

ASSEMBLY, No. 3797

STATE OF NEW JERSEY 219th LEGISLATURE

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SYNOPSIS

Establishes New Jersey Bias Crime Offender Registry.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2020)

1 **AN ACT** establishing a bias crime offender registry, supplementing
2 Title 52 of the Revised Statutes, and amending N.J.S.2C:16-1.

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

6
7 1. (New section) This act shall be known and may be cited as
8 the “New Jersey Bias Crime Offender Registry Act.”

9
10 2. (New section) As used in this act:
11 “Bias crime offender” means a person convicted of a bias crime
12 pursuant to the provisions of N.J.S.2C:16-1.

13 “Division of Criminal Justice” or “division” means the Division
14 of Criminal Justice in the Department of Law and Public Safety.

15 “Internet identifiers” includes all electronic mail, chat, instant
16 message, social networking, application, software, or similar names
17 used for Internet communication.

18
19 3. (New section) a. The division shall develop and maintain a
20 New Jersey Bias Crime Offender Registry containing information
21 relating to bias crime offenders. The division shall make available
22 to the public the information contained in the registry via the
23 division’s Internet website.

24 b. Except as provided in subsection g. of this section, the registry
25 specifically shall include:

26 (1) all names and aliases by which the bias crime offender is or
27 has been known, excluding any Internet identifiers;

28 (2) a physical description of the bias crime offender, including
29 date of birth, height, weight, and eye and hair color; and

30 (3) a recent photograph of the bias crime offender.

31 c. The division also shall provide the following information on
32 the registry, when available:

33 (1) the crimes for which the offender has been convicted, noting
34 cases in which the offender is still awaiting sentencing or has
35 appealed the conviction;

36 (2) a description of the offender's targets; and

37 (3) any other relevant identifying information of the offender, as
38 determined by the division.

39 d. Each county prosecutor shall inform the division within 45
40 days of the conviction of a bias crime offender and provide the
41 information required in subsection b. of this section.

42 e. The division shall ensure that the information is entered into
43 the registry in a timely manner.

44 f. The registry website shall be indexed by the surname of the
45 offender.

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 g. The division shall redact the names, addresses, telephone
2 numbers, Social Security numbers, and other information that, if
3 disclosed, would provide the identity or location of any victim.

4 h. The registry website shall contain a disclaimer informing the
5 public that:

6 (1) the information contained on the website is obtained from
7 public records and the division does not guarantee the website's
8 accuracy or completeness;

9 (2) members of the public are not allowed to use the information
10 available through the registry to harass or threaten an offender or
11 members of an offender's family; and

12 (3) harassment, stalking, or making threats against offenders or
13 their families is prohibited and may be in violation of State law.

14 The division shall require users to indicate that they have read and
15 understand the disclaimer and agree to comply with its terms as a
16 condition of accessing the registry.

17 i. The division and any person or entity operating under the
18 direction of the Attorney General are immune from civil liability for
19 damages and shall be presumed to have acted in good faith by
20 reporting information.

21

22 4. (New section) a. A bias crime offender shall be listed on the
23 registry for:

24 (1) 10 years for a first offense;

25 (2) 10 additional years for a second offense; and

26 (3) life if convicted of a subsequent offense.

27 b. A bias crime offender may apply to the division for removal
28 from the registry if the offender can demonstrate that:

29 (1) five years have passed since the completion of the offender's
30 sentence;

31 (2) the offender has successfully completed the division's training
32 program on sensitivity to diverse communities as established
33 pursuant to paragraph (2) of subsection f. of N.J.S.2C:16-1;

34 (3) the offender has successfully completed all treatment ordered
35 by the court or State Parole Board relating to the conviction;

36 (4) the offender has not been convicted of any other crime or
37 offense; or driving under the influence pursuant to R.S.39:4-50 or
38 refusal to submit to a chemical test pursuant to section 2 of P.L.1966,
39 c.142 (C.39:4-50.2);

40 (5) the offender has paid all restitution ordered by the court; and

41 (6) the offender has not been found to be civilly liable in any case
42 in which fraud, misrepresentation, deceit, breach of fiduciary duty,
43 or the misuse or misappropriation of funds is an element.

44 c. Upon receiving an application for removal from the registry,
45 the division shall notify any victim.

46 d. The division shall charge a reasonable application fee, which
47 shall be paid at the time the offender submits the application for
48 removal from the registry. Any fees collected under this subsection

1 shall be allocated to the division to cover the costs incurred in
2 administering this act.

3 e. The division shall verify the records of governmental
4 agencies, including national criminal databases, to determine
5 whether an offender is eligible to be removed from the registry under
6 this section.

7 f. Regardless of whether the offender is prosecuted, the division
8 may deny an offender's application if it contains false information.

9 An offender who intentionally or knowingly provides false or
10 misleading information to the division when applying for removal
11 from the registry or for the purpose of aiding an offender in being
12 removed from the registry, is guilty of perjury, pursuant to
13 N.J.S.2C:28-1.

14 g. When considering an application for removal from the
15 registry, the division shall:

16 (1) review the application and documents submitted;

17 (2) hold a hearing if requested by a county prosecutor or a victim;
18 and

19 (3) verify that the offender has successfully completed the
20 division's training program on sensitivity to diverse communities as
21 required by paragraph (2) of subsection b. of this section and has paid
22 all restitution ordered by the court or the State Parole Board as
23 required by paragraph (5) of subsection b. of this section.

24 h. If the division grants an offender removal from the registry, it
25 shall provide notice of the decision to any victim, by first-class mail
26 to the most recent address of record on file, and to the county
27 prosecutor.

28

29 5. N.J.S.2C:16-1 is amended to read as follows:

30 2C:16-1. Bias Intimidation.

31 a. Bias Intimidation. A person is guilty of the crime of bias
32 intimidation if **[he]** the person commits, attempts to commit,
33 conspires with another to commit, or threatens the immediate
34 commission of an offense specified in chapters 11 through 18 of Title
35 2C of the New Jersey Statutes; N.J.S.2C:33-3; N.J.S.2C:33-4; section
36 1 of P.L.2013, c.272 (C.2C:33-4.1); N.J.S.2C:39-3; N.J.S.2C:39-4,
37 or N.J.S.2C:39-5**[,];**

38 (1) with a purpose to intimidate an individual or group of
39 individuals because of race, color, religion, gender, disability, sexual
40 orientation, gender identity or expression, national origin, or
41 ethnicity; or

42 (2) knowing that the conduct constituting the offense would cause
43 an individual or group of individuals to be intimidated because of
44 race, color, religion, gender, disability, sexual orientation, gender
45 identity or expression, national origin, or ethnicity**;** or**].**

46 (3) **[**under circumstances that caused any victim of the
47 underlying offense to be intimidated and the victim, considering the
48 manner in which the offense was committed, reasonably believed

1 either that (a) the offense was committed with a purpose to intimidate
2 the victim or any person or entity in whose welfare the victim is
3 interested because of race, color, religion, gender, disability, sexual
4 orientation, gender identity or expression, national origin, or
5 ethnicity, or (b) the victim or the victim's property was selected to be
6 the target of the offense because of the victim's race, color, religion,
7 gender, disability, sexual orientation, gender identity or expression,
8 national origin, or ethnicity. **】**
9 Deleted by amendment, P.L. c. (pending before the Legislature
10 as this bill)

11 b. Permissive inference concerning selection of targeted person
12 or property. Proof that the target of the underlying offense was
13 selected by the defendant, or by another acting in concert with the
14 defendant, because of race, color, religion, gender, disability, sexual
15 orientation, gender identity or expression, national origin, or
16 ethnicity shall give rise to a permissive inference by the trier of fact
17 that the defendant acted with a purpose to intimidate an individual or
18 group of individuals because of race, color, religion, gender,
19 disability, sexual orientation, gender identity or expression, national
20 origin, or ethnicity.

21 c. Grading. Bias intimidation is a crime of the fourth degree if
22 the underlying offense referred to in subsection a. is a disorderly
23 persons offense or petty disorderly persons offense. Otherwise, bias
24 intimidation is a crime one degree higher than the most serious
25 underlying crime referred to in subsection a., except that where the
26 underlying crime is a crime of the first degree, bias intimidation is a
27 first-degree crime and the defendant upon conviction thereof may,
28 notwithstanding the provisions of paragraph (1) of subsection a. of
29 N.J.S.2C:43-6, be sentenced to an ordinary term of imprisonment
30 between 15 years and 30 years, with a presumptive term of 20 years.

31 d. Gender exemption in sexual offense prosecutions. It shall not
32 be a violation of subsection a. if the underlying criminal offense is a
33 violation of chapter 14 of Title 2C of the New Jersey Statutes and the
34 circumstance specified in paragraph (1) **【,】** or (2) **【or (3)】** of
35 subsection a. of this section is based solely upon the gender of the
36 victim.

37 e. Merger. Notwithstanding the provisions of N.J.S.2C:1-8 or
38 any other provision of law, a conviction for bias intimidation shall
39 not merge with a conviction of any of the underlying offenses
40 referred to in subsection a. of this section, nor shall any conviction
41 for such underlying offense merge with a conviction for bias
42 intimidation. The court shall impose separate sentences upon a
43 conviction for bias intimidation and a conviction of any underlying
44 offense.

45 f. Additional Penalties. (1) In addition to any fine imposed
46 pursuant to N.J.S.2C:43-3 or any term of imprisonment imposed
47 pursuant to N.J.S.2C:43-6, a court may order a person convicted of
48 bias intimidation to one or more of the following:

1 **[(1)]** (a) complete a class or program on sensitivity to diverse
2 communities, or other similar training in the area of civil rights;

3 **[(2)]** (b) complete a counseling program intended to reduce the
4 tendency toward violent and antisocial behavior; and

5 **[(3)]** (c) make payments or other compensation to a
6 community-based program or local agency that provides services to
7 victims of bias intimidation.

8 (2) The Division of Criminal Justice, in consultation with the
9 Division on Civil Rights, shall establish and maintain a Statewide
10 evidence-based training program on sensitivity to diverse
11 communities for defendants who have been convicted of bias
12 intimidation.

13 The training program shall address topics including, but not
14 limited to:

15 (a) gender and sexual orientation;

16 (b) race and ethnicity;

17 (c) disabilities;

18 (d) religious tolerance;

19 (e) unconscious bias; and

20 (f) diversity and inclusion.

21 The division periodically shall update the training program to
22 incorporate the most recent information available to facilitate a
23 productive discourse on issues of diversity and bias.

24 (3) The division shall provide grants to community-based
25 programs, local agencies, or other organizations that provide
26 counseling services to reduce violent and antisocial behavior and to
27 those that provide services to victims of bias crimes.

28 g. As used in this section "gender identity or expression" means
29 having or being perceived as having a gender related identity or
30 expression whether or not stereotypically associated with a person's
31 assigned sex at birth.

32 h. It shall not be a defense to a prosecution for a crime under this
33 section that the defendant was mistaken as to the race, color, religion,
34 gender, disability, sexual orientation, gender identity or expression,
35 national origin, or ethnicity of the victim.

36 (cf: P.L.2007, c.303, s.1)

37

38 6. (New section) The Department of Law and Public Safety shall
39 adopt rules and regulations pursuant to the "Administrative
40 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are
41 necessary to implement this act. The rules and regulations shall
42 include, but not be limited to, the method for dissemination of
43 registry information and instructions to the public regarding
44 acceptable use of the information.

45

46 7. This act shall take effect on the first day of the fourth month
47 next following enactment, but the Director of the Division of
48 Criminal Justice in the Department of Law and Public Safety may

1 take such anticipatory administrative action in advance as may be
2 necessary for the implementation of this act.

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STATEMENT

6

7 This bill requires the Division of Criminal Justice to establish the
8 “New Jersey Bias Crime Offender Registry” containing information
9 relating to bias crime offenders. The registry information is to be
10 made available to the public on the division’s website.

11 The registry specifically is to contain the names and aliases used
12 by the bias crime offender; the offender’s date of birth, height,
13 weight, and eye and hair color; and a recent photograph of the bias
14 crime offender. If available, the registry also is to include the crimes
15 for which the offender has been convicted; a description of the
16 offender's targets; and any other identifying information deemed
17 relevant by the division.

18 The bill requires the county prosecutor to inform the division
19 within 45 days of the conviction of a bias crime offender. The
20 division is to enter the information pertaining to that offender into
21 the registry in a timely manner. Names, addresses, telephone
22 numbers, Social Security numbers, and other information that, if
23 disclosed, would provide the identity or location of any victim, is to
24 be redacted.

25 The registry website is to contain a disclaimer informing the
26 public that the information contained in the registry is obtained from
27 public records and the accuracy or completeness of the information
28 is not guaranteed. The disclaimer also is to contain a statement that
29 the registry information is not to be used to harass or threaten an
30 offender or members of an offender’s family and that harassment,
31 stalking, or making threats against offenders or family members is
32 prohibited and may constitute a criminal offense. Users of the
33 registry will be required to indicate that they have read and
34 understand the disclaimer and agree to comply with its terms.

35 A bias crime offender is required to be listed on the registry for 10
36 years for a first offense; 10 additional years for a second offense; and
37 life for a subsequent offense. However, a bias crime offender may
38 apply to the division for removal from the registry if the offender can
39 meet certain conditions. The offender may apply for removal five
40 years after completing the criminal sentence, provided the offender
41 has successfully completed all treatment; has not been convicted of
42 any other crime, offense, drunk driving, or refusal to submit to a
43 breathalyzer; has paid all restitution; and has not been found to be
44 liable in certain civil cases.

45 In addition to these conditions, a bias crime offender may only be
46 removed from the registry if the offender successfully completes a
47 Statewide evidence-based training program on sensitivity to diverse
48 communities as developed by the division in consultation with the

1 Division on Civil Rights. The training program is to address such
2 topics as gender and sexual orientation; race and ethnicity;
3 disabilities; religious tolerance; unconscious bias; and diversity and
4 inclusion.

5 Victims are to be notified when a bias crime offender applies for
6 removal from the registry and victims and the county prosecutor are
7 to be notified when removal is granted. Application fees paid by the
8 offender to be removed are to be used for the costs of implementing
9 the bill's provisions. An offender who provides false information on
10 an application is guilty of perjury.