

2C:1-14

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2001 **CHAPTER:** 220
NJSA: 2C:1-14 (Criminalizes electronic stalking or harassment)
BILL NO: S1616 (Substituted for A731)

SPONSOR(S): Robertson and Bucco

DATE INTRODUCED: September 21, 2000

COMMITTEE: **ASSEMBLY:** Judiciary
 SENATE: Womens Issues

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 28, 2001
 SENATE: May 3, 2001

DATE OF APPROVAL: August 24, 2001

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (1st reprint enacted)

(Amendments during passage denoted by superscript numbers)

S1616

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

FLOOR AMENDMENT STATEMENTS: Yes

LEGISLATIVE FISCAL ESTIMATE: No

A731

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes

Bill and Sponsors Statement identical to S1616

COMMITTEE STATEMENT:	ASSEMBLY:	Yes
	SENATE:	No
FLOOR AMENDMENT STATEMENTS:		No
LEGISLATIVE FISCAL ESTIMATE:		No
VETO MESSAGE:		No
GOVERNOR'S PRESS RELEASE ON SIGNING:		No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government

Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	Yes

"Electronic stalking now illegal under new measure," 8-25-2001 Philadelphia Inquirer, pB2

SENATE, No. 1616

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2000

Sponsored by:

Senator NORMAN M. ROBERTSON

District 34 (Essex and Passaic)

Senator ANTHONY R. BUCCO

District 25 (Morris)

Co-Sponsored by:

Senator Allen

SYNOPSIS

Criminalizes the use of the Internet and other electronic communication devices to commit harassment or stalking.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/3/2000)

S1616 ROBERTSON, BUCCO

2

1 AN ACT concerning certain criminal activities and amending
2 N.J.S.2C:33-4 and P.L.1992, c.209.

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:33-4 is amended to read as follows:

8 2C:33-4. Harassment.

9 Except as provided in subsections d. and e., a person commits a
10 petty disorderly persons offense if, with purpose to harass another, he:

11 a. Makes, or causes to be made, a communication or
12 communications anonymously or at extremely inconvenient hours, or
13 in offensively coarse language, or any other manner likely to cause
14 annoyance or alarm;

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

17 c. Engages in any other course of alarming conduct or of
18 repeatedly committed acts with purpose to alarm or seriously annoy
19 such other person.

20 A communication under subsection a. may be deemed to have been
21 made either at the place where it originated or at the place where it
22 was received. A communication under subsection a. includes but is
23 not limited to a communication made by means of an electronic
24 communication device. "Electronic communication device" includes,
25 but is not limited to, a telephone, cellular phone, computer, video
26 recorder, fax machine, or pager.

27 d. A person commits a crime of the fourth degree if in committing
28 an offense under this section, he acted with a purpose to intimidate an
29 individual or group of individuals because of race, color, religion,
30 gender, handicap, sexual orientation or ethnicity.

31 e. A person commits a crime of the fourth degree if, in committing
32 an offense under this section, he was serving a term of imprisonment
33 or was on parole or probation as the result of a conviction of any
34 indictable offense under the laws of this State, any other state or the
35 United States.

36 (cf: P.L.1998, c.17, s.4)

37

38 2. Section 1 of P.L.1992, c.209 (C.2C:12-10) is amended to read
39 as follows:

40 1. a. As used in this act:

41 (1) "Course of conduct" means repeatedly maintaining a visual or
42 physical proximity to a person or repeatedly conveying , or causing to
43 be conveyed, verbal or written threats or threats conveyed by an

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 electronic communication device or threats implied by conduct or a
2 combination thereof directed at or toward a person.

3 (2) "Repeatedly" means on two or more occasions.

4 (3) "Immediate family" means a spouse, parent, child, sibling or
5 any other person who regularly resides in the household or who within
6 the prior six months regularly resided in the household.

7 (4) "Electronic communication device" includes, but is not limited
8 to, a telephone, cellular phone, computer, video recorder, fax machine,
9 or pager.

10 b. A person is guilty of stalking, a crime of the fourth degree, if he
11 purposefully or knowingly engages in a course of conduct directed at
12 a specific person that would cause a reasonable person to fear bodily
13 injury to himself or a member of his immediate family or to fear the
14 death of himself or a member of his immediate family.

15 c. A person is guilty of a crime of the third degree if he commits
16 the crime of stalking in violation of an existing court order prohibiting
17 the behavior.

18 d. A person who commits a second or subsequent offense of
19 stalking against the same victim is guilty of a crime of the third degree.

20 e. A person is guilty of a crime of the third degree if he commits
21 the crime of stalking while serving a term of imprisonment or while on
22 parole or probation as the result of a conviction for any indictable
23 offense under the laws of this State, any other state or the United
24 States.

25 f. This act shall not apply to conduct which occurs during
26 organized group picketing.

27 (cf: P.L.1999, c.47, s.1)

28
29 3. This act shall take effect immediately.

30
31
32 STATEMENT

33
34 This bill would criminalize the use of the Internet, e-mail, and other
35 forms of electronic communication to commit harassment or stalking.

36 Currently, N.J.S.A.2C:33-4 provides that a person who makes, or
37 causes to be made, a communication "anonymously or at extremely
38 inconvenient hours, or in offensively coarse language, or any other
39 manner likely to cause annoyance or alarm" is guilty of harassment, a
40 petty disorderly persons offense. The bill provides that
41 "communication" includes a communication made by means of an
42 electronic communication device. Under the bill, the term "electronic
43 communication device" is defined as including, but not limited to, a
44 telephone, cellular phone, computer, video recorder, fax machine, or
45 pager.

46 The bill also amends the stalking statute, N.J.S.A.2C:12-10. Under

S1616 ROBERTSON, BUCCO

4

1 current law, a defendant is guilty of stalking if he repeatedly conveys
2 verbal or written threats that would cause a reasonable person to fear
3 bodily injury or death. The bill would specify that threats conveyed by
4 an electronic communication device are also included.

5 In addition, the bill provides that the crime of stalking is committed
6 not only when a person directly conveys the threats, but also when a
7 person causes those threats to be conveyed by others. This change
8 would be consistent with the language currently in N.J.S.A.2C:33-4.

SENATE WOMEN'S ISSUES, CHILDREN AND FAMILY
SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 1616

STATE OF NEW JERSEY

DATED: NOVEMBER 9, 2000

The Senate Women's Issues, Children and Family Services Committee reports favorably Senate Bill No. 1616.

This bill criminalizes the use of the Internet, e-mail, and other forms of electronic communication to commit harassment or stalking.

Currently, N.J.S.A.2C:33-4 provides that a person who makes, or causes to be made, a communication "anonymously or at extremely inconvenient hours, or in offensively coarse language, or any other manner likely to cause annoyance or alarm" is guilty of harassment, a petty disorderly persons offense. The bill provides that "communication" includes a communication made by means of an electronic communication device. Under the bill, the term "electronic communication device" is defined as including, but not limited to, a telephone, cellular phone, computer, video recorder, fax machine, or pager.

The bill also amends the stalking statute, N.J.S.A.2C:12-10. Under current law, a defendant is guilty of stalking if he repeatedly conveys verbal or written threats that would cause a reasonable person to fear bodily injury or death. The bill would specify that threats conveyed by an electronic communication device are also included.

In addition, the bill provides that the crime of stalking is committed not only when a person directly conveys the threats, but also when a person causes those threats to be conveyed by others. This change would be consistent with the language currently in N.J.S.A.2C:33-4.

STATEMENT TO
SENATE, No. 1616

with Senate Floor Amendments
(Proposed By Senator ROBERTSON)

ADOPTED: FEBRUARY 15, 2001

These floor amendments supplement the Criminal Code's general definition section to include the term "communication." The purpose of this amendment is to clarify that the scope of the term "communication," as used in the Criminal Code, includes all forms and all means of communication including, but not limited to, verbal, nonverbal and written communications conveyed by any means of communication including electronic communication devices.

The amendments also make changes to the stalking law to include threats conveyed by any means of communication.

[First Reprint]

SENATE, No. 1616

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2000

Sponsored by:

Senator NORMAN M. ROBERTSON

District 34 (Essex and Passaic)

Senator ANTHONY R. BUCCO

District 25 (Morris)

Co-Sponsored by:

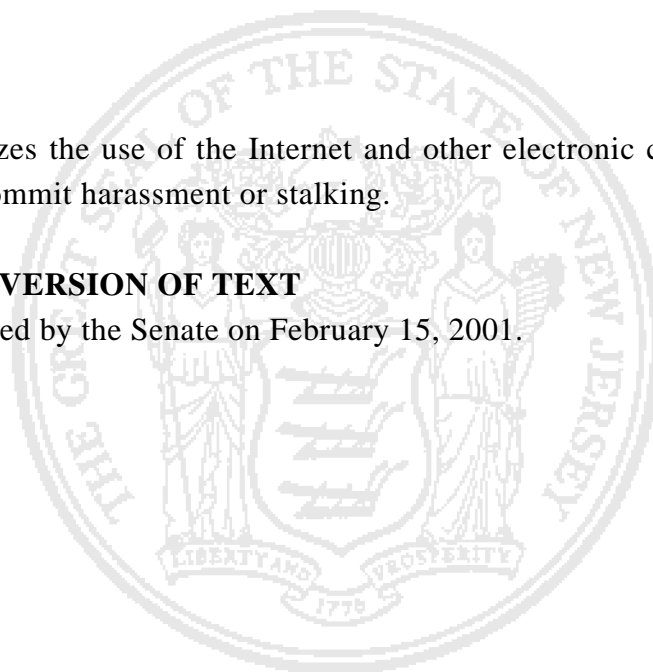
Senators Allen, Matheussen, Sinagra, Palaia, Kosco, Cafiero, Zane, Inverso, Assemblyman Talarico, Assemblywoman Vandervalk, Assemblymen Augustine, Blee, Asselta, Azzolina, Corodemus, Assemblywoman Crecco, Assemblymen DiGaetano, Felice, Geist, Gibson, Assemblywoman Heck, Assemblymen Kelly, LeFevre, T.Smith, Thompson and Zecker

SYNOPSIS

Criminalizes the use of the Internet and other electronic communication devices to commit harassment or stalking.

CURRENT VERSION OF TEXT

As amended by the Senate on February 15, 2001.



(Sponsorship Updated As Of: 6/29/2001)

1 AN ACT concerning certain criminal activities and amending
2 ¹[N.J.S.2C:33-4] N.J.S. 2C:1-14¹ and P.L.1992, c.209.

3

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

6

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

8 2C:33-4. Harassment.

9 Except as provided in subsections d. and e., a person commits a
10 petty disorderly persons offense if, with purpose to harass another, he:

11 a. Makes, or causes to be made, a communication or
12 communications anonymously or at extremely inconvenient hours, or
13 in offensively coarse language, or any other manner likely to cause
14 annoyance or alarm;

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

17 c. Engages in any other course of alarming conduct or of
18 repeatedly committed acts with purpose to alarm or seriously annoy
19 such other person.

20 A communication under subsection a. may be deemed to have been
21 made either at the place where it originated or at the place where it
22 was received. A communication under subsection a. includes but is
23 not limited to a communication made by means of an electronic
24 communication device. "Electronic communication device" includes,
25 but is not limited to, a telephone, cellular phone, computer, video
26 recorder, fax machine, or pager.

27 d. A person commits a crime of the fourth degree if in committing
28 an offense under this section, he acted with a purpose to intimidate an
29 individual or group of individuals because of race, color, religion,
30 gender, handicap, sexual orientation or ethnicity.

31 e. A person commits a crime of the fourth degree if, in committing
32 an offense under this section, he was serving a term of imprisonment
33 or was on parole or probation as the result of a conviction of any
34 indictable offense under the laws of this State, any other state or the
35 United States.

36 (cf: P.L.1998, c.17, s.4)]¹

37

38 ¹1. N.J.S. 2C:1-14 is amended to read as follows:

39 2C:1-14. In this code, unless a different meaning plainly is
40 required:

41 a. "Statute" includes the Constitution and a local law or ordinance

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted February 15, 2001.

- 1 of a political subdivision of the State;
- 2 b. "Act" or "action" means a bodily movement whether voluntary
3 or involuntary;
- 4 c. "Omission" means a failure to act;
- 5 d. "Conduct" means an action or omission and its accompanying
6 state of mind, or, where relevant, a series of acts and omissions;
- 7 e. "Actor" includes, where relevant, a person guilty of an omission;
- 8 f. "Acted" includes, where relevant, "omitted to act";
- 9 g. "Person," "he," and "actor" include any natural person and,
10 where relevant, a corporation or an unincorporated association;
- 11 h. "Element of an offense" means (1) such conduct or (2) such
12 attendant circumstances or (3) such a result of conduct as
- 13 (a) Is included in the description of the forbidden conduct in the
14 definition of the offense;
- 15 (b) Establishes the required kind of culpability;
- 16 (c) Negatives an excuse or justification for such conduct;
- 17 (d) Negatives a defense under the statute of limitations; or
- 18 (e) Establishes jurisdiction or venue;
- 19 i. "Material element of an offense" means an element that does not
20 relate exclusively to the statute of limitations, jurisdiction, venue or to
21 any other matter similarly unconnected with (1) the harm or evil,
22 incident to conduct, sought to be prevented by the law defining the
23 offense, or (2) the existence of a justification or excuse for such
24 conduct;
- 25 j. "Reasonably believes" or "reasonable belief" designates a belief
26 the holding of which does not make the actor reckless or criminally
27 negligent;
- 28 k. "Offense" means a crime, a disorderly persons offense or a petty
29 disorderly persons offense unless a particular section in this code is
30 intended to apply to less than all three;
- 31 l. (Deleted by amendment, P.L.1991, c.91).
- 32 m. "Amount involved," "benefit," and other terms of value. Where
33 it is necessary in this act to determine value, for purposes of fixing the
34 degree of an offense, that value shall be the fair market value at the
35 time and place of the operative act.
- 36 n. "Motor vehicle" shall have the meaning provided in R.S.39:1-1.
- 37 o. "Unlawful taking of a motor vehicle" means conduct prohibited
38 under N.J.S.2C:20-10 when the means of conveyance taken, operated
39 or controlled is a motor vehicle.
- 40 p. "Research facility" means any building, laboratory, institution,
41 organization, school, or person engaged in research, testing,
42 educational or experimental activities, or any commercial or academic
43 enterprise that uses warm-blooded or cold-blooded animals for food
44 or fiber production, agriculture, research, testing, experimentation or
45 education. A research facility includes, but is not limited to, any
46 enclosure, separately secured yard, pad, pond, vehicle, building

1 structure or premises or separately secured portion thereof.

2 q. "Communication" means any form of communication made by
3 any means, including, but not limited to, any verbal or written
4 communication, communications conveyed by any electronic
5 communication device, which includes but is not limited to, a wire,
6 radio, electromagnetic, photoelectric or photo-optical system,
7 telephone, including a cordless, cellular or digital telephone, computer,
8 video recorder, fax machine, pager, or any other means of transmitting
9 voice or data and communications made by sign or gesture.¹

10 (cf: P.L.1995,c.20,s.1)

11

12 2. Section 1 of P.L.1992, c.209 (C.2C:12-10) is amended to read
13 as follows:

14 1. a. As used in this act:

15 (1) "Course of conduct" means repeatedly maintaining a visual or
16 physical proximity to a person or repeatedly conveying , or causing to
17 be conveyed, verbal or written threats or threats conveyed by ¹[an
18 electronic communication device] any other means of communication¹
19 or threats implied by conduct or a combination thereof directed at or
20 toward a person.

21 (2) "Repeatedly" means on two or more occasions.

22 (3) "Immediate family" means a spouse, parent, child, sibling or
23 any other person who regularly resides in the household or who within
24 the prior six months regularly resided in the household.

25 ¹[(4) "Electronic communication device" includes, but is not
26 limited to, a telephone, cellular phone, computer, video recorder, fax
27 machine, or pager.]¹

28 b. A person is guilty of stalking, a crime of the fourth degree, if he
29 purposefully or knowingly engages in a course of conduct directed at
30 a specific person that would cause a reasonable person to fear bodily
31 injury to himself or a member of his immediate family or to fear the
32 death of himself or a member of his immediate family.

33 c. A person is guilty of a crime of the third degree if he commits
34 the crime of stalking in violation of an existing court order prohibiting
35 the behavior.

36 d. A person who commits a second or subsequent offense of
37 stalking against the same victim is guilty of a crime of the third degree.

38 e. A person is guilty of a crime of the third degree if he commits
39 the crime of stalking while serving a term of imprisonment or while on
40 parole or probation as the result of a conviction for any indictable
41 offense under the laws of this State, any other state or the United
42 States.

43 f. This act shall not apply to conduct which occurs during
44 organized group picketing.

45 (cf: P.L.1999, c.47, s.1)

46

47 3. This act shall take effect immediately.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1616

STATE OF NEW JERSEY

DATED: JUNE 7, 2001

The Assembly Judiciary Committee reports favorably Senate Bill No. 1616 (1R).

This bill criminalizes the use of the Internet, e-mail and other forms of electronic communication to commit harassment or stalking.

The bill provides that "communication" includes a communication made by any means including communications conveyed by a device, such as wire, radio, electromagnetic, photoelectric or photo-optical system, telephone, cellular phone, computer, video recorder, fax machine, or pager or any sign, gesture, verbal or written communication.

The bill also amends the stalking statute, N.J.S.A.2C:12-10. Under current law, a defendant is guilty of stalking if he repeatedly conveys verbal or written threats that would cause a reasonable person to fear bodily injury or death. The bill would specify that threats conveyed by any other means of communication are also included.

In addition, the bill provides that the crime of stalking is committed not only when a person directly conveys the threats, but also when a person causes those threats to be conveyed by others.

This bill is identical to Assembly Bill No. 731 (1R).

ASSEMBLY, No. 731

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman GUY F. TALARICO

District 38 (Bergen)

Assemblywoman CHARLOTTE VANDERVALK

District 39 (Bergen)

Co-Sponsored by:

Assemblymen Augustine and Blee

SYNOPSIS

Criminalizes the use of the Internet and other electronic communication devices to commit harassment or stalking.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 10/6/2000)

A731 TALARICO, VANDERVALK

2

1 AN ACT concerning certain criminal activities and amending
2 N.J.S.2C:33-4 and P.L.1992, c.209.

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:33-4 is amended to read as follows:
8 2C:33-4. Harassment.

9 Except as provided in subsections d. and e., a person commits a
10 petty disorderly persons offense if, with purpose to harass another, he:

11 a. Makes, or causes to be made, a communication or
12 communications anonymously or at extremely inconvenient hours, or
13 in offensively coarse language, or any other manner likely to cause
14 annoyance or alarm;

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

17 c. Engages in any other course of alarming conduct or of
18 repeatedly committed acts with purpose to alarm or seriously annoy
19 such other person.

20 A communication under subsection a. may be deemed to have been
21 made either at the place where it originated or at the place where it
22 was received. A communication under subsection a. includes but is
23 not limited to a communication made by means of an electronic
24 communication device. "Electronic communication device" includes,
25 but is not limited to, a telephone, cellular phone, computer, video
26 recorder, fax machine, or pager.

27 d. A person commits a crime of the fourth degree if in committing
28 an offense under this section, he acted with a purpose to intimidate an
29 individual or group of individuals because of race, color, religion,
30 gender, handicap, sexual orientation or ethnicity.

31 e. A person commits a crime of the fourth degree if, in committing
32 an offense under this section, he was serving a term of imprisonment
33 or was on parole or probation as the result of a conviction of any
34 indictable offense under the laws of this State, any other state or the
35 United States.

36 (cf: P.L.1998, c.17, s.4)

37

38 2. Section 1 of P.L.1992, c.209 (C.2C:12-10) is amended to read
39 as follows:

40 1. a. As used in this act:

41 (1) "Course of conduct" means repeatedly maintaining a visual or
42 physical proximity to a person or repeatedly conveying , or causing to
43 be conveyed, verbal or written threats or threats conveyed by an

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 electronic communication device or threats implied by conduct or a
2 combination thereof directed at or toward a person.

3 (2) "Repeatedly" means on two or more occasions.

4 (3) "Immediate family" means a spouse, parent, child, sibling or
5 any other person who regularly resides in the household or who within
6 the prior six months regularly resided in the household.

7 (4) "Electronic communication device" includes, but is not limited
8 to, a telephone, cellular phone, computer, video recorder, fax machine,
9 or pager.

10 b. A person is guilty of stalking, a crime of the fourth degree, if he
11 purposefully or knowingly engages in a course of conduct directed at
12 a specific person that would cause a reasonable person to fear bodily
13 injury to himself or a member of his immediate family or to fear the
14 death of himself or a member of his immediate family.

15 c. A person is guilty of a crime of the third degree if he commits
16 the crime of stalking in violation of an existing court order prohibiting
17 the behavior.

18 d. A person who commits a second or subsequent offense of
19 stalking against the same victim is guilty of a crime of the third degree.

20 e. A person is guilty of a crime of the third degree if he commits
21 the crime of stalking while serving a term of imprisonment or while on
22 parole or probation as the result of a conviction for any indictable
23 offense under the laws of this State, any other state or the United
24 States.

25 f. This act shall not apply to conduct which occurs during
26 organized group picketing.

27 (cf: P.L.1999, c.47, s.1)

28
29 3. This act shall take effect immediately.

30
31
32 STATEMENT

33
34 This bill would criminalize the use of the Internet, e-mail, and other
35 forms of electronic communication to commit harassment or stalking.

36 Currently, N.J.S.A.2C:33-4 provides that a person who makes, or
37 causes to be made, a communication "anonymously or at extremely
38 inconvenient hours, or in offensively coarse language, or any other
39 manner likely to cause annoyance or alarm" is guilty of harassment, a
40 petty disorderly persons offense. The bill provides that
41 "communication" includes a communication made by means of an
42 electronic communication device. Under the bill, the term "electronic
43 communication device" is defined as including, but not limited to, a
44 telephone, cellular phone, computer, video recorder, fax machine, or
45 pager.

46 The bill also amends the stalking statute, N.J.S.A.2C:12-10. Under

A731 TALARICO, VANDERVALK

4

1 current law, a defendant is guilty of stalking if he repeatedly conveys
2 verbal or written threats that would cause a reasonable person to fear
3 bodily injury or death. The bill would specify that threats conveyed by
4 an electronic communication device are also included.

5 In addition, the bill provides that the crime of stalking is committed
6 not only when a person directly conveys the threats, but also when a
7 person causes those threats to be conveyed by others. This change
8 would be consistent with the language currently in N.J.S.A.2C:33-4.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 731

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 7, 2001

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 731.

This bill criminalizes the use of the Internet, e-mail and other forms of electronic communication to commit harassment or stalking.

The committee amended the bill by deleting section 1 which amended the harassment statute. The amendments insert a new definition of the term "communication" in N.J.S. 2C:1-14, the general definition section of the criminal code. The term "communication" includes a communication made by any means including communications conveyed by a device, such as wire, radio, electromagnetic, photoelectric or photo-optical system, telephone, cellular phone, computer, video recorder, fax machine, or pager or any sign, gesture, verbal or written communication. This definition would apply to the use of the term "communication" in the harassment statute.

The bill also amends the stalking statute, N.J.S.A.2C:12-10. Under current law, a defendant is guilty of stalking if he repeatedly conveys verbal or written threats that would cause a reasonable person to fear bodily injury or death. The bill would specify that threats conveyed by any other means of communication are also included.

In addition, the bill provides that the crime of stalking is committed not only when a person directly conveys the threats, but also when a person causes those threats to be conveyed by others. This change would be consistent with the language currently in N.J.S.A.2C:33-4.

This bill was prefiled for introduction in the 2000 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

As amended, this bill is identical to Senate, No. 1616 (1R).

[First Reprint]

ASSEMBLY, No. 731

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman GUY F. TALARICO

District 38 (Bergen)

Assemblywoman CHARLOTTE VANDERVALK

District 39 (Bergen)

Co-Sponsored by:

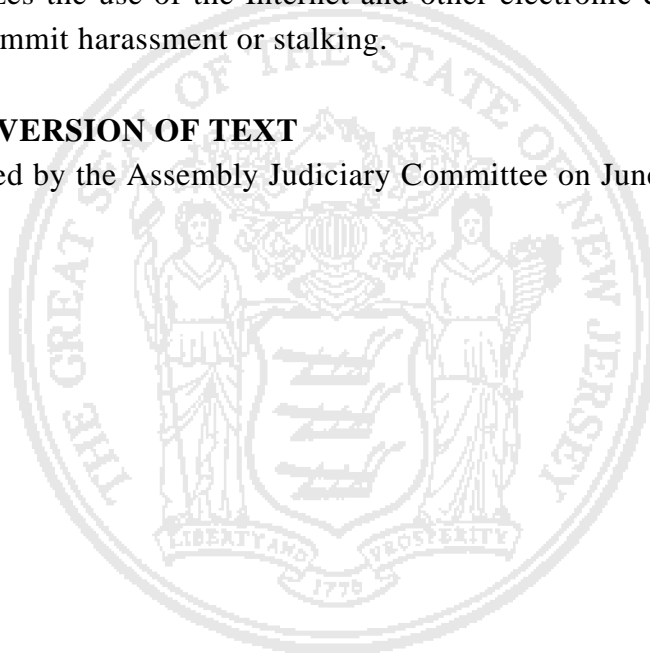
**Assemblymen Augustine, Blee, Asselta, Azzolina, Corodemus,
Assemblywoman Crecco, Assemblymen DiGaetano, Felice, Geist, Gibson,
Assemblywoman Heck, Assemblymen Kelly, LeFevre, T.Smith, Thompson
and Zecker**

SYNOPSIS

Criminalizes the use of the Internet and other electronic communication devices to commit harassment or stalking.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on June 7, 2001, with amendments.



(Sponsorship Updated As Of: 6/29/2001)

1 AN ACT concerning certain criminal activities and amending
2 ¹[N.J.S.2C:33-4] N.J.S. 2C:1-14¹ and P.L.1992, c.209.

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

6
7 ¹[1. N.J.S.2C:33-4 is amended to read as follows:

8 2C:33-4. Harassment.

9 Except as provided in subsections d. and e., a person commits a
10 petty disorderly persons offense if, with purpose to harass another, he:

11 a. Makes, or causes to be made, a communication or
12 communications anonymously or at extremely inconvenient hours, or
13 in offensively coarse language, or any other manner likely to cause
14 annoyance or alarm;

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

17 c. Engages in any other course of alarming conduct or of
18 repeatedly committed acts with purpose to alarm or seriously annoy
19 such other person.

20 A communication under subsection a. may be deemed to have been
21 made either at the place where it originated or at the place where it
22 was received. A communication under subsection a. includes but is
23 not limited to a communication made by means of an electronic
24 communication device. "Electronic communication device" includes,
25 but is not limited to, a telephone, cellular phone, computer, video
26 recorder, fax machine, or pager.

27 d. A person commits a crime of the fourth degree if in committing
28 an offense under this section, he acted with a purpose to intimidate an
29 individual or group of individuals because of race, color, religion,
30 gender, handicap, sexual orientation or ethnicity.

31 e. A person commits a crime of the fourth degree if, in committing
32 an offense under this section, he was serving a term of imprisonment
33 or was on parole or probation as the result of a conviction of any
34 indictable offense under the laws of this State, any other state or the
35 United States.

36 (cf: P.L.1998, c.17, s.4)]¹

37

38 ¹1. N.J.S. 2C:1-14 is amended to read as follows:

39 2C:1-14. In this code, unless a different meaning plainly is
40 required:

41 a."Statute" includes the Constitution and a local law or ordinance

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJU committee amendments adopted June 7, 2001.

- 1 of a political subdivision of the State;
- 2 b."Act" or "action" means a bodily movement whether voluntary or
3 involuntary;
- 4 c."Omission" means a failure to act;
- 5 d."Conduct" means an action or omission and its accompanying
6 state of mind, or, where relevant, a series of acts and omissions;
- 7 e. "Actor" includes, where relevant, a person guilty of an omission;
- 8 f. "Acted" includes, where relevant, "omitted to act";
- 9 g."Person," "he," and "actor" include any natural person and, where
10 relevant, a corporation or an unincorporated association;
- 11 h."Element of an offense" means (1) such conduct or (2) such
12 attendant circumstances or (3) such a result of conduct as
- 13 (a) Is included in the description of the forbidden conduct in the
14 definition of the offense;
- 15 (b) Establishes the required kind of culpability;
- 16 (c) Negatives an excuse or justification for such conduct;
- 17 (d) Negatives a defense under the statute of limitations; or
- 18 (e) Establishes jurisdiction or venue;
- 19 i. "Material element of an offense" means an element that does not
20 relate exclusively to the statute of limitations, jurisdiction, venue or to
21 any other matter similarly unconnected with (1) the harm or evil,
22 incident to conduct, sought to be prevented by the law defining the
23 offense, or (2) the existence of a justification or excuse for such
24 conduct;
- 25 j. "Reasonably believes" or "reasonable belief" designates a belief
26 the holding of which does not make the actor reckless or criminally
27 negligent;
- 28 k."Offense" means a crime, a disorderly persons offense or a petty
29 disorderly persons offense unless a particular section in this code is
30 intended to apply to less than all three;
- 31 l. (Deleted by amendment, P.L.1991, c.91).
- 32 m. "Amount involved," "benefit," and other terms of value. Where
33 it is necessary in this act to determine value, for purposes of fixing the
34 degree of an offense, that value shall be the fair market value at the
35 time and place of the operative act.
- 36 n. "Motor vehicle" shall have the meaning provided in R.S.39:1-1.
- 37 o. "Unlawful taking of a motor vehicle" means conduct prohibited
38 under N.J.S.2C:20-10 when the means of conveyance taken, operated
39 or controlled is a motor vehicle.
- 40 p. "Research facility" means any building, laboratory, institution,
41 organization, school, or person engaged in research, testing,
42 educational or experimental activities, or any commercial or academic
43 enterprise that uses warm-blooded or cold-blooded animals for food
44 or fiber production, agriculture, research, testing, experimentation or
45 education. A research facility includes, but is not limited to, any
46 enclosure, separately secured yard, pad, pond, vehicle, building

1 structure or premises or separately secured portion thereof.

2 q. "Communication" means any form of communication made by
3 any means, including, but not limited to, any verbal or written
4 communication, communications conveyed by any electronic
5 communication device, which includes but is not limited to, a wire,
6 radio, electromagnetic, photoelectric or photo-optical system,
7 telephone, including a cordless, cellular or digital telephone, computer,
8 video recorder, fax machine, pager, or any other means of transmitting
9 voice or data and communications made by sign or gesture.¹

10 (cf: P.L. 1995,c.20,s.1)

11

12 2. Section 1 of P.L.1992, c.209 (C.2C:12-10) is amended to read
13 as follows:

14 1. a. As used in this act:

15 (1) "Course of conduct" means repeatedly maintaining a visual or
16 physical proximity to a person or repeatedly conveying , or causing to
17 be conveyed, verbal or written threats or threats conveyed by¹ [an
18 electronic communication device] any other means of communication¹
19 or threats implied by conduct or a combination thereof directed at or
20 toward a person.

21 (2) "Repeatedly" means on two or more occasions.

22 (3) "Immediate family" means a spouse, parent, child, sibling or
23 any other person who regularly resides in the household or who within
24 the prior six months regularly resided in the household.

25 ¹[(4) "Electronic communication device" includes, but is not
26 limited to, a telephone, cellular phone, computer, video recorder, fax
27 machine, or pager.]¹

28 b. A person is guilty of stalking, a crime of the fourth degree, if he
29 purposefully or knowingly engages in a course of conduct directed at
30 a specific person that would cause a reasonable person to fear bodily
31 injury to himself or a member of his immediate family or to fear the
32 death of himself or a member of his immediate family.

33 c. A person is guilty of a crime of the third degree if he commits
34 the crime of stalking in violation of an existing court order prohibiting
35 the behavior.

36 d. A person who commits a second or subsequent offense of
37 stalking against the same victim is guilty of a crime of the third degree.

38 e. A person is guilty of a crime of the third degree if he commits
39 the crime of stalking while serving a term of imprisonment or while on
40 parole or probation as the result of a conviction for any indictable
41 offense under the laws of this State, any other state or the United
42 States.

1 f. This act shall not apply to conduct which occurs during
2 organized group picketing.

3 (cf: P.L.1999, c.47, s.1)

4

5 3. This act shall take effect immediately.

P.L. 2001, CHAPTER 220, *approved August 24, 2001*

Senate, No. 1616 (*First Reprint*)

1 AN ACT concerning certain criminal activities and amending
2 ¹[N.J.S.2C:33-4] N.J.S. 2C:1-14¹ and P.L.1992, c.209.

3

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

6

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

8 2C:33-4. Harassment.

9 Except as provided in subsections d. and e., a person commits a
10 petty disorderly persons offense if, with purpose to harass another, he:

11 a. Makes, or causes to be made, a communication or
12 communications anonymously or at extremely inconvenient hours, or
13 in offensively coarse language, or any other manner likely to cause
14 annoyance or alarm;

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

17 c. Engages in any other course of alarming conduct or of
18 repeatedly committed acts with purpose to alarm or seriously annoy
19 such other person.

20 A communication under subsection a. may be deemed to have been
21 made either at the place where it originated or at the place where it
22 was received. A communication under subsection a. includes but is
23 not limited to a communication made by means of an electronic
24 communication device. "Electronic communication device" includes,
25 but is not limited to, a telephone, cellular phone, computer, video
26 recorder, fax machine, or pager.

27 d. A person commits a crime of the fourth degree if in committing
28 an offense under this section, he acted with a purpose to intimidate an
29 individual or group of individuals because of race, color, religion,
30 gender, handicap, sexual orientation or ethnicity.

31 e. A person commits a crime of the fourth degree if, in committing
32 an offense under this section, he was serving a term of imprisonment
33 or was on parole or probation as the result of a conviction of any
34 indictable offense under the laws of this State, any other state or the
35 United States.

36 (cf: P.L.1998, c.17, s.4)]¹

37

38 ¹1. N.J.S. 2C:1-14 is amended to read as follows:

39 2C:1-14. In this code, unless a different meaning plainly is
40 required:

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted February 15, 2001.

- 1 a. "Statute" includes the Constitution and a local law or ordinance
2 of a political subdivision of the State;
- 3 b. "Act" or "action" means a bodily movement whether voluntary
4 or involuntary;
- 5 c. "Omission" means a failure to act;
- 6 d. "Conduct" means an action or omission and its accompanying
7 state of mind, or, where relevant, a series of acts and omissions;
- 8 e. "Actor" includes, where relevant, a person guilty of an omission;
- 9 f. "Acted" includes, where relevant, "omitted to act";
- 10 g. "Person," "he," and "actor" include any natural person and,
11 where relevant, a corporation or an unincorporated association;
- 12 h. "Element of an offense" means (1) such conduct or (2) such
13 attendant circumstances or (3) such a result of conduct as
- 14 (a) Is included in the description of the forbidden conduct in the
15 definition of the offense;
- 16 (b) Establishes the required kind of culpability;
- 17 (c) Negatives an excuse or justification for such conduct;
- 18 (d) Negatives a defense under the statute of limitations; or
- 19 (e) Establishes jurisdiction or venue;
- 20 i. "Material element of an offense" means an element that does not
21 relate exclusively to the statute of limitations, jurisdiction, venue or to
22 any other matter similarly unconnected with (1) the harm or evil,
23 incident to conduct, sought to be prevented by the law defining the
24 offense, or (2) the existence of a justification or excuse for such
25 conduct;
- 26 j. "Reasonably believes" or "reasonable belief" designates a belief
27 the holding of which does not make the actor reckless or criminally
28 negligent;
- 29 k. "Offense" means a crime, a disorderly persons offense or a petty
30 disorderly persons offense unless a particular section in this code is
31 intended to apply to less than all three;
- 32 l. (Deleted by amendment, P.L.1991, c.91).
- 33 m. "Amount involved," "benefit," and other terms of value. Where
34 it is necessary in this act to determine value, for purposes of fixing the
35 degree of an offense, that value shall be the fair market value at the
36 time and place of the operative act.
- 37 n. "Motor vehicle" shall have the meaning provided in R.S.39:1-1.
- 38 o. "Unlawful taking of a motor vehicle" means conduct prohibited
39 under N.J.S.2C:20-10 when the means of conveyance taken, operated
40 or controlled is a motor vehicle.
- 41 p. "Research facility" means any building, laboratory, institution,
42 organization, school, or person engaged in research, testing,
43 educational or experimental activities, or any commercial or academic
44 enterprise that uses warm-blooded or cold-blooded animals for food
45 or fiber production, agriculture, research, testing, experimentation or
46 education. A research facility includes, but is not limited to, any

1 enclosure, separately secured yard, pad, pond, vehicle, building
2 structure or premises or separately secured portion thereof.

3 q. "Communication" means any form of communication made by
4 any means, including, but not limited to, any verbal or written
5 communication, communications conveyed by any electronic
6 communication device, which includes but is not limited to, a wire,
7 radio, electromagnetic, photoelectric or photo-optical system,
8 telephone, including a cordless, cellular or digital telephone, computer,
9 video recorder, fax machine, pager, or any other means of transmitting
10 voice or data and communications made by sign or gesture.¹

11 (cf: P.L.1995,c.20,s.1)

12

13 2. Section 1 of P.L.1992, c.209 (C.2C:12-10) is amended to read
14 as follows:

15 1. a. As used in this act:

16 (1) "Course of conduct" means repeatedly maintaining a visual or
17 physical proximity to a person or repeatedly conveying , or causing to
18 be conveyed, verbal or written threats or threats conveyed by ¹[an
19 electronic communication device] any other means of communication¹
20 or threats implied by conduct or a combination thereof directed at or
21 toward a person.

22 (2) "Repeatedly" means on two or more occasions.

23 (3) "Immediate family" means a spouse, parent, child, sibling or
24 any other person who regularly resides in the household or who within
25 the prior six months regularly resided in the household.

26 ¹[(4) "Electronic communication device" includes, but is not
27 limited to, a telephone, cellular phone, computer, video recorder, fax
28 machine, or pager.]¹

29 b. A person is guilty of stalking, a crime of the fourth degree, if he
30 purposefully or knowingly engages in a course of conduct directed at
31 a specific person that would cause a reasonable person to fear bodily
32 injury to himself or a member of his immediate family or to fear the
33 death of himself or a member of his immediate family.

34 c. A person is guilty of a crime of the third degree if he commits
35 the crime of stalking in violation of an existing court order prohibiting
36 the behavior.

37 d. A person who commits a second or subsequent offense of
38 stalking against the same victim is guilty of a crime of the third degree.

39 e. A person is guilty of a crime of the third degree if he commits
40 the crime of stalking while serving a term of imprisonment or while on
41 parole or probation as the result of a conviction for any indictable
42 offense under the laws of this State, any other state or the United
43 States.

44 f. This act shall not apply to conduct which occurs during
45 organized group picketing.

46 (cf: P.L.1999, c.47, s.1)

1 3. This act shall take effect immediately.

2

3

4

5

6 Criminalizes the use of the Internet and other electronic
7 communication devices to commit harassment or stalking.

CHAPTER 220

AN ACT concerning certain criminal activities and amending N.J.S. 2C:1-14 and P.L.1992, c.209.

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

1. N.J.S. 2C:1-14 is amended to read as follows:

Definitions.

2C:1-14. In this code, unless a different meaning plainly is required:

- a. "Statute" includes the Constitution and a local law or ordinance of a political subdivision of the State;
- b. "Act" or "action" means a bodily movement whether voluntary or involuntary;
- c. "Omission" means a failure to act;
- d. "Conduct" means an action or omission and its accompanying state of mind, or, where relevant, a series of acts and omissions;
- e. "Actor" includes, where relevant, a person guilty of an omission;
- f. "Acted" includes, where relevant, "omitted to act";
- g. "Person," "he," and "actor" include any natural person and, where relevant, a corporation or an unincorporated association;
- h. "Element of an offense" means (1) such conduct or (2) such attendant circumstances or (3) such a result of conduct as
 - (a) Is included in the description of the forbidden conduct in the definition of the offense;
 - (b) Establishes the required kind of culpability;
 - (c) Negatives an excuse or justification for such conduct;
 - (d) Negatives a defense under the statute of limitations; or
 - (e) Establishes jurisdiction or venue;
- i. "Material element of an offense" means an element that does not relate exclusively to the statute of limitations, jurisdiction, venue or to any other matter similarly unconnected with (1) the harm or evil, incident to conduct, sought to be prevented by the law defining the offense, or (2) the existence of a justification or excuse for such conduct;
- j. "Reasonably believes" or "reasonable belief" designates a belief the holding of which does not make the actor reckless or criminally negligent;
- k. "Offense" means a crime, a disorderly persons offense or a petty disorderly persons offense unless a particular section in this code is intended to apply to less than all three;
- l. (Deleted by amendment, P.L.1991, c.91).
- m. "Amount involved," "benefit," and other terms of value. Where it is necessary in this act to determine value, for purposes of fixing the degree of an offense, that value shall be the fair market value at the time and place of the operative act.
- n. "Motor vehicle" shall have the meaning provided in R.S.39:1-1.
- o. "Unlawful taking of a motor vehicle" means conduct prohibited under N.J.S.2C:20-10 when the means of conveyance taken, operated or controlled is a motor vehicle.
- p. "Research facility" means any building, laboratory, institution, organization, school, or person engaged in research, testing, educational or experimental activities, or any commercial or academic enterprise that uses warm-blooded or cold-blooded animals for food or fiber production, agriculture, research, testing, experimentation or education. A research facility includes, but is not limited to, any enclosure, separately secured yard, pad, pond, vehicle, building structure or premises or separately secured portion thereof.
- q. "Communication" means any form of communication made by any means, including, but not limited to, any verbal or written communication, communications conveyed by any electronic communication device, which includes but is not limited to, a wire, radio, electromagnetic, photoelectric or photo-optical system, telephone, including a cordless, cellular or digital telephone, computer, video recorder, fax machine, pager, or any other means of transmitting voice or data and communications made by sign or gesture.

2. Section 1 of P.L.1992, c.209 (C.2C:12-10) is amended to read as follows:

C.2C:12-10 Definitions; stalking designated a crime; degrees.

1. a. As used in this act:

(1) "Course of conduct" means repeatedly maintaining a visual or physical proximity to a person or repeatedly conveying, or causing to be conveyed, verbal or written threats or threats conveyed by any other means of communication or threats implied by conduct or a combination thereof directed at or toward a person.

(2) "Repeatedly" means on two or more occasions.

(3) "Immediate family" means a spouse, parent, child, sibling or any other person who regularly resides in the household or who within the prior six months regularly resided in the household.

b. A person is guilty of stalking, a crime of the fourth degree, if he purposefully or knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person to fear bodily injury to himself or a member of his immediate family or to fear the death of himself or a member of his immediate family.

c. A person is guilty of a crime of the third degree if he commits the crime of stalking in violation of an existing court order prohibiting the behavior.

d. A person who commits a second or subsequent offense of stalking against the same victim is guilty of a crime of the third degree.

e. A person is guilty of a crime of the third degree if he commits the crime of stalking while serving a term of imprisonment or while on parole or probation as the result of a conviction for any indictable offense under the laws of this State, any other state or the United States.

f. This act shall not apply to conduct which occurs during organized group picketing.

3. This act shall take effect immediately.

Approved August 24, 2001.