

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 184 and 531

STATE OF NEW JERSEY

ADOPTED FEBRUARY 5, 1996

Sponsored by Assemblymen GIBSON, ASSELTA
and Assemblywoman CRECCO

1 AN ACT concerning stalking, amending P.L.1992, c.209 and
2 N.J.S.2C:44-6 and supplementing Title 2C of the New Jersey
3 Statutes.

4
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 read
9 as follows:

10 1. a. As used in this act:

11 (1) "Course of conduct" means [a knowing and willful course of
12 conduct directed at a specific person, composed of a series of acts
13 over a period of time, however short, evidencing a continuity of
14 purpose which alarms or annoys that person and which serves no
15 legitimate purpose. The course of conduct must be such as to cause
16 a reasonable person to suffer emotional distress. Constitutionally
17 protected activity is not included within the meaning of "course of
18 conduct"] repeatedly maintaining a visual or physical proximity to a
19 person or repeatedly conveying verbal or written threats or threats
20 implied by conduct or a combination thereof directed at or toward a
21 person.

22 (2) ["Credible threat" means an explicit or implicit threat made
23 with the intent and the apparent ability to carry out the threat, so as to
24 cause the person who is the target of the threat to reasonably fear for
25 that person's safety] "Repeatedly" means on two or more occasions.

26 (3) "Immediate family" means a spouse, parent, child, sibling or
27 any other person who regularly resides in the household or who within
28 the prior six months regularly resided in the household.

29 b. A person is guilty of stalking, a crime of the fourth degree, if he
30 [purposfully and repeatedly follows another person and engages in a
31 course of conduct or makes a credible threat with the intent of

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 annoying or placing that person in reasonable fear of death or bodily
2 injury];

3 (1) Purposefully engages in a course of conduct directed at a
4 specific person that would cause a reasonable person to fear bodily
5 injury to himself or a member of his immediate family or to fear the
6 death of himself or a member of his immediate family; and

7 (2) Knowingly, recklessly or negligently places the specific person
8 in reasonable fear of bodily injury to himself or a member of his
9 immediate family or in reasonable fear of the death of himself or a
10 member of his immediate family.

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

14 d. A person who commits a second or subsequent offense of
15 stalking [which involves an act of violence or a credible threat of
16 violence] against the same victim is guilty of a crime of the third
17 degree.

18 e. This act shall not apply to conduct which occurs during
19 organized group picketing.

20 (cf: P.L.1992, c.209, s.1)

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22 2. N.J.S.2C:44-6 is amended to read as follows:

23 2C:44-6. Procedure on Sentence; Presentence Investigation and
24 Report.

25 a. The court shall not impose sentence without first ordering a
26 presentence investigation of the defendant and according due
27 consideration to a written report of such investigation when required
28 by Rules of Court. The court may order a presentence investigation
29 in any other case.

30 b. The presentence investigation shall include an analysis of the
31 circumstances attending the commission of the offense, the defendant's
32 history of delinquency or criminality, family situation, financial
33 resources, including whether or not the defendant is an enrollee or
34 covered person under a health insurance contract, policy or plan,
35 debts, including any amount owed for a fine, assessment or restitution
36 ordered in accordance to the provisions of Title 2C, employment
37 history, personal habits, the disposition of any charge made against any
38 codefendants and may include a report on his physical and mental
39 condition and any other matters that the probation officer deems
40 relevant or the court directs to be included. In any case involving a
41 conviction of N.J.S.2C:24-4, endangering the welfare of a child;
42 N.J.S.2C:18-3, criminal trespass, where the trespass was committed
43 in a school building or on school property; section 1 of P.L.1993,
44 c.291 (C.2C:13-6), attempting to lure or entice a child with purpose
45 to commit a criminal offense;[section 1 of P.L. 1992, c.209 (C.2C:12-

1 16), stalking;]or N.J.S.2C:13-1, kidnapping, where the victim of the
2 offense is a child under the age of 18, the investigation shall include a
3 report on the defendant's mental condition unless the court directs
4 otherwise. In any case involving a conviction of stalking, the
5 investigation shall include a report on the defendant's mental condition.
6 The presentence report shall also include a report on any compensation
7 paid by the Violent Crimes Compensation Board as a result of the
8 commission of the offense and, in any case where the victim chooses
9 to provide one, a statement by the victim of the offense for which the
10 defendant is being sentenced. The statement may include the nature
11 and extent of any physical harm or psychological or emotional harm or
12 trauma suffered by the victim, the extent of any loss to include loss of
13 earnings or ability to work suffered by the victim and the effect of the
14 crime upon the victim's family. The probation department shall notify
15 the victim or nearest relative of a homicide victim of his right to make
16 a statement for inclusion in the presentence report if the victim or
17 relative so desires. Any such statement shall be made within 20 days
18 of notification by the probation department.

19 The presentence report shall specifically include an assessment of
20 the gravity and seriousness of harm inflicted on the victim, including
21 whether or not the defendant knew or reasonably should have known
22 that the victim of the offense was particularly vulnerable or incapable
23 of resistance due to advanced age, disability, ill-health, or extreme
24 youth, or was for any other reason substantially incapable of exercising
25 normal physical or mental power of resistance.

26 c. If, after the presentence investigation, the court desires
27 additional information concerning an offender convicted of an offense
28 before imposing sentence, it may order that he be examined as to his
29 medical or mental condition, except that he may not be committed to
30 an institution for such examination.

31 d. Disclosure of any presentence investigation report or
32 psychiatric examination report shall be in accordance with law and the
33 Rules of Court, except that information concerning the defendant's
34 financial resources shall be made available upon request to the Violent
35 Crimes Compensation Board or to any officer authorized under the
36 provisions of section 3 of P.L.1979, c.396 (C.2C:46-4) to collect
37 payment on an assessment, restitution or fine and that information
38 concerning the defendant's coverage under any health insurance
39 contract, policy or plan shall be made available, as appropriate to the
40 Commissioner of the Department of Corrections and to the chief
41 administrative officer of a county jail in accordance with the provisions
42 of P.L.1995, c.254, (C.30:7E-1 et. al.).

43 e. The court shall not impose a sentence of imprisonment for an
44 extended term unless the ground therefor has been established at
45 a hearing after the conviction of the defendant and on written notice

1 to him of the ground proposed. The defendant shall have the right to
2 hear and controvert the evidence against him and to offer evidence
3 upon the issue.

4 (Deleted by amendment, P.L.1986, c.85).

5 (cf: P.L.1995, c.254, s.7)

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7 3. (New section) a. A judgment of conviction for stalking shall
8 operate as an application for a permanent restraining order limiting the
9 contact of the defendant and the victim who was stalked.

10 b. A hearing shall be held on the application for a permanent
11 restraining order at the time of the verdict or plea of guilty unless the
12 victim requests otherwise. This hearing shall be in Superior Court. A
13 permanent restraining order may grant the following specific relief:

14 (1) An order restraining the defendant from entering the residence,
15 property, school, or place of employment of the victim and requiring
16 the defendant to stay away from any specified place that is named in
17 the order and is frequented regularly by the victim.

18 (2) An order restraining the defendant from making contact with
19 the victim, including an order forbidding the defendant from personally
20 or through an agent initiating any communication likely to cause
21 annoyance or alarm including, but not limited to, personal, written, or
22 telephone contact with the victim, the victim's employers, employees,
23 or fellow workers, or others with whom communication would be
24 likely to cause annoyance or alarm to the victim.

25 c. The permanent restraining order entered by the court
26 subsequent to a conviction for stalking as provided in this act may be
27 dissolved upon the application of the stalking victim to the court which
28 granted the order.

29 d. Notice of permanent restraining orders issued pursuant to this
30 act shall be sent by the clerk of the court or other person designated
31 by the court to the appropriate chiefs of police, members of the State
32 Police and any other appropriate law enforcement agency or court.

33 e. Any permanent restraining order issued pursuant to this act
34 shall be in effect throughout the State, and shall be enforced by all law
35 enforcement officers.

36 f. A violation by the defendant of an order issued pursuant to this
37 act shall constitute an offense under subsection a. of N.J.S.2C:29-9
38 and each order shall so state. Violations of these orders may be
39 enforced in a civil or criminal action initiated by the stalking victim or
40 by the court, on its own motion, pursuant to applicable court rules.
41 Nothing in this act shall preclude the filing of a criminal complaint for
42 stalking based on the same act which is the basis for the violation of
43 the permanent restraining order.

1 4. This act shall take effect immediately.

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6 Revises New Jersey's anti-stalking statute.