SENATE, No. 202

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Senator CHRISTOPHER J. CONNORS
District 9 (Atlantic, Burlington and Ocean)

SYNOPSIS

Imposes mandatory term of life imprisonment without eligibility for parole on persons who commit particularly brutal sexual assaults.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning certain sexual assaults, amending N.J.S.2C:14-6, N.J.S.2C:43-7 and N.J.S.2C:44-3 and supplementing Title 2C of the New Jersey Statutes.

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

1. (New section) The Legislature hereby finds and declares that certain crimes are so reprehensible and abhorrent that extreme measures must be taken against them, and that it is not only murders that are suitable for such a designation. Any person who commits a depraved and violent sexual assault must be permanently removed from contact with society.

2. (New section) A person who has been convicted of aggravated sexual assault pursuant to N.J.S.2C:14-2 where the victim suffered serious bodily injury as defined in subsection b. of N.J.S.2C:11-1 shall be sentenced by the court to a term of life imprisonment, during which the person shall not be eligible for parole.

3. (New section) a. A person who has been convicted of a crime under N.J.S.2C:14-2 or N.J.S.2C:14-3 where the victim of the crime was 16 years of age or less, and the actor was armed with and used a deadly weapon as defined in subsection c. of N.J.S.2C:11-1; or the actor threatened by word or gesture to use a deadly weapon; or the actor threatened to inflict serious bodily injury, shall, upon application of the prosecutor, be sentenced to an extended term of imprisonment.

b. In the case of a conviction of aggravated sexual assault, the extended term shall be for a specific term of years which shall be between 30 years and life imprisonment.

c. In the case of a conviction of sexual assault, the extended term shall be fixed by the court between 10 and 20 years.

d. In the case of a conviction of aggravated criminal sexual contact, the extended term shall be fixed by the court between five and 10 years.

e. As part of the sentence for the extended term and notwithstanding the provisions of N.J.S.2C:43-9, the court may fix a minimum term not to exceed one-half of the term set pursuant to subsection a. of this section, during which the defendant shall not be eligible for parole, or a term of 25 years during which time the defendant shall not be eligible for parole where the sentence imposed was life imprisonment; provided that no defendant shall be eligible for parole at a date earlier than otherwise provided by the law governing 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.

4. N.J.S.2C:14-6 is amended to read as follows:

2C:14-6. Sentencing.

If a person is convicted of a second or subsequent offense under sections 2C:14-2 or 2C:14-3a., the sentence imposed under those sections for the second or subsequent offense shall, unless the person is sentenced pursuant to the provisions of 2C:43-7, or sentenced pursuant to the provisions of section 2 or section 3 of P.L. , c. (C.) (now pending before the Legislature as this bill), include a fixed minimum sentence of not less than 5 years during which the defendant shall not be eligible for parole. The court may not suspend or make any other non-custodial disposition of any person sentenced as a second or subsequent offender pursuant to this section. For the purpose of this section an offense is considered a second or subsequent offense, if the actor has at any time been convicted under sections 2C:14-2 or 2C:14-3a. or under any similar statute of the United States, this state, or any other state for an offense that is substantially equivalent to sections 2C:14-2 or 2C:14-3a.

(cf: N.J.S.2C:14-6)

5. N.J.S.2C:43-7 is amended to read as follows:

2C:43-7. Sentence of Imprisonment for Crime; Extended Terms.

a. In the cases designated in section 2C:44-3, a person who has been convicted of a crime may be sentenced, and in the cases designated in subsection e. of section 2 of P.L.1994, c.130 (C.2C:43-6.4) in subsection b. of section 2 of P.L.1995, c.126 (C.2C:43-7.1) and in the cases designated in section 1 of P.L. 1997, c.410 (C.2C:44-5.1), a person who has been convicted of a crime shall be sentenced, to an extended term of imprisonment, as follows:

(1) In case of aggravated manslaughter sentenced under subsection c. of N.J.S.2C:11-4; or kidnapping when sentenced as a crime of the first degree under paragraph (1) of subsection c. of 2C:13-1; or aggravated sexual assault if the person is eligible for an extended term pursuant to the provisions of **[**subsection g. of N.J.S.2C:44-3**]** section 3 of P.L. , c. (C.) (now pending before the Legislature as this bill) for a specific term of years which shall be between 30 years and life imprisonment;

(2) Except for the crime of murder and except as provided in paragraph (1) of this subsection, in the case of a crime of the first degree, for a specific term of years which shall be fixed by the court and shall be between 20 years and life imprisonment;

(3) In the case of a crime of the second degree, for a term which shall be fixed by the court between 10 and 20 years;

(4) In the case of a crime of the third degree, for a term which shall be fixed by the court between five and 10 years;

(5) In the case of a crime of the fourth degree pursuant to 2C:43-6c., 2C:43-6g. and 2C:44-3d. for a term of five years, and in the case of a crime of the fourth degree pursuant to any other provision of law for a term which shall be fixed by the court between three and five years;

(6) In the case of the crime of murder, for a specific term of years which shall be fixed by the court between 35 years and life imprisonment, of which the defendant shall serve 35 years before being eligible for parole;

(7) In the case of kidnapping under paragraph (2) of subsection c. of 2C:13-1, for a specific term of years which shall be fixed by the court between 30 years and life imprisonment, of which the defendant shall serve 30 years before being eligible for parole.

b. As part of a sentence for an extended term and notwithstanding the provisions of 2C:43-9, the court may fix a minimum term not to exceed one-half of the term set pursuant to subsection a. during which the defendant shall not be eligible for parole or a term of 25 years during which time the defendant shall not be eligible for parole where the sentence imposed was life imprisonment; provided that no defendant shall be eligible for parole at a date earlier than otherwise provided by the law governing parole.

c. In the case of a person sentenced to an extended term pursuant to 2C:43-6c., 2C:43-6f. and 2C:44-3d., the court shall impose a sentence within the ranges permitted by 2C:43-7a.(2), (3), (4) or (5) according to the degree or nature of the crime for which the defendant is being sentenced, which sentence shall include a minimum term which shall, except as may be specifically provided by N.J.S.2C:43-6f., be fixed at or between one-third and one-half of the sentence imposed by the court or five years, whichever is greater, during which the defendant shall not be eligible for parole. Where the sentence imposed is life imprisonment, the court shall impose a minimum term of 25 years during which the defendant shall not be eligible for parole, except that where the term of life imprisonment is imposed on a person convicted for a violation of N.J.S.2C:35-3, the term of parole ineligibility shall be 30 years.

d. In the case of a person sentenced to an extended term pursuant to N.J.S.2C:43-6g., the court shall impose a sentence within the ranges permitted by N.J.S.2C:43-7a(2), (3), (4) or (5) according to the degree or nature of the crime for which the defendant is being sentenced, which sentence shall include a minimum term which shall be fixed at 15 years for a crime of the first or second degree, eight years for a crime of the third degree, or five years for a crime of the fourth degree during which the defendant shall not be eligible for parole. Where the sentence imposed is life imprisonment, the court shall impose a minimum term of 25 years during which the defendant shall not be eligible for parole, except that where the term of life imprisonment is imposed

on a person convicted of a violation of N.J.S.2C:35-3, the term of parole eligibility shall be 30 years.
(cf: P.L.2003, 267, s.4)

6. N.J.S.2C:44-3 is amended to read as follows:

2C:44-3. The court may, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime of the first, second or third degree to an extended term of imprisonment if it finds one or more of the grounds specified in subsection a., b., c., or f. of this section. If the grounds specified in subsection d. are found, and the person is being sentenced for commission of any of the offenses enumerated in N.J.S.2C:43-6c. or N.J.S.2C:43-6g., the court shall sentence the defendant to an extended term as required by N.J.S.2C:43-6c. or N.J.S.2C:43-6g., and application by the prosecutor shall not be required. The court shall, **[**upon application of the prosecuting attorney,**]** sentence a person who has been convicted of a crime under N.J.S.2C:14-2 or N.J.S.2C:14-3 to an extended term of imprisonment pursuant to section 3 of P.L. , c. (C.) (now pending before the Legislature as this this bill), upon application of the prosecutor, if the grounds specified in **[**subsection g. of this section**]** section 3 of P.L. , c. (C.) (now pending before the Legislature as this this bill) are found. The court shall, upon application of the prosecuting attorney, sentence a person to an extended term if the imposition of such term is required pursuant to the provisions of section 2 of P.L.1994, c.130 (C.2C:43-6.4). The finding of the court shall be incorporated in the record.

a. The defendant has been convicted of a crime of the first, second or third degree and is a persistent offender. A persistent offender is 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.

b. The defendant has been convicted of a crime of the first, second or third degree and is a professional criminal. A professional criminal is a person who committed a crime as part of a continuing criminal activity in concert with two or more persons, and the circumstances of the crime show he has knowingly devoted himself to criminal activity as a major source of livelihood.

c. The defendant has been convicted of a crime of the first, second or third degree and committed the crime as consideration for the receipt, or in expectation of the receipt, of anything of pecuniary value the amount of which was unrelated to the proceeds of the crime or he procured the commission of the offense by payment or promise of payment of anything of pecuniary value.

d. Second offender with a firearm. The defendant is at least 18 years of age and has been previously convicted of any of the following crimes: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-3a., 2C:15-1, 2C:18-2, 2C:29-5, 2C:39-4a., or has been previously convicted of an offense under Title 2A of the New Jersey Statutes or under any statute of the United States or any other state which is substantially equivalent to the offenses enumerated in this subsection and he used or possessed a firearm, as defined in 2C:39-1f., in the course of committing or attempting to commit any of these crimes, including the immediate flight therefrom.

e. (Deleted by amendment, P.L.2001, c.443).

f. The defendant has been convicted of a crime under any of the following sections: N.J.S.2C:11-4, N.J.S.2C:12-1b., N.J.S.2C:13-1, N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-2b., N.J.S.2C:29-5, N.J.S.2C:35-5, and in the course of committing or attempting to commit the crime, including the immediate flight therefrom, the defendant used or was in possession of a stolen motor vehicle.

[g. The defendant has been convicted of a crime under N.J.S.2C:14-2 or N.J.S.2C:14-3 involving violence or the threat of violence and the victim of the crime was 16 years of age or less.

For purposes of this subsection, a crime involves violence or the threat of violence if the victim sustains serious bodily injury as defined in subsection b. of N.J.S.2C:11-1, or the actor is armed with and uses a deadly weapon or threatens by word or gesture to use a deadly weapon as defined in subsection c. of N.J.S.2C:11-1, or threatens to inflict serious bodily injury.**]** (Deleted by amendment, P.L. , c. (C.) (now pending before the Legislature as this bill.)

h. (Deleted by amendment, P.L.2007, c.341).

(cf: P.L.2007, c.341, s.8)

7. This act shall take effect immediately.

STATEMENT

In 1987, Lawrence Singleton's parole from a California prison made national headlines; he had served eight years of a fourteen-year sentence for the vicious rape and mutilation of a 15-year-old hitchhiker. After the rape, Singleton had hacked off his victim's arms with an ax and left her to die, but she survived to testify against him. Despite the public outcry against Singleton's release, officials were powerless to stop it, since he had served his sentence under the California law in effect at the time. In February, 1997, Singleton was arrested again, this time for the murder of a woman in his home.

This bill is intended to prevent brutal attackers such as Singleton from ever getting a second chance to claim another victim. The bill would require that any person who commits a violent sexual assault would be required to serve a life sentence, without possibility for parole. The life sentence would be imposed on any person convicted of aggravated sexual assault upon a victim who suffers serious bodily injury. Under the Criminal Code, "serious bodily injury" is defined as "bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ."