

**SENATE, No. 1354**

---

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

---

INTRODUCED SEPTEMBER 24, 1998

**Sponsored by:**

**Senator JAMES S. CAFIERO**

**District 1 (Cape May, Atlantic and Cumberland)**

**SYNOPSIS**

Amends stalking law to include situations where stalking victim is a child or a developmentally disabled adult.

**CURRENT VERSION OF TEXT**

As introduced.



S1354 CAFIERO

2

1 AN ACT concerning certain crimes against children, amending  
2 P.L.1992, c.209 and supplementing Title 2C of the New Jersey  
3 Statutes.

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

7  
8 1. Section 1 of P.L.1992, c.209 (C.2C:12-10) is amended to read  
9 as follows:

10 1. a. As used in this act:

11 (1) "Course of conduct" means repeatedly maintaining a visual or  
12 physical proximity to a person or repeatedly conveying verbal or  
13 written threats or threats implied by conduct or a combination thereof  
14 directed at or toward a person.

15 (2) "Repeatedly" means on two or more occasions.

16 (3) "Immediate family" means a spouse, parent, child, sibling or  
17 any other person who regularly resides in the household or who within  
18 the prior six months regularly resided in the household.

19 b. A person is guilty of stalking, a crime of the fourth degree, if he:

20 (1) Purposefully engages in a course of conduct directed at a  
21 specific person that would cause a reasonable person to fear bodily  
22 injury to himself or a member of his immediate family or to fear the  
23 death of himself or a member of his immediate family; and

24 (2) (a) Knowingly, recklessly or negligently places the specific  
25 person in reasonable fear of bodily injury to himself or a member of his  
26 immediate family or in reasonable fear of the death of himself or a  
27 member of his immediate family; or

28 (b) Knowingly, recklessly or negligently places the specific person's  
29 parent or guardian in reasonable fear of bodily injury to the specific  
30 person or a member of his immediate family or in reasonable fear of  
31 the death of the specific person or a member of his immediate family.

32 c. A person is guilty of a crime of the third degree if he commits  
33 the crime of stalking in violation of an existing court order prohibiting  
34 the behavior.

35 d. A person who commits a second or subsequent offense of  
36 stalking against the same victim is guilty of a crime of the third degree.

37 e. A person is guilty of a crime of the third degree if he commits  
38 the crime of stalking while serving a term of imprisonment or while on  
39 parole or probation as the result of a conviction for any indictable  
40 offense under the laws of this State, any other state or the United  
41 States.

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 f. This act shall not apply to conduct which occurs during  
2 organized group picketing.

3 (cf: P.L.1998, c.17, s.3)

4

5 2. (New section) a. In any case involving an allegation of stalking  
6 in violation of subparagraph (b) of paragraph (2) of subsection b. of  
7 section 1 of P.L.1992, c.209 (C.2C:12-10) where the victim is a child  
8 under the age of 18 years or is developmentally disabled as defined in  
9 section 3 of P.L.1977, c.200 (C.5:5-44.4), the court may issue a  
10 temporary restraining order against the defendant which limits the  
11 contact of the defendant and the victim.

12 b. The provisions of subsection a. of this section are in addition to,  
13 and not in lieu of, the provisions of section 3 of P.L.1996, c.39  
14 (C.2C:12-10.1) which provide that a judgment of conviction for  
15 stalking shall operate as an application for a permanent restraining  
16 order limiting the contact of the defendant and the victim.

17 c. The parent or guardian of the child or developmentally disabled  
18 person described in subsection a. of this act may file a complaint with  
19 the Superior Court in conformity with the Rules of Court seeking a  
20 temporary restraining order against a person alleged to have  
21 committed stalking against the child or developmentally disabled  
22 person. The parent or guardian may seek emergency, ex parte relief.  
23 A decision shall be made by the judge regarding the emergency relief  
24 forthwith. If it appears that the child or developmentally disabled  
25 person is in danger of being stalked by the defendant, the judge shall  
26 issue a temporary restraining order pursuant to subsection e. of this  
27 section.

28 d. A conviction of stalking shall not be a prerequisite for the grant  
29 of a temporary restraining order under this act.

30 e. A temporary restraining order issued under this act shall limit  
31 the contact of the defendant and the child or developmentally disabled  
32 person who was stalked and in addition may grant all other relief  
33 specified in section 3 of P.L.1996, c.39 (C.2C:12-10.1).

34 f. A hearing shall be held in the Superior Court within 10 days of  
35 the issuance of any temporary restraining order which was issued on  
36 an emergency, ex parte basis. A copy of the complaint shall be served  
37 on the defendant in conformity with the rules of court. At the hearing  
38 the standard for continuing the temporary restraining order shall be by  
39 a preponderance of the evidence.

40 g. If the court rules that the temporary restraining order shall be  
41 continued, the order shall remain in effect until either:

42 (1) the defendant is convicted of stalking, in which case the court  
43 shall hold a hearing on the issue of whether a permanent restraining  
44 order shall be entered pursuant to section 3 of P.L.1996, c.39  
45 (C.2C:12-10.1); or

46 (2) the victim's parent or guardian or, in the case of a victim who

1 has reached the age of 18, the victim, requests that the restraining  
2 order be dismissed.

3

4 3. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill would amend the anti-stalking statute to specifically  
10 include cases where the stalking victim is a child. The statute would  
11 also be amended to include cases where the victim is a  
12 developmentally disabled adult.

13 Under N.J.S.A.2C:12-10, a person cannot be convicted of stalking  
14 unless his repeated acts of threatening behavior actually place the  
15 victim in reasonable fear of bodily injury to himself or a family member  
16 or in reasonable fear of death or of the death of a family member.  
17 Thus, in cases where the stalking victim is a child who is innocently  
18 unaware of the dangers of a perpetrator's threatening behavior, the  
19 stalking law does not apply.

20 This bill would amend N.J.S.A.2C:12-10 to provide that, in cases  
21 where the victim is a child under the age of 18 or is developmentally  
22 disabled, the perpetrator commits the crime of stalking if, by his  
23 repeated threatening actions, he places the victim's parent or guardian  
24 in reasonable fear of injury or death of the victim or the victim's  
25 family.

26 This bill also provides that children and developmentally disabled  
27 persons could be protected against stalkers by temporary restraining  
28 orders. Under current law, a conviction of stalking operates as an  
29 application for a permanent restraining order limiting the contact of  
30 the defendant and the victim. However, it may take several years  
31 before a person charged with stalking is finally convicted of the crime.  
32 Under the bill, a parent or guardian could apply for a temporary  
33 restraining order against the defendant on an emergency basis, before  
34 the defendant is convicted.

35 If the hearing is held on an emergency, ex parte basis, without the  
36 presence of the defendant, the court issuing the temporary restraining  
37 order would be required to hold a hearing within 10 days after notice  
38 to the defendant. At the hearing, the court would decide whether the  
39 temporary restraining order should be continued. If continued, the  
40 temporary restraining order would be in effect until either (1) the  
41 defendant is convicted of stalking the victim, in which case the court  
42 would hold a hearing on the issue of whether a permanent restraining  
43 order would be entered (pursuant to current law) or (2) the victim's  
44 parent or guardian or, if the victim has reached the age of 18, the  
45 victim, requests that the temporary restraining order be dismissed.

46 Stalking is a crime of the fourth degree (punishable by a term of

**S1354 CAFIERO**

5

1 imprisonment of up to 18 months or a fine of up to \$10,000, or both)  
2 unless it is committed on a second or subsequent occasion against the  
3 same victim or is committed in violation of an existing court order. In  
4 the latter cases stalking is a crime of the third degree (punishable by  
5 a term of imprisonment of up to three to five years or a fine of up to  
6 \$15,000, or both).