

ASSEMBLY, No. 531

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman CRECCO

1 AN ACT concerning stalking and amending P.L.1992, c.209 and
2 N.J.S.2C:44-6.

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

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7 1. Section 1 of P.L.1992, c.209 (C.2C:12-10) is amended to read
8 as follows:

9 1. a. As used in this act:

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

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

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

28 b. A person is guilty of stalking, a crime of the fourth degree, if he
29 [purposfully and repeatedly follows another person and engages in a
30 course of conduct or makes a credible threat with the intent of
31 annoying or placing that person in reasonable fear of death or bodily
32 injury]

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

6 (2) Has knowledge or should have knowledge that the specific
7 person will be placed in reasonable fear of bodily injury to himself or
8 a member of his or her immediate family or will be placed in
9 reasonable fear of the death of himself or herself or a member of his or
10 her immediate family; and

11 (3) Whose acts induce fear in the specific person of bodily injury
12 to himself or herself or a member of his or her immediate family or
13 induce fear in the specific person of the death of himself or herself or
14 a member of his or her immediate family.

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

18 d. A person who commits a second or subsequent offense of
19 stalking [which involves an act of violence or a credible threat of
20 violence] against the same victim is guilty of a crime of the third
21 degree.

22 e. This act shall not apply to conduct which occurs during
23 organized group picketing.

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

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

27 2C:44-6. Procedure on Sentence; Presentence Investigation and
28 Report.

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

34 b. The presentence investigation shall include an analysis of the
35 circumstances attending the commission of the offense, the defendant's
36 history of delinquency or criminality, family situation, financial
37 resources, debts, including any amount owed for a fine, assessment or
38 restitution ordered in accordance to the provisions of Title 2C,
39 employment history, personal habits, the disposition of any charge
40 made against any codefendants and may include a report on his
41 physical and mental condition and any other matters that the probation
42 officer deems relevant or the court directs to be included. In any case
43 involving a conviction of stalking, the investigation shall include a
44 report on the defendant's mental condition. The presentence report
45 shall also include a report on any compensation paid by the Violent
46 Crimes Compensation Board as a result of the commission of the

1 offense and, in any case where the victim chooses to provide one, a
2 statement by the victim of the offense for which the defendant is being
3 sentenced. The statement may include the nature and extent of any
4 physical harm or psychological or emotional harm or trauma suffered
5 by the victim, the extent of any loss to include loss of earnings or
6 ability to work suffered by the victim and the effect of the crime upon
7 the victim's family. The probation department shall notify the victim
8 or nearest relative of a homicide victim of his right to make a
9 statement for inclusion in the presentence report if the victim or
10 relative so desires. Any such statement shall be made within 20 days
11 of notification by the probation department.

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

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

24 d. Disclosure of any presentence investigation report or psychiatric
25 examination report shall be in accordance with law and the Rules of
26 Court, except that information concerning the defendant's financial
27 resources shall be made available upon request to the Violent Crimes
28 Compensation Board or to any officer authorized under the provisions
29 of N.J.S.2C:46-4 to collect payment on an assessment, restitution or
30 fine.

31 e. The court shall not impose a sentence of imprisonment for an
32 extended term unless the ground therefor has been established at a
33 hearing after the conviction of the defendant and on written notice to
34 him of the ground proposed. The defendant shall have the right to
35 hear and controvert the evidence against him and to offer evidence
36 upon the issue.

37 f. (Deleted by amendment, P.L.1986, c.85).
38 (cf: P.L.1991, c.329, s.7.)

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40 3. This act shall take effect immediately.

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STATEMENT

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45 This bill would revise New Jersey's law prohibiting stalking based
46 on model anti-stalking legislation promulgated by the National

1 Victims' Center. Unlike many state stalking statutes, the model act
2 does not list specific types of action that could be construed as
3 "stalking." Instead, the model act prohibits defendants from engaging
4 in a "course of conduct" that would cause a reasonable person to fear
5 bodily injury or death.

6 Under the model act's language the stalking conduct must be
7 directed at a "specific person." Threatening behavior not aimed at a
8 specific individual would not be punishable under the model act.

9 Under the provisions of the model act, a defendant must
10 purposefully engage in activity that would cause a reasonable person
11 to fear bodily injury and have or should have knowledge that the
12 person toward whom the conduct is directed will be placed in
13 reasonable fear. In other words, if a defendant consciously engages in
14 conduct that he knows or should know would cause fear in the person
15 at whom the conduct is directed, the intent element of the model act
16 is satisfied.

17 As stalkers may, in addition to threatening the primary victim,
18 threaten to harm members of the primary victim's family, the model
19 act also provides that such a threat to harm an immediate family
20 member could be used as evidence of stalking in the prosecution for
21 stalking of the primary victim.

22 It is hoped that enactment of the provisions of the model act will
23 assist law enforcement officials in dealing with the serious threat to
24 public safety which stalkers pose.

25 In addition to proposing the enactment of the provisions of the
26 model act, this bill would require that any presentence investigation of
27 a person convicted of stalking include an evaluation of the person's
28 mental condition.

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Revises New Jersey's anti-stalking statute.