

ASSEMBLY, No. 144

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen WOLFE and COHEN

1 AN ACT creating the disorderly persons offense of blocking access to
2 health care facilities and physicians' offices and supplementing Title
3 2C of the New Jersey Statutes.

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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. a. A person commits a disorderly persons offense if the person
9 purposely or recklessly interferes with another person's ability to
10 lawfully enter or exit a health care facility or a physician's office during
11 its normal hours of operation by physically detaining, obstructing,
12 impeding, harassing or hindering the person's passage.

13 b. A person commits a disorderly persons offense if, within a radius
14 of 50 feet from the entrance door to a building housing a health care
15 facility or physician's office, the person seeks to pass a leaflet or a
16 handbill or display a sign or to engage in education or counseling with
17 any second person and, after having been asked by the second person
18 to retreat, the person continues to approach or fails to retreat to at
19 least eight feet from the second person.

20 c. As used in this section, "health care facility" means any health
21 care facility as defined in section 2 of the "Health Care Facilities Act,"
22 P.L.1971, c.136 (C.26:2H-2).

23 d. Notwithstanding the provisions of N.J.S.2C:43-3, a person who
24 violates this section shall be sentenced to pay a fine of at least \$500.
25 When any violation of this section is of a continuing nature, each day
26 during which such violation continues shall constitute an additional,
27 separate and distinct offense, during which additional fines may be
28 imposed.

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30 2. a. If a court having jurisdiction over a proceeding under section
31 1 of P.L. , c. (C.) (now pending before the Legislature as this
32 bill) finds that any person has injured, intimidated or harassed, or is
33 threatening to injure, intimidate or harass any party or witness or
34 member of the party's or witness' family, the court may issue a
35 protective order providing:

1 (1) That the person maintain a prescribed geographic distance from
2 any specified party or witness;

3 (2) That the person have no communication with any specified
4 party or witness, except through an attorney under any reasonable
5 restrictions which the court may impose.

6 b. Any person violating any order made pursuant to this section
7 may be charged with contempt of the court that made the order. No
8 finding of contempt shall be a bar to prosecution for a substantive
9 offense; and any sentence for a conviction of contempt may be served
10 consecutively to any sentence imposed for the underlying substantive
11 offense. If the court does not impose a consecutive sentence, the
12 court shall state on the record the reason for not imposing a
13 consecutive sentence.

14 c. A motion for an order as provided by this section may be made
15 by the prosecuting authority, the defendant, or by any party or witness.

16 d. No order may be issued under this section unless the court's
17 findings are made upon a preponderance of evidence adduced at a
18 hearing. The rules of evidence shall not be applicable to any such
19 hearing.

20 e. No order shall be entered under this act which interferes with the
21 preparation of the underlying defense case by the defendant or by his
22 attorney, if any.

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24 3. This act shall take effect immediately.

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STATEMENT

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29 This bill provides that a person commits a disorderly persons
30 offense if the person purposely or recklessly prevents another person
31 from entering or exiting a health care facility or physician's office
32 during its normal hours of operation.

33 The bill creates a second disorderly persons offense related to
34 blocking access to health care facilities and physicians' offices by
35 creating a buffer zone of 50 feet extending from property belonging to
36 the health care facility or physician's office. A person within that zone
37 may not distribute a leaflet or handbill or display a sign or engage in
38 oral protest, education or counseling with a person seeking services at
39 the facility or office. This buffer zone concept was based on the
40 polling place buffer zone found at N.J.S.A.19:34-6 and 19:34-15.

41 A disorderly persons offense is punishable by a term of
42 imprisonment not to exceed six months, a fine not to exceed \$1000 or
43 both.

44 A court may issue a protective order providing that a person
45 maintain a prescribed geographic distance from any party or witness

1 or that a person have no communication with a party or witness except
2 through an attorney.

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7 Classifies interference with access to a health care facility or
8 physician's office as a disorderly persons offense.