

SENATE, No. 455

STATE OF NEW JERSEY

INTRODUCED JANUARY 18, 1996

By Senators CAFIERO and DiFRANCESCO

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  
26 any other person who regularly resides in the household or who within  
27 the 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]

33 : (1) Purposfully engages in a course of conduct directed at a  
34 specific person that would cause a reasonable person to fear bodily

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

Matter underlined thus is new matter.

1 injury to himself or a member of his immediate family or to fear the  
2 death of himself or a member of his immediate family; and

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

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

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

14 e. This act shall not apply to conduct which occurs during  
15 organized group picketing.

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

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

19 2C:44-6. Procedure on Sentence; Presentence Investigation and  
20 Report.

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

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

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

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

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

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

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

1 f. (Deleted by amendment, P.L.1986, c.85).  
2 (cf: P.L.1995, c.254, s.7)

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4 3. This act shall take effect immediately.  
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7 STATEMENT  
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9 This bill would revise N.J.S.A.2C:12-10, New Jersey's law  
10 prohibiting stalking, based on model anti-stalking legislation  
11 promulgated by the National Victims' Center. Unlike many state  
12 stalking statutes which list specific types of action that could be  
13 construed as "stalking", this bill, reflecting the model act, prohibits a  
14 person from engaging in a "course of conduct" that would cause a  
15 reasonable person to fear bodily injury or death. Under the language  
16 of the bill, the stalking conduct must be directed at a "specific person."  
17 Threatening behavior not aimed at a specific individual would not be  
18 punishable.

19 Under the provisions of the the bill, a person would be guilty of  
20 stalking if the person purposefully engaged in activity that would cause  
21 a reasonable person to fear death or bodily injury. A person would  
22 also be guilty of stalking if the person knowingly, recklessly or  
23 negligently places another in reasonable fear of death or bodily injury.

24 As stalkers may, in addition to threatening the primary victim,  
25 threaten to harm members of the primary victim's family, the bill also  
26 provides that a threat to harm an immediate family member of the  
27 primary victim would constitute stalking.

28 In addition to proposing the enactment of the provisions of the  
29 model act, the bill would mandate that any presentence investigation  
30 of a person convicted of stalking include an evaluation of the persons  
31 mental condition.  
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36 Revises New Jersey's anti-stalking statute.