

## CHAPTER 315

**AN ACT** concerning the operation of unmanned aircraft systems and amending and supplementing various parts of the statutory law.

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

C.2C:40-27 Definitions relative to operation of unmanned aircraft systems.

1. a. As used in this act:

“Operate” means to fly, control, direct, or program the flight of an unmanned aircraft system.

“Unmanned aircraft” means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

“Unmanned aircraft system” means an unmanned aircraft and associated elements, including communication links and the components that control the unmanned aircraft, that are required for the pilot in command to operate safely and efficiently.

b. Except as otherwise prohibited by P.L.2017, c.315 (C.2C:40-27 et al.), a person who is authorized by federal law to operate an unmanned aircraft system may operate an unmanned aircraft system in this State for any purpose, provided that the person operates the unmanned aircraft system in a manner consistent with applicable federal law and regulations. Nothing in this section shall be construed to affect federal preemption of State law regarding aviation.

For purposes of this subsection, “person” means an individual, partnership, corporation, association, governmental entity, or other legal or commercial entity.

c. An owner or operator of a critical infrastructure, including a political subdivision, may apply to the Administrator of the Federal Aviation Administration, pursuant to section 2209 of the “FAA Extension, Safety, and Security Act of 2016,” Pub.L.114-190, in order to prohibit or restrict the operation of unmanned aircraft systems in close proximity to the critical infrastructure.

Prior to applying to the Administrator of the Federal Aviation Administration to prohibit or restrict the operation of unmanned aircraft systems in close proximity to a critical infrastructure, a political subdivision shall hold a minimum of one public hearing, with adequate notice to the public, concerning the proposed application.

C.2C:40-28 Violations, degree of offense, crime.

2. a. A person commits a disorderly persons offense if he knowingly or intentionally operates as defined in section 1 of P.L.2017, c.315 (C.2C:40-27) an unmanned aircraft system as defined in section 1 of P.L.2017, c.315 (C.2C:40-27) in a manner that endangers the life or property of another. In making this determination, the court shall consider the standards for safe operation of small unmanned aircraft systems prescribed by federal law or regulation.

b.(1) A person commits a crime of the fourth degree if he knowingly or intentionally creates or maintains a condition which endangers the safety or security of a correctional facility by operating an unmanned aircraft system on the premises of or in close proximity to that facility without license or privilege to do so.

(2) A person commits a crime of the third degree if he knowingly operates an unmanned aircraft system to conduct surveillance of, or gather information about, a correctional facility without license or privilege to do so.

For purposes of this subsection, “correctional facility” means a jail, prison, lockup, penitentiary, reformatory, training school, or other similar facility within the State of New Jersey.

c. A person commits a crime of the fourth degree if he knowingly or intentionally operates an unmanned aircraft system in a manner that interferes with a first responder who is actively engaged in response or actively engaged in air, water, vehicular, ground, or specialized transport.

For purposes of this subsection “first responder” means a law enforcement officer, paid or volunteer firefighter, paid or volunteer member of a duly incorporated first aid, emergency, ambulance, or rescue squad association, or any other individual who, in the course of his employment, is dispatched to the scene of a motor vehicle accident or other emergency situation for the purpose of providing medical care or other assistance.

d. A person commits a disorderly persons offense if he knowingly operates an unmanned aircraft system or uses an unmanned aircraft system to take or assist in the taking of wildlife.

e. A person commits a disorderly persons offense if he operates an unmanned aircraft system while under the influence of intoxicating liquor, a narcotic, hallucinogenic, or habit-producing drug or with a blood alcohol concentration of 0.08% or more by weight of alcohol in the defendant’s blood.

f. It shall be a violation of any restraining order issued by the court pursuant to section 2 of P.L.1999, c.47 (C.2C:12-10.2), section 3 or 4 of P.L.2015, c.147 (C.2C:14-15 or C.2C:14-16), section 12 of P.L.1991, c.261 (C.2C:25-28), section 4 of P.L.1999, c.334 (C.2C:35-5.7), or any other court order restraining contact with a person or location, for a person subject to that order to knowingly operate an unmanned aircraft system to fly within a distance of a person or location that would violate that restraining order.

g. Notwithstanding the provisions of N.J.S.2C:1-8 or any other law to the contrary, a conviction under this section shall not merge with a conviction of harassment pursuant to N.J.S.2C:33-4, stalking pursuant to section 1 of P.L.1992, c.209 (C.2C:12-10), invasion of privacy pursuant to section 1 of P.L.2003, c.206 (C.2C:14-9), obstructing administration of law or other governmental function pursuant to N.J.S.2C:29-1, introducing contraband pursuant to N.J.S.2C:29-6, contempt of a domestic violence order pursuant to subsection b. of N.J.S.2C:29-9 which constitutes a crime or disorderly persons offense, or any other criminal offense, even if any other conviction involves the use of an unmanned aircraft system, nor shall the other conviction merge with a conviction under this section.

3. Section 2 of P.L.1994, c.130 (C.2C:43-6.4) is amended to read as follows:

C.2C:43-6.4 Special sentence of parole supervision for life.

2. a. Notwithstanding any provision of law to the contrary, a judge imposing sentence on a person who has been convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1, endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.2C:24-4, endangering the welfare of a child pursuant to paragraph (3) or sub-subparagraph (i) or (ii) of subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4, luring, violating a condition of a special sentence of community supervision for life pursuant to subsection d. of this section, or an attempt to commit any of these offenses shall include, in addition to any sentence authorized by this Code, a special sentence of parole supervision for life. Notwithstanding any provision of law to the contrary, a court imposing sentence on a person who has been convicted of endangering the welfare of a child pursuant to paragraph (4) or sub-subparagraph (iii) of subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4, leader of a child pornography network pursuant to section 8 of P.L.2017, c.141 (C.2C:24-4.1), or an attempt to commit either of these offenses

shall include, upon motion of the prosecutor, a special sentence of parole supervision for life in addition to any sentence authorized by Title 2C of the New Jersey Statutes, unless the court finds on the record that the special sentence is not needed to protect the community or deter the defendant from future criminal activity.

b. The special sentence of parole supervision for life required by this section shall commence immediately upon the defendant's release from incarceration. If the defendant is serving a sentence of incarceration for another offense at the time he completes the custodial portion of the sentence imposed on the present offense, the special sentence of parole supervision for life shall not commence until the defendant is actually released from incarceration for the other offense. Persons serving a special sentence of parole supervision for life shall remain in the legal custody of the Commissioner of Corrections, shall be supervised by the Division of Parole of the State Parole Board, shall be subject to the provisions and conditions set forth in subsection c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b) and sections 15 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.59 through 30:4-123.63 and 30:4-123.65), and shall be subject to conditions appropriate to protect the public and foster rehabilitation. Such conditions may include the requirement that the person comply with the conditions set forth in subsection f. of this section concerning use of a computer or other device with access to the Internet or the conditions set forth in subsection g. of this section concerning the operation as defined in section 1 of P.L.2017, c.315 (C.2C:40-27) of an unmanned aircraft system as defined in section 1 of P.L.2017, c.315 (C.2C:40-27). If the defendant violates a condition of a special sentence of parole supervision for life, the defendant shall be subject to the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and 30:4-123.65), and for the purpose of calculating the limitation on time served pursuant to section 21 of P.L.1979, c.441 (C.30:4-123.65) the custodial term imposed upon the defendant related to the special sentence of parole supervision for life shall be deemed to be a term of life imprisonment. When the court suspends the imposition of sentence on a defendant who has been convicted of any offense enumerated in subsection a. of this section, the court may not suspend imposition of the special sentence of parole supervision for life, which shall commence immediately, with the Division of Parole of the State Parole Board maintaining supervision over that defendant, including the defendant's compliance with any conditions imposed by the court pursuant to N.J.S.2C:45-1, in accordance with the provisions of this subsection. Nothing contained in this subsection shall prevent the court from at any time proceeding under the provisions of N.J.S.2C:45-1 through N.J.S.2C:45-4 against any such defendant for a violation of any conditions imposed by the court when it suspended imposition of sentence, or prevent the Division of Parole from proceeding under the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) against any such defendant for a violation of any conditions of the special sentence of parole supervision for life, including the conditions imposed by the court pursuant to N.J.S.2C:45-1. In any such proceeding by the Division of Parole, the provisions of subsection c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b) authorizing revocation and return to prison shall be applicable to such a defendant, notwithstanding that the defendant may not have been sentenced to or served any portion of a custodial term for conviction of an offense enumerated in subsection a. of this section.

c. A person sentenced to a term of parole supervision for life may petition the Superior Court for release from that parole supervision. The judge may grant a petition for release from a special sentence of parole supervision for life only upon proof by clear and convincing evidence that the person has not committed a crime for 15 years since the last conviction or release from incarceration, whichever is later, and that the person is not likely to pose a threat to the safety of others if released from parole supervision. Notwithstanding the provisions of section 22 of

P.L.1979, c.441 (C.30:4-123.66), a person sentenced to a term of parole supervision for life may be released from that parole supervision term only by court order as provided in this subsection.

d. A person who violates a condition of a special sentence of community supervision for life or parole supervision for life imposed pursuant to this section without good cause is guilty of a crime of the third degree. Notwithstanding any other law to the contrary, a person sentenced pursuant to this subsection shall be sentenced to a term of imprisonment, unless the court is clearly convinced that the interests of justice so far outweigh the need to deter this conduct and the interest in public safety that a sentence to imprisonment would be a manifest injustice. Nothing in this subsection shall preclude subjecting a person who violates any condition of a special sentence of parole supervision for life to the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) pursuant to the provisions of subsection c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b).

e. A person who, while serving a special sentence of parole supervision for life imposed pursuant to this section, commits a violation of N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:11-5, subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, section 1 of P.L.1993, c.291 (C.2C:13-6), N.J.S.2C:14-2, N.J.S.2C:14-3, N.J.S.2C:24-4, section 8 of P.L.2017, c.141 (C.2C:24-4.1), N.J.S.2C:18-2 when the offense is a crime of the second degree, or subsection a. of N.J.S.2C:39-4 shall be sentenced to an extended term of imprisonment as set forth in N.J.S.2C:43-7, which term shall, notwithstanding the provisions of N.J.S.2C:43-7 or any other law, be served in its entirety prior to the person's resumption of the term of parole supervision for life.

f. The special sentence of parole supervision for life required by this section may include any of the following Internet access conditions:

(1) Prohibit the person from accessing or using a computer or any other device with Internet capability without the prior written approval of the court except the person may use a computer or any other device with Internet capability in connection with that person's employment or search for employment with the prior approval of the person's parole officer;

(2) Require the person to submit to periodic unannounced examinations of the person's computer or any other device with Internet capability by a parole officer, law enforcement officer or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment or device to conduct a more thorough inspection;

(3) Require the person to submit to the installation on the person's computer or device with Internet capability, at the person's expense, one or more hardware or software systems to monitor the Internet use;

(4) Require the person to submit to any other appropriate restrictions concerning the person's use or access of a computer or any other device with Internet capability; and

(5) Require the person to disclose all passwords used by the person to access any data, information, image, program, signal or file on the person's computer or any other device with Internet capability.

g. The special sentence of parole supervision for life required by this section may include reasonable conditions prohibiting or restricting the person's operation of an unmanned aircraft system in order to reduce the likelihood of a recurrence of criminal or delinquent behavior.

4. Section 2 of P.L.1993, c.11 (C.23:7A-2) is amended to read as follows:  
C.23:7A-2 Prevention of lawful taking of wildlife prohibited.

2. No person may, for the purpose of hindering or preventing the lawful taking of wildlife:

- a. block, obstruct, or impede, or attempt to block, obstruct, or impede, a person lawfully taking wildlife;
- b. erect a barrier with the intent to deny ingress to or egress from areas where wildlife may be lawfully taken;
- c. make, or attempt to make, unauthorized physical contact with a person lawfully taking wildlife;
- d. engage in, or attempt to engage in, theft, vandalism, or destruction of personal or real property;
- e. disturb or alter, or attempt to disturb or alter, the condition or authorized placement of personal or real property intended for use in the lawful taking of wildlife;
- f. enter or remain upon public lands or waters, or upon private lands or waters without permission of the owner thereof or an agent of that landowner, where wildlife may be lawfully taken;
- g. make or attempt to make loud noises or gestures, set out or attempt to set out animal baits, scents, or lures or human scent, use any other natural or artificial visual, aural, olfactory, or physical stimuli, or engage in or attempt to engage in any other similar action or activity, in order to disturb, alarm, drive, attract, or affect the behavior of wildlife or disturb, alarm, disrupt, or annoy a person lawfully taking wildlife;
- h. interject himself into the line of fire of a person lawfully taking wildlife; or
- i. operate as defined in section 1 of P.L.2017, c.315 (C.2C:40-27) an unmanned aircraft system as defined in section 1 of P.L.2017, c.315 (C.2C:40-27).

Subsections a., b., e., f., g., and i. of this section shall not apply to a law enforcement officer or conservation officer enforcing the laws of this State or any local ordinance, or a private landowner or agent thereof on land or waters owned by that private landowner

C.2C:40-29 Provisions preempt existing laws.

5. The provisions of P.L.2017, c.315 (C.2C:40-27 et al.) shall preempt any law, ordinance, resolution, or regulation adopted by the governing body of a county or municipality concerning the private use of an unmanned aircraft system that is inconsistent with the provisions of this act.

C.2C:40-30 Authorized use permitted.

6. Nothing in P.L.2017, c.315 (C.2C:40-27 et al.) shall prohibit the authorized use, in compliance with applicable federal rules and regulations, of an unmanned aircraft system by a public employee or a public entity, or by a first responder in the performance of official duties.

For purposes of this section “first responder” means a law enforcement officer, paid or volunteer firefighter, paid or volunteer member of a duly incorporated first aid, emergency, ambulance, or rescue squad association, or any other individual who, in the course of his employment, is dispatched to the scene of a motor vehicle accident or other emergency situation for the purpose of providing medical care or other assistance.

7. This act shall take effect on the first day of the fourth month next following the date of enactment.

Approved January 16, 2018.