

ASSEMBLY, No. 4495

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED AUGUST 10, 2020

Sponsored by:

Assemblyman GERARD SCHARFENBERGER

District 13 (Monmouth)

SYNOPSIS

Elevates the degree of desecration offense based upon the pecuniary loss;
adds desecration to bias intimidation statute.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning desecration of venerated objects and amending
2 N.J.S.2C:33-9 and 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. N.J.S.2C:33-9 is amended to read as follows:

8 2C:33-9. Desecration of venerated objects. a. A person
9 commits [a disorderly persons offense] the offense of desecration
10 of venerated objects if he purposely desecrates any public
11 monument, insignia, symbol, or structure, or place of worship or
12 burial. "Desecrate" means defacing, damaging or polluting.

13 b. (1) Desecration of venerated objects is a crime of the third
14 degree if the actor causes pecuniary loss in excess of \$2,000.00.

15 (2) Desecration of venerated objects is a crime of the fourth
16 degree if the actor causes pecuniary loss in excess of \$500.00 but
17 less than \$2,000.00.

18 (3) Desecration of venerated objects is a disorderly persons
19 offense if the actor causes pecuniary loss of \$500.00 or less.

20 (cf: N.J.S.2C:33-9)

21

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

23 2C:16-1. Bias Intimidation.

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

30 (1) with a purpose to intimidate an individual or group of
31 individuals because of race, color, religion, gender, disability,
32 sexual orientation, gender identity or expression, national origin, or
33 ethnicity; or

34 (2) knowing that the conduct constituting the offense would
35 cause an individual or group of individuals to be intimidated
36 because of race, color, religion, gender, disability, sexual
37 orientation, gender identity or expression, national origin, or
38 ethnicity; or

39 (3) under circumstances that caused any victim of the
40 underlying offense to be intimidated and the victim, considering the
41 manner in which the offense was committed, reasonably believed
42 either that (a) the offense was committed with a purpose to
43 intimidate the victim or any person or entity in whose welfare the
44 victim is interested because of race, color, religion, gender,
45 disability, sexual orientation, gender identity or expression, national

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 origin, or ethnicity, or (b) the victim or the victim's property was
2 selected to be the target of the offense because of the victim's race,
3 color, religion, gender, disability, sexual orientation, gender identity
4 or expression, national origin, or ethnicity.

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

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

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

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

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

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

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

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

4 g. As used in this section "gender identity or expression"
5 means having or being perceived as having a gender related identity
6 or expression whether or not stereotypically associated with a
7 person's assigned sex at birth.

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

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

13
14 3. This act shall take effect immediately.
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17 STATEMENT

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19 At present, it is a disorderly persons offense to purposely
20 desecrate any public monument, insignia, symbol, or structure, or
21 place of worship or burial without regard to the amount of
22 pecuniary loss. This bill would elevate the degree of the offense
23 based upon the pecuniary loss caused by the desecration.

24 Under the bill, desecration of venerated objects is a crime of the
25 third degree if the actor causes pecuniary loss in excess of
26 \$2,000.00. A crime of the third degree is punishable by up to five
27 years imprisonment, a fine of up to \$15,000, or both. It is a crime
28 of the fourth degree if the actor causes pecuniary loss in excess of
29 \$500.00 but less than \$2,000.00. A crime of the fourth degree is
30 punishable by up to 18 months imprisonment, a fine of up to
31 \$10,000, or both. It is a disorderly persons offense if the actor
32 causes pecuniary loss of \$500.00 or less. A disorderly persons
33 offense is punishable by up to six months imprisonment, a fine of
34 up to \$1,000, or both.

35 The bill would further make desecration of venerated objects a
36 bias intimidation offense, which, if the requisite condition is
37 established, is graded one degree higher than the underlying
38 offense.