committed.

10. N.J.S.2C:11-3 is amended to read as follows:

Murder.

2C:11-3. Murder.

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

(1) The actor purposely causes death or serious bodily injury resulting in death; or
(2) The actor knowingly causes death or serious bodily injury resulting in death; or
(3) It is committed when the actor, acting either alone or with one or more other persons, is engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit robbery, sexual assault, arson, burglary, kidnapping, carjacking, criminal escape or terrorism pursuant to section 2 of P.L.2002, c.26 (C.2C:38-2), and in the course of such crime or of immediate flight therefrom, any person causes the death of a person other than one of the participants; except that in any prosecution under this subsection, in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:

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

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

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

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

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

(2) If the victim was a law enforcement officer and was murdered while performing his official duties or was murdered because of his status as a law enforcement officer, the person convicted of that murder shall be sentenced, except as otherwise provided in subsection c. of this section, by the court to a term of life imprisonment, during which the person shall not be eligible for parole.

(3) A person convicted of murder and who is not sentenced to death under this section shall be sentenced to a term of life imprisonment without eligibility for parole if the murder was committed under all of the following circumstances:

(a) The victim is less than 14 years old; and

(b) The act is committed in the course of the commission, whether alone or with one or more persons, of a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3.

(4) If the defendant was subject to sentencing pursuant to subsection c. and the jury or court found the existence of one or more aggravating factors, but that such factors did not outweigh the mitigating factors found to exist by the jury or court or the jury was unable to reach a unanimous verdict as to the weight of the factors, the defendant shall be sentenced by the court to a term of life imprisonment during which the defendant shall not be eligible for parole.

With respect to a sentence imposed pursuant to this subsection, the defendant shall not be

entitled to a deduction of commutation and work credits from that sentence.

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

(1) The court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or pursuant to the provisions of subsection b. of this section.

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

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

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

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

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

(e) Prior to the commencement of the sentencing proceeding, or at such time as he has knowledge of the existence of an aggravating factor, the prosecuting attorney shall give notice to the defendant of the aggravating factors which he intends to prove in the proceeding.

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

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

(a) If the jury or the court finds that any aggravating factors exist and that all of the aggravating factors outweigh beyond a reasonable doubt all of the mitigating factors, the court

shall sentence the defendant to death.

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

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

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

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

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

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

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

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

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

(g) The murder was committed while the defendant was engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit murder, robbery, sexual assault, arson, burglary, kidnapping, carjacking or the crime of contempt in violation of N.J.S.2C:29-9b.;

(h) The defendant murdered a public servant, as defined in N.J.S.2C:27-1, while the victim was engaged in the performance of his official duties, or because of the victim's status as a public servant;

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

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

(k) The victim was less than 14 years old; or

(l) The murder was committed during the commission of, or an attempt to commit, or flight after committing or attempting to commit, terrorism pursuant to section 2 of P.L.2002, c.26 (C.2C:38-2).

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

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

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

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

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

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

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

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

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

(6) When a defendant at a sentencing proceeding presents evidence of the defendant's character or record pursuant to subparagraph (h) of paragraph (5) of this subsection, the State may present evidence of the murder victim's character and background and of the impact of the murder on the victim's survivors. If the jury finds that the State has proven at least one aggravating factor beyond a reasonable doubt and the jury finds the existence of a mitigating factor pursuant to subparagraph (h) of paragraph (5) of this subsection, the jury may consider the victim and survivor evidence presented by the State pursuant to this paragraph in determining the appropriate weight to give mitigating evidence presented pursuant to subparagraph (h) of paragraph (5) of this subsection. As used in this paragraph "victim and survivor evidence" may include the display of a photograph of the victim taken before the homicide.

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

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

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

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

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

i. For purposes of this section the term "homicidal act" shall mean conduct that causes death or serious bodily injury resulting in death.

j. In a sentencing proceeding conducted pursuant to this section, the display of a photograph of the victim taken before the homicide shall be permitted.

11. N.J.S.2C:12-3 is amended to read as follows:

Terroristic threats.

2C:12-3. Terroristic threats.

a. A person is guilty of a crime of the third degree if he threatens to commit any crime of violence with the purpose to terrorize another or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public inconvenience, or in reckless disregard of the risk of causing such terror or inconvenience. A violation of this subsection is a crime of the second degree if it occurs during a declared period of national, State or county emergency. The actor shall be strictly liable upon proof that the crime occurred, in fact, during a declared period of national, State or county emergency. It shall not be a defense that the actor did not know that there was a declared period of emergency at the time the crime occurred.

b. A person is guilty of a crime of the third degree if he threatens to kill another with the purpose to put him in imminent fear of death under circumstances reasonably causing the victim to believe the immediacy of the threat and the likelihood that it will be carried out.

12. N.J.S.2C:17-2 is amended to read as follows:

Causing or risking widespread injury or damage.

2C:17-2. Causing or Risking Widespread Injury or Damage.

a. (1) A person who, purposely or knowingly, unlawfully causes an explosion, flood, avalanche, collapse of a building, release or abandonment of poison gas, radioactive material or any other harmful or destructive substance commits a crime of the second degree. A person who, purposely or knowingly, unlawfully causes widespread injury or damage in any manner commits a crime of the second degree.

(2) A person who, purposely or knowingly, unlawfully causes a hazardous discharge required to be reported pursuant to the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any rules and regulations adopted pursuant thereto, or who, purposely or knowingly, unlawfully causes a release or abandonment of hazardous waste as defined in section 1 of P.L.1976, c.99 (C.13:1E-38) or a toxic pollutant as defined in section 3 of P.L.1977, c.74 (C.58:10A-3) commits a crime of the second degree. Any person who recklessly violates the provisions of this paragraph is guilty of a crime of the third degree.

b. A person who recklessly causes widespread injury or damage is guilty of a crime of the third degree.

c. A person who recklessly creates a risk of widespread injury or damage commits a crime of the fourth degree, even if no such injury or damage occurs. A violation of this subsection is a crime of the third degree if the risk of widespread injury or damage results from the reckless handling or storage of hazardous materials. A violation of this subsection is a crime of the second degree if the handling or storage of hazardous materials violated any law, rule or regulation intended to protect the public health and safety.

d. A person who knowingly or recklessly fails to take reasonable measures to prevent or mitigate widespread injury or damage commits a crime of the fourth degree, if:

(1) He knows that he is under an official, contractual or other legal duty to take such measures; or

(2) He did or assented to the act causing or threatening the injury or damage.

e. For purposes of this section, widespread injury or damage means serious bodily injury to five or more people or damage to five or more habitations or to a building which would normally have contained 25 or more persons at the time of the offense.

13. Section 1 of P.L.1983, c. 480 (C.2C:17-7) is amended to read as follows:

C.2C:17-7 Tampering, damage involving nuclear electric generating plant; crime of first degree.

1. The provisions of N.J.S.2C:17-2 to the contrary notwithstanding, any person who purposely or knowingly damages or tampers with any machinery, device, or equipment at a nuclear electric generating plant with the purpose to cause or threaten to cause an unauthorized release of radiation commits a crime of the first degree, and may be sentenced to an extended term of imprisonment as set forth in paragraph (2) of subsection a. of N.J.S.2C:43-7, notwithstanding the provisions of N.J.S. 2C:44-3; provided, however, that if the defendant is not sentenced to an extended term of imprisonment, the defendant shall be sentenced to an ordinary term of imprisonment between 15 and 30 years.

14. Section 3 of P.L.1994, c.121 (C.2C:21-25) is amended to read as follows:

C.2C:21-25 Money laundering, illegal investment, crime.

3. A person is guilty of a crime if the person:

a. transports or possesses property known or which a reasonable person would believe to be derived from criminal activity; or

b. engages in a transaction involving property known or which a reasonable person would believe to be derived from criminal activity

(1) with the intent to facilitate or promote the criminal activity; or

(2) knowing that the transaction is designed in whole or in part:

(a) to conceal or disguise the nature, location, source, ownership or control of the property derived from criminal activity; or

(b) to avoid a transaction reporting requirement under the laws of this State or any other state or of the United States; or

c. directs, organizes, finances, plans, manages, supervises, or controls the transportation of or transactions in property known or which a reasonable person would believe to be derived from criminal activity.

d. For the purposes of this act, property is known to be derived from criminal activity if the person knows that the property involved represents proceeds from some form, though not necessarily which form, of criminal activity. Among the factors that the finder of fact may consider in determining that a transaction has been designed to avoid a transaction reporting requirement shall be whether the person, acting alone or with others, conducted one or more transactions in currency, in any amount, at one or more financial institutions, on one or more days, in any manner. The phrase "in any manner" includes the breaking down of a single sum of currency exceeding the transaction reporting requirement into smaller sums, including sums at or below the transaction reporting requirement, or the conduct of a transaction, or series of currency transactions, including transactions at or below the transaction reporting requirement. The transaction or transactions need not exceed the transaction reporting threshold at any single financial institution on any single day in order to demonstrate a violation of subparagraph (b) of paragraph (2) of subsection b. of this section.

e. A person is guilty of a crime if, with the purpose to evade a transaction reporting requirement of this State or of 31 U.S.C. s.5311 et seq. or 31 C.F.R. s.103 et seq., or any rules or regulations adopted under those chapters and sections, he:

(1) causes or attempts to cause a financial institution, including a foreign or domestic money transmitter or an authorized delegate thereof, casino, check casher, person engaged in a trade or business or any other individual or entity required by State or federal law to file a report regarding currency transactions or suspicious transactions to fail to file a report; or

(2) causes or attempts to cause a financial institution, including a foreign or domestic money transmitter or an authorized delegate thereof, casino, check casher, person engaged in a trade or business or any other individual or entity required by State or federal law to file a report regarding currency transactions or suspicious transactions to file a report that contains a material omission or misstatement of fact; or

(3) structures or assists in structuring, or attempts to structure or assist in structuring any transaction with one or more financial institutions, including foreign or domestic money transmitters or an authorized delegate thereof, casinos, check cashers, persons engaged in a trade or business or any other individuals or entities required by State or federal law to file a report regarding currency transactions or suspicious transactions. "Structure" or "structuring" means that a person, acting alone, or in conjunction with, or on behalf of, other persons, conducts or attempts to conduct one or more transactions in currency, in any amount, at one or more financial institutions, on one or more days, in any manner, for the purpose of evading currency transaction reporting requirements provided by State or federal law. "In any manner" includes, but is not limited to, the breaking down into smaller sums of a single sum of currency meeting or exceeding that which is necessary to trigger a currency reporting requirement or the conduct of a transaction, or series of currency transactions, at or below the reporting requirement. The transaction or transactions need not exceed the reporting threshold at any single financial institution on any single day in order to meet the definition of "structure" or "structuring" provided in this paragraph.

15. Section 5 of P.L.1994, c.121 (C.2C:21-27) is amended to read as follows:

C.2C:21-27 Degrees of offense; penalties; nonmerger.

5. a. The offense defined in subsections a. b. and c. of section 3 of P.L.1994, c.121 (C.2C:21-25) constitutes a crime of the first degree if the amount involved is \$500,000.00 or more. If the amount involved is at least \$75,000.00 but less than \$500,000.00 the offense constitutes a crime of the second degree; otherwise, the offense constitutes a crime of the third degree. The offense defined in subsection e. of section 3 of P.L.1994, c.121 (C.2C:21-25) constitutes a crime of the third degree. Notwithstanding the provisions of N.J.S.2C:43-3, the court may also impose a fine up to \$500,000.00. The amount involved in a prosecution for

violation of this section shall be determined by the trier of fact. Amounts involved in transactions conducted pursuant to one scheme or course of conduct may be aggregated in determining the degree of the offense. Notwithstanding the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, a person convicted of a crime of the first degree pursuant to the provisions of this subsection shall be sentenced to a term of imprisonment that shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, during which time the defendant shall not be eligible for parole.

b. In addition to any other dispositions authorized by this Title, upon conviction of a violation of this section, the court may sentence the defendant to pay an amount as calculated pursuant to subsection a. of section 6 of P.L.1994, c.121 (C.2C:21-28).

c. Notwithstanding N.J.S.2C:1-8 or any other provision of law, a conviction of an offense defined in this section shall not merge with the conviction of any other offense constituting the criminal activity involved or from which the property was derived, and a conviction of any offense constituting the criminal activity involved or from which the property was derived shall not merge with a conviction of an offense defined in section 3 of P.L.1994, c.121 (C.2C:21-25), and the sentence imposed upon a conviction of any offense defined in section 3 of P.L.1994, c.121 (C.2C:21-25) shall be ordered to be served consecutively to that imposed for a conviction of any offense constituting the criminal activity involved or from which the property was derived. Nothing in P.L.1994, c.121 (C.2C:21-23 et seq.) shall be construed in any way to preclude or limit a prosecution or conviction for any other offense defined in this Title or any other criminal law of this State.

16. N.J.S.2C:33-3 is amended to read as follows:

False public alarms.

2C:33-3. False Public Alarms. a. Except as provided in subsection b. or c. of this section, a person is guilty of a crime of the third degree if he initiates or circulates a report or warning of an impending fire, explosion, bombing, crime, catastrophe or emergency knowing that the report or warning is false or baseless and that it is likely to cause evacuation of a building, place of assembly, or facility of public transport, or to cause public inconvenience or alarm. A person is guilty of a crime of the third degree if he knowingly causes such false alarm to be transmitted to or within any organization, official or volunteer, for dealing with emergencies involving danger to life or property.

b. A person is guilty of a crime of the second degree if in addition to the report or warning initiated, circulated or transmitted under subsection a. of this section, he places or causes to be placed any false or facsimile bomb in a building, place of assembly, or facility of public transport or in a place likely to cause public inconvenience or alarm. A violation of this subsection is a crime of the first degree if it occurs during a declared period of national, State or county emergency.

c. A person is guilty of a crime of the second degree if a violation of subsection a. of this section in fact results in serious bodily injury to another person or occurs during a declared period of national, State or county emergency. A person is guilty of a crime of the first degree if a violation of subsection a. of this section in fact results in death.

d. For the purposes of this section, "in fact" means that strict liability is imposed. It shall not be a defense that the death or serious bodily injury was not a foreseeable consequence of the person's acts or that the death or serious bodily injury was caused by the actions of another person or by circumstances beyond the control of the actor. The actor shall be strictly liable upon proof that the crime occurred during a declared period of national, State or county emergency. It shall not be a defense that the actor did not know that there was a declared period of emergency at the time the crime occurred.

e. A person is guilty of a crime of the fourth degree if the person knowingly places a call to a 9-1-1 emergency telephone system without purpose of reporting the need for 9-1-1 service.

17. Section 3 of P.L.1999, c.195 (C.2C:33-3.2) is amended to read as follows:

C.2C:33-3.2 Fines for violation of N.J.S.2C:33-3.

3. Any person who violates the provisions of N.J.S.2C:33-3 shall be liable for a civil penalty of not less than \$2,000 or actual costs incurred by or resulting from the law enforcement and emergency services response to the false alarm, whichever is higher. Any monies collected pursuant to this section shall be made payable to the municipality or other entity providing the law enforcement or emergency services response to the false alarm. "Emergency services" includes, but is not limited to, paid or volunteer fire fighters, paramedics, members of an ambulance team, rescue squad or mobile intensive care unit.

18. N.J.S.2C:41-1 is amended to read as follows:

Definitions.

2C:41-1. Definitions.

For purposes of this section and N.J.S.2C:41-2 through N.J.S.2C:41-6:

a. "Racketeering activity" means (1) any of the following crimes which are crimes under the laws of New Jersey or are equivalent crimes under the laws of any other jurisdiction:

- (a) murder
- (b) kidnapping
- (c) gambling
- (d) promoting prostitution
- (e) obscenity
- (f) robbery
- (g) bribery
- (h) extortion
- (i) criminal usury
- (j) violations of Title 33 of the Revised Statutes
- (k) violations of Title 54A of the New Jersey Statutes and Title 54 of the Revised Statutes
- (l) arson
- (m) burglary
- (n) theft and all crimes defined in chapter 20 of Title 2C of the New Jersey Statutes
- (o) forgery and fraudulent practices and all crimes defined in chapter 21 of Title 2C of the New Jersey Statutes
- (p) fraud in the offering, sale or purchase of securities
- (q) alteration of motor vehicle identification numbers
- (r) unlawful manufacture, purchase, use or transfer of firearms
- (s) unlawful possession or use of destructive devices or explosives
- (t) violation of sections 112 through 116 inclusive of the "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116)
- (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6 and all crimes involving illegal distribution of a controlled dangerous substance or controlled substance analog, except possession of less than one ounce of marijuana
- (v) violation of subsection b. of N.J.S.2C:24-4 except for subparagraph (b) of paragraph (5) of subsection b.
- (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16), leader of firearms trafficking network
- (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14), weapons training for illegal activities
- (y) violation of section 2 of of P.L.2002, c.26 (C.2C:38-2), terrorism.
- (2) any conduct defined as "racketeering activity" under Title 18, U.S.C.s.1961(1)(A), (B) and (D).

b. "Person" includes any individual or entity or enterprise as defined herein holding or capable of holding a legal or beneficial interest in property.

c. "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business or charitable trust, association, or other legal entity, any union or group of individuals associated in fact although not a legal entity, and it includes illicit as well as licit enterprises and governmental as well as other entities.

d. "Pattern of racketeering activity" requires

(1) Engaging in at least two incidents of racketeering conduct one of which shall have occurred after the effective date of this act and the last of which shall have occurred within 10 years (excluding any period of imprisonment) after a prior incident of racketeering activity; and

(2) A showing that the incidents of racketeering activity embrace criminal conduct that has either the same or similar purposes, results, participants or victims or methods of commission or are otherwise interrelated by distinguishing characteristics and are not isolated incidents.

e. "Unlawful debt" means a debt

(1) Which was incurred or contracted in gambling activity which was in violation of the law of the United States, a state or political subdivision thereof; or

(2) Which is unenforceable under state or federal law in whole or in part as to principal or interest because of the laws relating to usury.

f. "Documentary material" includes any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic or recording or video tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into useable form or other tangible item.

g. "Attorney General" includes the Attorney General of New Jersey, his assistants and deputies. The term shall also include a county prosecutor or his designated assistant prosecutor if a county prosecutor is expressly authorized in writing by the Attorney General to carry out the powers conferred on the Attorney General by this chapter.

h. "Trade or commerce" shall include all economic activity involving or relating to any commodity or service.

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

C.2C:43-7.2 Mandatory service of 85% of sentence for certain offenses.

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 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 N.J.S.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; or
 - (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; or
 - (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.
- e. (Deleted by amendment, P.L.2001, c.129).

20. This act shall take effect immediately.

Approved June 18, 2002.