

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, Nos. 1906 and 4230**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

ADOPTED JUNE 15, 2020

**Sponsored by:**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman CLEOPATRA G. TUCKER**

**District 28 (Essex)**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**Co-Sponsored by:**

**Assemblymen Dancer, Holley, Assemblywomen Timberlake, Speight, Jasey, Quijano, Assemblymen Verrelli, Conaway, Webber, Johnson and Senator Ruiz**

**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**

Substitute as adopted by the Assembly Community Development and Affairs Committee.

(Sponsorship Updated As Of: 7/30/2020)

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)

46

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

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

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

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

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

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

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

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

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

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

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

24

25 3. This act shall take effect immediately.