

ASSEMBLY, No. 1758

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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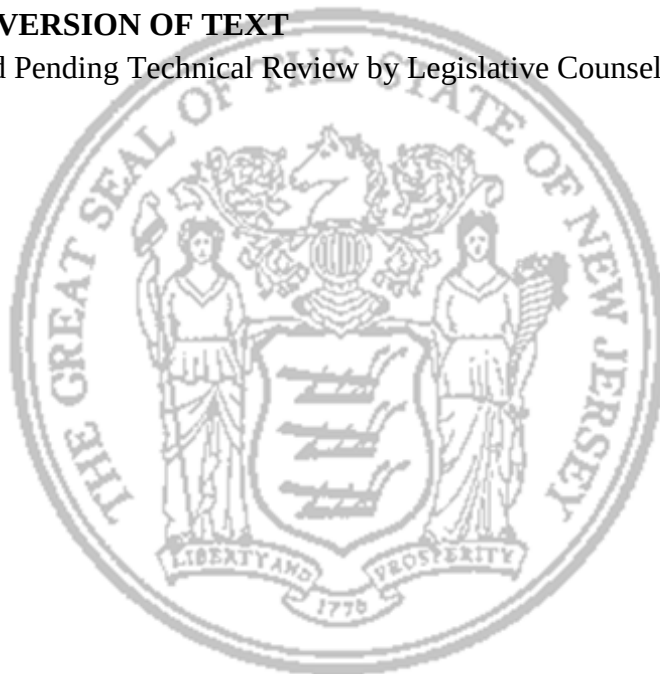
Assemblywoman Tucker and Assemblyman Caputo

SYNOPSIS

Concerns stalking and related restraining order protections for adoptive children and their adoptive parents victimized by persons whose parental rights to the adoptive children have been terminated.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning stalking and related restraining order
2 protections for certain victimized persons, amending P.L.1992,
3 c.209 and supplementing Title 2C of the New Jersey Statutes.

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

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

10 1. a. As used in this act:

11 (1) "Course of conduct" means repeatedly maintaining a visual
12 or physical proximity to a person; directly, indirectly, or through
13 third parties, by any action, method, device, or means, following,
14 monitoring, observing, surveilling, threatening, or communicating
15 to or about, a person, or interfering with a person's property;
16 repeatedly committing harassment against a person; or repeatedly
17 conveying, or causing to be conveyed, verbal or written threats or
18 threats conveyed by any other means of communication or threats
19 implied by conduct or a combination thereof directed at or toward a
20 person. "Course of conduct" shall include any of the
21 aforementioned acts and any repeated communications or attempts
22 to communicate, by any means, with an adoptive child under the
23 age of 18, made by a person whose parental rights for that child
24 have been terminated, and being done contrary to the instructions of
25 that child's adoptive parent.

26 (2) "Repeatedly" means on two or more occasions.

27 (3) "Emotional distress" means significant mental suffering or
28 distress.

29 (4) "Cause a reasonable person to fear" means to cause fear
30 which a reasonable victim, similarly situated, would have under the
31 circumstances.

32 b. A person is guilty of stalking, a crime of the fourth degree, if
33 he purposefully or knowingly engages in a course of conduct
34 directed at a specific person that would cause a reasonable person to
35 fear for his safety or the safety of a third person or suffer other
36 emotional distress.

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

40 d. A person who commits a second or subsequent offense of
41 stalking against the same victim is guilty of a crime of the third
42 degree.

43 e. A person is guilty of a crime of the third degree if he
44 commits the crime of stalking while serving a term of imprisonment
45 or while on parole or probation as the result of a conviction for any

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 indictable offense under the laws of this State, any other state or the
2 United States.

3 f. This act shall not apply to conduct which occurs during
4 organized group picketing.

5 (cf: P.L.2009, c.28, s.1)

6

7 2. (New section) a. If a person whose parental rights for a
8 child have been terminated commits one or more of the following
9 acts upon a parent who has adopted that child, a court may order, as
10 a condition of pre-trial release or in a judgment of conviction, that
11 the person refrain from any contact with the adoptive parent:

12 (1) Homicide N.J.S.2C:11-1 et seq.

13 (2) Assault N.J.S.2C:12-1

14 (3) Terroristic threats N.J.S.2C:12-3

15 (4) Kidnapping N.J.S.2C:13-1

16 (5) Criminal restraint N.J.S.2C:13-2

17 (6) False imprisonment N.J.S.2C:13-3

18 (7) Sexual assault N.J.S.2C:14-2

19 (8) Criminal sexual contact N.J.S.2C:14-3

20 (9) Lewdness N.J.S.2C:14-4

21 (10) Criminal mischief N.J.S.2C:17-3

22 (11) Burglary N.J.S.2C:18-2

23 (12) Criminal trespass N.J.S.2C:18-3

24 (13) Harassment N.J.S.2C:33-4

25 (14) Stalking P.L.1992, c.209 (C.2C:12-10)

26 b. Restraints that a court may impose pursuant to subsection a.
27 of this section may include:

28 (1) restraining the defendant from entering the residence,
29 property, school, or place of employment of the adoptive parent and
30 requiring the defendant to stay away from any place specifically
31 named and frequented regularly by the adoptive parent;

32 (2) restraining the defendant from making contact with the
33 adoptive parent, including forbidding the defendant from personally
34 or through an agent initiating any communication likely to cause
35 annoyance or alarm including, but not limited to, personal, written,
36 or telephone contact, or contact via electronic device, with the
37 adoptive parent, the adoptive parent's employers, employees, or
38 fellow workers, or others with whom communication would be
39 likely to cause annoyance or alarm to the adoptive parent. As used
40 in this paragraph, "communication" shall have the same meaning as
41 defined in subsection q. of N.J.S.2C:1-14; and

42 (3) any other relief necessary to protect the adoptive parent at
43 the discretion of the court, including but not limited to requiring the
44 defendant to pay to the victim monetary compensation for losses
45 suffered as a direct result of the act or requiring the defendant to
46 undergo a psychiatric evaluation.

47 c. (1) Restraints imposed by a court pursuant to this section
48 shall remain in effect for the period of time fixed by the court,

1 which shall not be longer than the maximum term of imprisonment,
2 incarceration, or probation allowed by law for the offense for which
3 the person subject to the order was convicted.

4 (2) When the court imposes restraints pursuant to this section
5 and the defendant is sentenced to any form of probationary
6 supervision or participation in the Intensive Supervision Program,
7 the court shall make compliance with the restraints an express
8 condition of probation or the Intensive Supervision Program, and
9 this condition shall not dissolve sooner than the conclusion of the
10 probationary supervision or participation in the Intensive
11 Supervision Program.

12 (3) When the court imposes restraints pursuant to this section
13 and the person is also sentenced to a term of incarceration,
14 compliance with the terms and conditions of the restraints shall be
15 made an express condition of the person's release from confinement
16 or incarceration on parole, and this condition shall not dissolve
17 sooner than the conclusion of that period of parole.

18 d. Notice of any restraints imposed pursuant to this section
19 shall be sent by the clerk of the court or other person designated by
20 the court to appropriate law enforcement agencies. The restraints
21 ordered by the court shall be in effect throughout the State, and
22 shall be enforced by all law enforcement officers.

23 e. A violation by the convicted defendant of any restraints
24 imposed shall constitute an offense under subsection a. of
25 N.J.S.2C:29-9 and each order which includes restraints imposed
26 pursuant to this section shall so state.

27
28 3. This act shall take effect on the first day of the third month
29 next following enactment.

30
31
32 STATEMENT

33
34 This bill concerns stalking and related restraining order
35 protections with regard to situations involving adoptive children,
36 their adoptive parents, and the persons whose parental rights for
37 those adoptive children have been terminated.

38 First, the bill would amend provisions under the current law with
39 respect to stalking in order to make the crime of stalking and related
40 restraining order protections expressly applicable to situations
41 involving contact or attempted contact between an adoptive child
42 and former parent whose parental rights have been terminated,
43 which has occurred or is occurring contrary to the instructions of
44 the child's adoptive parent. By doing so, the bill would expressly
45 make such unwanted contact a crime of the third or fourth degree,
46 depending upon various circumstances associated with the stalking.
47 A crime of the third degree is ordinarily punishable by a term of
48 imprisonment of three to five years, a fine of up to \$15,000, or both;

1 a crime of the fourth degree is ordinarily punishable by a term of
2 imprisonment of up to 18 months, a fine of up to \$10,000, or both.

3 By amending the current law's stalking provisions, the bill
4 would also permit an adoptive parent to obtain a temporary
5 restraining order against the person whose parental rights to the
6 child have been terminated. See P.L.1999, c.47, s.2 (C:2C:12-
7 10.2). Such an order could also be converted into a permanent
8 restraining order upon a judgment of conviction against the person
9 based on a conviction for the crime of stalking. See P.L.1996, c.39,
10 s.3 (C.2C:12-10.1).

11 The bill would also establish restraining order protections for the
12 parent of an adoptive child who is victimized by harassing or
13 violent acts by the person whose parental rights for that adoptive
14 child have been terminated. The bill presents a range of criminal
15 acts that could trigger the imposing of restraints, including assault,
16 terroristic threats, kidnapping, false imprisonment, harassment, and
17 stalking.

18 Restraints that a court may impose pursuant to the bill include:

19 (1) restraining the defendant from entering the residence,
20 property, school, or place of employment of the adoptive parent and
21 requiring the defendant to stay away from any place specifically
22 named and frequented regularly by the adoptive parent;

23 (2) restraining the defendant from making contact with the
24 adoptive parent, including forbidding the defendant from personally
25 or through an agent initiating any communication likely to cause
26 annoyance or alarm including, but not limited to, personal, written,
27 or telephone contact, or contact via electronic device, with the
28 adoptive parent, the adoptive parent's employers, employees, or
29 fellow workers, or others with whom communication would be
30 likely to cause annoyance or alarm to the adoptive parent; and

31 (3) any other relief necessary to protect the adoptive parent at
32 the discretion of the court, including but not limited to requiring the
33 defendant to pay to the victim monetary compensation for losses
34 suffered as a direct result of the act or requiring the defendant to
35 undergo a psychiatric evaluation.

36 Restraints imposed by a court pursuant to the bill shall remain in
37 effect for the period of time fixed by the court, which shall not be
38 longer than the maximum term of imprisonment, incarceration, or
39 probation allowed by law for the offense for which the person
40 subject to the order was convicted.

41 When the court imposes restraints pursuant to the bill and the
42 defendant is sentenced to any form of probationary supervision or
43 participation in the Intensive Supervision Program, the court shall
44 make compliance with the restraints an express condition of
45 probation or the Intensive Supervision Program, and this condition
46 shall not dissolve sooner than the conclusion of the probationary
47 supervision or participation in the Intensive Supervision Program.

1 When the court imposes restraints pursuant to the bill and the
2 person is also sentenced to a term of incarceration, compliance with
3 the terms and conditions of the restraints shall be made an express
4 condition of the person's release from confinement or incarceration
5 on parole, and this condition shall not dissolve sooner than the
6 conclusion of that period of parole.

7 Notice of any restraints imposed pursuant to the bill shall be
8 sent by the clerk of the court or other person designated by the court
9 to appropriate law enforcement agencies. The restraints ordered by
10 the court shall be in effect throughout the State, and shall be
11 enforced by all law enforcement officers.

12 A violation of any restraints imposed pursuant to the bill would
13 constitute a criminal act of contempt, and each order including
14 restraints would so state. Criminal contempt is graded as a crime of
15 the fourth degree (term of imprisonment of up to 18 months, fine of
16 up to \$10,000, or both).