

ASSEMBLY, No. 2519

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Upgrades harassment under certain circumstances; restricts cyberbullying offenders' access to the Internet.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning cyberbullying, amending various parts of the
2 statutory law and supplementing Title 2C.

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

6
7 1. (New section) a. In the case of a person who has been
8 convicted, adjudicated delinquent or found not guilty by reason of
9 insanity for a violation of subsection f. of N.J.S.2C:33-4, section 1
10 of P.L.2013, c.272 (C.2C:33-4.1) or section 1 of P.L.1992, c.209
11 (C.2C:12-10), and where the trier of fact makes a finding that a
12 computer or any other device with Internet capability was used to
13 facilitate the commission of the offense the court may, in addition
14 to any other disposition, order the following Internet access
15 conditions:

16 (1) Prohibit the person from accessing or using a computer or
17 any other device with Internet capability without the prior written
18 approval of the court except, if such person is on probation or
19 parole, the person may use a computer or any other device with
20 Internet capability in connection with that person's employment or
21 search for employment with the prior approval of the person's
22 probation or parole officer;

23 (2) Require the person to submit to periodic unannounced
24 examinations of the person's computer or any other device with
25 Internet capability by a probation officer, parole officer, law
26 enforcement officer or assigned computer or information
27 technology specialist, including the retrieval and copying of all data
28 from the computer or device and any internal or external peripherals
29 and removal of such information, equipment or device to conduct a
30 more thorough inspection;

31 (3) Require the person to submit to the installation on the
32 person's computer or device with Internet capability, at the person's
33 expense, one or more hardware or software systems to monitor the
34 Internet use; and

35 (4) Require the person to submit to any other appropriate
36 restrictions concerning the person's use or access of a computer or
37 any other device with Internet capability.

38 b. A person who fails to comply with the Internet access
39 conditions set forth in this section shall be guilty of a crime of the
40 fourth degree.

41 c. The appropriate agency heads shall promulgate guidelines
42 which set forth standards to guide agency action in regard to the
43 specific Internet access conditions which may be imposed on a
44 person pursuant to the provisions of this act.

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 2. N.J.S.2C:33-4 is amended to read as follows:

2 2C:33-4. Harassment.

3 Except as provided in ~~subsection e.~~ subsections e. and f., a
4 person commits a petty disorderly persons offense if, with purpose
5 to harass another, he:

6 a. Makes, or causes to be made, a communication or
7 communications anonymously or at extremely inconvenient hours,
8 or in offensively coarse language, or any other manner likely to
9 cause annoyance or alarm;

10 b. Subjects another to striking, kicking, shoving, or other
11 offensive touching, or threatens to do so; or

12 c. Engages in any other course of alarming conduct or of
13 repeatedly committed acts with purpose to alarm or seriously annoy
14 such other person.

15 A communication under subsection a. may be deemed to have
16 been made either at the place where it originated or at the place
17 where it was received.

18 d. (Deleted by amendment, P.L.2001, c.443).

19 e. A person commits a crime of the fourth degree if, in
20 committing an offense under this section, he was serving a term of
21 imprisonment or was on parole or probation as the result of a
22 conviction of any indictable offense under the laws of this State,
23 any other state or the United States.

24 f. A person commits a crime of the fourth degree if he commits
25 an offense under subsection a. of this section and the victim is a
26 person under the age of 18 or one who the person reasonably
27 believes to be under the age of 18.

28 (cf: P.L.2001, c.443, s.3)

29

30 3. N.J.S.2C:45-1 is amended to read as follows:

31 2C:45-1. Conditions of Suspension or Probation.

32 a. When the court suspends the imposition of sentence on a
33 person who has been convicted of an offense or sentences him to be
34 placed on probation, it shall attach such reasonable conditions,
35 authorized by this section, as it deems necessary to insure that he
36 will lead a law-abiding life or is likely to assist him to do so. These
37 conditions may be set forth in a set of standardized conditions
38 promulgated by the county probation department and approved by
39 the court.

40 b. The court, as a condition of its order, may require the
41 defendant:

42 (1) To support his dependents and meet his family
43 responsibilities;

44 (2) To find and continue in gainful employment;

45 (3) To undergo available medical or psychiatric treatment and to
46 enter and remain in a specified institution, when required for that
47 purpose;

- 1 (4) To pursue a prescribed secular course of study or vocational
2 training;
- 3 (5) To attend or reside in a facility established for the
4 instruction, recreation or residence of persons on probation;
- 5 (6) To refrain from frequenting unlawful or disreputable places
6 or consorting with disreputable persons;
- 7 (7) Not to have in his possession any firearm or other dangerous
8 weapon unless granted written permission;
- 9 (8) (Deleted by amendment, P.L.1991, c.329);
- 10 (9) To remain within the jurisdiction of the court and to notify
11 the court or the probation officer of any change in his address or his
12 employment;
- 13 (10) To report as directed to the court or the probation officer, to
14 permit the officer to visit his home, and to answer all reasonable
15 inquiries by the probation officer;
- 16 (11) To pay a fine;
- 17 (12) To satisfy any other conditions reasonably related to the
18 rehabilitation of the defendant and not unduly restrictive of his
19 liberty or incompatible with his freedom of conscience;
- 20 (13) To require the performance of community-related service;
21 and
- 22 (14) To be subject to Internet access conditions pursuant to
23 paragraph (2) of subsection d. of this section.
- 24 In addition to any condition of probation, the court may enter an
25 order prohibiting a defendant who is convicted of a sex offense
26 from having any contact with the victim including, but not limited
27 to, entering the victim's residence, place of employment or business,
28 or school, and from harassing or stalking the victim or victim's
29 relatives in any way, and may order other protective relief as
30 provided in section 2 of P.L.2007, c.133 (C.2C:14-12).
- 31 c. The court, as a condition of its order, shall require the
32 defendant to pay any assessments required by section 2 of P.L.1979,
33 c.396 (C.2C:43-3.1) and shall, consistent with the applicable
34 provisions of N.J.S.2C:43-3, N.J.S.2C:43-4 and N.J.S.2C:44-2 or
35 section 1 of P.L.1983, c.411 (C.2C:43-2.1) require the defendant to
36 make restitution.
- 37 d. (1) In addition to any condition imposed pursuant to
38 subsection b. or c., the court shall order a person placed on
39 probation to pay a fee, not exceeding \$25.00 per month for the
40 probationary term, to probation services for use by the State, except
41 as provided in subsection g. of this section. This fee may be waived
42 in cases of indigency upon application by the chief probation officer
43 to the sentencing court.
- 44 (2) In addition to any conditions imposed pursuant to subsection
45 b. or c., the court may order a person who has been convicted or
46 adjudicated delinquent of a sex offense as defined in subsection b.
47 of section 2 of P.L.1994, c.133 (C.2C:7-2), and who is required to
48 register as provided in subsections c. and d. of section 2 of

1 P.L.1994, c.133 (C.2C:7-2), or who has been convicted or
2 adjudicated delinquent for a violation of N.J.S.2C:34-3, subsection
3 f. of N.J.S.2C:33-4, section 1 of P.L.2013, c.272 (C.2C:33-4.1) or
4 section 1 of P.L.1992, c.209 (C.2C:12-10) to be subject to any of
5 the following Internet access conditions:

6 (a) Prohibit the person from accessing or using a computer or
7 any other device with Internet capability without the prior written
8 approval of the court, except the person may use a computer or any
9 other device with Internet capability in connection with that
10 person's employment or search for employment with the prior
11 approval of the person's probation officer;

12 (b) Require the person to submit to periodic unannounced
13 examinations of the person's computer or any other device with
14 Internet capability by a probation officer, law enforcement officer
15 or assigned computer or information technology specialist,
16 including the retrieval and copying of all data from the computer or
17 device and any internal or external peripherals and removal of such
18 information, equipment or device to conduct a more thorough
19 inspection;

20 (c) Require the person to submit to the installation on the
21 person's computer or device with Internet capability, at the person's
22 expense, one or more hardware or software systems to monitor the
23 Internet use; and

24 (d) Require the person to submit to any other appropriate
25 restrictions concerning the person's use or access of a computer or
26 any other device with Internet capability.

27 e. When the court sentences a person who has been convicted
28 of a crime to be placed on probation, it may require him to serve a
29 term of imprisonment not exceeding 364 days as an additional
30 condition of its order. When the court sentences a person convicted
31 of a disorderly persons offense to be placed on probation, it may
32 require him to serve a term of imprisonment not exceeding 90 days
33 as an additional condition of its order. In imposing a term of
34 imprisonment pursuant to this subsection, the sentencing court shall
35 specifically place on the record the reasons which justify the
36 sentence imposed. The term of imprisonment imposed hereunder
37 shall be treated as part of the sentence, and in the event of a
38 sentence of imprisonment upon the revocation of probation, the
39 term of imprisonment served hereunder shall be credited toward
40 service of such subsequent sentence. A term of imprisonment
41 imposed under this section shall be governed by the "Parole Act of
42 1979," P.L.1979, c.441 (C.30:4-123.45 et al.).

43 Whenever a person is serving a term of parole as a result of a
44 sentence of incarceration imposed as a condition of probation,
45 supervision over that person shall be maintained pursuant to the
46 provisions of the law governing parole. Upon termination of the
47 period of parole supervision provided by law, the county probation
48 department shall assume responsibility for supervision of the person

1 under sentence of probation. Nothing contained in this section shall
2 prevent the sentencing court from at any time proceeding under the
3 provisions of this chapter against any person for a violation of
4 probation.

5 f. The defendant shall be given a copy of the terms of his
6 probation or suspension of sentence and any requirements imposed
7 pursuant to this section, stated with sufficient specificity to enable
8 him to guide himself accordingly. The defendant shall
9 acknowledge, in writing, his receipt of these documents and his
10 consent to their terms.

11 g. Of the moneys collected under the provisions of subsection
12 d. of this section, \$15.00 of each monthly fee collected before
13 January 1, 1995 shall be deposited in the temporary reserve fund
14 created by section 25 of P.L.1993, c.275, and \$10.00 of each shall
15 be deposited into a "Community Service Supervision Fund" which
16 shall be established by each county. The moneys in the
17 "Community Service Supervision Fund" shall be expended only in
18 accordance with the provisions of State law as shall be enacted to
19 provide for expenditures from this fund for the purpose of
20 supervising and monitoring probationers performing community
21 service to ensure, by whatever means necessary and appropriate,
22 that probationers are performing the community service ordered by
23 the court and that the performance is in the manner and under the
24 terms ordered by the court.

25 (cf: P.L.2007, c.219, s.4)

26

27 4. Section 15 of P.L.1979, c.441 (C.30:4-123.59) is amended to
28 read as follows:

29 15. a. Each adult parolee shall at all times remain in the legal
30 custody of the Commissioner of Corrections and under the
31 supervision of the State Parole Board and each juvenile parolee
32 shall at all times remain in the legal custody of the Juvenile Justice
33 Commission established pursuant to section 2 of P.L.1995, c.284
34 (C.52:17B-170), except that the Commissioner of Corrections or the
35 Executive Director of the Juvenile Justice Commission, after
36 providing notice to the Attorney General, may consent to the
37 supervision of a parolee by the federal government pursuant to the
38 Witness Security Reform Act, Pub.L.98-473 (18 U.S.C. s.3521 et
39 seq.). An adult parolee, except those under the Witness Security
40 Reform Act, shall remain under the supervision of the State Parole
41 Board and in the legal custody of the Department of Corrections,
42 and a juvenile parolee, except those under the Witness Security
43 Reform Act, shall remain under the supervision of the Juvenile
44 Justice Commission, as appropriate, in accordance with the policies
45 and rules of the board.

46 b. (1) Each parolee shall agree, as evidenced by his signature to
47 abide by specific conditions of parole established by the appropriate
48 board panel which shall be enumerated in writing in a certificate of

1 parole and shall be given to the parolee upon release. Such
2 conditions shall include, among other things, a requirement that the
3 parolee conduct himself in society in compliance with all laws and
4 refrain from committing any crime, a requirement that the parolee
5 will not own or possess any firearm as defined in subsection f. of
6 N.J.S.2C:39-1 or any other weapon enumerated in subsection r. of
7 N.J.S.2C:39-1, a requirement that the parolee refrain from the use,
8 possession or distribution of a controlled dangerous substance,
9 controlled substance analog or imitation controlled dangerous
10 substance as defined in N.J.S.2C:35-2 and N.J.S.2C:35-11, a
11 requirement that the parolee obtain permission from his parole
12 officer for any change in his residence, and a requirement that the
13 parolee report at reasonable intervals to an assigned parole officer.
14 In addition, based on prior history of the parolee or information
15 provided by a victim or a member of the family of a murder victim,
16 the member or board panel certifying parole release pursuant to
17 section 11 of P.L.1979, c.441 (C.30:4-123.55) may impose any
18 other specific conditions of parole deemed reasonable in order to
19 reduce the likelihood of recurrence of criminal or delinquent
20 behavior, including a requirement that the parolee comply with the
21 Internet access conditions set forth in paragraph (2) of this
22 subsection. Such special conditions may include, among other
23 things, a requirement that the parolee make full or partial
24 restitution, the amount of which restitution shall be set by the
25 sentencing court upon request of the board. In addition, the member
26 or board panel certifying parole release may, giving due regard to a
27 victim's request, impose a special condition that the parolee have no
28 contact with the victim, which special condition may include, but
29 need not be limited to, restraining the parolee from entering the
30 victim's residence, place of employment, business or school, and
31 from harassing or stalking the victim or victim's relatives in any
32 way. Further, the member, board panel or board certifying parole
33 release may impose a special condition that the person shall not
34 own or possess an animal for an unlawful purpose or to interfere in
35 the performance of duties by a parole officer.

36 (2) In addition, the member or board panel certifying parole
37 release may impose on any person who has been convicted or
38 adjudicated delinquent for the commission of a sex offense as
39 defined in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2),
40 and who is required to register as provided in subsections c. and d.
41 of section 2 of P.L.1994, c.133 (C.2C:7-2), or who has been
42 convicted or adjudicated delinquent for a violation of N.J.S.2C:34-
43 3, subsection f. of N.J.S.2C:33-4, section 1 of P.L.2013, c.272
44 (C.2C:33-4.1) or section 1 of P.L.1992, c.209 (C.2C:12-10) any of
45 the following Internet access conditions:

46 (a) Prohibit the person from accessing or using a computer or
47 any other device with Internet capability without the prior written
48 approval of the court, except the person may use a computer or any

1 other device with Internet capability in connection with that
2 person's employment or search for employment with the prior
3 approval of the person's parole officer;

4 (b) Require the person to submit to periodic unannounced
5 examinations of the person's computer or any other device with
6 Internet capability by a parole officer, law enforcement officer or
7 assigned computer or information technology specialist, including
8 the retrieval and copying of all data from the computer or device
9 and any internal or external peripherals and removal of such
10 information, equipment or device to conduct a more thorough
11 inspection;

12 (c) Require the person to submit to the installation on the
13 person's computer or device with Internet capability, at the person's
14 expense, one or more hardware or software systems to monitor the
15 Internet use; and

16 (d) Require the person to submit to any other appropriate
17 restrictions concerning the person's use or access of a computer or
18 any other device with Internet capability.

19 c. The appropriate board panel may in writing relieve a parolee
20 of any parole conditions, and may permit a parolee to reside outside
21 the State pursuant to the provisions of the Uniform Act for Out-of-
22 State Parolee Supervision (N.J.S.2A:168-14 et seq.), the Interstate
23 Compact on Juveniles, P.L.1955, c.55 (C.9:23-1 to 9:23-4), and,
24 with the consent of the Commissioner of the Department of
25 Corrections or the Executive Director of the Juvenile Justice
26 Commission after providing notice to the Attorney General, the
27 federal Witness Security Reform Act, if satisfied that such change
28 will not result in a substantial likelihood that the parolee will
29 commit an offense which would be a crime under the laws of this
30 State. The appropriate board panel may revoke such permission,
31 except in the case of a parolee under the Witness Security Reform
32 Act, or reinstate relieved parole conditions for any period of time
33 during which a parolee is under its jurisdiction.

34 d. The appropriate board panel may parole an inmate to any
35 residential facility funded in whole or in part by the State if the
36 inmate would not otherwise be released pursuant to section 9 of
37 P.L.1979, c.441 (C.30:4-123.53) without such placement. But if the
38 residential facility provides treatment for mental illness or mental
39 retardation, the board panel only may parole the inmate to the
40 facility pursuant to the laws and admissions policies that otherwise
41 govern the admission of persons to that facility, and the facility
42 shall have the authority to discharge the inmate according to the
43 laws and policies that otherwise govern the discharge of persons
44 from the facility, on 10 days' prior notice to the board panel. The
45 board panel shall acknowledge receipt of this notice in writing prior
46 to the discharge. Upon receipt of the notice the board panel shall
47 resume jurisdiction over the inmate.

1 e. Parole officers shall provide assistance to the parolee in
2 obtaining employment, education or vocational training or in
3 meeting other obligations to assure the parolee's compliance with
4 meeting legal requirements related to sex offender notification,
5 address changes and participation in rehabilitation programs as
6 directed by the assigned parole officer.

7 f. The board panel on juvenile commitments and the assigned
8 parole officer shall insure that the least restrictive available
9 alternative is used for any juvenile parolee.

10 g. If the board has granted parole to any inmate from a State
11 correctional facility or juvenile facility and the court has imposed a
12 fine on such inmate, the appropriate board panel shall release such
13 inmate on condition that the parolee make specified fine payments
14 to the State Parole Board or the Juvenile Justice Commission. For
15 violation of such conditions, or for violation of a special condition
16 requiring restitution, parole may be revoked only for refusal or
17 failure to make a good faith effort to make such payment.

18 h. Upon collection of the fine the same shall be paid over by
19 the Department of Corrections or by the Juvenile Justice
20 Commission to the State Treasury.

21 (cf: P.L.2007, c.219, s.5)

22
23 5. This act shall take effect immediately and shall apply to any
24 person who commits an offense after the effective date of this act
25 and to any person who is under probation or parole supervision on
26 the effective date of this act.

27 28 29 STATEMENT

30
31 This bill would restrict Internet access for offenders who are
32 convicted of harassment of a minor, cyber-harassment or of
33 stalking, when the offense is committed using an Internet-capable
34 device. These offenses are commonly referred to as
35 "cyberbullying."

36 Section 1 would supplement Title 2C to provide that, in
37 sentencing an offender found to have committed harassment in
38 violation of subsection a. of N.J.S.2C:33-4, cyber-harassment in
39 violation of N.J.S.A.2C:33-4.1 or stalking in violation of
40 N.J.S.A.2C:12-10, the court may impose certain restrictions on
41 Internet access. These restrictions would include: prior court
42 approval for the use of any Internet-capable device, except where
43 the device is used in connection with employment or the search for
44 employment; periodic, unannounced inspections of the offender's
45 Internet-capable device by approved court and law enforcement
46 officers, which would include copying and removal of data from the
47 device for a more thorough inspection; the mandatory installation of
48 equipment to monitor Internet usage on the device; and any other

1 appropriate restrictions. The bill would require the appropriate
2 agency heads to promulgate guidelines regarding the specific
3 Internet restrictions that may be imposed on an offender. Failure to
4 comply with these restrictions would be a crime of the fourth
5 degree.

6 Section 2 of the bill would amend N.J.S.2C:33-4 to upgrade the
7 crime of harassment from a petty disorderly persons offense to a
8 crime of the fourth degree under certain circumstances. Under the
9 bill, a person would be guilty of a crime of the fourth degree if that
10 person makes a communication “in a manner likely to cause
11 annoyance or alarm” and the victim is either under the age of
12 eighteen or when the offender reasonably believes the victim to be
13 under the age of eighteen. A crime of the fourth degree is
14 punishable by a term of imprisonment of up to 18 months, a fine of
15 up to \$10,000 or both.

16 Sections 3 and 4 of the bill would amend N.J.S.A.2C:45-1,
17 concerning probation, and N.J.S.A.30:4-123.59, concerning parole,
18 to subject these “cyberbullying” offenders to Internet access
19 restrictions as a condition of parole or probation.

20 The restrictions imposed on Internet access would be as follows:
21 prior court approval for the use of any Internet-capable device,
22 except where the device is used in connection with employment or
23 the search for employment; periodic, unannounced inspections of
24 the offender’s Internet-capable device by approved court and law
25 enforcement officers, which would include copying and removal of
26 data from the device for a more thorough inspection; the mandatory
27 installation of equipment to monitor Internet usage on the device;
28 and any other appropriate restrictions.

29 The provisions of this bill would become effective immediately
30 and apply to any person who commits an offense after the effective
31 date of the bill or who is under probation or parole supervision at
32 that time.