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RWH 6/4/08

§5 –
C.52:17B-5.4a
§6 –
C.52:17B-77.12
§8 –
C.18A:37-15.2
§9 - T&E
§10 - Note to
§§1-9

P.L. 2007, CHAPTER 303, *approved January 13, 2008*
Senate, No. 2975 (*First Reprint*)

1 AN ACT concerning hate crimes and bullying, establishing a
2 commission, amending various parts of the statutory law, and
3 supplementing Title 52 of the Revised Statutes.
4

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

7
8 1. N.J.S.2C:16-1 is amended to read as follows:
9 2C:16-1. Bias Intimidation.

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

16 (1) with a purpose to intimidate an individual or group of
17 individuals because of race, color, religion, gender, **[handicap]**
18 disability, sexual orientation, gender identity or expression, national
19 origin, or ethnicity; or

20 (2) knowing that the conduct constituting the offense would
21 cause an individual or group of individuals to be intimidated
22 because of race, color, religion, gender, **[handicap]** disability,
23 sexual orientation, gender identity or expression, national origin, or
24 ethnicity; or

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

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:

¹Senate SJU committee amendments adopted December 17, 2007.

1 disability, sexual orientation, gender identity or expression, national
2 origin, or ethnicity.

3 b. Permissive inference concerning selection of targeted person
4 or property. Proof that the target of the underlying offense was
5 selected by the defendant, or by another acting in concert with the
6 defendant, because of race, color, religion, gender, **[handicap]**
7 disability, sexual orientation, gender identity or expression, national
8 origin, or ethnicity shall give rise to a permissive inference by the
9 trier of fact that the defendant acted with a purpose to intimidate an
10 individual or group of individuals because of race, color, religion,
11 gender, **[handicap]** disability, sexual orientation, gender identity or
12 expression, national origin, or ethnicity.

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

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

30 e. Merger. Notwithstanding the provisions of N.J.S.2C:1-8 or
31 any other provision of law, a conviction for bias intimidation shall
32 not merge with a conviction of any of the underlying offenses
33 referred to in subsection a. of this section, nor shall any conviction
34 for such underlying offense merge with a conviction for bias
35 intimidation. The court shall impose separate sentences upon a
36 conviction for bias intimidation and a conviction of any underlying
37 offense.

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

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

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

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

1 g. As used in this section “gender identity or expression”
2 means having or being perceived as having a gender related identity
3 or expression whether or not stereotypically associated with a
4 person's assigned sex at birth.

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

9 (cf: P.L.2001, c.443, s.1)

10
11 2. Section 1 of P.L.1993, c.137 (C.2A:53A-21) is amended to
12 read as follows:

13 1. a. A person, acting with purpose to intimidate an individual
14 or group of individuals because of race, color, religion, gender,
15 **[handicap]** disability, sexual orientation, gender identity or
16 expression, national origin, or ethnicity, who engages in conduct
17 that is an offense under the provisions of the "New Jersey Code of
18 Criminal Justice," Title 2C of the New Jersey Statutes, commits a
19 civil offense.

20 b. Any person who sustains injury to person or property as a
21 result of a violation of subsection a. shall have a cause of action
22 against the person or persons who committed the civil offense
23 resulting in the injury. In the case of a homicide committed in
24 violation of subsection a., the estate of the deceased shall have a
25 cause of action. Nothing in this subsection shall be construed to
26 preclude the parent or legal guardian of a person who has sustained
27 injury as a result of a violation of subsection a. from initiating a
28 civil action on behalf of a minor child or ward.

29 c. The Attorney General, as parens patriae, may initiate a cause
30 of action against any person who violates subsection a. of this
31 section on behalf of any person or persons who have sustained
32 injury to person or property as a result of the commission of the
33 civil offense.

34 d. Upon proof, by a preponderance of the evidence, of a
35 defendant's violation of subsection a. of this section and of resulting
36 damages, the defendant shall be liable as follows:

37 (1) To the person or persons injured, for an award in the amount
38 of damages incurred as a result of the commission of the civil
39 offense, including damages for any emotional distress suffered as a
40 result of the civil offense, such punitive damages as may be
41 assessed, and any reasonable attorney's fees and costs of suit
42 incurred;

43 (2) To the State, in any case in which the Attorney General has
44 participated, reasonable attorney's fees and costs of investigation
45 and suit;

46 (3) Such injunctive relief as the court may deem necessary to
47 avoid the defendant's continued violation of subsection a.; and

48 (4) Any additional appropriate equitable relief, including
49 restraints to avoid repeated violation.

1 e. An award entered pursuant to paragraph (1) of subsection d.
2 of this section shall be reduced by the amount of any restitution that
3 has been awarded for the same injury following criminal conviction
4 or juvenile adjudication, and, notwithstanding the provisions of
5 paragraph (1) of subsection d., damages awarded for injuries that
6 have previously been compensated by the Violent Crimes
7 Compensation Board shall be paid to the board for deposit in the
8 Violent Crimes Compensation Board Account.

9 f. All fees and costs assessed for the benefit of the State
10 pursuant to paragraph (2) of subsection d. of this section shall be
11 paid to the State Treasurer for deposit in the Civil Rights
12 Enforcement Fund established pursuant to section 2 of this act.

13 g. The parent or guardian of a juvenile against whom an award
14 has been entered pursuant to paragraph (1) of subsection d. of this
15 section shall be liable for payment only if the parent has been
16 named as a defendant and it has been established, by a
17 preponderance of the evidence, that the parent or guardian's conduct
18 was a significant contributing factor in the juvenile's commission of
19 the offense.

20 (cf: P.L.1993, c.137, s.1)

21

22 3. Section 11 of P.L.1971, c.317 (C.52:4B-11) is amended to
23 read as follows:

24 11. The agency may order the payment of compensation in
25 accordance with the provisions of P.L.1971, c.317 for personal
26 injury or death which resulted from:

27 a. an attempt to prevent the commission of crime or to arrest a
28 suspected criminal or in aiding or attempting to aid a police officer
29 so to do; or

30 b. the commission or attempt to commit any of the following
31 offenses:

32 (1) aggravated assault;

33 (2) (Deleted by amendment, P.L.1995, c.135).

34 (3) threats to do bodily harm;

35 (4) lewd, indecent, or obscene acts;

36 (5) indecent acts with children;

37 (6) kidnapping;

38 (7) murder;

39 (8) manslaughter;

40 (9) aggravated sexual assault, sexual assault, aggravated
41 criminal sexual contact, criminal sexual contact;

42 (10) any other crime involving violence including domestic
43 violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or
44 section 3 of P.L.1991, c.261 (C.2C:25-19);

45 (11) burglary;

46 (12) tampering with a cosmetic, drug or food product;

47 (13) a violation of human trafficking, section 1 of P.L.2005,
48 c.77 (C.2C:13-8); or

1 c. the commission of a violation of R.S.39:4-50, section 5 of
2 P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236
3 (C.12:7-34.19) or section 3 of P.L.1952, c.157 (C.12:7-46); or
4 d. theft of an automobile pursuant to N.J.S.2C:20-2, eluding a
5 law enforcement officer pursuant to subsection b. of N.J.S.2C:29-2
6 or unlawful taking of a motor vehicle pursuant to subsection b., c.
7 or d. of N.J.S.2C:20-10 where injuries to the victim occur in the
8 course of operating an automobile in furtherance of the offense ; or
9 e. the commission of a violation of N.J.S. 2C:16-1, bias
10 intimidation.
11 (cf: P.L.2007, c.95, s.15)
12

13 4. Section 3 of P.L.1966, c.37 (C.52:17B-5.3) is amended to
14 read as follows:

15 3. a. All local and county police authorities shall submit a
16 quarterly report to the Attorney General, on forms prescribed by the
17 Attorney General, which report shall contain the number and nature
18 of offenses committed within their respective jurisdictions, the
19 disposition of such matters, information relating to criminal street
20 gang activities within their respective jurisdictions, information
21 relating to any offense directed against a person or group, or their
22 property, by reason of their race, color, religion, gender, disability,
23 sexual orientation, gender identity or expression, national origin, or
24 ethnicity and such other information as the Attorney General may
25 require, respecting information relating to the cause and prevention
26 of crime, recidivism, the rehabilitation of criminals and the proper
27 administration of criminal justice.

28 b. A law enforcement officer who responds to an offense
29 involving criminal street gang activity shall complete a gang related
30 incident offense report on a form prescribed by the Superintendent
31 of State Police. All information contained in the gang related
32 incident offense report shall be forwarded to the appropriate county
33 bureau of identification and to the Superintendent of State Police.
34 (cf: P.L.2005, c.332, s.1)
35

36 5. (New section) The Attorney General shall maintain a central
37 repository for the collection and analysis of information collected
38 pursuant to P.L.1966, c.37 (C.52:17B-5.3). Information in the
39 repository shall be made available to the public. The Attorney
40 General may designate the Division of State Police in the
41 Department of Law and Public Safety to be the agency to maintain
42 the repository and provide information from the repository to the
43 public.
44

45 6. (New section) The Police Training Commission shall
46 require all new police officers to complete two hours of training,
47 which may include interactive training, in identifying, responding
48 to, and reporting bias intimidation crimes. The Police Training
49 Commission shall develop or revise the training course in

1 consultation with the New Jersey Human Relations Council
2 established pursuant to section 1 of P.L.1997, c.257 (C.52:9DD-8).
3 The training course shall include the following topics:

- 4 a. features that identify or could identify a bias intimidation
5 crime;
- 6 b. laws dealing with bias intimidation crimes;
- 7 c. law enforcement procedures, reporting, and documentation
8 of bias intimidation crimes; and
- 9 d. techniques and methods to handle incidents of bias
10 intimidation crimes, including training on how to deal sensitively
11 with victims and referring victims of bias intimidation crimes to
12 organizations that provide assistance and compensation to victims.

13
14 7. Section 3 of P.L.2002, c.83 (C.18A:37-15) is amended to
15 read as follows:

16 3. a. Each school district shall adopt a policy prohibiting
17 harassment, intimidation or bullying on school property, at a
18 school-sponsored function or on a school bus. The school district
19 shall attempt to adopt the policy through a process that includes
20 representation of parents or guardians, school employees,
21 volunteers, students, administrators, and community
22 representatives.

23 b. A school district shall have local control over the content of
24 the policy, except that the policy shall contain, at a minimum, the
25 following components:

26 (1) a statement prohibiting harassment, intimidation or bullying
27 of a student;

28 (2) a definition of harassment, intimidation or bullying no less
29 inclusive than that set forth in section 2 of this act;

30 (3) a description of the type of behavior expected from each
31 student;

32 (4) consequences and appropriate remedial action for a person
33 who commits an act of harassment, intimidation or bullying;

34 (5) a procedure for reporting an act of harassment, intimidation
35 or bullying, including a provision that permits a person to report an
36 act of harassment, intimidation or bullying anonymously; however,
37 this shall not be construed to permit formal disciplinary action
38 solely on the basis of an anonymous report;

39 (6) a procedure for prompt investigation of reports of violations
40 and complaints, identifying either the principal or the principal's
41 designee as the person responsible for the investigation;

42 (7) the range of ways in which a school will respond once an
43 incident of harassment, intimidation or bullying is identified;

44 (8) a statement that prohibits reprisal or retaliation against any
45 person who reports an act of harassment, intimidation or bullying
46 and the consequence and appropriate remedial action for a person
47 who engages in reprisal or retaliation;

1 (9) consequences and appropriate remedial action for a person
2 found to have falsely accused another as a means of retaliation or as
3 a means of harassment, intimidation or bullying; **[and]**

4 (10) a statement of how the policy is to be publicized, including
5 notice that the policy applies to participation in school-sponsored
6 functions; and

7 (11) a requirement that the policy be posted on the school
8 district's website and distributed annually to parents and guardians
9 who have children enrolled in the school in the school district.

10 c. A school district shall adopt a policy and transmit a copy of
11 its policy to the appropriate county superintendent of schools by
12 September 1, 2003.

13 d. To assist school districts in developing policies for the
14 prevention of harassment, intimidation or bullying, the
15 Commissioner of Education shall develop a model policy applicable
16 to grades kindergarten through 12. This model policy shall be
17 issued no later than December 1, 2002.

18 e. Notice of the school district's policy shall appear in any
19 publication of the school district that sets forth the comprehensive
20 rules, procedures and standards of conduct for schools within the
21 school district, and in any student handbook.

22 (cf: P.L.2002, c.83, s.3)

23
24 '8. (New section) Within 60 days of the effective date of this
25 section each school district shall amend its bullying policy in
26 accordance with section 7 of P.L. , c. (pending before the
27 Legislature as this bill), make the policy available on the district's
28 website, and notify students and parents that the policy is available
29 on the district's website.'
30

31 **'[8] 9'**. (New section) a. There is hereby established the
32 Commission on Bullying in Schools.

33 b. The commission shall consist of **'[13] 14'** members as
34 follows:

35 (1) the Commissioner of the Department of Education, or his
36 designee;

37 (2) the Director of the Division on Civil Rights in the
38 Department of Law and Public Safety, or his designee;

39 (3) the Governor shall appoint **'[seven] eight'** public members:
40 one representative of the New Jersey Education Association, one
41 representative of the New Jersey School Boards Association, one
42 representative of the Anti-Defamation League, one representative of
43 the New Jersey Principals and Supervisors Association, and four
44 public members with a background in, or special knowledge of, the
45 legal, policy, educational, social or psychological aspects of
46 bullying in schools;

47 (4) the President of the Senate shall appoint two public members
48 with a background in, or special knowledge of, the legal, policy,

1 educational, social or psychological aspects of bullying in schools;
2 and

3 (5) the Speaker of the General Assembly shall appoint two public
4 members with a background in, or special knowledge of, the legal,
5 policy, educational, social or psychological aspects of bullying in
6 schools.

7 c. The commission shall study and make recommendations
8 regarding:

9 (1) the implementation and effectiveness of school bullying laws
10 and regulations;

11 (2) the adequacy of legal remedies available to students who are
12 victims of bullying and their parents and guardians;

13 (3) the adequacy of legal protections available to teachers who
14 are in compliance with school bullying policies;

15 (4) training of teachers, school administrators, and law
16 enforcement personnel in responding to, investigating and reporting
17 incidents of bullying;

18 (5) funding issues related to the implementation of the State
19 school bullying laws and regulations; and

20 (6) the implementation of a possible collaboration between the
21 Department of Education and the Division on Civil Rights in the
22 Department of Law and Public Safety on a Statewide initiative
23 against school bullying.

24 d. The members shall be appointed within 30 days of
25 enactment.

26 e. The members shall serve without compensation, but may be
27 reimbursed for necessary expenses incurred in the performance of
28 their duties, within the limits of funds appropriated or otherwise
29 made available to the commission for its purposes.

30 f. The commission shall choose a chairperson from among its
31 members.

32 g. Any vacancy in the membership shall be filled in the same
33 manner as the original appointment.

34 h. The commission is entitled to the assistance and service of
35 the employees of any State, county or municipal department, board,
36 bureau, commission or agency as it may require and as may be
37 available to it for its purposes, and to employ stenographic and
38 clerical assistance and to incur traveling or other miscellaneous
39 expenses as may be necessary in order to perform its duties, within
40 the limits of funds appropriated or otherwise made available to the
41 commission for its purposes.

42 i. The commission shall conduct a minimum of three public
43 hearings: one in the northern portion of the State; one in the central
44 portion of the State; and one in the southern portion of the State.

45 j. The commission shall report its findings and
46 recommendations, along with any legislation it desires to
47 recommend for adoption by the Legislature, to the Governor and the
48 Legislature in accordance with section 2 of P.L.1991, c.164

1 (C.52:14-19.1). The commission shall issue its final report no later
2 than nine months after final appointment of its members.

3 k. The commission shall expire upon submission of its final
4 report to the Governor and the Legislature.

5

6 '~~9~~ 10'. Section ~~8~~ 9 of this act shall take effect immediately.
7 Sections 1 through '~~7~~ 8' shall take effect on the 60th day after
8 enactment, but the Attorney General and the Commissioner of the
9 Department of Education shall take such anticipatory administrative
10 action in advance thereof as shall be necessary for the
11 implementation of this act.

12

13

14

15

16 Revises laws concerning hate crimes and bullying; establishes
17 Commission on Bullying in Schools.

SENATE, No. 2975

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED DECEMBER 3, 2007

Sponsored by:

Senator BARBARA BUONO

District 18 (Middlesex)

Senator LORETTA WEINBERG

District 37 (Bergen)

Co-Sponsored by:

Senators Karcher and Lesniak

SYNOPSIS

Revises laws concerning hate crimes and bullying; establishes Commission on Bullying in Schools.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/18/2007)

1 AN ACT concerning hate crimes and bullying, establishing a
2 commission, amending various parts of the statutory law, and
3 supplementing Title 52 of the Revised Statutes.

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

7
8 1. N.J.S.2C:16-1 is amended to read as follows:
9 2C:16-1. Bias Intimidation.

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

16 (1) with a purpose to intimidate an individual or group of
17 individuals because of race, color, religion, gender, **[handicap]**
18 disability, sexual orientation, gender identity or expression, national
19 origin, or ethnicity; or

20 (2) knowing that the conduct constituting the offense would
21 cause an individual or group of individuals to be intimidated
22 because of race, color, religion, gender, **[handicap]** disability,
23 sexual orientation, gender identity or expression, national origin, or
24 ethnicity; or

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

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

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 color, religion, gender, [handicap] disability, sexual orientation,
2 gender identity or expression, national origin, or ethnicity.

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

14 d. Gender exemption in sexual offense prosecutions. It shall
15 not be a violation of subsection a. if the underlying criminal offense
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17 and the circumstance specified in paragraph (1), (2) or (3) of
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19 victim.

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23 referred to in subsection a. of this section, nor shall any conviction
24 for such underlying offense merge with a conviction for bias
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27 offense.

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

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33 communities, or other similar training in the area of civil rights;

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35 tendency toward violent and antisocial behavior; and

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37 based program or local agency that provides services to victims of
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15 cause of action. Nothing in this subsection shall be construed to
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19 c. The Attorney General, as *parens patriae*, may initiate a cause
20 of action against any person who violates subsection a. of this
21 section on behalf of any person or persons who have sustained
22 injury to person or property as a result of the commission of the
23 civil offense.

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25 defendant's violation of subsection a. of this section and of resulting
26 damages, the defendant shall be liable as follows:

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32 incurred;

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48 f. All fees and costs assessed for the benefit of the State
49 pursuant to paragraph (2) of subsection d. of this section shall be

1 paid to the State Treasurer for deposit in the Civil Rights
2 Enforcement Fund established pursuant to section 2 of this act.

3 g. The parent or guardian of a juvenile against whom an award
4 has been entered pursuant to paragraph (1) of subsection d. of this
5 section shall be liable for payment only if the parent has been
6 named as a defendant and it has been established, by a
7 preponderance of the evidence, that the parent or guardian's conduct
8 was a significant contributing factor in the juvenile's commission of
9 the offense.

10 (cf: P.L.1993, c.137, s.1)

11

12 3. Section 11 of P.L.1971, c.317 (C.52:4B-11) is amended to
13 read as follows:

14 11. The agency may order the payment of compensation in
15 accordance with the provisions of P.L.1971, c.317 for personal
16 injury or death which resulted from:

17 a. an attempt to prevent the commission of crime or to arrest a
18 suspected criminal or in aiding or attempting to aid a police officer
19 so to do; or

20 b. the commission or attempt to commit any of the following
21 offenses:

22 (1) aggravated assault;

23 (2) (Deleted by amendment, P.L.1995, c.135).

24 (3) threats to do bodily harm;

25 (4) lewd, indecent, or obscene acts;

26 (5) indecent acts with children;

27 (6) kidnapping;

28 (7) murder;

29 (8) manslaughter;

30 (9) aggravated sexual assault, sexual assault, aggravated
31 criminal sexual contact, criminal sexual contact;

32 (10) any other crime involving violence including domestic
33 violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or
34 section 3 of P.L.1991, c.261 (C.2C:25-19);

35 (11) burglary;

36 (12) tampering with a cosmetic, drug or food product;

37 (13) a violation of human trafficking, section 1 of P.L.2005,
38 c.77 (C.2C:13-8); or

39 c. the commission of a violation of R.S.39:4-50, section 5 of
40 P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236
41 (C.12:7-34.19) or section 3 of P.L.1952, c.157 (C.12:7-46); or

42 d. theft of an automobile pursuant to N.J.S.2C:20-2, eluding a
43 law enforcement officer pursuant to subsection b. of N.J.S.2C:29-2
44 or unlawful taking of a motor vehicle pursuant to subsection b., c.
45 or d. of N.J.S.2C:20-10 where injuries to the victim occur in the
46 course of operating an automobile in furtherance of the offense ; or

47 e. the commission of a violation of N.J.S. 2C:16-1, bias
48 intimidation.

49 (cf: P.L.2007, c.95, s.15)

1 4. Section 3 of P.L.1966, c.37 (C.52:17B-5.3) is amended to
2 read as follows:

3 3. a. All local and county police authorities shall submit a
4 quarterly report to the Attorney General, on forms prescribed by the
5 Attorney General, which report shall contain the number and nature
6 of offenses committed within their respective jurisdictions, the
7 disposition of such matters, information relating to criminal street
8 gang activities within their respective jurisdictions, information
9 relating to any offense directed against a person or group, or their
10 property, by reason of their race, color, religion, gender, disability,
11 sexual orientation, gender identity or expression, national origin, or
12 ethnicity and such other information as the Attorney General may
13 require, respecting information relating to the cause and prevention
14 of crime, recidivism, the rehabilitation of criminals and the proper
15 administration of criminal justice.

16 b. A law enforcement officer who responds to an offense
17 involving criminal street gang activity shall complete a gang related
18 incident offense report on a form prescribed by the Superintendent
19 of State Police. All information contained in the gang related
20 incident offense report shall be forwarded to the appropriate county
21 bureau of identification and to the Superintendent of State Police.
22 (cf: P.L.2005, c.332, s.1)

23
24 5. (New section) The Attorney General shall maintain a central
25 repository for the collection and analysis of information collected
26 pursuant to P.L.1966, c.37 (C.52:17B-5.3). Information in the
27 repository shall be made available to the public. The Attorney
28 General may designate the Division of State Police in the
29 Department of Law and Public Safety to be the agency to maintain
30 the repository and provide information from the repository to the
31 public.

32
33 6. (New section) The Police Training Commission shall
34 require all new police officers to complete two hours of training,
35 which may include interactive training, in identifying, responding
36 to, and reporting bias intimidation crimes. The Police Training
37 Commission shall develop or revise the training course in
38 consultation with the New Jersey Human Relations Council
39 established pursuant to section 1 of P.L.1997, c.257 (C.52:9DD-8).
40 The training course shall include the following topics:

41 a. features that identify or could identify a bias intimidation
42 crime;

43 b. laws dealing with bias intimidation crimes;

44 c. law enforcement procedures, reporting, and documentation
45 of bias intimidation crimes; and

46 d. techniques and methods to handle incidents of bias
47 intimidation crimes, including training on how to deal sensitively
48 with victims and referring victims of bias intimidation crimes to
49 organizations that provide assistance and compensation to victims.

1 7. Section 3 of P.L.2002, c.83 (C.18A:37-15) is amended to
2 read as follows:

3 3. a. Each school district shall adopt a policy prohibiting
4 harassment, intimidation or bullying on school property, at a
5 school-sponsored function or on a school bus. The school district
6 shall attempt to adopt the policy through a process that includes
7 representation of parents or guardians, school employees,
8 volunteers, students, administrators, and community
9 representatives.

10 b. A school district shall have local control over the content of
11 the policy, except that the policy shall contain, at a minimum, the
12 following components:

13 (1) a statement prohibiting harassment, intimidation or bullying
14 of a student;

15 (2) a definition of harassment, intimidation or bullying no less
16 inclusive than that set forth in section 2 of this act;

17 (3) a description of the type of behavior expected from each
18 student;

19 (4) consequences and appropriate remedial action for a person
20 who commits an act of harassment, intimidation or bullying;

21 (5) a procedure for reporting an act of harassment, intimidation
22 or bullying, including a provision that permits a person to report an
23 act of harassment, intimidation or bullying anonymously; however,
24 this shall not be construed to permit formal disciplinary action
25 solely on the basis of an anonymous report;

26 (6) a procedure for prompt investigation of reports of violations
27 and complaints, identifying either the principal or the principal's
28 designee as the person responsible for the investigation;

29 (7) the range of ways in which a school will respond once an
30 incident of harassment, intimidation or bullying is identified;

31 (8) a statement that prohibits reprisal or retaliation against any
32 person who reports an act of harassment, intimidation or bullying
33 and the consequence and appropriate remedial action for a person
34 who engages in reprisal or retaliation;

35 (9) consequences and appropriate remedial action for a person
36 found to have falsely accused another as a means of retaliation or as
37 a means of harassment, intimidation or bullying; **[and]**

38 (10) a statement of how the policy is to be publicized, including
39 notice that the policy applies to participation in school-sponsored
40 functions; and

41 (11) a requirement that the policy be posted on the school
42 district's website and distributed annually to parents and guardians
43 who have children enrolled in the school in the school district.

44 c. A school district shall adopt a policy and transmit a copy of
45 its policy to the appropriate county superintendent of schools by
46 September 1, 2003.

47 d. To assist school districts in developing policies for the
48 prevention of harassment, intimidation or bullying, the
49 Commissioner of Education shall develop a model policy applicable

1 to grades kindergarten through 12. This model policy shall be
2 issued no later than December 1, 2002.

3 e. Notice of the school district's policy shall appear in any
4 publication of the school district that sets forth the comprehensive
5 rules, procedures and standards of conduct for schools within the
6 school district, and in any student handbook.

7 (cf: P.L.2002, c.83, s.3)

8

9 8. (New section) a. There is hereby established the
10 Commission on Bullying in Schools.

11 b. The commission shall consist of 13 members as follows:

12 (1) the Commissioner of the Department of Education, or his
13 designee;

14 (2) the Director of the Division on Civil Rights in the
15 Department of Law and Public Safety, or his designee;

16 (3) the Governor shall appoint seven public members: one
17 representative of the New Jersey Education Association, one
18 representative of the New Jersey School Boards Association, one
19 representative of the Anti-Defamation League, and four public
20 members with a background in, or special knowledge of, the legal,
21 policy, educational, social or psychological aspects of bullying in
22 schools;

23 (4) the President of the Senate shall appoint two public members
24 with a background in, or special knowledge of, the legal, policy,
25 educational, social or psychological aspects of bullying in schools;
26 and

27 (5) the Speaker of the General Assembly shall appoint two
28 public members with a background in, or special knowledge of, the
29 legal, policy, educational, social or psychological aspects of
30 bullying in schools.

31 c. The commission shall study and make recommendations
32 regarding:

33 (1) the implementation and effectiveness of school bullying
34 laws and regulations;

35 (2) the adequacy of legal remedies available to students who are
36 victims of bullying and their parents and guardians;

37 (3) the adequacy of legal protections available to teachers who
38 are in compliance with school bullying policies;

39 (4) training of teachers, school administrators, and law
40 enforcement personnel in responding to, investigating and reporting
41 incidents of bullying;

42 (5) funding issues related to the implementation of the State
43 school bullying laws and regulations; and

44 (6) the implementation of a possible collaboration between the
45 Department of Education and the Division on Civil Rights in the
46 Department of Law and Public Safety on a Statewide initiative
47 against school bullying.

48 d. The members shall be appointed within 30 days of
49 enactment.

- 1 e. The members shall serve without compensation, but may be
2 reimbursed for necessary expenses incurred in the performance of
3 their duties, within the limits of funds appropriated or otherwise
4 made available to the commission for its purposes.
- 5 f. The commission shall choose a chairperson from among its
6 members.
- 7 g. Any vacancy in the membership shall be filled in the same
8 manner as the original appointment.
- 9 h. The commission is entitled to the assistance and service of
10 the employees of any State, county or municipal department, board,
11 bureau, commission or agency as it may require and as may be
12 available to it for its purposes, and to employ stenographic and
13 clerical assistance and to incur traveling or other miscellaneous
14 expenses as may be necessary in order to perform its duties, within
15 the limits of funds appropriated or otherwise made available to the
16 commission for its purposes.
- 17 i. The commission shall conduct a minimum of three public
18 hearings: one in the northern portion of the State; one in the central
19 portion of the State; and one in the southern portion of the State.
- 20 j. The commission shall report its findings and
21 recommendations, along with any legislation it desires to
22 recommend for adoption by the Legislature, to the Governor and the
23 Legislature in accordance with section 2 of P.L.1991, c.164
24 (C.52:14-19.1). The commission shall issue its final report no later
25 than nine months after final appointment of its members.
- 26 k. The commission shall expire upon submission of its final
27 report to the Governor and the Legislature.

28
29 9. Section 8 of this act shall take effect immediately. Sections
30 1 through 7 shall take effect on the 60th day after enactment, but the
31 Attorney General and the Commissioner of the Department of
32 Education shall take such anticipatory administrative action in
33 advance thereof as shall be necessary for the implementation of this
34 act.

35
36
37 STATEMENT

38
39 This bill substantially revises the current hate crimes and
40 bullying law.

41 **Section 1** of the bill amends the law concerning the crime of
42 bias intimidation to specifically provide that “gender identity or
43 expression” and “national origin” are within the protected classes
44 set forth in the statute. Current law enumerates the protected
45 classes of “race, color, religion, gender, handicap, sexual
46 orientation, or ethnicity.” Although a bias crime based on gender
47 identity or expression or national origin can be prosecuted using the
48 protected classes currently enumerated in the law, this amendment
49 makes clear that these classes are intended to fall within provisions

1 of the statute. In addition, the bill replaces the outdated term
2 “handicap” with the more contemporary term “disability.” This
3 change is not intended to change substantive law. Under the
4 provisions of this section, a person may be guilty of the crime of
5 bias intimidation if he commits, attempts, conspires, or threatens the
6 immediate commission of certain specified offenses with a purpose
7 to intimidate an individual or group because of race, color, religion,
8 gender, disability, sexual orientation, gender identity or expression,
9 national origin, or ethnicity or knowing that the conduct would
10 cause an individual or group to be intimidated on that basis or under
11 circumstances in which the victim believes he was targeted on that
12 basis. The amendment further clarifies the law by specifying that it
13 is not a defense to a bias intimidation crime prosecution that the
14 defendant was mistaken as to the race, color, religion, gender,
15 disability, sexual orientation, gender identity or expression, national
16 origin, or ethnicity of the victim.

17 In addition, section 1 adds a new subsection f. to N.J.S.A.2C:16-
18 1 to provide for additional penalties for the crime of bias
19 intimidation. Under this subsection, a court may order a person
20 convicted of bias intimidation to: complete a class or program on
21 sensitivity to diverse communities, or other similar training in the
22 area of civil rights; complete a counseling program intended to
23 reduce the tendency toward violent and antisocial behavior; or make
24 payments or other compensation to a community-based program or
25 local agency that provides services to victims of bias intimidation.
26 These penalties would be in addition to any other penalties required
27 by the State’s sentencing laws.

28 **Section 2** of the bill amends N.J.S.A.2A:53A-21 to include a
29 purpose to intimidate because of “gender identity or expression” or
30 “national origin” in the existing civil cause of action for bias crime
31 victims. In addition, the bill replaces the outdated term “handicap”
32 used in N.J.S.A.2A:53A-21 with the more contemporary term
33 “disability.” This change is not intended to change substantive law.
34 Under the provisions of this section of the bill, a person, acting with
35 purpose to intimidate an individual or group because of race, color,
36 religion, gender, disability, sexual orientation, gender identity or
37 expression, national origin, or ethnicity, who engages in conduct
38 that is an offense under the provisions of the New Jersey criminal
39 code, commits a civil offense and may be liable for damages,
40 including punitive damages.

41 **Section 3** of the bill amends N.J.S.A.52:4B-11 to add the crime
42 of bias intimidation to the list of crimes for which the Victims
43 Crimes Compensation Agency may order the payment of
44 compensation for personal injury or death. Including victims of
45 bias intimidation specifically in N.J.S.A.52:4B-11 will enable them
46 to be the beneficiaries of the services the Victims Crimes
47 Compensation Agency offers.

48 **Section 4** of the bill would require local and county police to
49 include information about bias crimes in their quarterly reports of

1 crime to the Attorney General. This information would then be
2 included by the Attorney General in the annual report of crime in
3 New Jersey submitted to the Governor and the Legislature pursuant
4 to section 5 of P.L.1996, c.37 (C.52:17B-5.5).

5 **Section 5** of the bill would require the Attorney General or the
6 Division of State Police, if the Attorney General so designates, to
7 maintain a central repository of information submitted from county
8 and local police concerning bias crimes. The information in the
9 repository would be available to the public.

10 **Section 6** would require the Police Training Commission to
11 require all new police officers to complete two hours of training,
12 which may include interactive training, in identifying, responding
13 to, and reporting bias intimidation crimes. The Police Training
14 Commission would develop or revise the course in consultation
15 with the New Jersey Human Relations Council. The training course
16 shall include the following topics:

- 17 • features that identify or could identify a bias intimidation
18 crime;
- 19 • laws dealing with bias intimidation crimes
- 20 • law enforcement procedures, reporting, and documentation
21 of bias intimidation crimes; and
- 22 • techniques and methods to handle incidents of bias
23 intimidation crimes, including training on how to deal
24 sensitively with victims and referring victims of bias
25 intimidation crimes to organizations that provide assistance
26 and compensation to victims.

27 **Section 7** of the bill amends N.J.S.A.18A:37-15 to require that
28 each school district's bullying policy be posted on their website and
29 distributed to parents and guardians annually.

30 **Section 8** of the bill would establish the Commission on
31 Bullying in Schools. The commission shall consist of 13 members
32 as follows:

- 33 • the Commissioner of the Department of Education, or his
34 designee;
- 35 • the Director of the Division on Civil Rights in the
36 Department of Law and Public Safety, or his designee;
- 37 • the Governor shall appoint seven public members: one
38 representative of the New Jersey Education Association, one
39 representative of the New Jersey School Boards Association,
40 one representative of the Anti-Defamation League, and four
41 public members with a background in, or special knowledge
42 of, the legal, policy, educational, social or psychological
43 aspects of bullying in schools;
- 44 • the President of the Senate shall appoint two public members
45 with a background in, or special knowledge of, the legal,
46 policy, educational, social or psychological aspects of
47 bullying in schools; and

1 • the Speaker of the General Assembly shall appoint two
2 public members with a background in, or special knowledge
3 of, the legal, policy, educational, social or psychological
4 aspects of bullying in schools.

5 The commission shall study and make recommendations
6 regarding:

- 7 • the implementation and effectiveness of school bullying
8 laws and regulations;
- 9 • the adequacy of legal remedies available to students who are
10 victims of bullying and their parents and guardians;
- 11 • the adequacy of legal protections available to teachers who
12 are in compliance with school bullying policies;
- 13 • training of teachers, school administrators, and law
14 enforcement personnel in responding to, investigating and
15 reporting incidents of bullying;
- 16 • funding issues related to the implementation of the State
17 school bullying laws and regulations; and
- 18 • the implementation of a possible collaboration between the
19 Department of Education and the Division on Civil Rights in
20 the Department of Law and Public Safety on a Statewide
21 initiative against school bullying.

22 Members shall be appointed within 30 days of enactment and
23 serve without compensation, but may be reimbursed for necessary
24 expenses incurred in the performance of their duties, within the
25 limits of funds appropriated or otherwise made available to the
26 commission for its purposes.

27 The commission shall choose a chairperson from among its
28 members. Any vacancy in the membership shall be filled in the
29 same manner as the original appointment.

30 The commission shall conduct a minimum of three public
31 hearings: one in the northern portion of the State; one in the central
32 portion of the State; and one in the southern portion of the State.

33 The commission shall report its findings and recommendations,
34 along with any legislation it desires to recommend for adoption by
35 the Legislature, to the Governor and the Legislature. The
36 commission shall issue its final report no later than nine months
37 after final appointment of its members and expire thereafter.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2975

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2007

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2975. This bill substantially revises the current hate crimes and bullying law.

Section 1 of the bill amends the law concerning the crime of bias intimidation to specifically provide that “gender identity or expression” and “national origin” are within the protected classes set forth in the statute. Current law enumerates the protected classes of “race, color, religion, gender, handicap, sexual orientation, or ethnicity.” Although a bias crime based on gender identity or expression or national origin can be prosecuted using the protected classes currently enumerated in the law, this amendment makes clear that these classes are intended to fall within the provisions of the statute. In addition, section 1 replaces the outdated term “handicap” with the more contemporary term “disability.” This change is not intended to change substantive law. Under the provisions of this section, a person may be guilty of the crime of bias intimidation if he commits, attempts, conspires, or threatens the immediate commission of certain specified offenses with a purpose to intimidate an individual or group because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity or knowing that the conduct would cause an individual or group to be intimidated on that basis or under circumstances in which the victim believes he was targeted on that basis. The bill further clarifies the law by specifying that it is not a defense to a prosecution for the crime of bias intimidation that the defendant was mistaken as to the race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity of the victim.

Section 1 also adds a new subsection f. to N.J.S.A.2C:16-1 to provide for additional penalties for the crime of bias intimidation. Under this subsection, a court may order a person convicted of bias intimidation to: complete a class or program on sensitivity to diverse communities, or other similar training in the area of civil rights; complete a counseling program intended to reduce the tendency toward violent and antisocial behavior; or make payments or other compensation to a community-based program or local agency that

provides services to victims of bias intimidation. These penalties would be in addition to any other penalties required by the State's sentencing laws.

Section 2 of the bill amends N.J.S.A.2A:53A-21 to include a purpose to intimidate because of "gender identity or expression" or "national origin" in the existing civil cause of action for bias crime victims. In addition, the bill replaces the outdated term "handicap" used in N.J.S.A.2A:53A-21 with the more contemporary term "disability." Under the provisions of this section of the bill, a person, acting with purpose to intimidate an individual or group because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity, who engages in conduct that is an offense under the provisions of the New Jersey criminal code, commits a civil offense and may be liable for damages, including punitive damages.

Section 3 of the bill amends N.J.S.A.52:4B-11 to add the crime of bias intimidation to the list of crimes for which the Victims Crimes Compensation Agency may order the payment of compensation for personal injury or death. Including victims of bias intimidation specifically in N.J.S.A.52:4B-11 will enable them to be the beneficiaries of the services the Victims Crimes Compensation Agency offers.

Section 4 of the bill would require local and county police to include information about bias crimes in their quarterly reports of crime to the Attorney General. This information would then be included by the Attorney General in the annual report of crime in New Jersey submitted to the Governor and the Legislature pursuant to N.J.S.A.52:17B-5.5.

Section 5 of the bill would require the Attorney General or the Division of State Police, if the Attorney General so designates, to maintain a central repository of information submitted from county and local police concerning bias crimes. The information in the repository would be available to the public.

Section 6 would require the Police Training Commission to require all new police officers to complete two hours of training, which may include interactive training, in identifying, responding to, and reporting bias intimidation crimes. The Police Training Commission would develop or revise the course in consultation with the New Jersey Human Relations Council. The training course shall include the following topics:

- features that identify or could identify a bias intimidation crime;
- laws dealing with bias intimidation crimes
- law enforcement procedures, reporting, and documentation of bias intimidation crimes; and
- techniques and methods to handle incidents of bias intimidation crimes, including training on how to deal sensitively with

victims and referring victims of bias intimidation crimes to organizations that provide assistance and compensation to victims.

Section 7 of the bill amends N.J.S.A.18A:37-15 to require each district's bullying policy to include a requirement that the policy be posted on the district's website and distributed annually to parents and guardians.

Section 8 of the bill would require school districts to amend their bullying policies, post bullying policies on the web, and notify students and parents that the policy is available online within 120 days of the date of enactment (60 days from the effective date of section 8 of the bill).

Section 9 of the bill would establish the Commission on Bullying in Schools. The commission shall consist of 14 members as follows:

- the Commissioner of the Department of Education, or his designee;
- the Director of the Division on Civil Rights in the Department of Law and Public Safety, or his designee;
- the Governor shall appoint eight public members: one representative of the New Jersey Education Association, one representative of the New Jersey School Boards Association, one representative of the Anti-Defamation League, one representative of the New Jersey Principals and Supervisors Association, and four public members with a background in, or special knowledge of, the legal, policy, educational, social or psychological aspects of bullying in schools;
- the President of the Senate shall appoint two public members with a background in, or special knowledge of, the legal, policy, educational, social or psychological aspects of bullying in schools; and
- the Speaker of the General Assembly shall appoint two public members with a background in, or special knowledge of, the legal, policy, educational, social or psychological aspects of bullying in schools.

The commission shall study and make recommendations regarding:

- the implementation and effectiveness of school bullying laws and regulations;
- the adequacy of legal remedies available to students who are victims of bullying and their parents and guardians;
- the adequacy of legal protections available to teachers who are in compliance with school bullying policies;
- training of teachers, school administrators, and law enforcement personnel in responding to, investigating and reporting incidents of bullying;
- funding issues related to the implementation of the State school bullying laws and regulations; and

- the implementation of a possible collaboration between the Department of Education and the Division on Civil Rights in the Department of Law and Public Safety on a Statewide initiative against school bullying.

Members shall be appointed within 30 days of enactment and serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties, within the limits of funds appropriated or otherwise made available to the commission for its purposes.

The commission shall choose a chairperson from among its members. Any vacancy in the membership shall be filled in the same manner as the original appointment.

The commission shall conduct a minimum of three public hearings: one in the northern portion of the State; one in the central portion of the State; and one in the southern portion of the State.

The commission shall report its findings and recommendations, along with any legislation it desires to recommend for adoption by the Legislature, to the Governor and the Legislature. The commission shall issue its final report no later than nine months after final appointment of its members and expire thereafter.

The committee amended the bill to require school districts to amend their bullying policies, post bullying policies on the web, and notify students and parents that the policy is available online within 120 days of the date of enactment (60 days from the effective date of section 8 of the bill). The committee also amended the bill to add a representative of the New Jersey Principals and Supervisors Association to the Commission on Bullying in Schools created by the bill.

ASSEMBLY, No. 4591

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED NOVEMBER 19, 2007

Sponsored by:

Assemblyman WILFREDO CARABALLO

District 29 (Essex and Union)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Co-Sponsored by:

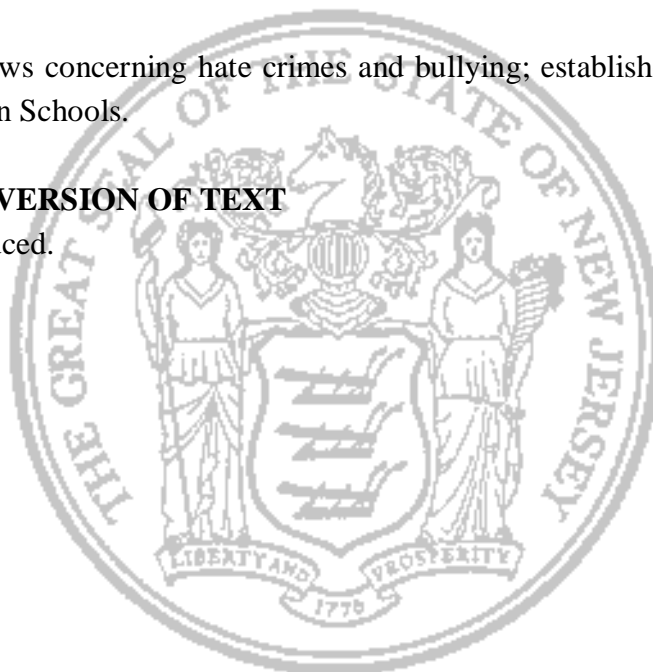
Assemblyman Johnson, Assemblywomen Jasey, Evans, Assemblyman Baroni, Assemblywoman Pou and Assemblyman Diegnan

SYNOPSIS

Revises laws concerning hate crimes and bullying; establishes Commission on Bullying in Schools.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/14/2007)

1 AN ACT concerning hate crimes and bullying, establishing a
2 commission, amending various parts of the statutory law, and
3 supplementing Title 52 of the Revised Statutes.

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

7
8 1. N.J.S.2C:16-1 is amended to read as follows:
9 2C:16-1. Bias Intimidation.

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

16 (1) with a purpose to intimidate an individual or group of
17 individuals because of race, color, religion, gender, **[handicap]**
18 disability, sexual orientation, gender identity or expression, national
19 origin, or ethnicity; or

20 (2) knowing that the conduct constituting the offense would
21 cause an individual or group of individuals to be intimidated
22 because of race, color, religion, gender, **[handicap]** disability,
23 sexual orientation, gender identity or expression, national origin, or
24 ethnicity; or

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

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

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 gender, **[handicap]** disability, sexual orientation, gender identity or
2 expression, national origin, or ethnicity.
- 3 c. Grading. Bias intimidation is a crime of the fourth degree if
4 the underlying offense referred to in subsection a. is a disorderly
5 persons offense or petty disorderly persons offense. Otherwise,
6 bias intimidation is a crime one degree higher than the most serious
7 underlying crime referred to in subsection a., except that where the
8 underlying crime is a crime of the first degree, bias intimidation is a
9 first-degree crime and the defendant upon conviction thereof may,
10 notwithstanding the provisions of paragraph (1) of subsection a. of
11 N.J.S.2C:43-6, be sentenced to an ordinary term of imprisonment
12 between 15 years and 30 years, with a presumptive term of 20
13 years.
- 14 d. Gender exemption in sexual offense prosecutions. It shall
15 not be a violation of subsection a. if the underlying criminal offense
16 is a violation of chapter 14 of Title 2C of the New Jersey Statutes
17 and the circumstance specified in paragraph (1), (2) or (3) of
18 subsection a. of this section is based solely upon the gender of the
19 victim.
- 20 e. Merger. Notwithstanding the provisions of N.J.S.2C:1-8 or
21 any other provision of law, a conviction for bias intimidation shall
22 not merge with a conviction of any of the underlying offenses
23 referred to in subsection a. of this section, nor shall any conviction
24 for such underlying offense merge with a conviction for bias
25 intimidation. The court shall impose separate sentences upon a
26 conviction for bias intimidation and a conviction of any underlying
27 offense.
- 28 f. Additional Penalties. In addition to any fine imposed
29 pursuant to N.J.S.2C:43-3 or any term of imprisonment imposed
30 pursuant to N.J.S.2C:43-6, a court may order a person convicted of
31 bias intimidation to one or more of the following:
- 32 (1) complete a class or program on sensitivity to diverse
33 communities, or other similar training in the area of civil rights;
34 (2) complete a counseling program intended to reduce the
35 tendency toward violent and antisocial behavior; and
36 (3) make payments or other compensation to a community-based
37 program or local agency that provides services to victims of bias
38 intimidation.
- 39 g. As used in this section “gender identity or expression” means
40 having or being perceived as having a gender related identity or
41 expression whether or not stereotypically associated with a person’s
42 assigned sex at birth.
- 43 h. It shall not be a defense to a prosecution for a crime under
44 this section that the defendant was mistaken as to the race, color,
45 religion, gender, disability, sexual orientation, gender identity or
46 expression, national origin, or ethnicity of the victim.
47 (cf: P.L.2001, c.443, s.1)

1 2. Section 1 of P.L.1993, c.137 (C.2A:53A-21) is amended to
2 read as follows:

3 1. a. A person, acting with purpose to intimidate an individual
4 or group of individuals because of race, color, religion, gender,
5 **[handicap]** disability, sexual orientation, gender identity or
6 expression, national origin, or ethnicity, who engages in conduct
7 that is an offense under the provisions of the "New Jersey Code of
8 Criminal Justice," Title 2C of the New Jersey Statutes, commits a
9 civil offense.

10 b. Any person who sustains injury to person or property as a
11 result of a violation of subsection a. shall have a cause of action
12 against the person or persons who committed the civil offense
13 resulting in the injury. In the case of a homicide committed in
14 violation of subsection a., the estate of the deceased shall have a
15 cause of action. Nothing in this subsection shall be construed to
16 preclude the parent or legal guardian of a person who has sustained
17 injury as a result of a violation of subsection a. from initiating a
18 civil action on behalf of a minor child or ward.

19 c. The Attorney General, as parens patriae, may initiate a cause
20 of action against any person who violates subsection a. of this
21 section on behalf of any person or persons who have sustained
22 injury to person or property as a result of the commission of the
23 civil offense.

24 d. Upon proof, by a preponderance of the evidence, of a
25 defendant's violation of subsection a. of this section and of resulting
26 damages, the defendant shall be liable as follows:

27 (1) To the person or persons injured, for an award in the
28 amount of damages incurred as a result of the commission of the
29 civil offense, including damages for any emotional distress suffered
30 as a result of the civil offense, such punitive damages as may be
31 assessed, and any reasonable attorney's fees and costs of suit
32 incurred;

33 (2) To the State, in any case in which the Attorney General has
34 participated, reasonable attorney's fees and costs of investigation
35 and suit;

36 (3) Such injunctive relief as the court may deem necessary to
37 avoid the defendant's continued violation of subsection a.; and

38 (4) Any additional appropriate equitable relief, including
39 restraints to avoid repeated violation.

40 e. An award entered pursuant to paragraph (1) of subsection d.
41 of this section shall be reduced by the amount of any restitution that
42 has been awarded for the same injury following criminal conviction
43 or juvenile adjudication, and, notwithstanding the provisions of
44 paragraph (1) of subsection d., damages awarded for injuries that
45 have previously been compensated by the Violent Crimes
46 Compensation Board shall be paid to the board for deposit in the
47 Violent Crimes Compensation Board Account.

1 f. All fees and costs assessed for the benefit of the State
2 pursuant to paragraph (2) of subsection d. of this section shall be
3 paid to the State Treasurer for deposit in the Civil Rights
4 Enforcement Fund established pursuant to section 2 of this act.

5 g. The parent or guardian of a juvenile against whom an award
6 has been entered pursuant to paragraph (1) of subsection d. of this
7 section shall be liable for payment only if the parent has been
8 named as a defendant and it has been established, by a
9 preponderance of the evidence, that the parent or guardian's conduct
10 was a significant contributing factor in the juvenile's commission of
11 the offense.

12 (cf: P.L.1993, c.137, s.1)

13

14 3. Section 11 of P.L.1971, c.317 (C.52:4B-11) is amended to
15 read as follows:

16 11. The agency may order the payment of compensation in
17 accordance with the provisions of P.L.1971, c.317 for personal
18 injury or death which resulted from:

19 a. an attempt to prevent the commission of crime or to arrest a
20 suspected criminal or in aiding or attempting to aid a police officer
21 so to do; or

22 b. the commission or attempt to commit any of the following
23 offenses:

24 (1) aggravated assault;

25 (2) (Deleted by amendment, P.L.1995, c.135).

26 (3) threats to do bodily harm;

27 (4) lewd, indecent, or obscene acts;

28 (5) indecent acts with children;

29 (6) kidnapping;

30 (7) murder;

31 (8) manslaughter;

32 (9) aggravated sexual assault, sexual assault, aggravated
33 criminal sexual contact, criminal sexual contact;

34 (10) any other crime involving violence including domestic
35 violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or
36 section 3 of P.L.1991, c.261 (C.2C:25-19);

37 (11) burglary;

38 (12) tampering with a cosmetic, drug or food product;

39 (13) a violation of human trafficking, section 1 of P.L.2005,
40 c.77 (C.2C:13-8); or

41 c. the commission of a violation of R.S.39:4-50, section 5 of
42 P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236
43 (C.12:7-34.19) or section 3 of P.L.1952, c.157 (C.12:7-46); or

44 d. theft of an automobile pursuant to N.J.S.2C:20-2, eluding a
45 law enforcement officer pursuant to subsection b. of N.J.S.2C:29-2
46 or unlawful taking of a motor vehicle pursuant to subsection b., c.
47 or d. of N.J.S.2C:20-10 where injuries to the victim occur in the
48 course of operating an automobile in furtherance of the offense ; or

1 e. the commission of a violation of N.J.S. 2C:16-1, bias
2 intimidation.

3 (cf: P.L.2007, c.95, s.15)

4

5 4. Section 3 of P.L.1966, c.37 (C.52:17B-5.3) is amended to
6 read as follows:

7 3. a. All local and county police authorities shall submit a
8 quarterly report to the Attorney General, on forms prescribed by the
9 Attorney General, which report shall contain the number and nature
10 of offenses committed within their respective jurisdictions, the
11 disposition of such matters, information relating to criminal street
12 gang activities within their respective jurisdictions, information
13 relating to any offense directed against a person or group, or their
14 property, by reason of their race, color, religion, gender, disability,
15 sexual orientation, gender identity or expression, national origin, or
16 ethnicity and such other information as the Attorney General may
17 require, respecting information relating to the cause and prevention
18 of crime, recidivism, the rehabilitation of criminals and the proper
19 administration of criminal justice.

20 b. A law enforcement officer who responds to an offense
21 involving criminal street gang activity shall complete a gang related
22 incident offense report on a form prescribed by the Superintendent
23 of State Police. All information contained in the gang related
24 incident offense report shall be forwarded to the appropriate county
25 bureau of identification and to the Superintendent of State Police.
26 (cf: P.L.2005, c.332, s.1)

27

28 5. (New section) The Attorney General shall maintain a central
29 repository for the collection and analysis of information collected
30 pursuant to P.L.1966, c.37 (C.52:17B-5.3). Information in the
31 repository shall be made available to the public. The Attorney
32 General may designate the Division of State Police in the
33 Department of Law and Public Safety to be the agency to maintain
34 the repository and provide information from the repository to the
35 public.

36

37 6. (New section) The Police Training Commission shall require
38 all new police officers to complete two hours of training, which
39 may include interactive training, in identifying, responding to, and
40 reporting bias intimidation crimes. The Police Training
41 Commission shall develop or revise the training course in
42 consultation with the New Jersey Human Relations Council
43 established pursuant to section 1 of P.L.1997, c.257 (C.52:9DD-8).
44 The training course shall include the following topics:

45 a. features that identify or could identify a bias intimidation
46 crime;

47 b. laws dealing with bias intimidation crimes;

1 c. law enforcement procedures, reporting, and documentation of
2 bias intimidation crimes; and

3 d. techniques and methods to handle incidents of bias
4 intimidation crimes, including training on how to deal sensitively
5 with victims and referring victims of bias intimidation crimes to
6 organizations that provide assistance and compensation to victims.

7

8 7. Section 3 of P.L.2002, c.83 (C.18A:37-15) is amended to read
9 as follows:

10 3. a. Each school district shall adopt a policy prohibiting
11 harassment, intimidation or bullying on school property, at a
12 school-sponsored function or on a school bus. The school district
13 shall attempt to adopt the policy through a process that includes
14 representation of parents or guardians, school employees,
15 volunteers, students, administrators, and community
16 representatives.

17 b. A school district shall have local control over the content of
18 the policy, except that the policy shall contain, at a minimum, the
19 following components:

20 (1) a statement prohibiting harassment, intimidation or bullying
21 of a student;

22 (2) a definition of harassment, intimidation or bullying no less
23 inclusive than that set forth in section 2 of this act;

24 (3) a description of the type of behavior expected from each
25 student;

26 (4) consequences and appropriate remedial action for a person
27 who commits an act of harassment, intimidation or bullying;

28 (5) a procedure for reporting an act of harassment, intimidation
29 or bullying, including a provision that permits a person to report an
30 act of harassment, intimidation or bullying anonymously; however,
31 this shall not be construed to permit formal disciplinary action
32 solely on the basis of an anonymous report;

33 (6) a procedure for prompt investigation of reports of violations
34 and complaints, identifying either the principal or the principal's
35 designee as the person responsible for the investigation;

36 (7) the range of ways in which a school will respond once an
37 incident of harassment, intimidation or bullying is identified;

38 (8) a statement that prohibits reprisal or retaliation against any
39 person who reports an act of harassment, intimidation or bullying
40 and the consequence and appropriate remedial action for a person
41 who engages in reprisal or retaliation;

42 (9) consequences and appropriate remedial action for a person
43 found to have falsely accused another as a means of retaliation or as
44 a means of harassment, intimidation or bullying; **[and]**

45 (10) a statement of how the policy is to be publicized, including
46 notice that the policy applies to participation in school-sponsored
47 functions; and

1 (11) a requirement that the policy be posted on the school
2 district's website and distributed annually to parents and guardians
3 who have children enrolled in the school in the school district.

4 c. A school district shall adopt a policy and transmit a copy of
5 its policy to the appropriate county superintendent of schools by
6 September 1, 2003.

7 d. To assist school districts in developing policies for the
8 prevention of harassment, intimidation or bullying, the
9 Commissioner of Education shall develop a model policy applicable
10 to grades kindergarten through 12. This model policy shall be
11 issued no later than December 1, 2002.

12 e. Notice of the school district's policy shall appear in any
13 publication of the school district that sets forth the comprehensive
14 rules, procedures and standards of conduct for schools within the
15 school district, and in any student handbook.

16 (cf: P.L.2002, c.83, s.3)

17

18 8. (New section) a. There is hereby established the Commission
19 on Bullying in Schools.

20 b. The commission shall consist of 13 members as follows:

21 (1) the Commissioner of the Department of Education, or his
22 designee;

23 (2) the Director of the Division on Civil Rights in the
24 Department of Law and Public Safety, or his designee;

25 (3) the Governor shall appoint seven public members: one
26 representative of the New Jersey Education Association, one
27 representative of the New Jersey School Boards Association, one
28 representative of the Anti-Defamation League, and four public
29 members with a background in, or special knowledge of, the legal,
30 policy, educational, social or psychological aspects of bullying in
31 schools;

32 (4) the President of the Senate shall appoint two public members
33 with a background in, or special knowledge of, the legal, policy,
34 educational, social or psychological aspects of bullying in schools;
35 and

36 (5) the Speaker of the General Assembly shall appoint two
37 public members with a background in, or special knowledge of, the
38 legal, policy, educational, social or psychological aspects of
39 bullying in schools.

40 c. The commission shall study and make recommendations
41 regarding:

42 (1) the implementation and effectiveness of school bullying
43 laws and regulations;

44 (2) the adequacy of legal remedies available to students who are
45 victims of bullying and their parents and guardians;

46 (3) the adequacy of legal protections available to teachers who
47 are in compliance with school bullying policies;

1 (4) training of teachers, school administrators, and law
2 enforcement personnel in responding to, investigating and reporting
3 incidents of bullying;

4 (5) funding issues related to the implementation of the State
5 school bullying laws and regulations; and

6 (6) the implementation of a possible collaboration between the
7 Department of Education and the Division on Civil Rights in the
8 Department of Law and Public Safety on a Statewide initiative
9 against school bullying.

10 d. The members shall be appointed within 30 days of enactment.

11 e. The members shall serve without compensation, but may be
12 reimbursed for necessary expenses incurred in the performance of
13 their duties, within the limits of funds appropriated or otherwise
14 made available to the commission for its purposes.

15 f. The commission shall choose a chairperson from among its
16 members.

17 g. Any vacancy in the membership shall be filled in the same
18 manner as the original appointment.

19 h. The commission is entitled to the assistance and service of the
20 employees of any State, county or municipal department, board,
21 bureau, commission or agency as it may require and as may be
22 available to it for its purposes, and to employ stenographic and
23 clerical assistance and to incur traveling or other miscellaneous
24 expenses as may be necessary in order to perform its duties, within
25 the limits of funds appropriated or otherwise made available to the
26 commission for its purposes.

27 i. The commission shall conduct a minimum of three public
28 hearings: one in the northern portion of the State; one in the central
29 portion of the State; and one in the southern portion of the State.

30 j. The commission shall report its findings and
31 recommendations, along with any legislation it desires to
32 recommend for adoption by the Legislature, to the Governor and the
33 Legislature in accordance with section 2 of P.L.1991, c.164
34 (C.52:14-19.1). The commission shall issue its final report no later
35 than nine months after final appointment of its members.

36 k. The commission shall expire upon submission of its final
37 report to the Governor and the Legislature.

38
39 9. Section 8 of this act shall take effect immediately. Sections 1
40 through 7 shall take effect on the 60th day after enactment, but the
41 Attorney General and the Commissioner of the Department of
42 Education shall take such anticipatory administrative action in
43 advance thereof as shall be necessary for the implementation of this
44 act.

STATEMENT

1
2
3 This bill substantially revises the current hate crimes and
4 bullying law.

5 *Section 1* of the bill amends the law concerning the crime of
6 bias intimidation to specifically provide that “gender identity or
7 expression” and “national origin” are within the protected classes
8 set forth in the statute. Current law enumerates the protected
9 classes of “race, color, religion, gender, handicap, sexual
10 orientation, or ethnicity.” Although a bias crime based on gender
11 identity or expression or national origin can be prosecuted using the
12 protected classes currently enumerated in the law, this amendment
13 makes clear that these classes are intended to fall within provisions
14 of the statute. In addition, the bill replaces the outdated term
15 “handicap” with the more contemporary term “disability.” This
16 change is not intended to change substantive law. Under the
17 provisions of this section, a person may be guilty of the crime of
18 bias intimidation if he commits, attempts, conspires, or threatens the
19 immediate commission of certain specified offenses with a purpose
20 to intimidate an individual or group because of race, color, religion,
21 gender, disability, sexual orientation, gender identity or expression,
22 national origin, or ethnicity or knowing that the conduct would
23 cause an individual or group to be intimidated on that basis or under
24 circumstances in which the victim believes he was targeted on that
25 basis. The amendment further clarifies the law by specifying that it
26 is not a defense to a bias intimidation crime prosecution that the
27 defendant was mistaken as to the race, color, religion, gender,
28 disability, sexual orientation, gender identity or expression, national
29 origin, or ethnicity of the victim.

30 In addition, section 1 adds a new subsection f. to N.J.S.A.2C:16-
31 1 to provide for additional penalties for the crime of bias
32 intimidation. Under this subsection, a court may order a person
33 convicted of bias intimidation to: complete a class or program on
34 sensitivity to diverse communities, or other similar training in the
35 area of civil rights; complete a counseling program intended to
36 reduce the tendency toward violent and antisocial behavior; or make
37 payments or other compensation to a community-based program or
38 local agency that provides services to victims of bias intimidation.
39 These penalties would be in addition to any other penalties required
40 by the State’s sentencing laws.

41 *Section 2* of the bill amends N.J.S.A.2A:53A-21 to include a
42 purpose to intimidate because of “gender identity or expression” or
43 “national origin” in the existing civil cause of action for bias crime
44 victims. In addition, the bill replaces the outdated term “handicap”
45 used in N.J.S.A.2A:53A-21 with the more contemporary term
46 “disability.” This change is not intended to change substantive law.
47 Under the provisions of this section of the bill, a person, acting with
48 purpose to intimidate an individual or group because of race, color,

1 religion, gender, disability, sexual orientation, gender identity or
2 expression, national origin, or ethnicity, who engages in conduct
3 that is an offense under the provisions of the New Jersey criminal
4 code, commits a civil offense and may be liable for damages,
5 including punitive damages.

6 **Section 3** of the bill amends N.J.S.A.52:4B-11 to add the crime
7 of bias intimidation to the list of crimes for which the Victims
8 Crimes Compensation Agency may order the payment of
9 compensation for personal injury or death. Including victims of
10 bias intimidation specifically in N.J.S.A.52:4B-11 will enable them
11 to be the beneficiaries of the services the Victims Crimes
12 Compensation Agency offers.

13 **Section 4** of the bill would require local and county police to
14 include information about bias crimes in their quarterly reports of
15 crime to the Attorney General. This information would then be
16 included by the Attorney General in the annual report of crime in
17 New Jersey submitted to the Governor and the Legislature pursuant
18 to section 5 of P.L.1996, c.37 (C.52:17B-5.5).

19 **Section 5** of the bill would require the Attorney General or the
20 Division of State Police, if the Attorney General so designates, to
21 maintain a central repository of information submitted from county
22 and local police concerning bias crimes. The information in the
23 repository would be available to the public.

24 **Section 6** would require the Police Training Commission to
25 require all new police officers to complete two hours of training,
26 which may include interactive training, in identifying, responding
27 to, and reporting bias intimidation crimes. The Police Training
28 Commission would develop or revise the course in consultation
29 with the New Jersey Human Relations Council. The training course
30 shall include the following topics:

- 31 • features that identify or could identify a bias intimidation
32 crime;
- 33 • laws dealing with bias intimidation crimes
- 34 • law enforcement procedures, reporting, and documentation
35 of bias intimidation crimes; and
- 36 • techniques and methods to handle incidents of bias
37 intimidation crimes, including training on how to deal
38 sensitively with victims and referring victims of bias
39 intimidation crimes to organizations that provide assistance
40 and compensation to victims.

41 **Section 7** of the bill amends N.J.S.A.18A:37-15 to require that
42 each school district's bullying policy be posted on their website and
43 distributed to parents and guardians annually.

44 **Section 8** of the bill would establish the Commission on
45 Bullying in Schools. The commission shall consist of 13 members
46 as follows:

- 47 • the Commissioner of the Department of Education, or his
48 designee;

- 1 • the Director of the Division on Civil Rights in the
2 Department of Law and Public Safety, or his designee;
- 3 • the Governor shall appoint seven public members: one
4 representative of the New Jersey Education Association, one
5 representative of the New Jersey School Boards Association,
6 one representative of the Anti-Defamation League, and four
7 public members with a background in, or special knowledge
8 of, the legal, policy, educational, social or psychological
9 aspects of bullying in schools;
- 10 • the President of the Senate shall appoint two public members
11 with a background in, or special knowledge of, the legal,
12 policy, educational, social or psychological aspects of
13 bullying in schools; and
- 14 • the Speaker of the General Assembly shall appoint two
15 public members with a background in, or special knowledge
16 of, the legal, policy, educational, social or psychological
17 aspects of bullying in schools.

18 The commission shall study and make recommendations
19 regarding:

- 20 • the implementation and effectiveness of school bullying
21 laws and regulations;
- 22 • the adequacy of legal remedies available to students who are
23 victims of bullying and their parents and guardians;
- 24 • the adequacy of legal protections available to teachers who
25 are in compliance with school bullying policies;
- 26 • training of teachers, school administrators, and law
27 enforcement personnel in responding to, investigating and
28 reporting incidents of bullying;
- 29 • funding issues related to the implementation of the State
30 school bullying laws and regulations; and
- 31 • the implementation of a possible collaboration between the
32 Department of Education and the Division on Civil Rights in
33 the Department of Law and Public Safety on a Statewide
34 initiative against school bullying.

35 Members shall be appointed within 30 days of enactment and
36 serve without compensation, but may be reimbursed for necessary
37 expenses incurred in the performance of their duties, within the
38 limits of funds appropriated or otherwise made available to the
39 commission for its purposes.

40 The commission shall choose a chairperson from among its
41 members. Any vacancy in the membership shall be filled in the
42 same manner as the original appointment.

43 The commission shall conduct a minimum of three public
44 hearings: one in the northern portion of the State; one in the central
45 portion of the State; and one in the southern portion of the State.

46 The commission shall report its findings and recommendations,
47 along with any legislation it desires to recommend for adoption by

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- 1 the Legislature, to the Governor and the Legislature. The
- 2 commission shall issue its final report no later than nine months
- 3 after final appointment of its members and expire thereafter.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4591

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 3, 2008

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 4591.

This bill substantially revises the current hate crimes and bullying law.

Section 1 of the bill amends the law concerning the crime of bias intimidation to specifically provide that “gender identity or expression” and “national origin” are within the protected classes set forth in the statute. Current law enumerates the protected classes of “race, color, religion, gender, handicap, sexual orientation, or ethnicity.” Although a bias crime based on gender identity or expression or national origin can be prosecuted using the protected classes currently enumerated in the law, this amendment makes clear that these classes are intended to fall within the provisions of the statute. In addition, section 1 replaces the outdated term “handicap” with the more contemporary term “disability.” This change is not intended to change substantive law. Under the provisions of this section, a person may be guilty of the crime of bias intimidation if he commits, attempts, conspires, or threatens the immediate commission of certain specified offenses with a purpose to intimidate an individual or group because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity or knowing that the conduct would cause an individual or group to be intimidated on that basis or under circumstances in which the victim believes he was targeted on that basis. The bill further clarifies the law by specifying that it is not a defense to a prosecution for the crime of bias intimidation that the defendant was mistaken as to the race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity of the victim.

Section 1 also adds a new subsection f. to N.J.S.A.2C:16-1 to provide for additional penalties for the crime of bias intimidation. Under this subsection, a court may order a person convicted of bias intimidation to: complete a class or program on sensitivity to diverse communities, or other similar training in the area of civil rights; complete a counseling program intended to reduce the tendency toward violent and antisocial behavior; or make payments or other

compensation to a community-based program or local agency that provides services to victims of bias intimidation. These penalties would be in addition to any other penalties required by the State's sentencing laws.

The committee heard testimony from representatives of the Attorney General's office stating that the focus of the bill and the hate crimes law in general is to prosecute those persons who target individuals in protected classes.

Section 2 of the bill amends N.J.S.A.2A:53A-21 to include a purpose to intimidate because of "gender identity or expression" or "national origin" in the existing civil cause of action for bias crime victims. In addition, the bill replaces the outdated term "handicap" used in N.J.S.A.2A:53A-21 with the more contemporary term "disability." Under the provisions of this section of the bill, a person, acting with purpose to intimidate an individual or group because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity, who engages in conduct that is an offense under the provisions of the New Jersey criminal code, commits a civil offense and may be liable for damages, including punitive damages.

Section 3 of the bill amends N.J.S.A.52:4B-11 to add the crime of bias intimidation to the list of crimes for which the Victims of Crime Compensation Agency may order the payment of compensation for personal injury or death. Including victims of bias intimidation specifically in N.J.S.A.52:4B-11 will enable them to be the beneficiaries of the services the Victims of Crime Compensation Agency offers.

Section 4 of the bill would require local and county police to include information about bias crimes in their quarterly reports of crime to the Attorney General. This information would then be included by the Attorney General in the annual report of crime in New Jersey submitted to the Governor and the Legislature pursuant to N.J.S.A.52:17B-5.5.

Section 5 of the bill would require the Attorney General or the Division of State Police, if the Attorney General so designates, to maintain a central repository of information submitted from county and local police concerning bias crimes. The information in the repository would be available to the public.

Section 6 would require the Police Training Commission to require all new police officers to complete two hours of training, which may include interactive training, in identifying, responding to, and reporting bias intimidation crimes. The Police Training Commission would develop or revise the course in consultation with the New Jersey Human Relations Council. The training course shall include the following topics:

- features that identify or could identify a bias intimidation crime;

- laws dealing with bias intimidation crimes;
- law enforcement procedures, reporting, and documentation of bias intimidation crimes; and
- techniques and methods to handle incidents of bias intimidation crimes, including training on how to deal sensitively with victims and referring victims of bias intimidation crimes to organizations that provide assistance and compensation to victims.

Section 7 of the bill amends N.J.S.A.18A:37-15 to require each district's bullying policy to include a requirement that the policy be posted on the district's website and distributed annually to parents and guardians.

Section 8 of the bill, as amended, would require school districts to amend their bullying policies, post bullying policies on the web, and notify students and parents that the policy is available online within 120 days of the date of enactment (60 days from the effective date of section 8 of the bill).

Section 9 of the bill, as amended, would establish the Commission on Bullying in Schools. The commission shall consist of 14 members as follows:

- the Commissioner of the Department of Education, or his designee;
- the Director of the Division on Civil Rights in the Department of Law and Public Safety, or his designee;
- the Governor shall appoint eight public members: one representative of the New Jersey Education Association, one representative of the New Jersey School Boards Association, one representative of the Anti-Defamation League, one representative of the New Jersey Principals and Supervisors Association, and four public members with a background in, or special knowledge of, the legal, policy, educational, social or psychological aspects of bullying in schools;
- the President of the Senate shall appoint two public members with a background in, or special knowledge of, the legal, policy, educational, social or psychological aspects of bullying in schools; and
- the Speaker of the General Assembly shall appoint two public members with a background in, or special knowledge of, the legal, policy, educational, social or psychological aspects of bullying in schools.

The commission shall study and make recommendations regarding:

- the implementation and effectiveness of school bullying laws and regulations;
- the adequacy of legal remedies available to students who are victims of bullying and their parents and guardians;

- the adequacy of legal protections available to teachers who are in compliance with school bullying policies;
- training of teachers, school administrators, and law enforcement personnel in responding to, investigating and reporting incidents of bullying;
- funding issues related to the implementation of the State school bullying laws and regulations; and
- the implementation of a possible collaboration between the Department of Education and the Division on Civil Rights in the Department of Law and Public Safety on a Statewide initiative against school bullying.

Members shall be appointed within 30 days of enactment and serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties, within the limits of funds appropriated or otherwise made available to the commission for its purposes.

The commission shall choose a chairperson from among its members. Any vacancy in the membership shall be filled in the same manner as the original appointment.

The commission shall conduct a minimum of three public hearings: one in the northern portion of the State; one in the central portion of the State; and one in the southern portion of the State.

The commission shall report its findings and recommendations, along with any legislation it desires to recommend for adoption by the Legislature, to the Governor and the Legislature. The commission shall issue its final report no later than nine months after final appointment of its members and expire thereafter.

The amendments make this bill identical to Senate Bill No.2975(1R).

COMMITTEE AMENDMENTS

1. Add a new section 8 to the bill which would require school districts to amend the policy concerning bullying, make the policy available on the district's website and notify students and parents that the policy is available on the district's website.

2. Amend section 9 of the bill to add a representative of the New Jersey Principals and Supervisors Association to the Commission on Bullying in Schools created by the bill.