

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 453 and 455

STATE OF NEW JERSEY

ADOPTED JANUARY 29, 1996

Sponsored by Senators CAFIERO and DiFRANCESCO

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
32 annoying or placing that person in reasonable fear of death or bodily
33 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 a member of his immediate family or to fear the
4 death of himself or a member of his immediate family; and

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

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

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

16 e. This act shall not apply to conduct which occurs during
17 organized group picketing.

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

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

21 2C:44-6. Procedure on Sentence; Presentence Investigation and
22 Report.

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

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

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

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

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

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

41 e. The court shall not impose a sentence of imprisonment for an
42 extended term unless the ground therefor has been established at a
43 hearing after the conviction of the defendant and on written notice to
44 him of the ground proposed. The defendant shall have the right to
45 hear and controvert the evidence against him and to offer evidence

1 upon the issue.

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

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

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

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

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

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

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

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

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

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

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43 4. This act shall take effect immediately.

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- 3 Revises New Jersey's anti-stalking statute.