

ASSEMBLY, No. 2743

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

Assemblyman Thomson

SYNOPSIS

“Judy and Nikki’s Law”; provides for life imprisonment without parole for persons convicted of murder of a child 16 years of age or younger.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 8/24/2020)

1 **AN ACT** concerning the murder of a child, designated as “Judy and
2 Nikki’s Law,” and amending N.J.S.2C:11-3.

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:11-3 is amended to read as follows:

8 2C:11-3. Murder.

9 a. Except as provided in N.J.S.2C:11-4, criminal homicide
10 constitutes murder when:

11 (1) The actor purposely causes death or serious bodily injury
12 resulting in death; or

13 (2) The actor knowingly causes death or serious bodily injury
14 resulting in death; or

15 (3) It is committed when the actor, acting either alone or with
16 one or more other persons, is engaged in the commission of, or an
17 attempt to commit, or flight after committing or attempting to
18 commit robbery, sexual assault, arson, burglary, kidnapping,
19 carjacking, criminal escape or terrorism pursuant to section 2 of
20 P.L.2002, c.26 (C.2C:38-2), and in the course of such crime or of
21 immediate flight therefrom, any person causes the death of a person
22 other than one of the participants; except that in any prosecution
23 under this subsection, in which the defendant was not the only
24 participant in the underlying crime, it is an affirmative defense that
25 the defendant:

26 (a) Did not commit the homicidal act or in any way solicit,
27 request, command, importune, cause or aid the commission thereof;
28 and

29 (b) Was not armed with a deadly weapon, or any instrument,
30 article or substance readily capable of causing death or serious
31 physical injury and of a sort not ordinarily carried in public places
32 by law-abiding persons; and

33 (c) Had no reasonable ground to believe that any other
34 participant was armed with such a weapon, instrument, article or
35 substance; and

36 (d) Had no reasonable ground to believe that any other
37 participant intended to engage in conduct likely to result in death or
38 serious physical injury.

39 b. (1) Murder is a crime of the first degree but a person
40 convicted of murder shall be sentenced, except as provided in
41 paragraphs (2), (3) and (4) of this subsection, by the court to a term
42 of 30 years, during which the person shall not be eligible for parole,
43 or be sentenced to a specific term of years which shall be between
44 30 years and life imprisonment of which the person shall serve 30
45 years before being 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 (2) If the victim was a law enforcement officer and was
2 murdered while performing his official duties or was murdered
3 because of his status as a law enforcement officer, the person
4 convicted of that murder shall be sentenced by the court to a term of
5 life imprisonment, during which the person shall not be eligible for
6 parole.

7 (3) A person convicted of murder shall be sentenced to a term of
8 life imprisonment without eligibility for parole if the [murder was
9 committed under all of the following circumstances:

10 (a) The] victim is [less than 18] 16 years [old; and

11 (b) The act is committed in the course of the commission,
12 whether alone or with one or more persons, of a violation of
13 N.J.S.2C:14-2 or N.J.S.2C:14-3] of age or less.

14 (4) Any person convicted under subsection a.(1) or (2) who
15 committed the homicidal act by his own conduct; or who as an
16 accomplice procured the commission of the offense by payment or
17 promise of payment of anything of pecuniary value; or who, as a
18 leader of a narcotics trafficking network as defined in N.J.S.2C:35-
19 3 and in furtherance of a conspiracy enumerated in N.J.S.2C:35-3,
20 commanded or by threat or promise solicited the commission of the
21 offense, or, if the murder occurred during the commission of the
22 crime of terrorism, any person who committed the crime of
23 terrorism, shall be sentenced by the court to life imprisonment
24 without eligibility for parole, which sentence shall be served in a
25 maximum security prison, if a jury finds beyond a reasonable doubt
26 that any of the following aggravating factors exist:

27 (a) The defendant has been convicted, at any time, of another
28 murder. For purposes of this section, a conviction shall be deemed
29 final when sentence is imposed and may be used as an aggravating
30 factor regardless of whether it is on appeal;

31 (b) In the commission of the murder, the defendant purposely or
32 knowingly created a grave risk of death to another person in
33 addition to the victim;

34 (c) The murder was outrageously or wantonly vile, horrible or
35 inhuman in that it involved torture, depravity of mind, or an
36 aggravated assault to the victim;

37 (d) The defendant committed the murder as consideration for the
38 receipt, or in expectation of the receipt of anything of pecuniary
39 value;

40 (e) The defendant procured the commission of the murder by
41 payment or promise of payment of anything of pecuniary value;

42 (f) The murder was committed for the purpose of escaping
43 detection, apprehension, trial, punishment or confinement for
44 another offense committed by the defendant or another;

45 (g) The murder was committed while the defendant was engaged
46 in the commission of, or an attempt to commit, or flight after
47 committing or attempting to commit murder, robbery, sexual

- 1 assault, arson, burglary, kidnapping, carjacking or the crime of
- 2 contempt in violation of subsection b. of N.J.S.2C:29-9;
- 3 (h) The defendant murdered a public servant, as defined in
- 4 N.J.S.2C:27-1, while the victim was engaged in the performance of
- 5 his official duties, or because of the victim's status as a public
- 6 servant;
- 7 (i) The defendant: (i) as a leader of a narcotics trafficking
- 8 network as defined in N.J.S.2C:35-3 and in furtherance of a
- 9 conspiracy enumerated in N.J.S.2C:35-3, committed, commanded
- 10 or by threat or promise solicited the commission of the murder or
- 11 (ii) committed the murder at the direction of a leader of a narcotics
- 12 trafficking network as defined in N.J.S.2C:35-3 in furtherance of a
- 13 conspiracy enumerated in N.J.S.2C:35-3;
- 14 (j) The homicidal act that the defendant committed or procured
- 15 was in violation of paragraph (1) of subsection a. of N.J.S.2C:17-2;
- 16 (k) **【The victim was less than 14 years old】** (Deleted by
- 17 amendment, P.L. , c.) (pending before the Legislature as this
- 18 bill); or
- 19 (l) The murder was committed during the commission of, or an
- 20 attempt to commit, or flight after committing or attempting to
- 21 commit, terrorism pursuant to section 2 of P.L.2002, c.26 (C.2C:38-
- 22 2).
- 23 (5) A juvenile who has been tried as an adult and convicted of
- 24 murder shall be sentenced pursuant to paragraph (1) of this
- 25 subsection.
- 26 c. (Deleted by amendment, P.L.2007, c.204).
- 27 d. (Deleted by amendment, P.L.2007, c.204).
- 28 e. (Deleted by amendment, P.L.2007, c.204).
- 29 f. (Deleted by amendment, P.L.2007, c.204).
- 30 g. (Deleted by amendment, P.L.2007, c.204).
- 31 h. (Deleted by amendment, P.L.2007, c.204).
- 32 i. For purposes of this section the term "homicidal act" shall
- 33 mean conduct that causes death or serious bodily injury resulting in
- 34 death.
- 35 j. In a sentencing proceeding conducted pursuant to this
- 36 section, the display of a photograph of the victim taken before the
- 37 homicide shall be permitted.
- 38 (cf: P.L.2017, c.150, s.1).

- 39
- 40 2. This act shall take effect immediately and shall be applicable
- 41 to any person sentenced on or after the effective date.
- 42
- 43

44 STATEMENT

45
46 This bill, designated as “Judy and Nikki’s law,” would require
47 that a person convicted of murder of a child 16 years of age or less
48 must be sentenced to life imprisonment without eligibility for

1 parole. This bill's title is in honor of Judy Cajuste and Nicole
2 Giovanni, two teenage murder victims. Judy Cajuste was a bright,
3 energetic 14-year-old high school freshman sprinter on the track
4 team at Abraham Clark High School in Roselle. She disappeared on
5 January 11, 2006 shortly after track practice and her body was later
6 found in Weequahic Park in Newark. Nicole Giovanni of Roselle
7 Park was a 14-year-old freshman and accomplished indoor track
8 runner at Roselle Catholic High School. In February 2005 her
9 mother bludgeoned her to death as she slept. The mother was
10 sentenced to a term of imprisonment of 30 years.

11 N.J.S.A.2C:11-3 provides that a person convicted of murder
12 must be sentenced either to a term of 30 years' imprisonment
13 without eligibility for parole or to a specific term of years between
14 30 years and life imprisonment of which the person must serve 30
15 years before being eligible for parole. In addition, N.J.S.A.2C:11-3
16 provides for a mandatory sentence of life imprisonment for the
17 murder of a law enforcement officer, or for the murder of a child
18 under the age of 14 during the commission of a sexual assault.

19 This bill changes the second circumstance under which life
20 imprisonment without parole must be imposed. The bill decreases
21 the age of the child from 18 to 16 and removes the factor that the
22 murder was committed during the commission of a sexual assault.
23 Thus, under the provisions of the bill a person convicted of the
24 murder of a child 16 years of age or less would be sentenced to life
25 imprisonment without parole.