

2C:12-1

LEGISLATIVE HISTORY CHECKLIST  
Compiled by the NJ State Law Library

NJSA: 2C:12-1 et al

(Ethnic  
intimidation)

LAWS OF: 1990

CHAPTER: 87

Bill No: S1062

Sponsor(s): Feldman

Date Introduced: Pre-filed

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: No

Date of Passage: Assembly: June 28, 1990

Senate: May 24, 1990

Date of Approval: August 9, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: No

Hearings: No

See newspaper clippings--attached:

KBG/SLJ

DEPOSITORY COPY

Do Not Remove from Library

P.L.1990, CHAPTER 87, *approved August 9, 1990*

1990 Senate No. 1062

1 AN ACT concerning ethnic intimidation and amending N.J.S.  
2 2C:12-1, N.J.S.2C:33-4, N.J.S.2C:43-7, and N.J.S.2C:44-3.

3

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

6 1. N.J.S.2C:12-1 is amended to read as follows:

7 2C:12-1. Assault. a. Simple assault. A person is guilty of  
8 assault if he:

9 (1) Attempts to cause or purposely, knowingly or recklessly  
10 causes bodily injury to another; or

11 (2) Negligently causes bodily injury to another with a deadly  
12 weapon; or

13 (3) Attempts by physical menace to put another in fear of  
14 imminent serious bodily injury.

15 Simple assault is a disorderly persons offense unless committed  
16 in a fight or scuffle entered into by mutual consent, in which case  
17 it is a petty disorderly persons offense.

18 b. Aggravated assault. A person is guilty of aggravated assault  
19 if he:

20 (1) Attempts to cause serious bodily injury to another, or  
21 causes such injury purposely or knowingly or under circumstances  
22 manifesting extreme indifference to the value of human life  
23 recklessly causes such injury; or

24 (2) Attempts to cause or purposely or knowingly causes bodily  
25 injury to another with a deadly weapon; or

26 (3) Recklessly causes bodily injury to another with a deadly  
27 weapon; or

28 (4) Knowingly under circumstances manifesting extreme  
29 indifference to the value of human life points a firearm, as  
30 defined in section 2C:39-1f., at or in the direction of another,  
31 whether or not the actor believes it to be loaded; or

32 (5) Commits a simple assault as defined in subsection a. (1) and  
33 (2) of this section upon

34 (a) Any law enforcement officer acting in the performance of  
35 his duties while in uniform or exhibiting evidence of his authority;  
36 or

37 (b) Any paid or volunteer fireman acting in the performance of  
38 his duties while in uniform or otherwise clearly identifiable as

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 being engaged in the performance of the duties of a fireman; or  
2 (c) Any person engaged in emergency first-aid or medical  
3 services acting in the performance of his duties while in uniform  
4 or otherwise clearly identifiable as being engaged in the  
5 performance of emergency first-aid or medical services; or

6 (d) Any school board member or school administrator, teacher  
7 or other employee of a school board while clearly identifiable as  
8 being engaged in the performance of his duties or because of his  
9 status as a member or employee of a school board.

10 Aggravated assault under subsection b. (1) is a crime of the  
11 second degree; under subsection b. (2) is a crime of the third  
12 degree; under subsection b. (3) and b. (4) is a crime of the fourth  
13 degree; and under subsection b. (5) is a crime of the third degree  
14 if the victim suffers bodily injury, otherwise it is a crime of the  
15 fourth degree.

16 c. A person is guilty of assault by auto when the person drives  
17 a vehicle recklessly and causes either serious bodily injury or  
18 bodily injury to another. Assault by auto is a crime of the fourth  
19 degree if serious bodily injury results and is a disorderly persons  
20 offense if bodily injury results.

21 d. A person who is employed by a facility as defined in section  
22 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault  
23 as defined in paragraph (1) or (2) of subsection a. of this section  
24 upon an institutionalized elderly person as defined in section 2 of  
25 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth  
26 degree.

27 e. A person who commits a simple assault as defined in  
28 subsection a. of this section is guilty of a crime of the fourth  
29 degree if the person acted, at least in part, with ill will, hatred or  
30 bias toward, and with a purpose to intimidate, an individual or  
31 group of individuals because of race, color, religion, sexual  
32 orientation, or ethnicity.

33 (cf: P.L.1985, c.444, s.1)

34 2. N.J.S.2C:33-4 is amended to read as follows:

35 2C:33-4. Harassment.

36 [A] Except as provided in subsection d., a person commits a  
37 petty disorderly persons offense if, with purpose to harass  
38 another, he:

39 a. Makes, or causes to be made, a communication or  
40 communications anonymously or at extremely inconvenient hours,  
41 or in offensively coarse language, or any other manner likely to  
42 cause annoyance or alarm;

43 b. Subjects another to striking, kicking, shoving, or other  
44 offensive touching, or threatens to do so; or

45 c. Engages in any other course of alarming conduct or of  
46 repeatedly committed acts with purpose to alarm or seriously  
47 annoy such other person.

48 A communication under subsection a. may be deemed to have  
49 been made either at the place where it originated or at the place

1 where it was received.

2 d. A person commits a crime of the fourth degree if in  
3 committing an offense under this section, he acted, at least in  
4 part, with ill will, hatred or bias toward, and with a purpose to  
5 intimidate, an individual or group of individuals because of race,  
6 color, religion, sexual orientation or ethnicity.

7 (cf: P.L.1983, c.334, s.1)

8 3. N.J.S.2C:43-7 is amended to read as follows:

9 2C:43-7. Sentence of Imprisonment for Crime; Extended  
10 Terms. a. In the cases designated in section 2C:44-3, a person  
11 who has been convicted of a crime may be sentenced to an  
12 extended term of imprisonment, as follows:

13 (1) In case of aggravated manslaughter sentenced under  
14 subsection c. of N.J.S.2C:11-4 or kidnapping when sentenced as a  
15 crime of the first degree under paragraph (1) of subsection c. of  
16 2C:13-1 for a specific term of years which shall be between 30  
17 years and life imprisonment;

18 (2) Except for the crime of murder and except as provided in  
19 paragraph (1) of this subsection, in the case of a crime of the  
20 first degree, for a specific term of years which shall be fixed by  
21 the court and shall be between 20 years and life imprisonment;

22 (3) In the case of a crime of the second degree, for a term  
23 which shall be fixed by the court between 10 and 20 years;

24 (4) In the case of a crime of the third degree, for a term which  
25 shall be fixed by the court between five and 10 years;

26 (5) In the case of a crime of the fourth degree pursuant to  
27 2C:43-6c. [and], 2C:44 3d. and 2C:44-3e. for a term of five years,  
28 and in the case of a crime of the fourth degree pursuant to  
29 2C:43-6f. for a term which shall be fixed by the court between  
30 three and five years.

31 b. As part of a sentence for an extended term and  
32 notwithstanding the provisions of 2C:43-9, the court may fix a  
33 minimum term not to exceed one-half of the term set pursuant to  
34 subsection a. during which the defendant shall not be eligible for  
35 parole or a term of 25 years during which time the defendant  
36 shall not be eligible for parole where the sentence imposed was  
37 life imprisonment; provided that no defendant shall be eligible for  
38 parole at a date earlier than otherwise provided by the law  
39 governing parole.

40 c. In the case of a person sentenced to an extended term  
41 pursuant to 2C:43-6c., 2C:43-6f. and 2C:44-3d., the court shall  
42 impose a sentence within the ranges permitted by 2C:43-7a. (2),  
43 (3), (4) or (5) according to the degree or nature of the crime for  
44 which the defendant is being sentenced, which sentence shall  
45 include a minimum term which shall, except as may be  
46 specifically provided by N.J.S.2C:43-6f., be fixed at or between  
47 one-third and one-half of the sentence imposed by the court or  
48 five years, whichever is greater, during which the defendant shall  
49 not be eligible for parole. Where the sentence imposed is life

1 imprisonment, the court shall impose a minimum term of 25 years  
2 during which the defendant shall not be eligible for parole, except  
3 that where the term of life imprisonment is imposed on a person  
4 convicted for a violation of N.J.S.2C:35-3, the term of parole  
5 ineligibility shall be 30 years.

6 (cf: P.L.1988, c.44, s.14.)

7 4. N.J.S.2C:44-3 is amended to read as follows:

8 2C:44-3. Criteria for Sentence of Extended Term of  
9 Imprisonment.

10 The court may, upon application of the prosecuting attorney,  
11 sentence a person who has been convicted of a crime of the first,  
12 second or third degree to an extended term of imprisonment if it  
13 finds one or more of the grounds specified in this section. The  
14 court shall, upon application of the prosecuting attorney,  
15 sentence a person who has been convicted of a crime, other than  
16 a violation of N.J.S.2C:12-1a., N.J.S.2C:33-4 or a violation of  
17 section 1 or 2 of P.L.1981, c.282 (C.2C:33-10 or 2C:33-11), to an  
18 extended term if it finds, by a preponderance of the evidence, the  
19 grounds in subsection e. If the grounds specified in subsection d.  
20 are found, and the person is being sentenced for commission of  
21 any of the offenses enumerated in 2C:43-6c., the court shall  
22 sentence the defendant to an extended term as required by  
23 2C:43-6c., and application by the prosecutor shall not be  
24 required. The finding of the court shall be incorporated in the  
25 record.

26 a. The defendant is a persistent offender. A persistent  
27 offender is a person who at the time of the commission of the  
28 crime is 21 years of age or over, who has been previously  
29 convicted on at least two separate occasions of two crimes,  
30 committed at different times, when he was at least 18 years of  
31 age, if the latest in time of these crimes or the date of the  
32 defendant's last release from confinement, whichever is later, is  
33 within 10 years of the date of the crime for which the defendant  
34 is being sentenced.

35 b. The defendant is a professional criminal. A professional  
36 criminal is a person who committed a crime as part of a  
37 continuing criminal activity in concert with two or more persons,  
38 and the circumstances of the crime show he has knowingly  
39 devoted himself to criminal activity as a major source of  
40 livelihood.

41 c. The defendant committed the crime as consideration for the  
42 receipt, or in expectation of the receipt, of anything of pecuniary  
43 value the amount of which was unrelated to the proceeds of the  
44 crime or he procured the commission of the offense by payment  
45 or promise of payment of anything of pecuniary value.

46 d. Second offender with a firearm. The defendant is at least  
47 18 years of age and has been previously convicted of any of the  
48 following crimes: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 1,  
49 2C:18-2, 2C:29-5, 2C:39-4a., or has been previously convicted of

1 an offense under Title 2A of the 2C:14-2a., 2C:14-3a.,  
2 2C:15-New Jersey Statutes which is equivalent of the offenses  
3 enumerated in this subsection and he used or possessed a firearm,  
4 as defined in 2C:39-1f., in the course of committing or  
5 attempting to commit any of these crimes, including the  
6 immediate flight therefrom.

7 e. The defendant in committing the crime acted, at least in  
8 part, with ill will, hatred or bias toward, and with a purpose to  
9 intimidate, an individual or group of individuals because of race,  
10 color, religion, sexual orientation or ethnicity.

11 (cf: P.L.1981, c.31, s.3)

12 5. This act shall take effect immediately.

13  
14  
15 CRIMINAL JUSTICE

16  
17 Provides for extended terms of imprisonment for offenses  
18 involving ethnic intimidation and upgrades simple assault and  
19 harassment involving ethnic intimidation.

1 d. Second offender with a firearm. The defendant is at least  
 2 18 years of age and has been previously convicted of any of the  
 3 following crimes: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1,  
 4 2C:14-2a., 2C:14-3a., 2C:15-1, 2C:18-2, 2C:29-5, 2C:39-4a., or  
 5 has been previously convicted of an offense under Title 2A of the  
 6 New Jersey Statutes which is equivalent of the offenses  
 7 enumerated in this subsection and he used or possessed a firearm,  
 8 as defined in 2C:39-1f., in the course of committing or  
 9 attempting to commit any of these crimes, including the  
 10 immediate flight therefrom.

11 e. The defendant in committing the crime acted, at least in  
 12 part, with ill will, hatred or bias toward, and with a purpose to  
 13 intimidate, an individual or group of individuals because of race,  
 14 color, religion, sexual orientation or ethnicity.  
 15 (cf: P.L.1981, c.31, s.3)

16 5. This act shall take effect immediately.

17  
 18 *Sponsor's* STATEMENT  
 19  
 20

21 This bill provides that a sentencing court would be allowed,  
 22 upon application of the prosecutor, to impose an extended term  
 23 of imprisonment if by a preponderance of the evidence it could be  
 24 shown that a crime was committed, at least in part, with ill will,  
 25 hatred or bias toward, or with a purpose to intimidate, an  
 26 individual or group of individuals because of race, color, religion,  
 27 sexual orientation or ethnicity.

28 Under the bill, extended terms of imprisonment could not be  
 29 imposed in cases involving violations of 2C:33-10 (placing signs or  
 30 displays implying threats of violence) or 2C:33-11 (desecrating  
 31 religious or sectarian premises). An extended term of  
 32 imprisonment would also not be available for harassment or  
 33 simple assault but if either offense involved ethnic intimidation,  
 34 it would be upgraded to a crime of the fourth degree from a  
 35 disorderly persons offense.

36 The extended term of imprisonment for a crime of the first  
 37 degree is between 20 years and life imprisonment; for a crime of  
 38 the second degree between 10 and 20 years; for a crime of the  
 39 third degree between 5 and 10 years imprisonment and for crimes  
 40 of the fourth degree up to 5 years.

41  
 42  
 43 CRIMINAL JUSTICE  
 44

45 Provides for extended terms of imprisonment for offenses  
 46 involving ethnic intimidation and upgrades simple assault and  
 47 harassment involving ethnic intimidation.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY  
COMMITTEE

STATEMENT TO

SENATE, No. 1062

STATE OF NEW JERSEY

DATED: JUNE 7, 1990

The Assembly Judiciary, Law and Public Safety Committee reports favorably Senate Bill No. 1062.

This bill provides that upon application of the prosecutor, a sentencing court may impose an extended term of imprisonment on a person convicted of a crime if it can be shown by a preponderance of the evidence that the crime was committed, at least in part, with ill will, hatred or bias, and with a purpose to intimidate, an individual or group of individuals because of race, religion, sexual orientation or ethnicity.

The extended terms of imprisonment could not be imposed on a person convicted under 2C:12-1a (simple assault); 2C:33-4 (harassment); 2C:33-10 (placing signs or displays implying threats of violence) or 2C:33-11 (desecrating religious or sectarian premises). If, however, it was determined that a conviction for simple assault or harassment involved ethnic intimidation, the offense would be upgraded from a disorderly persons offense to a crime of the fourth degree.

The extended term of imprisonment for a crime of the first degree is between 20 years and life imprisonment; for a crime of the second degree between 10 and 20 years; for a crime of the third degree between 5 and 10 years imprisonment and for crimes of the fourth degree up to 5 years.

This bill is identical to the Assembly Committee Substitute for Assembly Bills Nos. 3022, 2758, 2759 and 2101.



SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1062

STATE OF NEW JERSEY

LAW LIBRARY COPY

DATED: APRIL 26, 1990

The Senate Judiciary Committee reports favorably Senate Bill No. 1062.

This bill provides that upon application of the prosecutor, a sentencing court may impose an extended term of imprisonment on a person convicted of a crime if it can be shown by a preponderance of the evidence that the crime was committed, at least in part, with ill will, hatred or bias, and with a purpose to intimidate, an individual or group of individuals because of race, religion, sexual orientation or ethnicity.

The extended terms of imprisonment could not be imposed on a person convicted under 2C:12-1a (simple assault); 2C:33-4 (harassment); 2C:33-10 (placing signs or displays implying threats of violence) or 2C:33-11 (desecrating religious or sectarian premises). If, however, it was determined that a conviction for simple assault or harassment involved ethnic intimidation, the offense would be upgraded from a disorderly persons offense to a crime of the fourth degree.

The extended term of imprisonment for a crime of the first degree is between 20 years and life imprisonment; for a crime of the second degree between 10 and 20 years; for a crime of the third degree between 5 and 10 years imprisonment and for crimes of the fourth degree up to 5 years.

This bill was prefiled for introduction in the 1990 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

9774-901  
801  
REMARKS PREPARED FOR DELIVERY BY GOVERNOR JIM FLORIO  
ETHNIC INTIMIDATION BILL SIGNING  
TRENTON, NEW JERSEY  
THURSDAY, AUGUST 9, 1990

---

THIS MARKS THE SECOND TIME I HAVE COME HERE TO THE HILLEL CENTER. LAST DECEMBER, I SPOKE ABOUT THE AFTERMATH OF AN ANTI-SEMITIC ATTACK HERE.

I SPOKE ABOUT THE NEED FOR TOLERANCE. ABOUT THE NEED FOR ONE NEW JERSEY, NOT TWO. ABOUT HOW FRESH PAINT COULD REMOVE THE SWASTIKAS, BUT THAT THE HURT STILL LINGERED.

TODAY, I AM HERE TO SIGN WHAT I BELIEVE IS AN IMPORTANT PIECE OF LEGISLATION FOR THIS STATE. IT IS A LAW THAT STRIKES BACK AT ETHNIC INTIMIDATION AND CRIMES OF HATE.

I'M PROUD OF THIS LAW AND ITS SPONSORS. PEOPLE LIKE SENATOR FELDMAN, WHO HAS DEVOTED MANY YEARS OF HIS LIFE TO PROMOTING TOLERANCE.

I HAVE NO DOUBT THAT THE FOUNDATIONS HE SET IN TEANECK WENT A LONG WAY TOWARD EASING THE RECENT TENSIONS THERE. AND WE CANNOT FORGET THE VALUABLE CONTRIBUTIONS OF ASSEMBLYMEN SPADORO AND MENENDEZ.

THIS LEGISLATION DOES MORE THAN PUNISH. IT SAYS SOMETHING ABOUT WHO WE ARE, AND ABOUT THE IDEALS TO WHICH THIS STATE IS COMMITTED.

FOR MORE THAN 200 YEARS, THE PROMISE OF THIS STATE HAS BEEN STATED IN THAT SELF-EVIDENT TRUTH THAT ALL MEN AND WOMEN ARE CREATED EQUAL.

IT SOUNDS SO SIMPLE. BUT WE ALL KNOW THERE IS A TREMENDOUS DIFFERENCE BETWEEN THE PROMISE AND THE PERFORMANCE -- BETWEEN THE IDEAL AND THE REALITY OF THE WORLD WE LIVE IN.

IN TOO MANY MISTAKEN MINDS, PEOPLE ARE NOT CREATED EQUAL. AND WHEN PEOPLE ACT ON THAT BELIEF, THE RESULTS ARE ALWAYS TRAGIC.

TAKEN TO THE EXTREME, WE ARE LEFT WITH THE HOLOCAUST. IN NEW JERSEY, IT'S MORE LIKELY TO BE A SINGLE ACT OF HATE AGAINST THOSE OF A DIFFERENT CULTURE, OR RELIGION, OR RACE.

WHEN YOU CONSIDER THAT WE ARE A NATION OF IMMIGRANTS, BOUND TOGETHER BY THE IDEALS OF FREEDOM AND EQUALITY, THESE CRIMES ARE ALL THE MORE DISTRESSING.

BECAUSE INCREASINGLY, NEW IMMIGRANTS ARE THE TARGET OF HATEFUL SLURS, VIOLENT ACTS, OR WORSE. THERE WAS NO EXCUSE FOR IT IN MY GRANDFATHER'S TIME, WHEN PREJUDICE AGAINST ITALIANS WAS OPEN AND BITTER. THERE IS NO EXCUSE FOR IT NOW.

YET THE CRIMES OF HATE ARE RISING IN NEW JERSEY. LAST YEAR, THERE WERE MORE THAN 600 CRIMES DIRECTLY TIED TO RACE, RELIGION AND ETHNIC ORIGIN.

MOST OF THOSE CRIMES WERE DIRECTED AT AFRICAN AMERICANS AND JEWS. BUT THE RISING TIDE OF INTOLERANCE INCLUDES KOREANS, VIETNAMESE, HISPANICS AND OTHERS.

I DIDN'T COME HERE TODAY TO COMPLAIN ABOUT THE WAY THINGS ARE. I'M HERE TO TAKE STEPS TOWARD CHANGE.

IT'S TIME TO TAKE STRONG ACTION AGAINST CRIMES OF HATE. IT'S TIME TO MAKE THE LAW SPEAK CLEARLY. IT'S TIME TO STIFFEN THE PENALTIES FOR THOSE CRIMES.

FROM NOW ON, THE LAW IN NEW JERSEY WILL BE INTOLERANT OF ETHNIC INTIMIDATION. THOSE WHO COMMIT THESE CRIMES OF HATE ARE GOING TO FACE ADDITIONAL CHARGES.

FROM NOW ON, HATE CRIMES WILL BE SERIOUS CRIMES -- WHETHER IT'S A PHONE CALL IN THE MIDDLE OF THE NIGHT, OR VANDALISM THAT LEAVES HATEFUL SYMBOLS IN ITS WAKE, OR RACIAL SLURS.

FOR TOO LONG, WE CONDEMNED THESE CRIMES AS A SOCIETY, AND THEN IGNORED THEM IN OUR COURTS. TODAY, THE LAW WILL BEGIN TO SPEAK OUT AS WELL.

I WANT TO ADD, HOWEVER, THAT EVEN WITH A TOUGHER LAW, ALL OF US HAVE A RESPONSIBILITY TO SPEAK OUT WHEN WE SEE CRIMES OF HATE OR ETHNIC INTIMIDATION.

SILENCE AND INDIFFERENCE ARE FERTILE FIELDS FOR HATE, AND IF WE HAVE LEARNED ANYTHING OVER THE YEARS, IT'S THAT EVIL FLOURISHES WHEN GOOD PEOPLE DO NOTHING.

NOT ONLY MUST WE SPEAK OUT, WE MUST EDUCATE OUR CHILDREN. WE MUST TEACH THEM THAT DIVERSITY STRENGTHENS US, AND THAT HATE WILL ALWAYS WEAKEN US.

BIGOTRY IS WRONG. IT DESTROYS OUR SENSE OF COMMUNITY. IT WASTES OUR MOST PRECIOUS RESOURCE -- THE HUMAN POTENTIAL. AND WHEN WE WASTE THAT, WE ROB THIS STATE OF A BETTER FUTURE.

SO I'M PROUD TO TAKE A POSITIVE STEP TOWARD NEW JERSEY'S FUTURE AND SIGN THIS BILL INTO LAW.