

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5154

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 8, 2026

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 5154 (1R).

As amended, this bill requires the jury in a criminal case, rather than the judge, to determine whether certain defendants are persistent offenders subject to an extended term of imprisonment. The bill is intended to conform the provisions of several statutes to recent rulings by the United States Supreme Court and New Jersey Supreme Court.

Under current law, upon application of the prosecutor, the judge may sentence a person convicted of a crime of the first, second, or third degree to an extended term of imprisonment if the judge finds that the defendant is a persistent offender. The statute defines a persistent offender as “a person who at the time of the commission of the crime is 21 years of age or over, who has been previously convicted on at least two separate occasions of two crimes, committed at different times, when he was at least 18 years of age, if the latest in time of these crimes or the date of the defendant's last release from confinement, whichever is later, is within 10 years of the date of the crime for which the defendant is being sentenced.”

In Erlinger v. United States, 602 U.S. 821 (2024), a case involving the federal Armed Career Criminal Act, the United States Supreme Court held that the Fifth and Sixth Amendments to the United States Constitution require a unanimous jury to determine beyond a reasonable doubt whether a defendant’s past offenses were “committed on separate occasions.” The New Jersey Supreme Court, in State v. Carlton, 262 N.J. 629 (2026), called on the Legislature to promptly amend the New Jersey persistent offender statute to comply with the ruling of the United States Supreme Court and provide clear direction to the courts, prosecutors, and defense attorneys.

The bill provides that the court may sentence a person convicted of a crime of the first, second, or third degree to an extended term of imprisonment only if the grounds demonstrating that the defendant is a persistent offender have been established in a separate proceeding before the jury, and the jury unanimously finds beyond a reasonable

doubt that the enhancing facts existed. The proceeding would be conducted after the jury finds the defendant guilty.

The bill also provides that, in order for the court to have the option to sentence a defendant to an extended term in a case where a grand jury presented an indictment, the predicate enhancing facts must have been presented to the grand jury and charged in that indictment. If the defendant waives the right to a jury trial, the court would need to find beyond a reasonable doubt that the enhancing facts existed. If the defendant pleads guilty to the substantive crime, the defendant would need to knowingly and voluntarily admit to the enhancing facts in order for the court to have the option to sentence the defendant to an extended term.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- (1) clarify an internal reference to section 1 of the bill; and
- (2) clarify that pages in the indictment presented to a grand jury containing the enhancing facts are to refer to the applicable extended-term statute.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.