P.L. 2020, CHAPTER 73, ***approved August 31, 2020***
Assembly Committee Substitute for
Assembly, Nos. 1906 and 4230

AN ACT concerning false police reports and bias intimidation and amending N.J.S.2C:16-1 and N.J.S.2C:33-3.

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

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

2C:16-1. Bias Intimidation.

a. Bias Intimidation. 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 offense specified in chapters 11 through 18 of Title 2C of the New Jersey Statutes; <u>N.J.S.2C:28-4</u>; N.J.S.2C:33-4; N.J.S.2C:39-3; N.J.S.2C:39-4<u>;</u> or N.J.S.2C:39-5,

(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; or

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

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

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 <u>thus</u> is new matter.

or group of individuals because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity.

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

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

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

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

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

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

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

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

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

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

2. N.J.S.2C:33-3 is amended to read as follows:

2C:33-3. False Public Alarms. a. (1) (a) Except as otherwise provided in this section, a person is guilty of a crime of the third degree if he initiates or circulates a report or warning of an impending fire, explosion, crime, catastrophe, emergency, or any other incident knowing that the report or warning is false or baseless and that it is likely to cause evacuation of a building, place of assembly, or facility of public transport, or to cause public inconvenience or alarm. (b) A person is guilty of a crime of the second degree if the false alarm involves a report or warning of an impending bombing, hostage situation, person armed with a deadly weapon as defined by subsection c. of N.J.S.2C:11-1, or any other incident that elicits an immediate or heightened response by law enforcement or emergency services.

(c) A person is guilty of a crime of the second degree if the false alarm involves a report or warning about any critical infrastructure located in this State. For purposes of this subparagraph, "critical infrastructure" means any building, place of assembly, or facility that is indispensably necessary for national security, economic stability, or public safety.

(2) A person is guilty of a crime of the third degree if he knowingly causes the false alarm to be transmitted to or within any organization, official or volunteer, for dealing with emergencies involving danger to life or property.

b. A person is guilty of a crime of the second degree if in addition to the report or warning initiated, circulated or transmitted under subsection a. of this section, he places or causes to be placed any false or facsimile bomb in a building, place of assembly, or facility of public transport or in a place likely to cause public inconvenience or alarm. A violation of this subsection is a crime of the first degree if it occurs during a declared period of national, State or county emergency.

c. A person is guilty of a crime of the second degree if a violation of subsection a. of this section in fact results in serious bodily injury to another person or occurs during a declared period of national, State or county emergency. A person is guilty of a crime of the first degree if a violation of subsection a. of this section in fact results in death.

d. For the purposes of this section, "in fact" means that strict liability is imposed. It shall not be a defense that the death or serious bodily injury was not a foreseeable consequence of the person's acts or that the death or serious bodily injury was caused by the actions of another person or by circumstances beyond the control of the actor. The actor shall be strictly liable upon proof that the crime occurred during a declared period of national, State or county emergency. It shall not be a defense that the actor did not know that there was a declared period of emergency at the time the crime occurred.

e. A person is guilty of a crime of the fourth degree if the person knowingly places a call to a 9-1-1 emergency telephone system without purpose of reporting the need for 9-1-1 service.

f. A person is guilty of a crime of the third degree if the person knowingly places a call to a 9-1-1 emergency telephone system with purpose to intimidate or harass an individual or group of individuals because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity.

All local and county law enforcement authorities shall submit an annual report, on a form prescribed by the Attorney General, to the Uniform Crime Reporting Unit, within the Division of State Police in the Department of Law and Public Safety, or to another designated recipient determined by the Attorney General, containing the number and nature of offenses under this section committed within their respective jurisdictions and the disposition of these offenses. Every two years, the Uniform Crime Reporting Unit or other designated recipient of the annual reports shall forward a summary of all reports received during the preceding two-year period, along with a summary of offenses investigated by the Division of State Police for the same period, to the State's Office of Emergency Management.

(cf: P.L.2015, c.156, s.1)

3. This act shall take effect immediately.

Includes false incrimination and filing false police report as form of bias intimidation; establishes crime of false 9-1-1 call with purpose to intimidate or harass based on race or other protected class.