

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 2635 and 2578

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED JULY 28, 2020

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Senator NIA H. GILL

District 34 (Essex and Passaic)

Senator TROY SINGLETON

District 7 (Burlington)

Senator SHIRLEY K. TURNER

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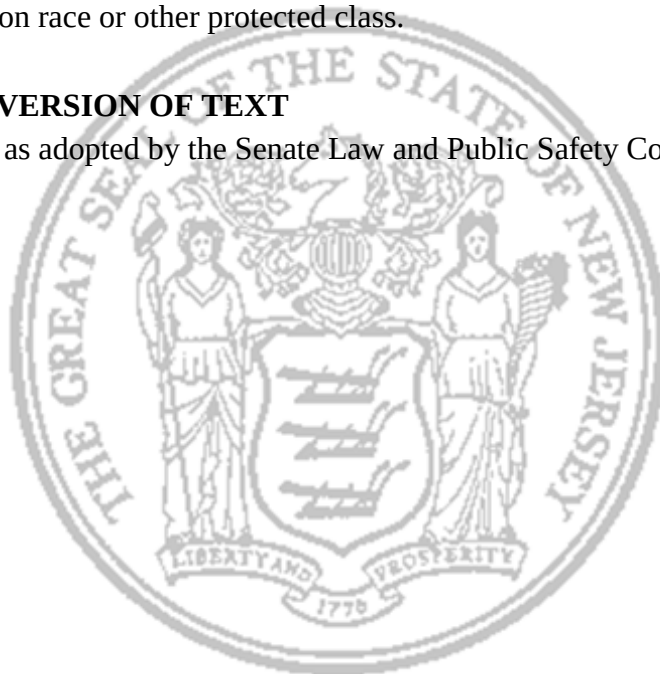
Senator Ruiz

SYNOPSIS

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.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Law and Public Safety Committee.



(Sponsorship Updated As Of: 7/30/2020)

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

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: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:28-4; N.J.S.2C:33-4; N.J.S.2C:39-3;
14 N.J.S.2C:39-4; or N.J.S.2C:39-5,

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.

45 c. Grading. Bias intimidation is a crime of the fourth degree if

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

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

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

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

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

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

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

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

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

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

45

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

47 2C:33-3. False Public Alarms. a. (1) (a) Except as otherwise
48 provided in this section, a person is guilty of a crime of the third

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

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

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

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

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

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

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

- 1 f. A person is guilty of a crime of the third degree if the person
2 knowingly places a call to a 9-1-1 emergency telephone system with
3 purpose to intimidate or harass an individual or group of individuals
4 because of race, color, religion, gender, disability, sexual
5 orientation, gender identity or expression, national origin, or
6 ethnicity.
- 7 All local and county law enforcement authorities shall submit an
8 annual report, on a form prescribed by the Attorney General, to the
9 Uniform Crime Reporting Unit, within the Division of State Police
10 in the Department of Law and Public Safety, or to another
11 designated recipient determined by the Attorney General,
12 containing the number and nature of offenses under this section
13 committed within their respective jurisdictions and the disposition
14 of these offenses. Every two years, the Uniform Crime Reporting
15 Unit or other designated recipient of the annual reports shall
16 forward a summary of all reports received during the preceding
17 two-year period, along with a summary of offenses investigated by
18 the Division of State Police for the same period, to the State's
19 Office of Emergency Management.
20 (cf: P.L.2015, c.156, s.1)
21
- 22 3. This act shall take effect immediately.