

2C:33-4

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:33-4

(Telephone calls - Offensive -  
determination of where crime took  
place)

LAWS OF: 1983

CHAPTER: 334

Bill No: A978

Sponsor(s): Dankek

Date Introduced: March 1, 1982

Committee: Assembly: Judiciary, Law, Public Safety and Defense

Senate: Judiciary

Amended during passage: YES A amendments denoted by asterisks.  
According to Governor's recommendations

Date of Passage: Assembly: March 15, 1982 Re-enacted 4/25/83

Senate: February 24, 1983 Re-enacted 8/29/83

Date of Approval: September 2, 1983

Following statements are attached if available:

Sponsor statement: YES

Committee statement: Assembly YES

Senate YES

Fiscal Note: NO

Veto Message: YES

Message on Signing: NO

Following were printed:

Reports: NO

Hearings: NO

DO NOT REMOVE FROM LIBRARY

9-2-83

[OFFICIAL COPY REPRINT]

## ASSEMBLY, No. 978

## STATE OF NEW JERSEY

INTRODUCED MARCH 1, 1982

By Assemblymen PANKOK and HERMAN

Referred to Committee on Judiciary, Law, Public Safety  
and Defense

AN ACT concerning harassment and amending N. J. S. 2C:33-4.

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

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

2 2C:33-4. Harassment. A person commits a petty disorderly  
3 persons offense if, with purpose to harass another, he:

4 a. Makes, or causes to be made, a communication or communica-  
5 tions anonymously or at extremely inconvenient hours, or in  
6 offensively coarse language, or any other manner likely to cause  
7 annoyance or alarm;

8 b. Subjects another to striking, kicking, shoving, or other offen-  
9 sive touching, or threatens to do so; or

10 c. Engages in any other course of alarming conduct or of re-  
11 peatedly committed acts with purpose to alarm or seriously annoy  
12 such other person.

13 *A communication under subsection a. may be deemed to have*  
14 *\*[taken place either at the place it was made or the place]\* \*been*  
15 *made either at the place where it originated or at the place where\**  
16 *it was received.*

1 2. This act shall take effect immediately.

**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 printed in italics thus is new matter.**

**Matter enclosed in asterisks or stars has been adopted as follows:**

**\*—Assembly amendment adopted in accordance with Governor's recom-  
mendations April 11, 1983.**

**ASSEMBLY, No. 978**

**STATE OF NEW JERSEY**

INTRODUCED MARCH 1, 1982

By Assemblymen PANKOK and HERMAN

Referred to Committee on Judiciary, Law, Public Safety  
and Defense

AN ACT concerning harassment and amending N. J. S. 2C:33-4.

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

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

2 2C:33-4. Harassment. A person commits a petty disorderly  
3 persons offense if, with purpose to harass another, he:

4 a. Makes, or causes to be made, a communication or communica-  
5 tions anonymously or at extremely inconvenient hours, or in  
6 offensively coarse language, or any other manner likely to cause  
7 annoyance or alarm;

8 b. Subjects another to striking, kicking, shoving, or other offen-  
9 sive touching, or threatens to do so; or

10 c. Engages in any other course of alarming conduct or of re-  
11 peatedly committed acts with purpose to alarm or seriously annoy  
12 such other person.

13 *A communication under subsection a. may be deemed to have*  
14 *taken place either at the place it was made or the place it was*  
15 *received.*

1 2. This act shall take effect immediately.

---

**STATEMENT**

The purpose of this bill is to expressly clarify, under N. J. S. 2C:33-4, that harassing communications such as an offensive telephone call, be deemed to have taken place either where it was made or where it was received. In its practical context, this would permit prosecution of such an offense either in the municipal court within the municipality from which the call was placed or in the municipal court in the municipality in which the call was received.

**Matter printed in italics thus is new matter.**

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY  
AND DEFENSE COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 978**

**STATE OF NEW JERSEY**

DATED: MARCH 8, 1982

The purpose of this act is to expressly clarify, under N. J. S. 2C:33-4, that harassing communications such as an offensive telephone call, be deemed to have taken place either where it was made or where it was received. In its practical context, this would permit prosecution of such an offense either in the municipal court within the municipality from which the call was placed or in the municipal court in the municipality in which the call was received.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 978**

**STATE OF NEW JERSEY**

DATED: JANUARY 31, 1983

Among the activities prohibited by N. J. S. 2C:33-4 which defines the offense of harassment is the making of communications, such as telephone calls, either anonymously; at inconvenient hours; in offensively coarse language or in any other manner likely to cause annoyance or alarm.

This bill provides that a communication under the "harassment" statute shall be deemed to have taken place either where it was made or where it was received. This would permit prosecution of such an offense in the municipal court of either the municipality in which the call was made or in the municipality in which the call was received.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

April 11, 1983

ASSEMBLY BILL NO. 978

To the General Assembly:

Pursuant to Article V, Section 1, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 978 with my objections and recommendations for amendment.

The purpose of this bill is to amend N.J.S. 2C:33-4 to expressly clarify that harassing communications such as offensive telephone calls be deemed to have taken place either where it was made or where it was received. Among the activities prohibited by N.J.S. 2C:33-4 which defines the offense of harassment is the making of communications, such as telephone calls, either anonymously; at inconvenient hours; in offensively coarse language or in any other manner likely to cause annoyance or alarm. This bill provides that a communication under the "harassment" statute shall be deemed to have taken place either where it was made or where it was received. This would permit prosecution of such an offense in the municipal court of either the municipality in which the call was made or in the municipality in which the call was received. Thus, in cases where the maker's location could not be proved, the case could be prosecuted at the place where the communication was received. This would probably occur most frequently in cases involving annoying telephone calls from a person known to the victim and would obviate the need to trace the geographic source of such calls.

This bill deals with the question of jurisdiction of the municipal court. Jurisdiction over the subject matter is the power of the court to hear and determine cases of the class to which the proceedings in question belongs. The power of the court to deal with the subject matter of any given action rests solely in its having been clothed with such power by either the Constitution or statutory grant. State v. Osborn, 32 N.J. 117, 122 (1960). The Legislature conferred upon each municipal court and the judges thereof jurisdiction over petty disorderly person offenses set forth in the New Jersey Code of Criminal Justice which occur within the territorial jurisdiction of the court (N.J.S. 2A:8-21(d)), and defined the territorial jurisdiction of each such municipal court to be the territory embraced within such municipality. N.J.S. 2A:8-20.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

2

N.J.S. 2C:33-4 provides, "A person commits a petty disorderly persons offense if, with purpose to harass another, he: (a) Makes, or causes to be made, a communication or communications anonymously or at extremely inconvenient hours, or in offensively coarse language, or any other manner likely to cause annoyance or alarm..." This defines the offense as "making" or "causing to be made" a certain offensive communication. The statute could be read to mean that a prosecution for this offense may only be prosecuted in the municipality in which the communication was "made".

The precursor of this section was N.J.S. 2A:170-29. That statute dealt with one person telephoning another and did not address making a communication. That statute also contained a specific jurisdictional statement that "any offense committed under...this section may be deemed to have taken place at either the place at which the telephone call was made or the place at which the telephone call was received."

The question of jurisdiction regarding N.J.S. 2C:33-4 was raised in State v. Halleran, 181 N.J. Super. 542 (1981). There the court held that "While N.J.S. 2C:33-4 does not contain the specific grant of jurisdiction to both the court of the municipality from which the telephone call was received, nonetheless, we hold that the municipal court had jurisdiction over this matter. N.J.S.A. 2C:1-1 of the new Code, which sets forth rules of construction, in pertinent part provides:

e. The provisions of the code not inconsistent with those of prior laws shall be construed as a continuation of such laws.

It is evident that the provisions of N.J.S.A. 2C:33-4 are not inconsistent with those of the prior law, N.J.S.A. 2A:170-29. Therefore, N.J.S.A. 2C:33-4 must be construed as a continuation of the prior law, and the jurisdictional grant contained in N.J.S.A. 2A:170-29 carried over to the new Code. See State v. Butler, 178 N.J. Super 205, 210-211 (App.Div.1981)."

There is nothing in N.J.S. 2C:33-4 or its legislative history to show an intention on the part of the Legislature to depart from the grant to municipal courts jurisdiction over certain specified offenses "occurring within the territorial jurisdiction of the court." However, N.J.S. 2C:33-4 does not furnish any guidance for determining the place of the offense and the Statute

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

3

does not specify the situs of the offense. This is rectified by this bill in effect codifying the Halleran decision.

While I agree that this bill is necessary to correct the gap in Title 2C to specifically grant jurisdiction, I propose amending the bill to make it conform with the language of N.J.S. 2C:33-4 rather than the old language of N.J.S. 2A:170-29.

Therefore, I herewith return Assembly Bill No. 978 and recommend that it be amended as follows:

Page 1, Section 1, Line 14: DELETE "taken place either at the place it was made or the place" and INSERT "been made either at the place where it originated or at the place where"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards  
Chief Counsel