

# ASSEMBLY, No. 338

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

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**SYNOPSIS**

Establishes threats of violence against prosecutors, law enforcement officers and their family members as a second degree crime, subject to the No Early Release Act sentencing.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning certain terroristic threats and amending  
2 N.J.S.2C:12-3 and P.L.1997, c.117.

3

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

6

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

8 2C:12-3. Terroristic threats.

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

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

26 c. A person is guilty of a crime of the second degree if he  
27 threatens to kill or cause physical harm to a prosecutor, law  
28 enforcement officer, or a member of their family with the purpose  
29 to put that prosecutor or law enforcement officer in imminent fear  
30 of death or physical harm to the threatened victim under  
31 circumstances that cause the prosecutor or law enforcement officer  
32 to believe the immediacy of the threat and the likelihood that it will  
33 be carried out.

34 For the purposes of this subsection, member of their family  
35 means the threatened person's spouse; parent; child, whether related  
36 by blood, marriage, adoption or other legal custody; or other  
37 relative who resides with the threatened person.

38 (cf: P.L.2002, c.26, s.11)

39

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

42 2. a. A court imposing a sentence of incarceration for a crime  
43 of the first or second degree enumerated in subsection d. of this  
44 section shall fix a minimum term of 85% of the sentence imposed,  
45 during which the defendant shall not be eligible for parole.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       b. The minimum term required by subsection a. of this section  
2 shall be fixed as a part of every sentence of incarceration imposed  
3 upon every conviction of a crime enumerated in subsection d. of  
4 this section, whether the sentence of incarceration is determined  
5 pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any  
6 other provision of law, and shall be calculated based upon the  
7 sentence of incarceration actually imposed. The provisions of  
8 subsection a. of this section shall not be construed or applied to  
9 reduce the time that must be served before eligibility for parole by  
10 an inmate sentenced to a mandatory minimum period of  
11 incarceration. Solely for the purpose of calculating the minimum  
12 term of parole ineligibility pursuant to subsection a. of this section,  
13 a sentence of life imprisonment shall be deemed to be 75 years.

14       c. Notwithstanding any other provision of law to the contrary  
15 and in addition to any other sentence imposed, a court imposing a  
16 minimum period of parole ineligibility of 85 percent of the sentence  
17 pursuant to this section shall also impose a five-year term of parole  
18 supervision if the defendant is being sentenced for a crime of the  
19 first degree, or a three-year term of parole supervision if the  
20 defendant is being sentenced for a crime of the second degree. The  
21 term of parole supervision shall commence upon the completion of  
22 the sentence of incarceration imposed by the court pursuant to  
23 subsection a. of this section unless the defendant is serving a  
24 sentence of incarceration for another crime at the time he completes  
25 the sentence of incarceration imposed pursuant to subsection a., in  
26 which case the term of parole supervision shall commence  
27 immediately upon the defendant's release from incarceration.  
28 During the term of parole supervision the defendant shall remain in  
29 release status in the community in the legal custody of the  
30 Commissioner of the Department of Corrections and shall be  
31 supervised by the State Parole Board as if on parole and shall be  
32 subject to the provisions and conditions of section 3 of P.L.1997,  
33 c.117 (C.30:4-123.51b).

34       d. The court shall impose sentence pursuant to subsection a. of  
35 this section upon conviction of the following crimes or an attempt  
36 or conspiracy to commit any of these crimes:

- 37       (1) N.J.S.2C:11-3, murder;
- 38       (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 39       (3) N.J.S.2C:11-5, vehicular homicide;
- 40       (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 41       (5) subsection b. of section 1 of P.L.1996, c.14 (2C:12-11),  
42 disarming a law enforcement officer;
- 43       (6) N.J.S.2C:13-1, kidnapping;
- 44       (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 45       (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of  
46 subsection c. of N.J.S.2C:14-2, sexual assault;
- 47       (9) N.J.S.2C:15-1, robbery;

- 1 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;  
2 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated  
3 arson;  
4 (12) N.J.S.2C:18-2, burglary;  
5 (13) subsection a. of N.J.S.2C:20-5, extortion;  
6 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),  
7 booby traps in manufacturing or distribution facilities;  
8 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;  
9 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;  
10 (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or  
11 possessing chemical weapons, biological agents or nuclear or  
12 radiological devices; **[or]**  
13 (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first  
14 degree; or  
15 (19) subsection c. of N.J.S.2C:12-3, threats of violence against  
16 prosecutors, law enforcement officers, or members of their families.  
17 e. (Deleted by amendment, P.L.2001, c.129).  
18 (cf: P.L.2007, c.341, s.6)

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20 3. This act shall take effect immediately.

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#### STATEMENT

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25 This bill upgrades the crime of threatening to physically harm a  
26 prosecutor, law enforcement officer, or a member of their family to  
27 a crime of the second degree.

28 Under the provisions of the bill, a person who threatens to kill or  
29 cause physical harm to a prosecutor, law enforcement officer, or a  
30 member of their family with the purpose of putting that prosecutor  
31 or law enforcement officer in imminent fear of the threatened  
32 victim being killed or physically harmed is guilty of a crime of the  
33 second degree. A crime of the second degree is punishable by  
34 imprisonment for a term of five to ten years; a fine of up to  
35 \$150,000, or both.

36 The bill also provides that anyone convicted of the crime of  
37 threatening to physically harm a prosecutor, law enforcement  
38 officer, or a member of their family is subject to sentencing under  
39 the “No Early Release Act” (section 2 of P.L.1997, c.117; C. 2C:43-  
40 7.2). A person sentenced under the “No Early Release Act” is  
41 required to serve a minimum of 85% of his court imposed sentence  
42 before becoming eligible for parole.