

ASSEMBLY, No. 4023

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 4, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Upgrades certain penalties for resisting arrest; prohibits merger of resisting arrest with other criminal convictions.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning resisting arrest and amending N.J.S.2C:29-2.

2

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

5

6 1. N.J.S.2C:29-2 is amended to read as follows:

7 2C:29-2. Resisting Arrest; Eluding Officer.

8 a. (1) Except as provided in paragraph (3) and (4) of this
9 subsection, a person is guilty of a **【disorderly persons offense】**
10 fourth degree crime if he purposely prevents or attempts to prevent
11 a law enforcement officer from effecting an arrest.

12 (2) Except as provided in paragraph (3) and (4) of this
13 subsection, a person is guilty of a crime of the fourth degree if he,
14 by flight, purposely prevents or attempts to prevent a law
15 enforcement officer from effecting an arrest.

16 (3) An offense under paragraph (1) or (2) of subsection a. is a
17 crime of the third degree if the person **【**:

18 (a) Uses or**】** threatens to use physical force or violence against
19 the law enforcement officer or another .

20 (4) An offense under paragraph (1) or (2) of this subsection is a
21 crime of the second degree if the person:

22 (a) Uses physical force or violence against the law enforcement
23 officer or another; or

24 (b) Uses any other means to create a substantial risk of causing
25 physical injury to the public servant or another.

26 It is not a defense to a prosecution under this subsection that the
27 law enforcement officer was acting unlawfully in making the arrest,
28 provided he was acting under color of his official authority and
29 provided the law enforcement officer announces his intention to
30 arrest prior to the resistance.

31 Notwithstanding the provisions of N.J.S.2C:1-8 or any other law,
32 a conviction under this section shall not merge with a conviction of
33 any other criminal offense, nor shall any other conviction merge
34 with a conviction under this section, and the court shall impose
35 separate sentences upon each violation of this section and any other
36 criminal offense.

37 b. Any person, while operating a motor vehicle on any street or
38 highway in this State or any vessel, as defined pursuant to section 2
39 of P.L.1995, c.401 (C.12:7-71), on the waters of this State, who
40 knowingly flees or attempts to elude any police or law enforcement
41 officer after having received any signal from such officer to bring
42 the vehicle or vessel to a full stop commits a crime of the third
43 degree; except that, a person is guilty of a crime of the second
44 degree if the flight or attempt to elude creates a risk of death or
45 injury to any person. For purposes of this subsection, there shall be

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 a permissive inference that the flight or attempt to elude creates a
2 risk of death or injury to any person if the person's conduct involves
3 a violation of chapter 4 of Title 39 or chapter 7 of Title 12 of the
4 Revised Statutes. In addition to the penalty prescribed under this
5 subsection or any other section of law, the court shall order the
6 suspension of that person's driver's license, or privilege to operate a
7 vessel, whichever is appropriate, for a period of not less than six
8 months or more than two years.

9 In the case of a person who is at the time of the imposition of
10 sentence less than 17 years of age, the period of the suspension of
11 driving privileges authorized herein, including a suspension of the
12 privilege of operating a motorized bicycle, shall commence on the
13 day the sentence is imposed and shall run for a period as fixed by
14 the court. If the driving or vessel operating privilege of any person
15 is under revocation, suspension, or postponement for a violation of
16 any provision of this Title or Title 39 of the Revised Statutes at the
17 time of any conviction or adjudication of delinquency for a
18 violation of any offense defined in this chapter or chapter 36 of this
19 Title, the revocation, suspension, or postponement period imposed
20 herein shall commence as of the date of termination of the existing
21 revocation, suspension, or postponement.

22 Upon conviction the court shall collect forthwith the New Jersey
23 driver's licenses of the person and forward such license or licenses
24 to the Director of the Division of Motor Vehicles along with a
25 report indicating the first and last day of the suspension or
26 postponement period imposed by the court pursuant to this section.
27 If the court is for any reason unable to collect the license or licenses
28 of the person, the court shall cause a report of the conviction or
29 adjudication of delinquency to be filed with the director. That
30 report shall include the complete name, address, date of birth, eye
31 color, and sex of the person and shall indicate the first and last day
32 of the suspension or postponement period imposed by the court
33 pursuant to this section. The court shall inform the person orally
34 and in writing that if the person is convicted of personally operating
35 a motor vehicle or a vessel, whichever is appropriate, during the
36 period of license suspension or postponement imposed pursuant to
37 this section the person shall, upon conviction, be subject to the
38 penalties set forth in R.S.39:3-40 or section 14 of
39 P.L.1995, c.401 (C.12:7-83), whichever is appropriate. A person
40 shall be required to acknowledge receipt of the written notice in
41 writing. Failure to receive a written notice or failure to
42 acknowledge in writing the receipt of a written notice shall not be a
43 defense to a subsequent charge of violation of R.S.39:3-40 or
44 section 14 of P.L.1995, c.401 (C.12:7-83), whichever is appropriate.
45 If the person is the holder of a driver's or vessel operator's license
46 from another jurisdiction, the court shall not collect the license but
47 shall notify the director who shall notify the appropriate officials in
48 the licensing jurisdiction. The court shall, however, in accordance

1 with the provisions of this section, revoke the person's non-resident
2 driving or vessel operating privileges, whichever is appropriate, in
3 this State.

4 For the purposes of this subsection, it shall be a rebuttable
5 presumption that the owner of a vehicle or vessel was the operator
6 of the vehicle or vessel at the time of the offense.
7 (cf: P.L.2000, c.18, s.2)

8

9 2. This act shall take effect immediately.

10

11

12

STATEMENT

13

14 This bill upgrades the penalties for resisting arrest and prohibits
15 the merger of a conviction of resisting arrest with any other
16 criminal conviction.

17 Under current law, a person resists arrest by purposely
18 preventing or attempting to prevent a law enforcement officer from
19 effecting an arrest. Resisting arrest is a disorderly person's offense,
20 unless the person resists by way of flight, in which case it is a
21 fourth degree crime, or threatens to use physical force or violence
22 against the law enforcement officer or another, or uses any other
23 means to create a substantial risk of causing physical injury to the
24 public servant or another, in which case it is a third degree crime.

25 This bill upgrades resisting arrest from a disorderly person's
26 offense to a fourth degree crime. Additionally, the bill provides that
27 if a person resists arrest and actually uses physical force or
28 violence, or uses any other means to create a substantial risk of
29 physical injury, the person is guilty of a second degree crime, rather
30 than a third degree crime. Finally, the bill prohibits merging a
31 conviction of resisting arrest with any other criminal conviction,
32 and requires the sentencing court to impose a separate sentence
33 upon each violation.

34 A disorderly person's offense is punishable by a fine of up to
35 \$1,000, a term of imprisonment of up to six months, or both. A
36 fourth degree crime is punishable by a fine of up to \$10,000, a term
37 of imprisonment of up to 18 months, or both. A crime of the third
38 degree is punishable by a fine of up to \$15,000, a term of
39 imprisonment of three to five years, or both. A second degree crime
40 is punishable by a fine of up to \$150,000, a term of imprisonment of
41 five to 10 years, or both.