

SENATE, No. 3602

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED APRIL 19, 2021

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex and Morris)

SYNOPSIS

Revises law concerning bias intimidation to include members of press or media in protected classes.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning bias intimidation and amending N.J.S.2C:16-1.

2

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

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

7 2C:16-1. Bias Intimidation.

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

14 (1) with a purpose to intimidate an individual or group of
15 individuals because of race, color, religion, gender, disability,
16 sexual orientation, gender identity or expression, national origin,
17 **[or]** ethnicity or employment as a member of the press or media; or

18 (2) knowing that the conduct constituting the offense would
19 cause an individual or group of individuals to be intimidated
20 because of race, color, religion, gender, disability, sexual
21 orientation, gender identity or expression, national origin, **[or]**
22 ethnicity or employment as a member of the press or media; or

23 (3) under circumstances that caused any victim of the
24 underlying offense to be intimidated and the victim, considering the
25 manner in which the offense was committed, reasonably believed
26 either that (a) the offense was committed with a purpose to
27 intimidate the victim or any person or entity in whose welfare the
28 victim is interested because of race, color, religion, gender,
29 disability, sexual orientation, gender identity or expression, national
30 origin, **[or]** ethnicity or employment as a member of the press or
31 media, or (b) the victim or the victim's property was selected to be
32 the target of the offense because of the victim's race, color, religion,
33 gender, disability, sexual orientation, gender identity or expression,
34 national origin, **[or]** ethnicity or employment as a member of the
35 press or media.

36 b. Permissive inference concerning selection of targeted person
37 or property. Proof that the target of the underlying offense was
38 selected by the defendant, or by another acting in concert with the
39 defendant, because of race, color, religion, gender, disability, sexual
40 orientation, gender identity or expression, national origin, or
41 ethnicity shall give rise to a permissive inference by the trier of fact
42 that the defendant acted with a purpose to intimidate an individual
43 or group of individuals because of race, color, religion, gender,
44 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 employment as a member of the press or
2 media.

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

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

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

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

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

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

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

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

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

47 As used in this section "member of the press or media" means an
48 accredited member of the press corps or media; a photographer or

1 photojournalist employed by a newspaper, magazine, or other media
2 company; or an individual operating equipment to facilitate the
3 delivery of news or media.

4 (cf: P.L. 2020, c.73, s.1)

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6 2. This act shall take effect immediately.

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9 STATEMENT

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11 This bill amends N.J.S.A.2C:16-1, the crime of bias intimidation,
12 to specifically provide that “members of the press or media” are
13 within the protected classes set forth in the statute. Current law
14 enumerates the protected classes of “race, color, religion, gender,
15 disability, sexual orientation, gender identity or expression, national
16 origin, ethnicity.” Under the provisions of this section, a person
17 may be guilty of the crime of bias intimidation if he commits,
18 attempts, conspires, or threatens the immediate commission of
19 certain specified offenses with a purpose to intimidate an individual
20 or group because of race, color, religion, gender, disability, sexual
21 orientation, gender identity or expression, national origin, or
22 ethnicity or knowing that the conduct would cause an individual or
23 group to be intimidated on that basis or under circumstances in
24 which the victim believes he was targeted on that basis. The bill
25 provides that “member of the press or media” means an accredited
26 member of the press corps or media; a photographer or
27 photojournalist employed by a newspaper, magazine, or other media
28 company; or an individual operating equipment to facilitate the
29 delivery of news or media.

30 This bill is modeled after legislation recently introduced in
31 Florida concerning offenses against members of the press.