ASSEMBLY, No. 2970

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:
Assemblywoman JOANN DOWNEY
District 11 (Monmouth)

Co-Sponsored by:
Assemblyman Johnson

SYNOPSIS

Strengthens location confidentiality for certain crime victims.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 12/14/2020)

AN ACT concerning information about certain victims, amending various parts of the statutory law, and supplementing Title 2C of the New Jersey Statutes.

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

1. Section 3 of P.L.1996, c.39 (C.2C:12-10.1) is amended to read as follows:

3. a. A judgment of conviction for stalking shall operate as an application for a permanent restraining order limiting the contact of the defendant and the victim who was stalked . The victim's location shall be confidential and shall not appear on any law enforcement or court documents or records to which the defendant has access.

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

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

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

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

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

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.

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

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

(cf: P.L.2009, c.232, s.1)

2. Section 9 of P.L.1991, c.261 (C.2C:25-25) is amended to read as follows:

9. The court in a criminal complaint arising from a domestic violence incident:

a. Shall not dismiss any charge or delay disposition of a case because of concurrent dissolution of a marriage, other civil proceedings, or because the victim has left the residence to avoid further incidents of domestic violence; and

b. Shall not require proof that either party is seeking a dissolution of a marriage prior to institution of criminal proceedings **[**;**]**.

c. **[**Shall waive any requirement that the victim's location be disclosed to any person.**]** (Deleted by amendment, P.L. , c. (pending before the Legislature as this bill)

The victim's location shall be confidential and shall not appear on any law enforcement or court documents or records to which the defendant has access.

(cf: P.L.1991, c.261, s.9)

3. Section 2 of P.L.1999, c.47 (C.2C:12-10.2) is amended to read as follows:

2. a. In any case involving an allegation of stalking where the victim is a child under the age of 18 years or is developmentally disabled as defined in section 3 of P.L.1977, c.200 (C.5:5-44.4) or where the victim is 18 years of age or older and has a mental disease or defect which renders the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent, the court may issue a temporary restraining order against the defendant which limits the contact of the defendant and the victim. The location of the victim and the location of the parent or guardian of the victim shall be confidential and shall not appear on any law enforcement or court documents or records to which the defendant has access.

b. The provisions of of subsection a. of this section are in addition to, and not in lieu of, the provisions of section 3 of P.L.1996, c.39 (C.2C:12-10.1) which provide that a judgment of conviction for stalking shall operate as an application for a permanent restraining order limiting the contact of the defendant and the victim.

c. The parent or guardian of the child or the person described in subsection a. of this section may file a complaint with the Superior Court in conformity with the **[**rules of court**]** Rules of Court seeking a temporary restraining order against a person alleged to have committed stalking against the child or the person described in subsection a. of this section. The parent or guardian may seek emergency, ex parte relief. A decision shall be made by the judge regarding the emergency relief forthwith. If it appears that the child or the person described in subsection a. of this section is in danger of being stalked by the defendant, the judge shall issue a temporary restraining order pursuant to subsection e. of this section.

d. A conviction of stalking shall not be a prerequisite for the grant of a temporary restraining order under this act.

e. A temporary restraining order issued under this act shall limit the contact of the defendant and the child or the person described in subsection a. of this section who was stalked and in addition may grant all other relief specified in section 3 of P.L.1996, c.39 (C.2C:12-10.1).

f. A hearing shall be held in the Superior Court within 10 days of the issuance of any temporary restraining order which was issued on an emergency, ex parte basis. A copy of the complaint shall be served on the defendant in conformity with the **[**rules of court**]** Rules of Court. At the hearing the standard for continuing the temporary restraining order shall be by a preponderance of the evidence.

g. If the court rules that the temporary restraining order shall be continued, the order shall remain in effect until either:

(1) the defendant is convicted of stalking, in which case the court shall hold a hearing on the issue of whether a permanent restraining order shall be entered pursuant to section 3 of P.L.1996, c.39 (C.2C:12-10.1); or

(2) the victim's parent or guardian or, in the case of a victim who has reached the age of 18, the victim, requests that the restraining order be dismissed and the court finds just cause to do so.

(cf: P.L.2011, c.232, s.1)

4. (New section) In any criminal complaint involving an allegation of stalking in violation of section 1 of P.L.1992, c.209 (C.2C:12-10), the victim’s location shall be confidential and shall not appear on any law enforcement or court documents or records to which the defendant has access.

5. Section 11 of P.L.1991, c.261 (C.2C:25-27) is amended to read as follows:

11. a. When a defendant is found guilty of a crime or offense involving domestic violence [and] , the victim's location shall be confidential and shall not appear on any law enforcement or court documents or records to which the defendant has access. When a condition of sentence restricts the defendant's ability to have contact with the victim, the victim's friends, co-workers, or relatives, or an animal owned, possessed, leased, kept, or held by either party or a minor child residing in the household, that condition shall be recorded in an order of the court and a written copy of that order shall be provided to the victim by the clerk of the court or other person designated by the court. In addition to restricting a defendant's ability to have contact with the victim, the victim's friends, co-workers, or relatives, or an animal owned, possessed, leased, kept, or held by either party or a minor child residing in the household, the court may require the defendant to receive professional counseling from either a private source or a source appointed by the court, and if the court so orders, the court shall require the defendant to provide documentation of attendance at the professional counseling. In any case where the court order contains a requirement that the defendant receive professional counseling, no application by the defendant to dissolve the restraining order shall be granted unless, in addition to any other provisions required by law or conditions ordered by the court, the defendant has completed all required attendance at such counseling.

b. In addition the court may enter an order directing the possession of an animal owned, possessed, leased, kept, or held by either party or a minor child residing in the household. Where a person has abused or threatened to abuse such animal, there shall be a presumption that possession of the animal shall be awarded to the non-abusive party.

c. (1) When a defendant is found guilty of a crime or offense involving domestic violence, the court shall inform the defendant that the defendant is prohibited from purchasing, owning, possessing, or controlling a firearm pursuant to section 6 of P.L.1979, c.179 (C.2C:39-7) and from receiving or retaining a firearms purchaser identification card or permit to purchase a handgun pursuant to N.J.S.2C:58-3. The court shall order the defendant to arrange for the immediate surrender to a law enforcement officer of any firearm that has not already been seized or surrendered and any firearms purchaser identification card or permit to purchase a handgun possessed by the defendant. No later than five business days after the order is entered, however, the defendant may arrange to sell any surrendered firearm to a licensed retail dealer of firearms who shall be authorized to take possession of that purchased firearm from the law enforcement agency to which it was surrendered no later than 10 business days after the

order is entered. Any card or permit issued to the defendant shall be deemed immediately revoked. The court shall establish a process for notifying the appropriate authorities of the conviction requiring the revocation of the card or permit. A law enforcement officer accepting a surrendered firearm shall provide the defendant with a receipt listing the date of surrender, the name of the defendant, and any item that has been surrendered, including the serial number, manufacturer, and model of the surrendered firearm. The defendant shall provide a copy of this receipt to the prosecutor within 48 hours of service of the order, and shall attest under penalty that any firearms owned or possessed at the time of the order have been transferred in accordance with this section and that the defendant currently does not possess any firearms. The defendant alternatively may attest under penalty that he did not own or possess a firearm at the time of the order and currently does not possess a firearm. If the court, upon motion of the prosecutor, finds probable cause that the defendant has failed to surrender any firearm, card, or permit, the court may order a search for and removal of these items at any location where the judge has reasonable cause to believe these items are located. The judge shall state with specificity the reasons for and the scope of the search and seizure authorized by the order.

(2) A law enforcement officer who receives a firearm that is surrendered, but not purchased and taken possession of by a licensed retail dealer of firearms within 10 business days of when the order is entered pursuant to paragraph (1) of this subsection, may dispose of the surrendered firearm in accordance with the provisions of N.J.S.2C:64-6. A firearm purchased by a licensed retail dealer from a defendant shall become part of the inventory of the dealer.

(cf: P.L.2016, c.91, s.1)

6. N.J.S.2C:12-1 is amended to read as follows:

2C:12-1. Assault. a. Simple assault. A person is guilty of assault if the person:

(1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or

(2) Negligently causes bodily injury to another with a deadly weapon; or

(3) Attempts by physical menace to put another in fear of imminent serious bodily injury.

Simple assault is a disorderly persons offense unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty disorderly persons offense.

b. Aggravated assault. A person is guilty of aggravated assault if the person:

(1) Attempts to cause serious bodily injury to another, or causes injury purposely or knowingly or under circumstances manifesting

extreme indifference to the value of human life recklessly causes such injury; or

(2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or

(3) Recklessly causes bodily injury to another with a deadly weapon; or

(4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of another, whether or not the actor believes it to be loaded; or

(5) Commits a simple assault as defined in paragraph (1), (2), or (3) of subsection a. of this section upon:

(a) Any law enforcement officer acting in the performance of the officer's duties while in uniform or exhibiting evidence of authority or because of the officer's status as a law enforcement officer; or

(b) Any paid or volunteer firefighter acting in the performance of the firefighter's duties while in uniform or otherwise clearly identifiable as being engaged in the performance of the duties of a firefighter; or

(c) Any person engaged in emergency first-aid or medical services acting in the performance of the person's duties while in uniform or otherwise clearly identifiable as being engaged in the performance of emergency first-aid or medical services; or

(d) Any school board member, school administrator, teacher, school bus driver, or other employee of a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of the person's duties or because of the person's status as a member or employee of a public or nonpublic school or school board or any school bus driver employed by an operator under contract to a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of the person's duties or because of the person's status as a school bus driver; or

(e) Any employee of the Division of Child Protection and Permanency while clearly identifiable as being engaged in the performance of the employee's duties or because of the status as an employee of the division; or

(f) Any justice of the Supreme Court, judge of the Superior Court, judge of the Tax Court or municipal judge while clearly identifiable as being engaged in the performance of judicial duties or because of the status as a member of the judiciary; or

(g) Any operator of a motorbus or the operator's supervisor or any employee of a rail passenger service while clearly identifiable as being engaged in the performance of the person's duties or because of the status as an operator of a motorbus or as the operator's supervisor or as an employee of a rail passenger service; or

(h) Any Department of Corrections employee, county correctional police officer, juvenile correctional police officer, State juvenile facility employee, juvenile detention staff member, juvenile detention officer, probation officer or any sheriff, undersheriff, or sheriff's officer acting in the performance of the person's duties while in uniform or exhibiting evidence of the person's authority or because of the status as a Department of Corrections employee, county correctional police officer, juvenile correctional police officer, State juvenile facility employee, juvenile detention staff member, juvenile detention officer, probation officer, sheriff, undersheriff, or sheriff's officer; or

(i) Any employee, including any person employed under contract, of a utility company as defined in section 2 of P.L.1971, c.224 (C.2A:42-86) or a cable television company subject to the provisions of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in the performance of the employee's duties in regard to connecting, disconnecting, or repairing or attempting to connect, disconnect, or repair any gas, electric, or water utility, or cable television or telecommunication service; or

(j) Any health care worker employed by a licensed health care facility to provide direct patient care, any health care professional licensed or otherwise authorized pursuant to Title 26 or Title 45 of the Revised Statutes to practice a health care profession, except a direct care worker at a State or county psychiatric hospital or State developmental center or veterans' memorial home, while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession; or

(k) Any direct care worker at a State or county psychiatric hospital or State developmental center or veterans' memorial home, while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession, provided that the actor is not a patient or resident at the facility who is classified by the facility as having a mental illness or developmental disability; or

(6) Causes bodily injury to another person while fleeing or attempting to elude a law enforcement officer in violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this paragraph upon proof of a violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10 which resulted in bodily injury to another person; or

(7) Attempts to cause significant bodily injury to another or causes significant bodily injury purposely or knowingly or, under circumstances manifesting extreme indifference to the value of human life recklessly causes such significant bodily injury; or

(8) Causes bodily injury by knowingly or purposely starting a fire or causing an explosion in violation of N.J.S.2C:17-1 which results in bodily injury to any emergency services personnel involved in fire suppression activities, rendering emergency medical services resulting from the fire or explosion or rescue operations, or rendering any necessary assistance at the scene of the fire or explosion, including any bodily injury sustained while responding to the scene of a reported fire or explosion. For purposes of this paragraph, "emergency services personnel" shall include, but not be limited to, any paid or volunteer firefighter, any person engaged in emergency first-aid or medical services and any law enforcement officer. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this paragraph upon proof of a violation of N.J.S.2C:17-1 which resulted in bodily injury to any emergency services personnel; or

(9) Knowingly, under circumstances manifesting extreme indifference to the value of human life, points or displays a firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer; or

(10) Knowingly points, displays or uses an imitation firearm, as defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer with the purpose to intimidate, threaten, or attempt to put the officer in fear of bodily injury or for any unlawful purpose; or

(11) Uses or activates a laser sighting system or device, or a system or device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device, against a law enforcement officer acting in the performance of the officer's duties while in uniform or exhibiting evidence of the officer's authority. As used in this paragraph, "laser sighting system or device" means any system or device that is integrated with or affixed to a firearm and emits a laser light beam that is used to assist in the sight alignment or aiming of the firearm; or

(12) Attempts to cause significant bodily injury or causes significant bodily injury purposely or knowingly or, under circumstances manifesting extreme indifference to the value of human life, recklessly causes significant bodily injury to a person who, with respect to the actor, meets the definition of a victim of domestic violence, as defined in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19); or

(13) Knowingly or, under circumstances manifesting extreme indifference to the value of human life, recklessly obstructs the breathing or blood circulation of a person who, with respect to the actor, meets the definition of a victim of domestic violence, as defined in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19), by applying pressure on the throat or neck or blocking the nose or mouth of such person, thereby causing or attempting to cause bodily injury.

Aggravated assault under paragraphs (1) and (6) of subsection b. of this section is a crime of the second degree; under paragraphs (2), (7), (9), and (10) of subsection b. of this section is a crime of the third degree; under paragraphs (3) and (4) of subsection b. of this section is a crime of the fourth degree; and under paragraph (5) of subsection b. of this section is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree. Aggravated assault under paragraph (8) of subsection b. of this section is a crime of the third degree if the victim suffers bodily injury; if the victim suffers significant bodily injury or serious bodily injury it is a crime of the second degree. Aggravated assault under paragraph (11) of subsection b. of this section is a crime of the third degree. Aggravated assault under paragraph (12) or (13) of subsection b. of this section is a crime of the third degree but the presumption of non-imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first offense of a crime of the third degree shall not apply.

c. (1) A person is guilty of assault by auto or vessel when the person drives a vehicle or vessel recklessly and causes either serious bodily injury or bodily injury to another. Assault by auto or vessel is a crime of the fourth degree if serious bodily injury results and is a disorderly persons offense if bodily injury results. Proof that the defendant was operating a hand-held wireless telephone while driving a motor vehicle in violation of section 1 of P.L.2003, c.310 (C.39:4-97.3) may give rise to an inference that the defendant was driving recklessly.

(2) Assault by auto or vessel is a crime of the third degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily injury results and is a crime of the fourth degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

(3) Assault by auto or vessel is a crime of the second degree if serious bodily injury results from the defendant operating the auto or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

(a) on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 1,000 feet of such school property;

(b) driving through a school crossing as defined in R.S.39:1-1 if the municipality, by ordinance or resolution, has designated the school crossing as such; or

(c) driving through a school crossing as defined in R.S.39:1-1 knowing that juveniles are present if the municipality has not designated the school crossing as such by ordinance or resolution.

Assault by auto or vessel is a crime of the third degree if bodily injury results from the defendant operating the auto or vessel in violation of this paragraph.

A map or true copy of a map depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under subparagraph (a) of paragraph (3) of this subsection.

It shall be no defense to a prosecution for a violation of subparagraph (a) or (b) of paragraph (3) of this subsection that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be a defense to a prosecution under subparagraph (a) or (b) of paragraph (3) of this subsection that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.

(4) Assault by auto or vessel is a crime of the third degree if the person purposely drives a vehicle in an aggressive manner directed at another vehicle and serious bodily injury results and is a crime of the fourth degree if the person purposely drives a vehicle in an aggressive manner directed at another vehicle and bodily injury results. For purposes of this paragraph, "driving a vehicle in an aggressive manner" shall include, but is not limited to, unexpectedly altering the speed of the vehicle, making improper or erratic traffic lane changes, disregarding traffic control devices, failing to yield the right of way, or following another vehicle too closely.

As used in this subsection, "vessel" means a means of conveyance for travel on water and propelled otherwise than by muscular power.

d. A person who is employed by a facility as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as defined in paragraph (1) or (2) of subsection a. of this section upon an institutionalized elderly person as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

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

f. A person who commits a simple assault as defined in paragraph (1), (2), or (3) of subsection a. of this section in the presence of a child under 16 years of age at a school or community sponsored youth sports event is guilty of a crime of the fourth degree. The defendant shall be strictly liable upon proof that the offense occurred, in fact, in the presence of a child under 16 years of age. It shall not be a defense that the defendant did not know that the child was present or reasonably believed that the child was 16 years of age or older. The provisions of this subsection shall not be construed to create any liability on the part of a participant in a youth sports event or to abrogate any immunity or defense available to a participant in a youth sports event. As used in this act, "school or community sponsored youth sports event" means a competition,

practice, or instructional event involving one or more interscholastic sports teams or youth sports teams organized pursuant to a nonprofit or similar charter or which are member teams in a youth league organized by or affiliated with a county or municipal recreation department and shall not include collegiate, semi-professional or professional sporting events.

g. A victim of assault may make application to the court for an order providing that the victim's location shall be confidential and shall not appear on any law enforcement or court documents or records to which the defendant has access.

(cf: P.L.2019, c.219, s.3)

7. Section 2 of P.L.2007, c.133 (C.2C:14-12) is amended to read as follows:

2. a. When a defendant charged with a sex offense is released from custody before trial on bail or personal recognizance, the court authorizing the release may, as a condition of release, issue an order prohibiting the defendant from having any contact with the victim including, but not limited to, restraining the defendant from entering the victim's residence, place of employment or business, or school, and from harassing or stalking the victim or the victim's relatives in any way.

b. The written court order releasing the defendant shall contain the court's directives specifically restricting the defendant's ability to have contact with the victim or the victim's friends, co-workers or relatives. The clerk of the court or other person designated by the court shall provide a copy of this order to the victim forthwith.

c. The victim's location shall **[**remain**]** be confidential and shall not appear on any law enforcement or court documents or records to which the defendant has access.

(cf: P.L.2007, c.133, s.2)

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

2C:33-4. Harassment.

Except as provided in subsection e., a person commits a petty disorderly persons offense if, with purpose to harass another, he:

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

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

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

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

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

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

f. A victim of harassment may make application to the court for an order providing that the victim's location shall be confidential and shall not appear on any law enforcement or court documents or records to which the defendant has access.

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

9. Section 1 of P.L.2013, c.272 (C.2C:33-4.1) is amended to read as follows:

1. a. A person commits the crime of cyber-harassment if, while making a communication in an online capacity via any electronic device or through a social networking site and with the purpose to harass another, the person:

(1) threatens to inflict injury or physical harm to any person or the property of any person;

(2) knowingly sends, posts, comments, requests, suggests, or proposes any lewd, indecent, or obscene material to or about a person with the intent to emotionally harm a reasonable person or place a reasonable person in fear of physical or emotional harm to his person; or

(3) threatens to commit any crime against the person or the person's property.

b. Cyber-harassment is a crime of the fourth degree, unless the person is 21 years of age or older at the time of the offense and impersonates a minor for the purpose of cyber-harassing a minor, in which case it is a crime of the third degree.

c. If a minor under the age of 16 is adjudicated delinquent for cyber-harassment, the court may order as a condition of the sentence that the minor, accompanied by a parent or guardian, complete, in a satisfactory manner, one or both of the following:

(1) a class or training program intended to reduce the tendency toward cyber-harassment behavior; or

(2) a class or training program intended to bring awareness to the dangers associated with cyber-harassment.

d. A parent or guardian who fails to comply with a condition imposed by the court pursuant to subsection c. of this section is a disorderly person and shall be fined not more than $25 for a first offense and not more than $100 for each subsequent offense.

e. A victim of cyber-harassment may make application to the court for an order providing that the victim's location shall be confidential and shall not appear on any law enforcement or court documents or records to which the defendant has access.

(cf: P.L.2013, c.272, s.1)

10. This act shall take effect immediately.

STATEMENT

This bill provides that the location of certain victims of assault, harassment, and stalking would be confidential and not appear on law enforcement or court documents or records to which the defendant has access. The bill also clarifies language in current law concerning the confidentiality of the location of certain domestic violence victims. The bill also adds language to the domestic violence statutes clarifying that when a defendant is found guilty of a crime or offense involving domestic violence, the victim's location would be confidential.

Section 3 of P.L.1996, c.39 (C.2C:12-10.1) provides that a judgment of conviction for stalking operates as an application for a permanent restraining order limiting the contact of the defendant and the victim. A hearing will be held on the application for a permanent restraining order at the time of the verdict or plea of guilty unless the victim requests otherwise. The bill amends this section by providing that the victim's location would be confidential and not appear on law enforcement or court documents or records to which the defendant has access, without the need for a specific court order.

The bill also amends section 2 of P.L.1999, c.47 (C.2C:12-10.2). This statute provides that in any case involving *an allegation* of stalking where the victim is a child under the age of 18 or is developmentally disabled as defined in section 3 of P.L.1977, c.200 (C.5:5-44.4) or is 18 years of age or older and has a mental disease or defect which renders the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent, the court may issue a temporary restraining order against the defendant which limits the contact of the defendant and the victim. The bill provides that in these cases the victim's location would be confidential and not appear on law enforcement or court documents or records to which the defendant has access.

The bill provides that in a criminal complaint involving *an allegation* of stalking, the victim's location would be confidential as well, and would not appear on law enforcement or court documents or records to which the defendant has access.

Under section 10 of P.L.1991, c.261 (C.2C:25-26), when a defendant *charged with a crime or offense* involving domestic violence is released from custody before trial on bail or personal recognizance, the victim's location shall remain confidential and shall not appear on any documents or records to which the defendant has access.

The bill amends section 9 of P.L.1991, c.261 (C.2C:25-25), which provides in pertinent part that in *a criminal complaint* arising from a domestic violence incident, the court shall waive any requirement that the victim's location be disclosed to any person. The bill deletes this provision and replaces it with language providing that the victim's location would be confidential and would not appear on any law enforcement or court documents or records to which the defendant has access.

The bill also amends section 11 of P.L.1991, c.261 (C.2C:25-27). This statute concerns procedures when a defendant *is found guilty of a crime or offense* involving domestic violence. The bill clarifies that upon the defendant's conviction the victim's location would remain confidential and not appear on any law enforcement or court documents or records to which the defendant has access.

Under the bill, a victim of assault or aggravated assault pursuant to N.J.S.2C:12-1, harassment pursuant to N.J.S.2C:33-4, or cyber-harassment pursuant to section 1 of P.L.2013, c.272 (C.2C:33-4.1) could make application to the court for an order providing that the victim's location would be confidential and would not appear on any law enforcement or court documents or records to which the defendant has access.

In addition, the bill clarifies a provision in current law concerning defendants charged with sex offenses. Under section 2 of P.L.2007, c.133 (C.2C:14-12), when a defendant charged with a sex offense is released from custody before trial on bail or personal recognizance, the victim's location shall remain confidential and shall not appear on documents or records to which the defendant has access. The bill clarifies that this provision would apply both to law enforcement and to court documents and records. The bill also changes the phrase in this section "the victim's location shall *remain* confidential" to "the victim's location shall *be* confidential" to account for any possible inconsistency concerning the previous status of the confidentiality of the victim's location.