

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

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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.

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

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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.