

CHAPTER 31

AN ACT concerning certain acts of official misconduct involving deprivation of civil rights by public officials and supplementing chapter 30 of Title 2C of the New Jersey Statutes.

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

C.2C:30-5 Findings, declarations relative to deprivation of civil rights by public officials.

1. The Legislature finds and declares that:

a. Public confidence in the institutions of government is undermined when an official engages in any form of misconduct involving the official's office.

b. Such misconduct, and the corresponding damage to the public confidence, impairs the ability of government to function properly, fosters mistrust and engenders disrespect for government and public servants.

c. A particular concern arises when a law enforcement official, duly entrusted to protect the public safety and impartially enforce the laws, abuses that trust by unlawfully depriving persons of their civil rights, especially in the context of racial profiling.

d. It is important to ensure that law enforcement officers are prohibited from using racial characteristics or color, either alone or in conjunction with other composite characteristics such as a generalized vehicle description or the age of the driver or passengers, as the basis for initiating an investigative stop.

e. Existing laws must be amended to provide a greater deterrent to this type of conduct, as well as to enhance other provisions of the law targeting official misconduct.

f. Accordingly, it is in the public interest to strengthen our laws that define and punish acts of official misconduct by members of law enforcement and other public servants.

C.2C:30-6 Crime of official deprivation of civil rights.

2. a. A public servant acting or purporting to act in an official capacity commits the crime of official deprivation of civil rights if, knowing that his conduct is unlawful, and acting with the purpose to intimidate or discriminate against an individual or group of individuals because of race, color, religion, gender, handicap, sexual orientation or ethnicity, the public servant: (1) subjects another to unlawful arrest or detention, including, but not limited to, motor vehicle investigative stops, search, seizure, dispossession, assessment, lien or other infringement of personal or property rights; or (2) denies or impedes another in the lawful exercise or enjoyment of any right, privilege, power or immunity.

b. (1) Except as provided in paragraphs (2) and (3) of this subsection, a public servant who violates the provisions of subsection a. of this section is guilty of a crime of the third degree.

(2) If bodily injury results from depriving a person of a right or privilege in violation of subsection a. of this section, the public servant is guilty of a crime of the second degree.

(3) If, during the course of violating the provisions of this section, a public servant commits or attempts or conspires to commit murder, manslaughter, kidnapping or aggravated sexual assault against a person who is being deprived of a right or privilege in violation of subsection a. of this section, the public servant is guilty of a crime of the first degree.

c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a conviction of official deprivation of civil rights under this section shall not merge with a conviction of any other criminal 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 criminal offense.

d. Proof that a public servant made a false statement, prepared a false report, or, if the agency that employs the public servant, the Attorney General or the county prosecutor having supervisory authority over the agency required a report to be prepared, failed to prepare a report concerning the conduct that is the subject of the prosecution, shall give rise to an inference that the actor knew his conduct was unlawful.

e. For purposes of this section, an act is unlawful if it violates the Constitution of the United States or the Constitution of this State, or if it constitutes a criminal offense under the laws of this State.

C.2C:30-7 Crime of pattern of official misconduct.

3. a. A person commits the crime of pattern of official misconduct if he commits two or

more acts that violate the provisions of N.J.S.2C:30-2 or section 2 of P.L.2003, c.31 (C.2C:30-6). It shall not be a defense that the violations were not part of a common plan or scheme, or did not have similar methods of commission.

b. Pattern of official misconduct is a crime of the second degree if one of the acts committed by the defendant is a first or second degree crime; otherwise, it is a crime of the third degree, provided, however, that the presumption of nonimprisonment set forth in subsection e. of N.J.S.2C:44-1 for persons who have not previously been convicted of an offense shall not apply. Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a conviction of pattern of official misconduct shall not merge with a conviction of official misconduct, official deprivation of civil rights, or any other criminal offense, nor shall such other conviction merge with a conviction under this section, and the court shall impose separate sentences upon each violation of N.J.S.2C:30-2 and sections 2 and 3 of P.L.2003, c.31 (C.2C:30-6 and C.2C:30-7).

4. This act shall take effect immediately.

Approved March 14, 2003.