

ASSEMBLY COMMUNITY DEVELOPMENT AND AFFAIRS
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 1906 and 4230

STATE OF NEW JERSEY

DATED: JUNE 15, 2020

The Assembly Community Development and Affairs Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 1906 and 4230.

This committee substitute would expand the list of crimes that constitute a form of bias intimidation to include the crime of falsely incriminating another person or filing a false police report. Under the bill, a person who falsely incriminates, files a false police report, or calls the 9-1-1 emergency telephone system with the purpose to intimidate an individual or group of individuals because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity would be subject to a criminal penalty.

Under N.J.S.2C:16-1, a person is guilty of the crime of bias intimidation if he commits, attempts to commit, conspires with another to commit, or threatens the immediate commission of certain offenses found in chapters 11 through 18 of Title 2C and N.J.S.2C:33-4; N.J.S.2C:39-3; N.J.S.2C:39-4 or N.J.S.2C:39-5 with, among other things, a purpose to intimidate an individual or group of individuals because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity. The offenses found in chapters 11 through 18 of Title 2C include, but are not limited to, terroristic threats, assault, murder, and arson. The crimes specifically listed are N.J.S.2C:33-4 (harassment); N.J.S.2C:39-3 (prohibited weapons and devices); N.J.S.2C:39-4 (possession of weapons for unlawful purpose); and N.J.S.2C:39-5 (unlawful possession of weapons).

Bias intimidation is a crime of the fourth degree if the underlying offense is a disorderly persons offense or petty disorderly persons offense. A crime of the fourth degree is punishable by up to 18 months imprisonment, a fine up to \$10,000, or both. Otherwise, bias intimidation is a crime graded one degree higher than the most serious underlying crime, except in cases in which the underlying crime is of the first degree, bias intimidation is a first-degree crime and the defendant, upon conviction may, notwithstanding the provisions of paragraph (1) of subsection a. of

N.J.S.2C:43-6, be sentenced to an ordinary term of imprisonment between 15 years and 30 years, with a presumptive term of 20 years.

- This bill would expand the list of underlying offenses for bias intimidation to include falsely incriminating someone or filing a false police report. Under N.J.S.2C:28-4, a person who knowingly gives or causes to be given false information to a law enforcement officer in order to implicate another commits false incrimination, a crime of the third degree. False incrimination is a crime of the second degree if the victim was implicated in a crime of the first or second degree. The penalty for a crime of the third degree is three to five years imprisonment, a fine of up to \$15,000, or both. Second degree crimes are punishable by five to 10 year imprisonment, a fine of up to \$150,000, or both.

N.J.S.2C:28-4 also establishes the fourth degree crime of reporting to law enforcement authorities an offense or other incident that did not occur, or pretending to furnish the authorities with information relating to an arrest or incident for which the offender has no information.

This bill establishes a higher criminal penalty for falsely giving information to law enforcement agencies with the purpose to intimidate a victim because of his or her race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity.

In addition, the bill establishes a third degree crime of knowingly placing a 9-1-1 call with purpose to intimidate or harass an individual or group of individuals because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity. Under N.J.S.2C:33-3, it is a fourth degree crime to call 9-1-1 without the purpose of reporting the need for 9-1-1 service.