

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 4870

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 15, 2025

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 4870.

This bill establishes a new mitigating factor, reduced sentencing, and resentencing for certain defendants who were victims of domestic violence or abuse when the crime was committed, and the domestic violence or abuse was a contributing factor in the commission of the crime.

New Mitigating Factor and Sentencing

Under current law, N.J.S.2C:44-1 enumerates 14 mitigating factors that a court may consider in determining the appropriate sentence to impose on a criminal defendant. These mitigating factors do not include consideration of whether the defendant suffered from physical, sexual, or psychological abuse.

The bill amends the current law to establish an additional mitigating factor that a court may consider in determining the appropriate sentence to impose on a defendant who has been convicted of a crime. Specifically, under the bill, the court may also consider whether a defendant who was convicted of an offense, other than murder or a crime for which the defendant would be required to register as a sex offender under Megan's Law: (1) was a victim of domestic violence, or was otherwise subjected to substantial physical, sexual, or psychological abuse, and (2) whether the domestic violence or abuse was a contributing factor to the defendant's conviction.

As amended, the bill provides that if the court finds that this mitigating factor applies, the court may impose a sentence as follows:

(1) for a crime of the first degree, a term of at least five years but not more than 10 years;

(2) for a crime of the second degree, a term of at least three years but not more than five years;

(3) for a crime of the third degree, a term of not more than 18 months;

(4) for a crime of the fourth degree, a term of not more than six months; and

(5) for a non-indictable offense, a sentence of probation or conditional discharge.

The court may find that this new mitigating factor applies regardless of whether the defendant raised a defense that included the abuse. In addition to any other evidence the court deems appropriate in determining whether this factor applies, the court shall consider all relevant circumstances, and shall take judicial notice of any evidence, testimony, or information adduced at the trial, plea hearing, or other court proceedings.

The bill also eliminates the provisions of subsection f. of N.J.S.2C:44-1 related to presumptive sentences. Presumptive sentences were declared unconstitutional pursuant to the New Jersey Supreme Court's holding in State v. Natale, 184 N.J. 458 (2005).

Petition for Resentencing

A defendant for whom the new mitigating factor would apply, but who was convicted prior to the date the new mitigating factor became applicable, may be eligible for resentencing. As amended, the bill provides that a defendant is eligible to apply for resentencing if the defendant is someone:

(1) who was convicted of a crime, other than murder or a crime for which the defendant would be required to register as a sex offender under Megan's Law;

(2) who is incarcerated in a State correctional facility or county jail, or is otherwise under the custody or supervision of the New Jersey Department of Corrections;

(3) for whom the time for appeal has expired and no appeal is pending;

(4) who has not had their sentence suspended or been paroled or discharged;

(5) who was a victim of domestic violence as that term is defined in subsections a. and d. of P.L.1991, c.261 (C.2C:25-19), or was otherwise subjected to substantial physical, sexual, or psychological abuse;

(6) for whom the domestic violence or abuse was a contributing factor to the defendant's conviction; and

(7) who has not been resentenced or previously granted relief under the bill.

A defendant shall be eligible for resentencing under the bill, regardless of whether the defendant raised a defense that included the abuse, or entered a guilty plea prior to the original sentencing.

Notwithstanding any court rule or provision of law to the contrary, the court, upon consideration of a petition filed by the defendant, may, in its discretion, modify, reduce, or suspend the sentence, including any minimum or mandatory sentence or a portion of the sentence imposed upon the person.

If the court determines that a change in the defendant's original sentence is not warranted, the court is required to issue a written order stating the reasons for denying modification.

A defendant who seeks resentencing under the bill is to be represented by the Office of the Public Defender, unless the defendant retains other counsel.

A motion for resentencing is to be filed with the Superior Court in the county where the conviction occurred. A copy of the motion shall be served on the agency that prosecuted the case.

The court is required to set a hearing for the resentencing within 30 days of the filing of the motion. The hearing is to take place within 180 days of the filing. However, if the prosecutor does not file a written objection to the motion for resentencing, the defendant's application is deemed unopposed and the court may grant relief without a hearing.

The Director of the Administrative Office of the Courts, in consultation with the State Domestic Violence Working Group, is required to develop and promulgate a form for a defendant to use to initiate an application for resentencing. This form is to be readily available in all State correctional facilities; county jails; and all Superior and municipal courts, and is to be made available in at least the five most common languages spoken in the State.

Applications for resentencing and all associated supporting documents filed with the application are to remain confidential, and shall not be disseminated or disclosed, except to another court, or a law enforcement or correctional agency.

At the resentencing hearing, the court is required to determine whether:

(1) the defendant was a victim of domestic violence as that term is defined in subsections a. and d. of P.L.1991, c.261 (C.2C:25-19), or otherwise was subjected to substantial physical, sexual, or psychological abuse;

(2) the domestic violence or abuse was a contributing factor to the person's conviction; and

(3) the defendant would have been entitled to a reduced sentence pursuant to paragraph (15) of subsection b. of N.J.S.2C:44-1.

If the court finds by a preponderance of the evidence that these factors apply, the court is required modify, reduce, or suspend the defendant's original sentence, including any minimum or mandatory sentence or a portion of the sentence imposed upon the defendant, in accordance with the sentencing provisions set forth under the bill in N.J.S.2C:44-1. In calculating the new term to be served by the defendant, the defendant is to be credited for any time served.

In determining whether the defendant should be resentenced, the court is required to consider all relevant circumstances, and to take judicial notice of any evidence, testimony, or information adduced at the trial, plea hearing, or other court proceedings, as well as any other relevant evidence.

A new sentence imposed under the bill would not be final for 10 days in order to permit the prosecutor to appeal the sentence. The

court is required to note in any decision on an application for resentencing that the application was made and decided pursuant to the provisions of the bill. A defendant may file only one motion for resentencing under the bill.

Notice to Incarcerated Persons

The Commissioner of Corrections is required to notify each incarcerated person who was convicted of a crime prior to the effective date of the provisions establishing the new mitigating factor. The commissioner is also required to provide the notification to the public defender or the defendant's attorney, as appropriate. As amended, the bill provides that the notification is required to state that an application for resentencing may be filed by a person:

(1) who was convicted of a crime, other than murder or a crime for which the defendant would be required to register as a sex offender under Megan's Law;

(2) for whom the time for appeal has expired and no appeal is pending;

(3) who has not had their sentence suspended or been paroled or discharged;

(4) who was a victim of domestic violence, or was otherwise subjected to substantial physical, sexual, or psychological abuse;

(5) for whom the domestic violence or abuse was a contributing factor to the person's conviction; and

(6) who has not been resentenced or previously granted relief under the bill.

Judicial Training

Under the bill, the Administrative Office of the Courts (AOC) is required to develop and approve a training course and a curriculum to implement the provisions of the bill. The training course is to be reviewed at least every two years and modified, as needed.

The AOC is required to make the training course, curriculum, and supporting materials available, through annual in-service judicial training programs or other means, to appropriate judges and judicial personnel who may be involved with the court-related aspects of prosecutions of a defendant who may be a victim of domestic violence, or may otherwise have been subjected to substantial physical, sexual, or psychological abuse.

The AOC is required to report to the Governor and the Legislature annually on the number of applications for resentencing that were received, considered, granted, and denied.

The committee amends the bill:

- add a sentencing guideline for reducing the sentences of qualified defendants for crimes of the fourth degree; the bill as introduced provided for reduced sentences for every degree of crime except

fourth-degree crimes, but with the amendments the bill now addresses crimes of every degree as having a possible reduced sentence;

- clarify that an eligible convicted person may re-file an application for resentencing if an initial application is dismissed due to deficiencies in the application;

- clarify that an eligible convicted person may be granted relief under the bill only once; and

- make minor technical and grammatical corrections.