

# ASSEMBLY, No. 4831

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED OCTOBER 19, 2020

**Sponsored by:**

**Assemblywoman ANNETTE CHAPARRO**

**District 33 (Hudson)**

**Assemblyman JAMES J. KENNEDY**

**District 22 (Middlesex, Somerset and Union)**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**SYNOPSIS**

Clarifies classification in this State of criminal offenses committed in other states or under federal law.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 6/21/2021)

1 AN ACT concerning the classification of offenses committed in  
2 other jurisdictions, amending N.J.S.2C:1-4 and N.J.S.2C:44-4  
3 and supplementing Title 2C of the New Jersey Statutes.

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

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8 1. N.J.S.2C:1-4 is amended to read as follows:  
9 2C:1-4. Classes of Offenses.

10 a. (1) An offense defined by this code or by any other statute  
11 of this State, for which a sentence of imprisonment in excess of 6  
12 months is authorized, constitutes a crime within the meaning of the  
13 Constitution of this State. Crimes are designated in this code as  
14 being of the first, second, third or fourth degree.

15 (2) An offense defined by the laws of any other jurisdiction, for  
16 which a sentence of imprisonment in excess of one year is  
17 authorized, shall be considered in this State to be a crime when a  
18 reference is made by this code, or by any other statute of this State,  
19 to such offense.

20 b. (1) An offense is a disorderly persons offense if it is so  
21 designated in this code or in a statute other than this code. An  
22 offense is a petty disorderly persons offense if it is so designated in  
23 this code or in a statute other than this code. Disorderly persons  
24 offenses and petty disorderly persons offenses are petty offenses  
25 and are not crimes within the meaning of the Constitution of this  
26 State. There shall be no right to indictment by a grand jury nor any  
27 right to trial by jury on such offenses. Conviction of such offenses  
28 shall not give rise to any disability or legal disadvantage based on  
29 conviction of a crime.

30 (2) (a) An offense defined by the laws of any other jurisdiction,  
31 for which a sentence of imprisonment of one year or less, but more  
32 than 30 days, is authorized, shall be considered in this State to be a  
33 disorderly persons offense when a reference is made by this code,  
34 or by any other statute of this State, to such offense.

35 (b) An offense defined by the laws of any other jurisdiction, for  
36 which a sentence of imprisonment of 30 days or less is authorized,  
37 shall be considered in this State to be a petty disorderly persons  
38 offense when a reference is made by this code, or by any other  
39 statute of this State, to such offense.

40 c. An offense defined by any statute of this State other than  
41 this code shall be classified as provided in this section or in section  
42 2C:43-1 and, except as provided in section 2C:1-5b and chapter 43,  
43 the sentence that may be imposed upon conviction thereof shall  
44 hereafter be governed by this code. Insofar as any provision of this  
45 State outside the code declares an offense to be a misdemeanor

**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 when such offense specifically provides a maximum penalty of 6  
2 months' imprisonment or less, whether or not in combination with a  
3 fine, such provision shall constitute a disorderly persons offense.

4 d. Subject to the provisions of section 2C:43-1, reference in  
5 any statute, rule, or regulation of this State outside the code to the  
6 term "high misdemeanor" shall mean crimes of the first, second, or  
7 third degree and reference to the term "misdemeanor" shall mean  
8 all crimes.

9 (cf: P.L.1981, c.290, s.1)

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11 2. N.J.S.2C:44-4 is amended to read as follows:

12 2C:44-4. Definition of Prior Conviction; Conviction in Another  
13 Jurisdiction; Proof of Prior Conviction.

14 a. Prior conviction of an offense. An adjudication by a court  
15 of competent jurisdiction that the defendant committed an offense  
16 constitutes a prior conviction.

17 b. Prior conviction of a crime. An adjudication by a court of  
18 competent jurisdiction that the defendant committed a crime  
19 constitutes a prior conviction, although sentence or the execution  
20 thereof was suspended, provided that the time to appeal has expired  
21 and that the defendant was not pardoned on the ground of  
22 innocence.

23 c. Prior conviction in another jurisdiction. A conviction in  
24 another jurisdiction shall constitute a prior conviction of a crime if a  
25 sentence of imprisonment in excess of **【6 months】** one year was  
26 authorized under the law of the other jurisdiction.

27 d. Proof of prior conviction. Any prior conviction may be  
28 proved by any evidence, including fingerprint records made in  
29 connection with arrest, conviction or imprisonment, that reasonably  
30 satisfies the court that the defendant was convicted.

31 (cf: P.L.1979, c.178, s.96)

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33 3. (New section) When a provision in Title 2C of the New  
34 Jersey Statutes, any other statute, rule, regulation, or ordinance of  
35 this State, or any certification or application form promulgated  
36 thereunder, refers to a conviction of "a similar crime in another  
37 state," a conviction under the laws of "any other state or the United  
38 States," a conviction under the laws of "any other jurisdiction," or  
39 contains similar phrasing referring to a conviction of a criminal  
40 offense outside this State, the conviction shall be construed in this  
41 State as a crime, disorderly persons offense, or petty disorderly  
42 persons offense, as set forth in paragraph (2) of subsection a. of  
43 N.J.S.2C:1-4, paragraph (2) of subsection b. of N.J.S.2C:1-4, and  
44 subsection c. of N.J.S.2C:44-4.

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46 4. This act shall take effect immediately.

STATEMENT

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This bill would clarify the classification in this State of criminal offenses committed in other states or under federal law.

Many statutes in New Jersey refer to criminal offenses committed in other jurisdictions. Many application forms and certifications ask the applicant whether he has been convicted of a crime in New Jersey “or in any other jurisdiction” or whether he has been convicted of a “similar crime in any other state.” The problem is, a crime as defined in this State may be punishable by a completely different term of imprisonment than the counterpart crime in other states or under federal law. Such counterpart, based on the possible prison sentence, may not be graded as a crime in this State, but instead as a disorderly persons or petty disorderly persons offense. This creates confusion for the public.

In New Jersey, a person may be convicted of a crime of the first, second, third, or fourth degree, or convicted of a disorderly persons offense or petty disorderly persons offense. Disorderly persons and petty disorderly persons offenses are not crimes. The lowest penalty for a conviction of a crime in this State is for a crime of the fourth degree, punishable by a term of imprisonment of up to 18 months. A disorderly persons offense is punishable by a term of imprisonment of up to six months, and a petty disorderly persons offense by a term of up to 30 days. By contrast, federal law and most other states use the classifications “felonies” and “misdemeanors” instead of New Jersey’s “crimes” and “offenses.” Under these other systems, a “felony” is generally punishable by a term of imprisonment of more than one year. A “misdemeanor” is generally punishable by a term of imprisonment of one year or less.

This bill would provide that a conviction in a jurisdiction other than New Jersey would be considered in this State to be a conviction of a crime if the other jurisdiction authorizes a sentence of imprisonment of more than one year for the conviction. A conviction in a jurisdiction other than New Jersey would be considered in this State to be a conviction of a disorderly persons offense if the other jurisdiction authorizes a sentence of imprisonment of one year or less, but more than 30 days. A conviction in a jurisdiction other than New Jersey would be considered in this State to be a conviction of a petty disorderly persons offense if the other jurisdiction authorizes a sentence of imprisonment of 30 days or less.

The bill also specifies that when a provision in Title 2C of the New Jersey Statutes, any other statute, rule, regulation, or ordinance of this State, or any certification or application form promulgated thereunder, refers to a conviction of “a similar crime in another state,” a conviction under the laws of “any other state or the United States,” a conviction under the laws of “any other jurisdiction,” or contains similar phrasing referring to a conviction of a criminal

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- 1 offense outside this State, the conviction would be construed in this
- 2 State as a crime, disorderly persons offense, or petty disorderly
- 3 persons offense in accordance with the provisions set out above.