

# ASSEMBLY, No. 4244

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 25, 2018

**Sponsored by:**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**SYNOPSIS**

Upgrades crime of stalking when stalking activity is carried out or assisted by installation or use of communication or location monitoring program or device on cellular phone or wireless mobile device.

**CURRENT VERSION OF TEXT**

As introduced.



A4244 BENSON, MURPHY

2

1 AN ACT concerning stalking by means of certain electronic,  
2 mechanical, or other devices, or computer programs, and  
3 amending P.L.1992, c.209.

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  
9 read as follows:

10 1. a. As used in this act:

11 (1) "Course of conduct" means repeatedly maintaining a visual  
12 or physical proximity to a person; directly, indirectly, or through  
13 third parties, by any action, method, device, or means, following,  
14 monitoring, observing, surveilling, threatening, or communicating  
15 to or about, a person, or interfering with a person's property;  
16 repeatedly committing harassment against a person; or repeatedly  
17 conveying, or causing to be conveyed, verbal or written threats or  
18 threats conveyed by any other means of communication or threats  
19 implied by conduct or a combination thereof directed at or toward a  
20 person.

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

22 (3) "Emotional distress" means significant mental suffering or  
23 distress.

24 (4) "Cause a reasonable person to fear" means to cause fear  
25 which a reasonable victim, similarly situated, would have under the  
26 circumstances.

27 b. A person is guilty of stalking, a crime of the fourth degree, if  
28 he purposefully or knowingly engages in a course of conduct  
29 directed at a specific person that would cause a reasonable person to  
30 fear for his safety or the safety of a third person or suffer other  
31 emotional distress. Stalking is a crime of the third degree if the  
32 person's course of conduct is carried out or assisted by means of  
33 installation or use of any electronic, mechanical or other device as  
34 defined in subsection d. of section 2 of P.L.1968,  
35 c.409 (C.2A:156A-2), or installation or use of a computer program  
36 as defined in subsection e. of section 2 of P.L.1984,  
37 c.184 (C.2C:20-23), on a cellular phone or wireless mobile device  
38 owned, subscribed to, or used by the victim, in order to intercept  
39 any form of communication or acquire that communication from  
40 electronic storage kept by an electronic communication service or  
41 remote computing service, as those terms are defined in subsections  
42 p., q., and s. of section 2 of P.L.1968, c.409 (C.2A:156A-2), or to  
43 intercept or acquire the victim's location information.

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

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

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

12 f. This act shall not apply to conduct which occurs during  
13 organized group picketing.

14 (cf: P.L.2009, c.28, s.1)

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16 2. This act shall take effect immediately.

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#### STATEMENT

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21 This bill upgrades the crime of stalking when the stalking activity  
22 is carried out or assisted by installation or use of a communication or  
23 location monitoring program or device on the stalking victim's cellular  
24 phone or wireless mobile device.

25 A person commits the crime of stalking when the person  
26 "purposefully or knowingly engages in a course of conduct directed at  
27 a specific person that would cause a reasonable person to fear for his  
28 safety or the safety of a third person or suffer other emotional  
29 distress." Stalking is ordinarily graded as a crime of the fourth degree,  
30 punishable by up to 18 months imprisonment, a fine of up to \$10,000,  
31 or both.

32 Under the bill, if a person's "course of conduct" in committing the  
33 stalking is carried out or assisted by means of installation or use of any  
34 communication or location monitoring program or device on the  
35 victim's cellular phone or wireless mobile device in order to intercept  
36 or acquire any form of communication or location information, the  
37 stalking would be upgraded to a crime of the third degree. A crime of  
38 the third degree is ordinarily punishable by a term of imprisonment of  
39 three to five years, a fine of up to \$15,000, or both.

40 Communication and location monitoring programs or devices are  
41 often preinstalled on cellular phones or wireless mobile devices, or are  
42 widely available for download or purchase for such phones or devices,  
43 and in some instances are necessary to properly operate or enhance  
44 phone or device operations. Recognizing the wide availability and  
45 easy access to these programs and devices, this bill intends to target  
46 their improper installation or use in the context of committing acts of  
47 stalking.