

ASSEMBLY, No. 778

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman FARRAGHER

1 AN ACT concerning criminal trespass and amending N.J.S.2C:18-3.

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

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6 1. N.J.S.2C:18-3 is amended to read as follows:

7 2C:18-3.

8 a. Unlicensed entry of structures. A person commits an offense if,
9 knowing that he is not licensed or privileged to do so, he enters or
10 surreptitiously remains in any structure, or separately secured or
11 occupied portion thereof. An offense under this subsection is a crime
12 of the fourth degree if it is committed in a dwelling. Otherwise it is a
13 disorderly persons offense.

14 b. Defiant trespasser. A person commits a petty disorderly persons
15 offense if, knowing that he is not licensed or privileged to do so, he
16 enters or remains in any place as to which notice against trespass is
17 given by:

18 (1) Actual communication to the actor; or

19 (2) Posting in a manner prescribed by law or reasonably likely to
20 come to the attention of intruders; or

21 (3) Fencing or other enclosure manifestly designed to exclude
22 intruders.

23 c. Peering into windows or other openings of dwelling places. A
24 person commits a crime of the fourth degree if, knowing that he is not
25 licensed or privileged to do so, he peers into a window or other
26 opening of a dwelling or other structure adapted for overnight
27 accommodation for the purpose of invading the privacy of another
28 person and under circumstances in which a reasonable person in the
29 dwelling or other structure would not expect to be observed.

30 d. Defenses. It is an affirmative defense to prosecution under this
31 section that:

32 (1) A structure involved in an offense under subsection a. was

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 abandoned;

2 (2) The structure was at the time open to members of the public
3 and the actor complied with all lawful conditions imposed on access
4 to or remaining in the structure; or

5 (3) The actor reasonably believed that the owner of the structure,
6 or other person empowered to license access thereto, would have
7 licensed him to enter or remain, or, in the case of subsection c. of this
8 section, to peer.

9 (cf: P.L.1980, c.112, s.3)

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11 2. This act shall take effect immediately.

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STATEMENT

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16 In State v. Zarin, 220 N.J. Super. 99 (Law Div. 1987), the court
17 ruled that a defendant charged with peering into an apartment did not
18 commit an offense of harassment under N.J.S.A.2C:33-4 because it
19 was not shown that the defendant acted for the purpose of harassing
20 those in the apartment. The court further ruled the defendant could
21 not be convicted of criminal trespass under N.J.S.A.2C:18-3 because
22 the defendant did not intrude into the structure.

23 In order to provide criminal penalties in fact situations like those in
24 the Zarin case and other related situations, this bill would amend the
25 statute on criminal trespass to make it a crime of the fourth degree if
26 a person, not licensed or privileged to do so, peers into a window or
27 other opening of a dwelling or other structure for the purpose of
28 invading the privacy of another. A crime of the fourth degree is
29 punishable by a term of imprisonment not to exceed 18 months, a fine
30 not to exceed \$7,500 or both.

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36 Classifies peering into a window or other opening of a dwelling for the
37 purpose of invading the privacy of another as a crime of the fourth
degree.