

ASSEMBLY, No. 1906

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

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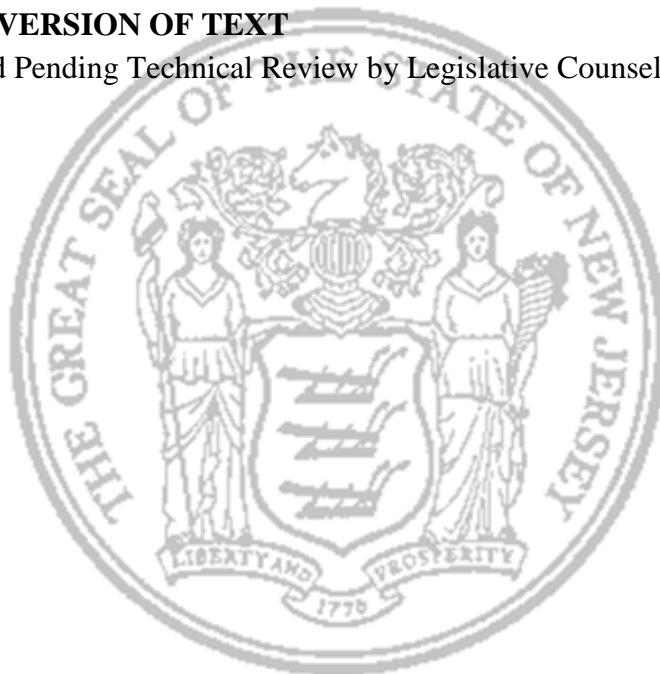
Assemblymen Dancer, Holley and Assemblywoman Timberlake

SYNOPSIS

Includes false incrimination and filing false police report as form of bias intimidation; establishes crime of false 9-1-1 call with purpose to intimidate or harass based on race or other protected class.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 6/15/2020)

A1906 WIMBERLY, REYNOLDS-JACKSON

2

1 AN ACT concerning false police reports and bias intimidation and
2 amending N.J.S.2C:16-1 and N.J.S.2C:33-3.

3

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

6

7 1. N.J.S.2C:16-1 is amended to read as follows:

8 2C:16-1. Bias Intimidation.

9 a. Bias Intimidation. A person is guilty of the crime of bias
10 intimidation if he commits, attempts to commit, conspires with
11 another to commit, or threatens the immediate commission of an
12 offense specified in chapters 11 through 18 of Title 2C of the New
13 Jersey Statutes; N.J.S.2C:28-4; N.J.S.2C:33-4; N.J.S.2C:39-3;
14 N.J.S.2C:39-4; or N.J.S.2C:39-5,

15 (1) with a purpose to intimidate an individual or group of
16 individuals because of race, color, religion, gender, disability,
17 sexual orientation, gender identity or expression, national origin, or
18 ethnicity; or

19 (2) knowing that the conduct constituting the offense would
20 cause an individual or group of individuals to be intimidated
21 because of race, color, religion, gender, disability, sexual
22 orientation, gender identity or expression, national origin, or
23 ethnicity; or

24 (3) under circumstances that caused any victim of the
25 underlying offense to be intimidated and the victim, considering the
26 manner in which the offense was committed, reasonably believed
27 either that (a) the offense was committed with a purpose to
28 intimidate the victim or any person or entity in whose welfare the
29 victim is interested because of race, color, religion, gender,
30 disability, sexual orientation, gender identity or expression, national
31 origin, or ethnicity, or (b) the victim or the victim's property was
32 selected to be the target of the offense because of the victim's race,
33 color, religion, gender, disability, sexual orientation, gender identity
34 or expression, national origin, or ethnicity.

35 b. Permissive inference concerning selection of targeted person
36 or property. Proof that the target of the underlying offense was
37 selected by the defendant, or by another acting in concert with the
38 defendant, because of race, color, religion, gender, disability, sexual
39 orientation, gender identity or expression, national origin, or
40 ethnicity shall give rise to a permissive inference by the trier of fact
41 that the defendant acted with a purpose to intimidate an individual
42 or group of individuals because of race, color, religion, gender,
43 disability, sexual orientation, gender identity or expression, national
44 origin, or ethnicity.

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. Grading. Bias intimidation is a crime of the fourth degree if
2 the underlying offense referred to in subsection a. is a disorderly
3 persons offense or petty disorderly persons offense. Otherwise,
4 bias intimidation is a crime one degree higher than the most serious
5 underlying crime referred to in subsection a., except that where the
6 underlying crime is a crime of the first degree, bias intimidation is a
7 first-degree crime and the defendant upon conviction thereof may,
8 notwithstanding the provisions of paragraph (1) of subsection a. of
9 N.J.S.2C:43-6, be sentenced to an ordinary term of imprisonment
10 between 15 years and 30 years, with a presumptive term of 20
11 years.

12 d. Gender exemption in sexual offense prosecutions. It shall
13 not be a violation of subsection a. if the underlying criminal offense
14 is a violation of chapter 14 of Title 2C of the New Jersey Statutes
15 and the circumstance specified in paragraph (1), (2) or (3) of
16 subsection a. of this section is based solely upon the gender of the
17 victim.

18 e. Merger. Notwithstanding the provisions of N.J.S.2C:1-8 or
19 any other provision of law, a conviction for bias intimidation shall
20 not merge with a conviction of any of the underlying offenses
21 referred to in subsection a. of this section, nor shall any conviction
22 for such underlying offense merge with a conviction for bias
23 intimidation. The court shall impose separate sentences upon a
24 conviction for bias intimidation and a conviction of any underlying
25 offense.

26 f. Additional Penalties. In addition to any fine imposed
27 pursuant to N.J.S.2C:43-3 or any term of imprisonment imposed
28 pursuant to N.J.S.2C:43-6, a court may order a person convicted of
29 bias intimidation to one or more of the following:

30 (1) complete a class or program on sensitivity to diverse
31 communities, or other similar training in the area of civil rights;

32 (2) complete a counseling program intended to reduce the
33 tendency toward violent and antisocial behavior; and

34 (3) make payments or other compensation to a community-
35 based program or local agency that provides services to victims of
36 bias intimidation.

37 g. As used in this section "gender identity or expression"
38 means having or being perceived as having a gender related identity
39 or expression whether or not stereotypically associated with a
40 person's assigned sex at birth.

41 h. It shall not be a defense to a prosecution for a crime under
42 this section that the defendant was mistaken as to the race, color,
43 religion, gender, disability, sexual orientation, gender identity or
44 expression, national origin, or ethnicity of the victim.

45 (cf: P.L.2007, c.303, s.1)

1 2. N.J.S.2C:33-3 is amended to read as follows:

2 2C:33-3. False Public Alarms. a. (1) (a) Except as otherwise
3 provided in this section, a person is guilty of a crime of the third
4 degree if he initiates or circulates a report or warning of an
5 impending fire, explosion, crime, catastrophe, emergency, or any
6 other incident knowing that the report or warning is false or
7 baseless and that it is likely to cause evacuation of a building, place
8 of assembly, or facility of public transport, or to cause public
9 inconvenience or alarm. (b) A person is guilty of a crime of
10 the second degree if the false alarm involves a report or warning of
11 an impending bombing, hostage situation, person armed with a
12 deadly weapon as defined by subsection c. of N.J.S.2C:11-1, or any
13 other incident that elicits an immediate or heightened response by
14 law enforcement or emergency services.

15 (c) A person is guilty of a crime of the second degree if the false
16 alarm involves a report or warning about any critical infrastructure
17 located in this State. For purposes of this subparagraph, "critical
18 infrastructure" means any building, place of assembly, or facility
19 that is indispensably necessary for national security, economic
20 stability, or public safety.

21 (2) A person is guilty of a crime of the third degree if he
22 knowingly causes the false alarm to be transmitted to or within any
23 organization, official or volunteer, for dealing with emergencies
24 involving danger to life or property.

25 b. A person is guilty of a crime of the second degree if in
26 addition to the report or warning initiated, circulated or transmitted
27 under subsection a. of this section, he places or causes to be placed
28 any false or facsimile bomb in a building, place of assembly, or
29 facility of public transport or in a place likely to cause public
30 inconvenience or alarm. A violation of this subsection is a crime of
31 the first degree if it occurs during a declared period of national,
32 State or county emergency.

33 c. A person is guilty of a crime of the second degree if a
34 violation of subsection a. of this section in fact results in serious
35 bodily injury to another person or occurs during a declared period
36 of national, State or county emergency. A person is guilty of a
37 crime of the first degree if a violation of subsection a. of this
38 section in fact results in death.

39 d. For the purposes of this section, "in fact" means that strict
40 liability is imposed. It shall not be a defense that the death or
41 serious bodily injury was not a foreseeable consequence of the
42 person's acts or that the death or serious bodily injury was caused
43 by the actions of another person or by circumstances beyond the
44 control of the actor. The actor shall be strictly liable upon proof
45 that the crime occurred during a declared period of national, State
46 or county emergency. It shall not be a defense that the actor did not

1 know that there was a declared period of emergency at the time the
2 crime occurred.

3 e. A person is guilty of a crime of the fourth degree if the
4 person knowingly places a call to a 9-1-1 emergency telephone
5 system without purpose of reporting the need for 9-1-1 service.

6 f. A person is guilty of a crime of the third degree if the person
7 knowingly places a call to a 9-1-1 emergency telephone system with
8 purpose to intimidate or harass an individual or group of individuals
9 because of race, color, religion, gender, disability, sexual
10 orientation, gender identity or expression, national origin, or
11 ethnicity.

12 All local and county law enforcement authorities shall submit an
13 annual report, on a form prescribed by the Attorney General, to the
14 Uniform Crime Reporting Unit, within the Division of State Police
15 in the Department of Law and Public Safety, or to another
16 designated recipient determined by the Attorney General,
17 containing the number and nature of offenses under this section
18 committed within their respective jurisdictions and the disposition
19 of these offenses. Every two years, the Uniform Crime Reporting
20 Unit or other designated recipient of the annual reports shall
21 forward a summary of all reports received during the preceding
22 two-year period, along with a summary of offenses investigated by
23 the Division of State Police for the same period, to the State's
24 Office of Emergency Management.

25 (cf: P.L.2015, c.156, s.1)

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27 3. This act shall take effect immediately.

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STATEMENT

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32 This bill expands the list of crimes that constitute a form of bias
33 intimidation to include the crime of falsely incriminating another
34 person or filing a false police report. Under the bill, a person who
35 falsely incriminates, files a false police report, or calls the 9-1-1
36 emergency telephone system with the purpose to intimidate an
37 individual or group of individuals because of race, color, religion,
38 gender, disability, sexual orientation, gender identity or expression,
39 national origin, or ethnicity would be subject to a criminal penalty.

40 Under N.J.S.2C:16-1, a person is guilty of the crime of bias
41 intimidation if he commits, attempts to commit, conspires with
42 another to commit, or threatens the immediate commission of
43 certain offenses found in chapters 11 through 18 of Title 2C and
44 N.J.S.2C:33-4; N.J.S.2C:39-3; N.J.S.2C:39-4 or N.J.S.2C:39-5
45 with, among other things, a purpose to intimidate an individual or
46 group of individuals because of race, color, religion, gender,

1 disability, sexual orientation, gender identity or expression, national
2 origin, or ethnicity. The offenses found in chapters 11 through 18
3 of Title 2C include, but are not limited to, terroristic threats, assault,
4 murder, and arson. The crimes specifically listed are N.J.S.2C:33-4
5 (harassment); N.J.S.2C:39-3 (prohibited weapons and devices);
6 N.J.S.2C:39-4 (possession of weapons for unlawful purpose); and
7 N.J.S.2C:39-5 (unlawful possession of weapons).

8 Bias intimidation is a crime of the fourth degree if the underlying
9 offense is a disorderly persons offense or petty disorderly persons
10 offense. A crime of the fourth degree is punishable by up to 18
11 months imprisonment, a fine up to \$10,000, or both. Otherwise,
12 bias intimidation is a crime graded one degree higher than the most
13 serious underlying crime, except in cases in which the underlying
14 crime is of the first degree, bias intimidation is a first-degree crime
15 and the defendant, upon conviction may, notwithstanding the
16 provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, be
17 sentenced to an ordinary term of imprisonment between 15 years
18 and 30 years, with a presumptive term of 20 years.

19 This bill would expand the list of underlying offenses for bias
20 intimidation to include falsely incriminating someone or filing a
21 false police report. Under N.J.S.2C:28-4, a person who knowingly
22 gives or causes to be given false information to a law enforcement
23 officer in order to implicate another commits false incrimination, a
24 crime of the third degree. False incrimination is a crime of the second
25 degree if the victim was implicated in a crime of the first or second
26 degree. The penalty for a crime of the third degree is three to five
27 years imprisonment, a fine of up to \$15,000, or both. Second
28 degree crimes are punishable by five to 10 year imprisonment, a
29 fine of up to \$150,000, or both.

30 N.J.S.2C:28-4 also establishes the fourth degree crime of reporting
31 to law enforcement authorities an offense or other incident that did not
32 occur, or pretending to furnish the authorities with information relating
33 to an arrest or incident for which the offender has no information.

34 This bill establishes a higher criminal penalty for falsely giving
35 information to law enforcement agencies with the purpose to
36 intimidate a victim because of his or her race, color, religion, gender,
37 disability, sexual orientation, gender identity or expression, national
38 origin, or ethnicity.

39 In addition, the bill establishes a third degree crime of knowingly
40 placing a 9-1-1 call with purpose to intimidate or harass an
41 individual or group of individuals because of race, color, religion,
42 gender, disability, sexual orientation, gender identity or expression,
43 national origin, or ethnicity. Under N.J.S.2C:33-3, it is a fourth
44 degree crime to call 9-1-1 without the purpose of reporting the need
45 for 9-1-1 service.