

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1265

STATE OF NEW JERSEY

DATED: DECEMBER 2, 2021

The Senate Judiciary Committee reports favorably Senate Bill No. 1265.

This bill expands the list of underlying offenses that form the basis of criminal bias intimidation to include the crime of creating a false public alarm. A false public alarm involves initiating or circulating “a report or warning of an impending fire, explosion, crime, . . . 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.” N.J.S.2C:33-3, subsection a., paragraph (1), subparagraph (a). To be considered bias intimidation, the act of creating a false public alarm would have to be done with a purpose to intimidate an individual or group, or done knowing the conduct or under other circumstances that would cause an individual or group to be intimidated, because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity. See N.J.S.2C:16-1.

Bias intimidation is generally graded as a crime that is one degree higher than the most serious underlying crime committed; except when the underlying crime is a first-degree crime then the act of bias intimidation is also considered to be a first-degree crime, subject to a term of imprisonment between 15 and 30 years (instead of the standard 10-20 years), with a presumptive term of 20 years, plus a fine of up to \$200,000 (same standard amount), or both. The grading of a false public alarm act can range from a fourth-degree crime to a first-degree crime depending upon the type of incident reported, who it is reported to, if done during a period of national, State, or county emergency, and if it results in serious bodily injury or death. See N.J.S.2C:33-3. As such, should an underlying act of false public alarm be found to be a form of bias intimidation, the separate bias intimidation crime would be graded a third-degree crime (three to five years’ imprisonment; up to \$15,000 fine; or both), second-degree crime (five to 10 years’ imprisonment; up to \$150,000 fine; or both), or first-degree crime (penalties described above), depending upon the circumstances involved with the underlying act.

If enacted, the crime of false public alarm would be added to the list of current underlying crimes that may constitute a separate bias

intimidation crime, which list includes offenses specified in chapters 11 through 18 of Title 2C of the New Jersey Statutes (such as terroristic threats, assault, murder, and arson), N.J.S.2C:33-4 (harassment), and N.J.S.2C:39-4 (prohibited weapons and devices).

This bill as reported is identical to Assembly Bill No. 724, also report by the committee today.