

## [N.J. Stat. § 2C:33-28](#)

This section is current through New Jersey 219th First Annual Session, L. 2020, c. 37, and J.R. 1 (which is all 2020 legislation received through July 1, 2020)

**LexisNexis® New Jersey Annotated Statutes > Title 2C. The New Jersey Code of Criminal Justice (Subts. 1 — 3) > Subtitle 2. Specific Offenses (Pts. 1 — 6) > Part 5. Offenses Against the Public; Public Order, Health and Decency (Chs. 33 — 40A) > Chapter 33. Riot; Disorderly Conduct (§§ 2C:33-1 — 2C:33-32)**

### **§ 2C:33-28. Solicitation, recruitment to join criminal street gang; crime, degrees, sentencing**

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- a. An actor who solicits or recruits another to join or actively participate in a criminal street gang with the knowledge or purpose that the person who is solicited or recruited will promote, further, assist, plan, aid, agree, or attempt to aid in the commission of criminal conduct by a member of a criminal street gang commits a crime of the fourth degree. For purposes of this section, the actor shall have the requisite knowledge or purpose if he knows that the person who is solicited or recruited will engage in some form, though not necessarily which form, of criminal activity. "Criminal street gang" shall have the meaning set forth in section 1 of [P.L.2007, c.341 \(C.2C:33-29\)](#).
- b. An actor who, in the course of violating subsection a. of this section, threatens another with bodily injury on two or more separate occasions within a 30-day period commits a crime of the third degree.
- c. An actor who, in the course of violating subsection a. of this section, inflicts significant bodily injury upon another commits a crime of the second degree.
- d. Any defendant convicted of soliciting, recruiting, coercing or threatening a person under 18 years of age in violation of subsection a., b. or g. of this section shall be guilty of a crime of the second degree.
- e. An actor who violates subsection a. of this section while under official detention commits a crime of the second degree. As used in this subsection, "official detention" means detention in any facility for custody of persons under charge or conviction of a crime or offense, or committed pursuant to chapter 4 of this Title, or alleged or found to be delinquent; detention for extradition or deportation; mandatory commitment to a residential treatment facility imposed as a condition of special probation pursuant to subsection d. of [N.J.S.2C:35-14](#); or any other detention for law enforcement purposes. "Official detention" also includes supervision of probation or parole, or constraint incidental to release on bail. Notwithstanding the provisions of [N.J.S.2C:44-5](#) or any other provision of law, the court shall order that the sentence imposed upon a violation of this section be served consecutively to the period or periods of detention the actor was serving at the time of the violation.
- f. Any defendant convicted of soliciting, recruiting, coercing or threatening a person under 18 years of age in violation of subsection c. or e. of this section shall be sentenced by the court to an extended term of imprisonment as set forth in subsection a. of [N.J.S.2C:43-7](#).
- g. An actor who in the course of violating subsection a. of this section, does so on school property commits a crime of the third degree.

Notwithstanding the provisions of [N.J.S.2C:1-8](#), [N.J.S.2C:44-5](#) or any other provision of law, a conviction arising under this section shall not merge with a conviction for any criminal offense that the actor committed while involved in criminal street gang related activity, as defined in subsection h. of [N.J.S.2C:44-3](#), nor shall the conviction for any such offense merge with a conviction pursuant to this section and the sentence

imposed upon a violation of this section shall be ordered to be served consecutively to that imposed upon any other such conviction.

## History

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L. [1999, c. 160](#), § 1, eff. July 8, 1999; amended [2007, c. 234](#), § 1, eff. Jan. 3, 2008; [2013, c. 202](#), § 1, eff. Jan. 17, 2014.

Annotations

## Notes

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### Editor's Note:

Subsection h. of [N.J.S.2C:44-3](#), referred to in the last paragraph of this section, was deleted by L. [2007, c. 341](#), § 8, effective Jan. 13, 2008. For current provisions, see sections [2C:33-29](#), [2C:33-30](#).

### Amendment Note:

2007 amendment, by Chapter 234, in d., substituted "subsection a. or b. of this section shall be guilty of a crime of the second degree" for "subsection a., b. or c. of this section shall be sentenced by the court to an extended term of imprisonment as set forth in subsection a. of N.J.S.2C:43-7"; inserted e. and f.; and set out the former second sentence of d. as the last paragraph.

2013 amendment, by Chapter 202, substituted "section 1 of P.L.2007, c.341 (C.2C:33-29)" for "subsection h. of N.J.S.2C:44-3" in the final sentence of a.; substituted "subsection a., b. or g." for "subsection a. or b." in d.; and inserted "g. An actor who in the course of violating subsection a. of this section, does so on school property commits a crime of the third degree."

## Research References & Practice Aids

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### Cross References:

Crimes with bail restrictions; posting of bail [Effective until July 1, 2013], see [2A:162-12](#).

### JURY INSTRUCTIONS:

[NJ Criminal JI 2C:33-28](#), Solicitation, Recruitment to Join Criminal Street Gang