

ASSEMBLY, No. 4230

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 8, 2020

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

SYNOPSIS

Includes crime of false reports to law enforcement authorities as form of bias intimidation.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning bias intimidation and false reports to law
2 enforcement authorities and amending N.J.S.2C:16-1.

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

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

8 2C:16-1. Bias Intimidation.

9 a. Bias Intimidation. A person is guilty of the crime of bias
10 intimidation if he commits, attempts to commit, conspires with
11 another to commit, or threatens the immediate commission of an
12 offense specified in chapters 11 through 18 of Title 2C of the New
13 Jersey Statutes; N.J.S.2C:33-4; N.J.S.2C:39-3; N.J.S.2C:39-4 **[or]**,
14 N.J.S.2C:39-5, or N.J.S.2C:28-4,

15 (1) with a purpose to intimidate an individual or group of
16 individuals because of race, color, religion, gender, disability,
17 sexual orientation, gender identity or expression, national origin, or
18 ethnicity; or

19 (2) knowing that the conduct constituting the offense would
20 cause an individual or group of individuals to be intimidated
21 because of race, color, religion, gender, disability, sexual
22 orientation, gender identity or expression, national origin, or
23 ethnicity; or

24 (3) under circumstances that caused any victim of the
25 underlying offense to be intimidated and the victim, considering the
26 manner in which the offense was committed, reasonably believed
27 either that (a) the offense was committed with a purpose to
28 intimidate the victim or any person or entity in whose welfare the
29 victim is interested because of race, color, religion, gender,
30 disability, sexual orientation, gender identity or expression, national
31 origin, or ethnicity, or (b) the victim or the victim's property was
32 selected to be the target of the offense because of the victim's race,
33 color, religion, gender, disability, sexual orientation, gender identity
34 or expression, national origin, or ethnicity.

35 b. Permissive inference concerning selection of targeted person
36 or property. Proof that the target of the underlying offense was
37 selected by the defendant, or by another acting in concert with the
38 defendant, because of race, color, religion, gender, disability, sexual
39 orientation, gender identity or expression, national origin, or
40 ethnicity shall give rise to a permissive inference by the trier of fact
41 that the defendant acted with a purpose to intimidate an individual
42 or group of individuals because of race, color, religion, gender,
43 disability, sexual orientation, gender identity or expression, national
44 origin, or ethnicity.

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 c. Grading. Bias intimidation is a crime of the fourth degree if
2 the underlying offense referred to in subsection a. of this section is
3 a disorderly persons offense or petty disorderly persons offense.
4 Otherwise, bias intimidation is a crime one degree higher than the
5 most serious underlying crime referred to in subsection a. of this
6 section, except that where the underlying crime is a crime of the
7 first degree, bias intimidation is a first-degree crime and the
8 defendant upon conviction thereof may, notwithstanding the
9 provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, be
10 sentenced to an ordinary term of imprisonment between 15 years
11 and 30 years, with a presumptive term of 20 years.

12 d. Gender exemption in sexual offense prosecutions. It shall
13 not be a violation of subsection a. of this section if the underlying
14 criminal offense is a violation of chapter 14 of Title 2C of the New
15 Jersey Statutes and the circumstance specified in paragraph (1), (2)
16 or (3) of subsection a. of this section is based solely upon the
17 gender of the victim.

18 e. Merger. Notwithstanding the provisions of N.J.S.2C:1-8 or
19 any other provision of law, a conviction for bias intimidation shall
20 not merge with a conviction of any of the underlying offenses
21 referred to in subsection a. of this section, nor shall any conviction
22 for such underlying offense merge with a conviction for bias
23 intimidation. The court shall impose separate sentences upon a
24 conviction for bias intimidation and a conviction of any underlying
25 offense.

26 f. Additional Penalties. In addition to any fine imposed
27 pursuant to N.J.S.2C:43-3 or any term of imprisonment imposed
28 pursuant to N.J.S.2C:43-6, a court may order a person convicted of
29 bias intimidation to one or more of the following:

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

32 (2) complete a counseling program intended to reduce the
33 tendency toward violent and antisocial behavior; and

34 (3) make payments or other compensation to a community-
35 based program or local agency that provides services to victims of
36 bias intimidation.

37 g. As used in this section "gender identity or expression"
38 means having or being perceived as having a gender related identity
39 or expression whether or not stereotypically associated with a
40 person's assigned sex at birth.

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

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

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Pursuant to 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 an enumerated offense under certain circumstances. The enumerated offenses are those set out in chapters 11 through 18 of Title 2C as well as N.J.S.2C:33-4; N.J.S.2C:39-3; N.J.S.2C:39-4, and N.J.S.2C:39-5. Among other provisions, the statute provides that the person will be guilty of bias intimidation if he committed an enumerated offense (1) with 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; or (2) knowing that the conduct constituting the offense would cause an individual or group of individuals to be intimidated because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity.

Bias intimidation is a crime of the fourth degree if the underlying offense is a disorderly persons offense or petty disorderly persons offense. Otherwise, bias intimidation is a crime graded one degree higher than the most serious underlying crime, except that in cases in which the underlying crime is of the first degree, bias intimidation is a crime of the first degree and the defendant upon conviction may be sentenced to an ordinary term of imprisonment between 15 and 30 years.

41 This bill would expand the list of underlying offenses
42 constituting bias intimidation to include false reports to law
43 enforcement authorities (N.J.S.2C:28-4). Under subsection a. of
44 N.J.S.2C:28-4, Falsely Incriminating Another, a person is guilty of
45 a crime of the third degree if he knowingly gives or causes to be
46 given false information to any law enforcement officer with purpose

1 to implicate another. It is a crime of the second degree if the false
2 information would implicate the person in a crime of the first or
3 second degree. Under subsection b. of N.J.S.2C:28-4, Fictitious
4 Reports, a person commits a crime of the fourth degree if he: (1)
5 reports or causes to be reported to law enforcement authorities an
6 offense or other incident within their concern knowing that it did
7 not occur; or (2) pretends to furnish or causes to be furnished such
8 authorities with information relating to an offense or incident when
9 he knows he has no information relating to such offense or incident.

10 A crime of the fourth degree is punishable by up to 18 months'
11 imprisonment, a fine up to \$10,000, or both; a crime of the third
12 degree, by a term of imprisonment of three to five years, a fine of
13 up to \$15,000, or both; a crime of the second degree, by a term of
14 imprisonment of five to 10 years or a fine up to \$150,000, or both;
15 and a crime of the first degree, by a term of imprisonment of 10 to
16 20 years or a fine of up to \$200,000, or both.