

# LEGISLATIVE HISTORY CHECKLIST

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## *LAWS of 1999*

**CHAPTER:** 47

**NJSA:**2C:12-10

(Stalking -- temporary restraining orders)

**BILL NO:**A2246 (Substituted for S1354 2<sup>nd</sup> Reprint)

**SPONSOR(S):**Azzolina and Thompson

**DATE INTRODUCED:** June 22, 1998

**COMMITTEE:**

*ASSEMBLY:*Judiciary

*SENATE:*----

**AMENDED DURING PASSAGE:**Yes

**DATE OF PASSAGE:**

*ASSEMBLY:*January 28, 1999

*SENATE:* January 28, 1999

**DATE OF APPROVAL:**March 12, 1999

### THE FOLLOWING ARE ATTACHED IF AVAILABLE:

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**FINAL TEXT OF BILL:** *Yes*1<sup>st</sup> Reprint

(Amendments during passage denoted by superscript numbers)

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**A2246**

**SPONSORS STATEMENT:** *Yes*(Begins on page 4 of original bill)

**COMMITTEE STATEMENT:**

**ASSEMBLY:***Yes*

**SENATE:***No*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

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## **S1354**

**SPONSORS STATEMENT:** *Yes*(Begins on page 4 of original bill)  
Bill and Sponsor's Statement identical to A1343

**COMMITTEE STATEMENT:**

**ASSEMBLY:** *No*

**SENATE:** *Yes*

**FLOOR AMENDMENT STATEMENTS:** *Yes*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

**2<sup>nd</sup> REPRINT (Final version):** *Yes*

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### **GOVERNOR'S ACTIONS**

**VETO MESSAGE:** *No*

**GOVERNOR'S PRESS RELEASE ON SIGNING:** *YES*

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### **THE FOLLOWING WERE PRINTED:**

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**REPORTS:** *No*

**HEARINGS:** *No*

**NEWSPAPER ARTICLES:** *No*

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P.L. 1999, CHAPTER 47, *approved March 12, 1999*  
Assembly, No. 2246 (*First Reprint*)

1 AN ACT concerning <sup>1</sup>[certain crimes against children]stalking<sup>1</sup>,  
2 amending P.L.1992, c.209 and supplementing Title 2C of the New  
3 Jersey Statutes.

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

7  
8 1. Section 1 of P.L.1992, c.209 (C.2C:12-10) is amended to read  
9 as follows:

10 1. a. As used in this act:

11 (1)"Course of conduct" means repeatedly maintaining a visual or  
12 physical proximity to a person or repeatedly conveying verbal or  
13 written threats or threats implied by conduct or a combination thereof  
14 directed at or toward a person.

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

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

19 b. A person is guilty of stalking, a crime of the fourth degree, if he  
20 <sup>1</sup>[:

21 (1) Purposefully] purposefully or knowingly<sup>1</sup> engages in a course  
22 of conduct directed at a specific person that would cause a reasonable  
23 person to fear bodily injury to himself or a member of his immediate  
24 family or to fear the death of himself or a member of his immediate  
25 family <sup>1</sup>[: and

26 (2) (a) Knowingly, recklessly or negligently places the specific  
27 person in reasonable fear of bodily injury to himself or a member of his  
28 immediate family or in reasonable fear of the death of himself or a  
29 member of his immediate family; or

30 (b) Knowingly, recklessly or negligently places the specific  
31 person's parent or guardian in reasonable fear of bodily injury to the  
32 specific person or a member of his immediate family or in reasonable  
33 fear of the death of the specific person or a member of his immediate  
34 family]<sup>1</sup>.

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

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

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly AJU committee amendments adopted January 7, 1999.

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

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

8 (cf: P.L.1998, c.17, s.3)

9

10 2. (New section) a. In any case involving an allegation of stalking  
11 <sup>1</sup>[in violation of subparagraph (b) of paragraph (2) of subsection b. of  
12 section 1 of P.L.1992, c.209 (C.2C:12-10)]<sup>1</sup> where the victim is a  
13 child under the age of 18 years or is developmentally disabled as  
14 defined in section 3 of P.L.1977, c.200 (C.5:5-44.4) <sup>1</sup>or where the  
15 victim is 18 years of age or older and is mentally defective as defined  
16 in N.J.S. 2C:14-1<sup>1</sup>, the court may issue a temporary restraining order  
17 against the defendant which limits the contact of the defendant and the  
18 victim.

19 b. The provisions of subsection a. of this section are in addition to,  
20 and not in lieu of, the provisions of section 3 of P.L.1996, c.39  
21 (C.2C:12-10.1) which provide that a judgment of conviction for  
22 stalking shall operate as an application for a permanent restraining  
23 order limiting the contact of the defendant and the victim.

24 c. The parent or guardian of the child or <sup>1</sup>[developmentally  
25 disabled] the<sup>1</sup> person described in subsection a. of this <sup>1</sup>[act]  
26 section<sup>1</sup> may file a complaint with the Superior Court in conformity  
27 with the rules of court seeking a temporary restraining order against  
28 a person alleged to have committed stalking against the child or  
29 <sup>1</sup>[developmentally disabled] the<sup>1</sup> person <sup>1</sup>described in subsection a.  
30 of this section<sup>1</sup>. The parent or guardian may seek emergency, ex  
31 parte relief. A decision shall be made by the judge regarding the  
32 emergency relief forthwith. If it appears that the child or  
33 <sup>1</sup>[developmentally disabled] the<sup>1</sup> person <sup>1</sup>described in subsection a.  
34 of this section<sup>1</sup> is in danger of being stalked by the defendant, the  
35 judge shall issue a temporary restraining order pursuant to subsection  
36 e. of this section.

37 d. A conviction of stalking shall not be a prerequisite for the grant  
38 of a temporary restraining order under this act.

39 e. A temporary restraining order issued under this act shall limit the  
40 contact of the defendant and the child or <sup>1</sup>[developmentally disabled]  
41 the<sup>1</sup> person <sup>1</sup>described in subsection a. of this section<sup>1</sup> who was  
42 stalked and in addition may grant all other relief specified in section 3  
43 of P.L.1996, c.39 (C.2C:12-10.1).

44 f. A hearing shall be held in the Superior Court within 10 days of  
45 the issuance of any temporary restraining order which was issued on  
46 an emergency, ex parte basis. A copy of the complaint shall be served

1 on the defendant in conformity with the rules of court. At the hearing  
2 the standard for continuing the temporary restraining order shall be by  
3 a preponderance of the evidence.

4 g. If the court rules that the temporary restraining order shall be  
5 continued, the order shall remain in effect until either:

6 (1) the defendant is convicted of stalking, in which case the court  
7 shall hold a hearing on the issue of whether a permanent restraining  
8 order shall be entered pursuant to section 3 of P.L.1996, c.39  
9 (C.2C:12-10.1); or

10 (2) the victim's parent or guardian or, in the case of a victim who  
11 has reached the age of 18, the victim, requests that the restraining  
12 order be dismissed <sup>1</sup>and the court finds just cause to do so<sup>1</sup>.

13

14 3. This act shall take effect immediately.

15

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19 Amends stalking law; provides for temporary restraining order for  
20 children and certain adults who are victims of stalking.

# ASSEMBLY, No. 2246

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## STATE OF NEW JERSEY

### 208th LEGISLATURE

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INTRODUCED JUNE 22, 1998

**Sponsored by:**

**Assemblyman JOSEPH AZZOLINA**

**District 13 (Middlesex and Monmouth)**

**Assemblyman SAMUEL D. THOMPSON**

**District 13 (Middlesex and Monmouth)**

**Co-Sponsored by:**

**Assemblyman LeFevre**

**SYNOPSIS**

Amends stalking law to include situations where stalking victim is a child or a developmentally disabled adult.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 7/28/1998)**

1 AN ACT concerning certain crimes against children, amending  
2 P.L.1992, c.209 and supplementing Title 2C of the New Jersey  
3 Statutes.

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

7  
8 1. Section 1 of P.L.1992, c.209 (C.2C:12-10) is amended to read  
9 as follows:

10 1. a. As used in this act:

11 (1) "Course of conduct" means repeatedly maintaining a visual or  
12 physical proximity to a person or repeatedly conveying verbal or  
13 written threats or threats implied by conduct or a combination thereof  
14 directed at or toward a person.

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

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

19 b. A person is guilty of stalking, a crime of the fourth degree, if  
20 he:

21 (1) Purposefully engages in a course of conduct directed at a  
22 specific person that would cause a reasonable person to fear bodily  
23 injury to himself or a member of his immediate family or to fear the  
24 death of himself or a member of his immediate family; and

25 (2) (a) Knowingly, recklessly or negligently places the specific  
26 person in reasonable fear of bodily injury to himself or a member of his  
27 immediate family or in reasonable fear of the death of himself or a  
28 member of his immediate family; or

29 (b) Knowingly, recklessly or negligently places the specific  
30 person's parent or guardian in reasonable fear of bodily injury to the  
31 specific person or a member of his immediate family or in reasonable  
32 fear of the death of the specific person or a member of his immediate  
33 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.

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

3 (cf: P.L.1998, c.17, s.3)

4

5 2. (New section) a. In any case involving an allegation of stalking  
6 in violation of subparagraph (b) of paragraph (2) of subsection b. of  
7 section 1 of P.L.1992, c.209 (C.2C:12-10) where the victim is a child  
8 under the age of 18 years or is developmentally disabled as defined in  
9 section 3 of P.L.1977, c.200 (C.5:5-44.4), the court may issue a  
10 temporary restraining order against the defendant which limits the  
11 contact of the defendant and the victim.

12 b. The provisions of subsection a. of this section are in addition to,  
13 and not in lieu of, the provisions of section 3 of P.L.1996, c.39  
14 (C.2C:12-10.1) which provide that a judgment of conviction for  
15 stalking shall operate as an application for a permanent restraining  
16 order limiting the contact of the defendant and the victim.

17 c. The parent or guardian of the child or developmentally disabled  
18 person described in subsection a. of this act may file a complaint with  
19 the Superior Court in conformity with the rules of court seeking a  
20 temporary restraining order against a person alleged to have  
21 committed stalking against the child or developmentally disabled  
22 person. The parent or guardian may seek emergency, ex parte relief.  
23 A decision shall be made by the judge regarding the emergency relief  
24 forthwith. If it appears that the child or developmentally disabled  
25 person is in danger of being stalked by the defendant, the judge shall  
26 issue a temporary restraining order pursuant to subsection e. of this  
27 section.

28 d. A conviction of stalking shall not be a prerequisite for the grant  
29 of a temporary restraining order under this act.

30 e. A temporary restraining order issued under this act shall limit  
31 the contact of the defendant and the child or developmentally disabled  
32 person who was stalked and in addition may grant all other relief  
33 specified in section 3 of P.L.1996, c.39 (C.2C:12-10.1).

34 f. A hearing shall be held in the Superior Court within 10 days of  
35 the issuance of any temporary restraining order which was issued on  
36 an emergency, ex parte basis. A copy of the complaint shall be served  
37 on the defendant in conformity with the rules of court. At the hearing  
38 the standard for continuing the temporary restraining order shall be by  
39 a preponderance of the evidence.

40 g. If the court rules that the temporary restraining order shall be  
41 continued, the order shall remain in effect until either:

42 (1) the defendant is convicted of stalking, in which case the court  
43 shall hold a hearing on the issue of whether a permanent restraining  
44 order shall be entered pursuant to section 3 of P.L.1996, c.39  
45 (C.2C:12-10.1); or

46 (2) the victim's parent or guardian or, in the case of a victim who



1 has reached the age of 18, the victim, requests that the restraining  
2 order be dismissed.

3

4 3. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill would amend the anti-stalking statute to specifically  
10 include cases where the stalking victim is a child. The statute would  
11 also be amended to include cases where the victim is a  
12 developmentally disabled adult.

13 Under N.J.S.A.2C:12-10, a person cannot be convicted of stalking  
14 unless his repeated acts of threatening behavior actually place the  
15 victim in reasonable fear of bodily injury to himself or a family member  
16 or in reasonable fear of death or of the death of a family member.  
17 Thus, in cases where the stalking victim is a child who is innocently  
18 unaware of the dangers of a perpetrator's threatening behavior, the  
19 stalking law does not apply.

20 This bill would amend N.J.S.A.2C:12-10 to provide that, in cases  
21 where the victim is a child under the age of 18 or is developmentally  
22 disabled, the perpetrator commits the crime of stalking if, by his  
23 repeated threatening actions, he places the victim's parent or guardian  
24 in reasonable fear of injury or death of the victim or the victim's  
25 family.

26 This bill also provides that children and developmentally disabled  
27 persons could be protected against stalkers by temporary restraining  
28 orders. Under current law, a conviction of stalking operates as an  
29 application for a permanent restraining order limiting the contact of  
30 the defendant and the victim. However, it may take several years  
31 before a person charged with stalking is finally convicted of the crime.  
32 Under the bill, a parent or guardian could apply for a temporary  
33 restraining order against the defendant on an emergency basis, before  
34 the defendant is convicted.

35 If the hearing is held on an emergency, ex parte basis, without the  
36 presence of the defendant, the court issuing the temporary restraining  
37 order would be required to hold a hearing within 10 days after notice  
38 to the defendant. At the hearing, the court would decide whether the  
39 temporary restraining order should be continued. If continued, the  
40 temporary restraining order would be in effect until either (1) the  
41 defendant is convicted of stalking the victim, in which case the court  
42 would hold a hearing on the issue of whether a permanent restraining  
43 order would be entered (pursuant to current law) or (2) the victim's  
44 parent or guardian or, if the victim has reached the age of 18, the  
45 victim, requests that the temporary restraining order be dismissed.

46 Stalking is a crime of the fourth degree (punishable by a term of

**A2246 AZZOLINA, THOMPSON**

5

1 imprisonment of up to 18 months or a fine of up to \$10,000, or both)  
2 unless it is committed on a second or subsequent occasion against the  
3 same victim or is committed in violation of an existing court order. In  
4 the latter cases stalking is a crime of the third degree (punishable by  
5 a term of imprisonment of up to three to five years or a fine of up to  
6 \$15,000, or both).

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 2246**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 7, 1999

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2246.

Under N.J.S.A.2C:12-10, a person cannot be convicted of stalking unless his repeated acts of threatening behavior actually place the victim in reasonable fear of death or bodily injury to himself or a family member. Thus in cases in which the stalking victim is a child or a developmentally disabled adult, proving that the stalking occurred can be difficult as the victim may not have the capacity to actually be placed in subjective fear of injury.

In order to address these situations, this bill, as amended by the committee, would delete the subjective element of the offense and provide that a person would be guilty of stalking if he purposely 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 his immediate family regardless of whether the victim had a subjective reasonable fear of injury.

In addition, the committee amended section 2 of the bill concerning temporary restraining orders to include persons who are 18 years of age or older and who are mentally defective as defined in N.J.S.2C:14-1. The current reference in the bill to developmentally disabled persons is not broad enough to cover those adults whose mental difficulties may have occurred after reaching the age of majority.

**SENATE, No. 1354**

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**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

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INTRODUCED SEPTEMBER 24, 1998

**Sponsored by:**

**Senator JAMES S. CAFIERO**

**District 1 (Cape May, Atlantic and Cumberland)**

**SYNOPSIS**

Amends stalking law to include situations where stalking victim is a child or a developmentally disabled adult.

**CURRENT VERSION OF TEXT**

As introduced.



S1354 CAFIERO

2

1 AN ACT concerning certain crimes against children, amending  
2 P.L.1992, c.209 and supplementing Title 2C of the New Jersey  
3 Statutes.

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

7  
8 1. Section 1 of P.L.1992, c.209 (C.2C:12-10) is amended to read  
9 as follows:

10 1. a. As used in this act:

11 (1) "Course of conduct" means repeatedly maintaining a visual or  
12 physical proximity to a person or repeatedly conveying verbal or  
13 written threats or threats implied by conduct or a combination thereof  
14 directed at or toward a person.

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

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

19 b. A person is guilty of stalking, a crime of the fourth degree, if he:

20 (1) Purposefully engages in a course of conduct directed at a  
21 specific person that would cause a reasonable person to fear bodily  
22 injury to himself or a member of his immediate family or to fear the  
23 death of himself or a member of his immediate family; and

24 (2) (a) Knowingly, recklessly or negligently places the specific  
25 person in reasonable fear of bodily injury to himself or a member of his  
26 immediate family or in reasonable fear of the death of himself or a  
27 member of his immediate family; or

28 (b) Knowingly, recklessly or negligently places the specific person's  
29 parent or guardian in reasonable fear of bodily injury to the specific  
30 person or a member of his immediate family or in reasonable fear of  
31 the death of the specific person or a member of his immediate family.

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

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

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

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

3 (cf: P.L.1998, c.17, s.3)

4

5 2. (New section) a. In any case involving an allegation of stalking  
6 in violation of subparagraph (b) of paragraph (2) of subsection b. of  
7 section 1 of P.L.1992, c.209 (C.2C:12-10) where the victim is a child  
8 under the age of 18 years or is developmentally disabled as defined in  
9 section 3 of P.L.1977, c.200 (C.5:5-44.4), the court may issue a  
10 temporary restraining order against the defendant which limits the  
11 contact of the defendant and the victim.

12 b. The provisions of subsection a. of this section are in addition to,  
13 and not in lieu of, the provisions of section 3 of P.L.1996, c.39  
14 (C.2C:12-10.1) which provide that a judgment of conviction for  
15 stalking shall operate as an application for a permanent restraining  
16 order limiting the contact of the defendant and the victim.

17 c. The parent or guardian of the child or developmentally disabled  
18 person described in subsection a. of this act may file a complaint with  
19 the Superior Court in conformity with the Rules of Court seeking a  
20 temporary restraining order against a person alleged to have  
21 committed stalking against the child or developmentally disabled  
22 person. The parent or guardian may seek emergency, ex parte relief.  
23 A decision shall be made by the judge regarding the emergency relief  
24 forthwith. If it appears that the child or developmentally disabled  
25 person is in danger of being stalked by the defendant, the judge shall  
26 issue a temporary restraining order pursuant to subsection e. of this  
27 section.

28 d. A conviction of stalking shall not be a prerequisite for the grant  
29 of a temporary restraining order under this act.

30 e. A temporary restraining order issued under this act shall limit  
31 the contact of the defendant and the child or developmentally disabled  
32 person who was stalked and in addition may grant all other relief  
33 specified in section 3 of P.L.1996, c.39 (C.2C:12-10.1).

34 f. A hearing shall be held in the Superior Court within 10 days of  
35 the issuance of any temporary restraining order which was issued on  
36 an emergency, ex parte basis. A copy of the complaint shall be served  
37 on the defendant in conformity with the rules of court. At the hearing  
38 the standard for continuing the temporary restraining order shall be by  
39 a preponderance of the evidence.

40 g. If the court rules that the temporary restraining order shall be  
41 continued, the order shall remain in effect until either:

42 (1) the defendant is convicted of stalking, in which case the court  
43 shall hold a hearing on the issue of whether a permanent restraining  
44 order shall be entered pursuant to section 3 of P.L.1996, c.39  
45 (C.2C:12-10.1); or

46 (2) the victim's parent or guardian or, in the case of a victim who

1 has reached the age of 18, the victim, requests that the restraining  
2 order be dismissed.

3

4 3. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill would amend the anti-stalking statute to specifically  
10 include cases where the stalking victim is a child. The statute would  
11 also be amended to include cases where the victim is a  
12 developmentally disabled adult.

13 Under N.J.S.A.2C:12-10, a person cannot be convicted of stalking  
14 unless his repeated acts of threatening behavior actually place the  
15 victim in reasonable fear of bodily injury to himself or a family member  
16 or in reasonable fear of death or of the death of a family member.  
17 Thus, in cases where the stalking victim is a child who is innocently  
18 unaware of the dangers of a perpetrator's threatening behavior, the  
19 stalking law does not apply.

20 This bill would amend N.J.S.A.2C:12-10 to provide that, in cases  
21 where the victim is a child under the age of 18 or is developmentally  
22 disabled, the perpetrator commits the crime of stalking if, by his  
23 repeated threatening actions, he places the victim's parent or guardian  
24 in reasonable fear of injury or death of the victim or the victim's  
25 family.

26 This bill also provides that children and developmentally disabled  
27 persons could be protected against stalkers by temporary restraining  
28 orders. Under current law, a conviction of stalking operates as an  
29 application for a permanent restraining order limiting the contact of  
30 the defendant and the victim. However, it may take several years  
31 before a person charged with stalking is finally convicted of the crime.  
32 Under the bill, a parent or guardian could apply for a temporary  
33 restraining order against the defendant on an emergency basis, before  
34 the defendant is convicted.

35 If the hearing is held on an emergency, ex parte basis, without the  
36 presence of the defendant, the court issuing the temporary restraining  
37 order would be required to hold a hearing within 10 days after notice  
38 to the defendant. At the hearing, the court would decide whether the  
39 temporary restraining order should be continued. If continued, the  
40 temporary restraining order would be in effect until either (1) the  
41 defendant is convicted of stalking the victim, in which case the court  
42 would hold a hearing on the issue of whether a permanent restraining  
43 order would be entered (pursuant to current law) or (2) the victim's  
44 parent or guardian or, if the victim has reached the age of 18, the  
45 victim, requests that the temporary restraining order be dismissed.

46 Stalking is a crime of the fourth degree (punishable by a term of

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5

1 imprisonment of up to 18 months or a fine of up to \$10,000, or both)  
2 unless it is committed on a second or subsequent occasion against the  
3 same victim or is committed in violation of an existing court order. In  
4 the latter cases stalking is a crime of the third degree (punishable by  
5 a term of imprisonment of up to three to five years or a fine of up to  
6 \$15,000, or both).



# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### **SENATE, No. 1354**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 16, 1998

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1354.

Under N.J.S.A.2C:12-10, a person cannot be convicted of stalking unless his repeated acts of threatening behavior actually place the victim in reasonable fear of death or bodily injury to himself or a family member. Thus in cases in which the stalking victim is a child or a developmentally disabled adult, proving that the stalking occurred can be difficult as the victim may not have capacity to actually be placed in subjective fear of injury. In order to address these situations, this bill, as amended by the committee, would delete the subjective element of the offense and provide that a person would be guilty of stalking if he purposely engages in a course of conduct directed at a specific person that would cause a reasonable person to fear bodily injury to himself or his immediate family regardless of whether the victim had a subjective reasonable fear of injury.

# STATEMENT TO

[First Reprint]

## **SENATE, No. 1354**

with Senate Floor Amendments  
(Proposed By Senator CAFIERO)

ADOPTED: JANUARY 12, 1999

These floor amendments omit the phrase "the actor knows" in subsection b. of N.J.S.A.2C:12-10 and instead insert "knowingly " after "purposefully" to clarify that "knowing" is a culpable mental state for engaging in the course of conduct that may result in committing stalking. In addition, these floor amendments in section 2 of the bill concerning temporary restraining orders include persons who are 18 years of age or older and who are mentally defective as defined in N.J.S.2C:14-1. The current reference in the bill to developmentally disabled persons is not broad enough to cover those adults whose mental difficulties may have occurred after reaching the age of majority.

These floor amendments conform this bill to the provisions of Assembly, No.2246 (1R).

[Second Reprint]

**SENATE, No. 1354**

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**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

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INTRODUCED SEPTEMBER 24, 1998

**Sponsored by:**

**Senator JAMES S. CAFIERO**

**District 1 (Cape May, Atlantic and Cumberland)**

**Senator DIANE ALLEN**

**District 7 (Burlington and Camden)**

**Co-Sponsored by:**

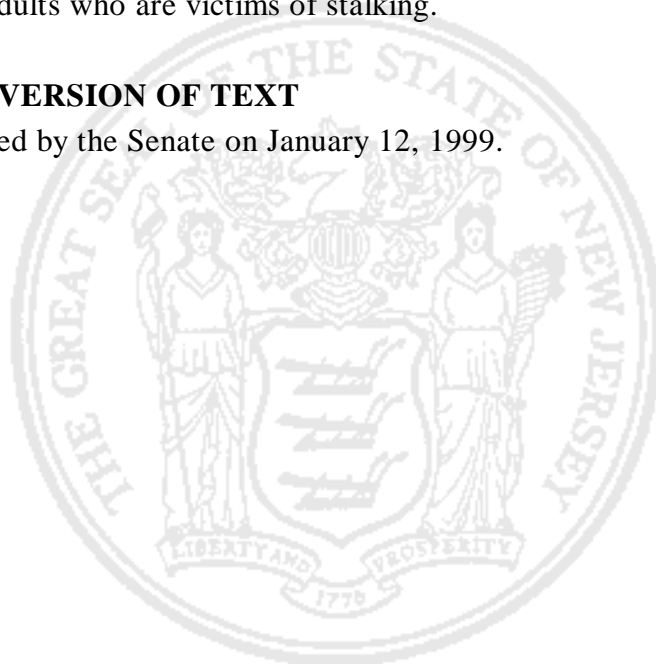
**Senators Sinagra, Matheussen, Inverso, Singer and Bucco**

**SYNOPSIS**

Amends stalking law; provides for temporary restraining order for children and certain adults who are victims of stalking.

**CURRENT VERSION OF TEXT**

As amended by the Senate on January 12, 1999.



**(Sponsorship Updated As Of: 1/29/1999)**

1 AN ACT concerning <sup>2</sup>**[certain crimes against children]**stalking<sup>2</sup>,  
2 amending P.L.1992, c.209 and supplementing Title 2C of the New  
3 Jersey Statutes.

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

7  
8 1. Section 1 of P.L.1992, c.209 (C.2C:12-10) is amended to read  
9 as follows:

10 1. a. As used in this act:

11 (1) "Course of conduct" means repeatedly maintaining a visual or  
12 physical proximity to a person or repeatedly conveying verbal or  
13 written threats or threats implied by conduct or a combination thereof  
14 directed at or toward a person.

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

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

19 b. A person is guilty of stalking, a crime of the fourth degree, if  
20 he<sup>1</sup> **[**:

21 (1) Purposefully **]** purposefully<sup>1</sup> <sup>2</sup>or knowingly<sup>2</sup> engages in a  
22 course of conduct directed at a specific person that <sup>2</sup>**[**<sup>1</sup>the actor  
23 knows<sup>1</sup> **]**<sup>2</sup> would cause a reasonable person to fear bodily injury to  
24 himself or a member of his immediate family or to fear the death of  
25 himself or a member of his immediate family<sup>1</sup> **[**; and

26 (2) (a) Knowingly, recklessly or negligently places the specific  
27 person in reasonable fear of bodily injury to himself or a member of his  
28 immediate family or in reasonable fear of the death of himself or a  
29 member of his immediate family; or

30 (b) Knowingly, recklessly or negligently places the specific person's  
31 parent or guardian in reasonable fear of bodily injury to the specific  
32 person or a member of his immediate family or in reasonable fear of  
33 the death of the specific person or a member of his immediate  
34 family<sup>1</sup> **]**.

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

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

40 e. A person is guilty of a crime of the third degree if he commits

**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:**

<sup>1</sup> Senate SJU committee amendments adopted November 16, 1998.

<sup>2</sup> Senate floor amendments adopted January 12, 1999.

1 the crime of stalking while serving a term of imprisonment or while on  
2 parole or probation as the result of a conviction for any indictable  
3 offense under the laws of this State, any other state or the United  
4 States.

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

7 (cf: P.L.1998, c.17, s.3)

8

9 2. (New section) a. In any case involving an allegation of stalking  
10 <sup>1</sup>~~in violation of subparagraph (b) of paragraph (2) of subsection b. of~~  
11 ~~section 1 of P.L.1992, c.209 (C.2C:12-10)]<sup>1</sup> where the victim is a~~  
12 ~~child under the age of 18 years or is developmentally disabled as~~  
13 ~~defined in section 3 of P.L.1977, c.200 (C.5:5-44.4) <sup>2</sup>or where the~~  
14 ~~victim is 18 years of age or older and is mentally defective as defined~~  
15 ~~in N.J.S. 2C:14-1<sup>2</sup>, the court may issue a temporary restraining order~~  
16 ~~against the defendant which limits the contact of the defendant and the~~  
17 ~~victim.~~

18 b. The provisions of subsection a. of this section are in addition to,  
19 and not in lieu of, the provisions of section 3 of P.L.1996, c.39  
20 (C.2C:12-10.1) which provide that a judgment of conviction for  
21 stalking shall operate as an application for a permanent restraining  
22 order limiting the contact of the defendant and the victim.

23 c. The parent or guardian of the child or <sup>2</sup>~~developmentally~~  
24 ~~disabled] the<sup>2</sup> person described in subsection a. of this <sup>2</sup>~~[act]~~  
25 ~~section<sup>2</sup> may file a complaint with the Superior Court in conformity~~  
26 ~~with the rules of court seeking a temporary restraining order against~~  
27 ~~a person alleged to have committed stalking against the child or~~  
28 ~~<sup>2</sup>~~developmentally disabled] the<sup>2</sup> person <sup>2</sup>described in subsection a.~~  
29 ~~of this section<sup>2</sup>. The parent or guardian may seek emergency, ex~~  
30 ~~parte relief. A decision shall be made by the judge regarding the~~  
31 ~~emergency relief forthwith. If it appears that the child or~~  
32 ~~<sup>2</sup>~~developmentally disabled] the<sup>2</sup> person <sup>2</sup>described in subsection a.~~  
33 ~~of this section<sup>2</sup> is in danger of being stalked by the defendant, the~~  
34 ~~judge shall issue a temporary restraining order pursuant to subsection~~  
35 ~~e. of this section.~~~~~~~~

36 d. A conviction of stalking shall not be a prerequisite for the grant  
37 of a temporary restraining order under this act.

38 e. A temporary restraining order issued under this act shall limit  
39 the contact of the defendant and the child or <sup>2</sup>~~developmentally~~  
40 ~~disabled] the<sup>2</sup> person <sup>2</sup>described in subsection a. of this section<sup>2</sup> who~~  
41 ~~was stalked and in addition may grant all other relief specified in~~  
42 ~~section 3 of P.L.1996, c.39 (C.2C:12-10.1).~~

43 f. A hearing shall be held in the Superior Court within 10 days of  
44 the issuance of any temporary restraining order which was issued on  
45 an emergency, ex parte basis. A copy of the complaint shall be served  
46 on the defendant in conformity with the rules of court. At the hearing

1 the standard for continuing the temporary restraining order shall be by  
2 a preponderance of the evidence.

3 g. If the court rules that the temporary restraining order shall be  
4 continued, the order shall remain in effect until either:

5 (1) the defendant is convicted of stalking, in which case the court  
6 shall hold a hearing on the issue of whether a permanent restraining  
7 order shall be entered pursuant to section 3 of P.L.1996, c.39  
8 (C.2C:12-10.1); or

9 (2) the victim's parent or guardian or, in the case of a victim who  
10 has reached the age of 18, the victim, requests that the restraining  
11 order be dismissed <sup>2</sup>and the court finds just cause to do so<sup>2</sup>.

12

13 3. This act shall take effect immediately.

*Office of the Governor*  
**NEWS RELEASE**

CONTACT: Gene Herman  
609-777-2600

RELEASE: March 15, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

**A-2246**, sponsored by Assembly Members Joseph Azzolina (R-Middlesex/Monmouth) and Samuel D. Thompson (R-Middlesex/Monmouth) and Senators James S. Cafiero (R-Cape May/Atlantic/Cumberland) and Diane B. Allen (R-Burlington/Camden), amends the current stalking law and provides for temporary restraining orders to protect children and certain adults who are victims of stalking. The legislation amends the stalking statute to provide that a person is guilty of stalking when he or she purposely or knowingly engages in a course of conduct that would cause reasonable persons to fear bodily injury to themselves or family members. By removing the "subjective fear" requirement from the state statute, which required the victim to actually be put in fear, the statute now reaches circumstances where the victim, perhaps due to age or disability, is unable to perceive or understand the threat posed by the stalker. In addition, the bill expands the statute to reach circumstances where the stalker's intent may not have been to cause fear, but where the stalker knew that his or her conduct would cause a reasonable person to fear bodily injury or death. The bill also allows the parent or guardian of a minor or mentally-disabled stalking victim to apply for a temporary restraining order to prevent the stalker from having contact with the victim. The temporary restraining order may remain in place until a conviction is secured or the parent or guardian requests that it be lifted and the court finds just cause to do so.

**S-1093**, sponsored by Senators Gerald Cardinale (R-Bergen) and Raymond J. Lesniak (D-Union), amends the "Franchise Practices Act" in regard to motor vehicle franchises. The bill clarifies and reinforces existing law so that motor vehicle dealers will not be drawn into costly litigation in order to protect their rights and the consumer interest in the franchise system. The bill clarifies current aspects of the law that prohibit motor vehicle manufacturers from refusing a dealer the opportunity to sell all models manufactured for that line-make. In addition, the legislation prohibits a manufacturer from opening separate service centers, except in cooperation with an existing motor vehicle franchise. The legislation provides a number of protections for motor vehicle dealers, many involving warranty issues. Currently, the "Franchise Practices Act" requires motor vehicle manufacturers to reimburse their dealers for the warranty repairs made by the dealer. Dealers are reimbursed at the rate at which they charge their customers for similar work. However, dealers have been subjected to costly litigation when manufacturers challenged the method used to calculate the retail price. The bill clarifies this along with other warranty issues by (1) defining how a dealer's rate for parts reimbursement is to be calculated; (2) extending the retail reimbursement requirement to services and repair plans administered by manufacturers; (3) requiring the manufacturer to make payment equivalent to the dealer's average percentage markup when a warranty part is delivered in bulk (engine and transmission assemblies are the exception and the markup is specified at 30 % due to high cost); and (4) placing limits on the time within which the manufacturer must pay a dealer for an audit for warranty reimbursement claims.

**A-2839**, sponsored by Assembly Members Joseph V. Doria, Jr. (D- Hudson) and Paul DiGaetano (R-Bergen/Essex/Passaic) and Senator Edward T. O'Connor, Jr. (D-Hudson), allows local governments to participate in the State Health Benefits Program (SHBP) in a manner that is competitive with private insurers. Local governments will be allowed to participate in the SHBP in a competitive manner by negotiating health benefits for retirees. Currently, local governments are only allowed to negotiate health benefits for retirees with private insurers. Allowing the SHBP to be part of the competitive process will allow interested local governments to receive the benefits of the state's lower administrative costs.

**A-1913**, sponsored by Assembly Members John S. Wisniewski (D- Middlesex) and Christopher "Kip" Bateman (R-Morris/Somerset) and Senators Joseph F. Vitale (D-Middlesex) and Jack Sinagra (R-Middlesex), requires health insurers to cover anesthetic procedures associated with dental surgery and other procedures. The bill requires health insurers and health maintenance organizations to provide coverage for dental services provided to any covered person who is severely disabled or who is a child, age five or under, for (1) general anesthesia and hospital charges or (2) a medical condition requiring hospitalization or general anesthesia for dental services, regardless of where treatment is provided. The anesthetic procedures that would be covered by this bill are procedures that would not be required on a typical, healthy, adult, but, instead, would be necessary on a person with severe disabilities or on a young child that could not otherwise sit still for the dental procedure. The bill also provides that an insurer or health maintenance organization may require prior authorization of hospitalization for dental procedures in the same manner that prior authorization is required for other covered diseases or conditions.