

[Second Reprint]

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)

Senator DIANE ALLEN

District 7 (Burlington and Camden)

Co-Sponsored by:

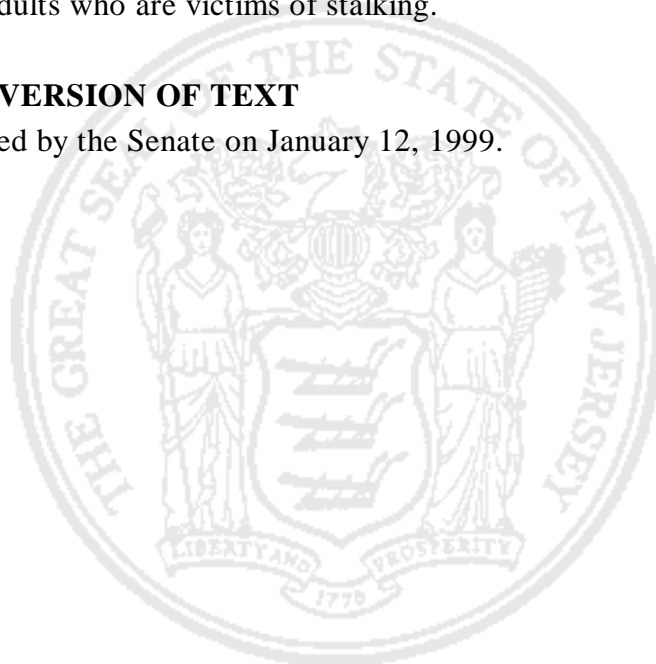
Senators Sinagra, Matheussen, Inverso, Singer and Bucco

SYNOPSIS

Amends stalking law; provides for temporary restraining order for children and certain adults who are victims of stalking.

CURRENT VERSION OF TEXT

As amended by the Senate on January 12, 1999.



(Sponsorship Updated As Of: 1/29/1999)

1 AN ACT concerning ²**[certain crimes against children]**stalking²,
2 amending P.L.1992, c.209 and supplementing Title 2C of the New
3 Jersey 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
20 he¹ **[**:

21 (1) Purposefully **]** purposefully¹ ²or knowingly² engages in a
22 course of conduct directed at a specific person that ²**[**¹the actor
23 knows¹ **]**² would cause a reasonable person to fear bodily injury to
24 himself or a member of his immediate family or to fear the death of
25 himself or a member of his immediate family¹ **[**; and

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

30 (b) Knowingly, recklessly or negligently places the specific person's
31 parent or guardian in reasonable fear of bodily injury to the specific
32 person or a member of his immediate family or in reasonable fear of
33 the death of the specific person or a member of his immediate
34 family¹ **]**.

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

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

40 e. A person is guilty of a crime of the third degree if he commits

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SJU committee amendments adopted November 16, 1998.

² Senate floor amendments adopted January 12, 1999.

1 the crime of stalking while serving a term of imprisonment or while on
2 parole or probation as the result of a conviction for any indictable
3 offense under the laws of this State, any other state or the United
4 States.

5 f. This act shall not apply to conduct which occurs during
6 organized group picketing.
7 (cf: P.L.1998, c.17, s.3)
8

9 2. (New section) a. In any case involving an allegation of stalking
10 ¹~~in violation of subparagraph (b) of paragraph (2) of subsection b. of~~
11 ~~section 1 of P.L.1992, c.209 (C.2C:12-10)]¹ where the victim is a~~
12 ~~child under the age of 18 years or is developmentally disabled as~~
13 ~~defined in section 3 of P.L.1977, c.200 (C.5:5-44.4) ²or where the~~
14 ~~victim is 18 years of age or older and is mentally defective as defined~~
15 ~~in N.J.S. 2C:14-1², the court may issue a temporary restraining order~~
16 ~~against the defendant which limits the contact of the defendant and the~~
17 ~~victim.~~

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

23 c. The parent or guardian of the child or ²~~developmentally~~
24 ~~disabled] the² person described in subsection a. of this ²~~[act]~~
25 ~~section² may file a complaint with the Superior Court in conformity~~
26 ~~with the rules of court seeking a temporary restraining order against~~
27 ~~a person alleged to have committed stalking against the child or~~
28 ~~²~~developmentally disabled] the² person ²described in subsection a.~~
29 ~~of this section². The parent or guardian may seek emergency, ex~~
30 ~~parte relief. A decision shall be made by the judge regarding the~~
31 ~~emergency relief forthwith. If it appears that the child or~~
32 ~~²~~developmentally disabled] the² person ²described in subsection a.~~
33 ~~of this section² is in danger of being stalked by the defendant, the~~
34 ~~judge shall issue a temporary restraining order pursuant to subsection~~
35 ~~e. of this section.~~~~~~~~

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

38 e. A temporary restraining order issued under this act shall limit
39 the contact of the defendant and the child or ²~~developmentally~~
40 ~~disabled] the² person ²described in subsection a. of this section² who~~
41 ~~was stalked and in addition may grant all other relief specified in~~
42 ~~section 3 of P.L.1996, c.39 (C.2C:12-10.1).~~

43 f. A hearing shall be held in the Superior Court within 10 days of
44 the issuance of any temporary restraining order which was issued on
45 an emergency, ex parte basis. A copy of the complaint shall be served
46 on the defendant in conformity with the rules of court. At the hearing

1 the standard for continuing the temporary restraining order shall be by
2 a preponderance of the evidence.

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

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

9 (2) the victim's parent or guardian or, in the case of a victim who
10 has reached the age of 18, the victim, requests that the restraining
11 order be dismissed ²and the court finds just cause to do so².

12

13 3. This act shall take effect immediately.