ASSEMBLY, No. 4400

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JULY 16, 2020

Sponsored by:
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District 7 (Burlington)
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Assemblywoman Vainieri Huttle

SYNOPSIS

Establishes third degree crime for certain trespasses involving victim of domestic violence.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 7/16/2020)

AN ACT concerning domestic violence related criminal trespass and amending N.J.S.2C:18-3.

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

1. N.J.S.2C:18-3 is amended to read as follows:

2C:18-3. a. Unlicensed entry of structures. (1) A person commits an offense if, knowing that he is not licensed or privileged to do so, he enters or surreptitiously remains in any research facility, structure, or separately secured or occupied portion thereof, or in or upon utility company property, or in the sterile area or operational area of an airport. An offense under this subsection is a crime of the fourth degree if it is committed in a school or on school property. **[**The**]** Except as provided in paragraph (2) of this subsection, the offense is a crime of the fourth degree if it is committed in a dwelling. An offense under this **[**section**]** subsection is a crime of the fourth degree if it is committed in a research facility, power generation facility, waste treatment facility, public sewage facility, water treatment facility, public water facility, nuclear electric generating plant or any facility which stores, generates or handles any hazardous chemical or chemical compounds. An offense under this subsection is a crime of the fourth degree if it is committed in or upon utility company property. An offense under this subsection is a crime of the fourth degree if it is committed in the sterile area or operational area of an airport. Otherwise it is a disorderly persons offense.

(2) A person commits a crime of the third degree if, intending to cause annoyance or injury or intending to commit a crime, the person enters the dwelling of a victim of domestic violence protected by a domestic violence restraining order against the actor. If a domestic violence restraining order is in place, or if the actor has been convicted of or charged with a crime or offense arising from a domestic violence incident involving the victim, there shall be a rebuttable presumption that the person entered the dwelling intending to cause annoyance or injury or intending to commit a crime. The presumption of nonimprisonment set forth in N.J.S.2C:44-1 shall not apply to persons convicted under the provisions of this paragraph.

b. Defiant trespasser. A person commits a petty disorderly persons offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by:

(1) Actual communication to the actor; or

(2) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or

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.

(3) Fencing or other enclosure manifestly designed to exclude intruders.

c. Peering into windows or other openings of dwelling places. A person commits a crime of the fourth degree if, knowing that he is not licensed or privileged to do so, he peers into a window or other opening of a dwelling or other structure adapted for overnight accommodation for the purpose of invading the privacy of another person and under circumstances in which a reasonable person in the dwelling or other structure would not expect to be observed.

d. Defenses. It is an affirmative defense to prosecution under this section that:

(1) A structure involved in an offense under subsection a. was abandoned;

(2) The structure was at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the structure; or

(3) The actor reasonably believed that the owner of the structure, or other person empowered to license access thereto, would have licensed him to enter or remain, or, in the case of subsection c. of this section, to peer.

(cf: P.L.2013, c.138, s.2)

2. This act shall take effect immediately.

STATEMENT

This bill provides that a person commits a crime of the third degree if, intending to cause annoyance or injury or intending to commit a crime, the person enters the dwelling of a victim of domestic violence protected by a domestic violence restraining order against the actor. Moreover, the bill creates a presumption that the actor did intend to cause annoyance or injury or to commit a crime if a domestic violence restraining order is in place, or if the actor has been convicted of or charged with a crime or offense arising from a domestic violence incident involving the victim. Finally, the bill provides that no presumption of nonincarceration shall apply to persons convicted of such crime.

A crime of the third degree is punishable by three to five years imprisonment, a fine of up to $15,000, or both.