

2C:12-10
LEGISLATIVE HISTORY CHECKLIST
 Compiled by the NJ State Law Library

LAWS OF: 2009 **CHAPTER:** 28
NJSA: 2C:12-10 (Amends stalking law to broaden protections for victims)
BILL NO: A1563 (Substituted for S1106)
SPONSOR(S) Greenstein and Others
DATE INTRODUCED: January 8, 2008
COMMITTEE: **ASSEMBLY:** Law and Public Safety
 SENATE: Judiciary
AMENDED DURING PASSAGE: Yes
DATE OF PASSAGE: **ASSEMBLY:** February 5, 2009
 SENATE: December 15, 2008
DATE OF APPROVAL: March 21, 2009

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint enacted)

A1563

SPONSOR'S STATEMENT: (Begins on page 3 of original bill) Yes
COMMITTEE STATEMENT: **ASSEMBLY:** Yes
 SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes
LEGISLATIVE FISCAL ESTIMATE: No

S1106

SPONSOR'S STATEMENT: (Begins on page 3 of original bill) Yes
COMMITTEE STATEMENT: **ASSEMBLY:** No
 SENATE: Yes
FLOOR AMENDMENT STATEMENT: Yes
LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW

[First Reprint]

ASSEMBLY, No. 1563

STATE OF NEW JERSEY
213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Assemblyman ERIC MUNOZ

District 21 (Essex, Morris, Somerset and Union)

Assemblyman JOSEPH CRYAN

District 20 (Union)

Assemblywoman ELEASE EVANS

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblywoman Oliver, Assemblymen Biondi, McKeon, Green, Thompson, Assemblywomen Vainieri Huttle, Handlin, Assemblymen Vas, Giblin, Assemblywoman Quigley, Assemblyman P. Barnes, III, Assemblywoman Lampitt, Assemblymen Rumpf, Diegnan, Egan, Scalera, Albano, Johnson, Greenwald, Assemblywoman Cruz-Perez, Assemblymen Bramnick, O'Scanlon, Chivukula, Assemblywoman Casagrande, Senators Buono, Beck, Turner, Madden, Girgenti, Weinberg, Bateman, T.Kean, Stack, Haines, Allen, Assemblyman Rudder, Assemblywoman Addiego and Assemblyman Wisniewski

SYNOPSIS

Amends stalking law to broaden protections for victims.

CURRENT VERSION OF TEXT

As amended by the Senate on November 24, 2008.

(Sponsorship Updated As Of: 2/6/2009)

1 AN ACT concerning stalking and amending P.L.1992, c.209.

2

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

5

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

8 1. a. As used in this act:

9 (1) "Course of conduct" means repeatedly maintaining a visual
10 or physical proximity to a person; directly, indirectly, or through
11 third parties, by any action, method, device, or means, following,
12 monitoring, observing, surveilling, threatening, or communicating
13 to or about, a person, or interfering with a person's property;
14 repeatedly committing harassment against a person ¹ [, including
15 but not limited to repeatedly making telephone calls]¹; or
16 repeatedly conveying, or causing to be conveyed, verbal or written
17 threats or threats conveyed by any other means of communication
18 or threats implied by conduct or a combination thereof directed at
19 or toward a person.

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

21 (3) "Emotional distress" means significant mental suffering or
22 distress ¹ [that may, but does not necessarily, require medical or
23 other professional treatment or counseling]¹.

24 ¹(4) "Cause a reasonable person to fear" means to cause fear
25 which a reasonable victim, similarly situated, would have under the
26 circumstances.¹

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

30 b. A person is guilty of stalking, a crime of the **[fourth]**
31 ¹**[third] fourth** degree, if he purposefully or knowingly engages in
32 a course of conduct directed at a specific person that would cause a
33 reasonable person to fear **[bodily injury to himself or a member of**
34 **his immediate family or to fear the death of himself or a member of**
35 **his immediate family]** for his safety or the safety of a third person
36 or suffer other emotional distress.

37 c. A person **[is guilty of a crime of the third degree if he]**
38 ¹**[who] is guilty of a crime of the third degree if he** commits the
39 crime of stalking in violation of an existing court order prohibiting
40 the behavior ¹[shall be sentenced by the court to a mandatory
41 minimum term of imprisonment of six months, during which the
42 defendant shall be ineligible for parole]¹.

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 floor amendments adopted November 24, 2008.

1 d. A person who commits a second or subsequent offense of
2 stalking against the same victim [is guilty of a crime of the third
3 degree] '[shall be sentenced by the court to a mandatory minimum
4 term of imprisonment of six months, during which the defendant
5 shall be ineligible for parole] is guilty of a crime of the third
6 degree'.

7 e. A person [is guilty of a crime of the third degree if he]
8 '[who] is guilty of a crime of the third degree if he' commits the
9 crime of stalking while serving a term of imprisonment or while on
10 parole or probation as the result of a conviction for any indictable
11 offense under the laws of this State, any other state or the United
12 States '[shall be sentenced by the court to a mandatory minimum
13 term of imprisonment of six months, during which the defendant
14 shall be ineligible for parole]'.

15 f. '[A person who commits the crime of stalking against a
16 victim who is less than 18 years of age shall be sentenced by the
17 court to a mandatory minimum term of imprisonment of six months,
18 during which the defendant shall be ineligible for parole.

19 g.]' This act shall not apply to conduct which occurs during
20 organized group picketing.
21 (cf: P.L.2001, c.220, s.2)

22

23 2. This act shall take effect immediately.

1 e. A person [is guilty of a crime of the third degree if he] who
2 commits the crime of stalking while serving a term of imprisonment
3 or while on parole or probation as the result of a conviction for any
4 indictable offense under the laws of this State, any other state or the
5 United States shall be sentenced by the court to a mandatory
6 minimum term of imprisonment of six months, during which the
7 defendant shall be ineligible for parole.

8 f. A person who commits the crime of stalking against a victim
9 who is less than 18 years of age shall be sentenced by the court to a
10 mandatory minimum term of imprisonment of six months, during
11 which the defendant shall be ineligible for parole.

12 g. This act shall not apply to conduct which occurs during
13 organized group picketing.
14 (cf: P.L.2001, c.220, s.2)

15
16 2. This act shall take effect immediately.

17
18
19 SPONSOR'S STATEMENT

20
21 This bill would amend the stalking law to broaden protections for
22 victims. The majority of the bill's provisions were recommended
23 by the 2007 report of the National Center for Victims of Crime,
24 "The Model Stalking Code Revisited: Responding to the New
25 Realities of Stalking."

26 Under the bill, a person would be guilty of the crime of stalking
27 if his actions cause the victim *to fear for his safety or the safety of a*
28 *third person*. Current law provides that a person is guilty of
29 stalking only if his actions cause the victim to fear bodily injury to
30 or the death of himself or a member of his immediate family. The
31 report by the National Center for Victims of Crime notes that
32 reducing the level of fear required in a stalking statute would
33 provide earlier and better protection for stalking victims. The
34 report also states that stalkers may target third parties other than the
35 victim's family members, such as employers or intimate partners,
36 and that therefore these persons should be protected by the law.

37 The bill also provides that a person would be guilty of stalking if
38 he purposefully or knowingly engages in a course of conduct
39 directed at a specific person that would cause a reasonable person to
40 suffer *emotional distress*. According to the report, certain types of
41 stalking behavior committed as part of a course of conduct might
42 not meet the standard of "fear for safety" but nonetheless should be
43 addressed by law, such as making repeated telephone calls to a
44 victim.

45 The bill defines "emotional distress" as "significant mental
46 suffering or distress that may, but does not necessarily, require
47 medical or other professional treatment or counseling."

1 The bill also amends the definition of “course of conduct” in the
2 stalking statute. Under the bill, “course of conduct” would include
3 “directly, indirectly, or through third parties, by any action, method,
4 device, or means, following, monitoring, observing, surveilling,
5 threatening, or communicating to or about, a person, or interfering
6 with a person’s property; repeatedly committing harassment against
7 a person, including but not limited to repeatedly making telephone
8 calls.” The new language is intended to cover stalking by means of
9 new technology, such as situations where the stalker tracks the
10 victim through the use of a global positioning system attached to
11 the victim’s car.

12 The offense of harassment, set out in N.J.S.A.2C:33-4, provides
13 that a person commits harassment if, with purpose to harass
14 another, he makes, or causes to be made, a communication or
15 communications anonymously or at extremely inconvenient hours,
16 or in offensively coarse language, or any other manner likely to
17 cause annoyance or alarm, or engages in any other course of
18 alarming conduct or of repeatedly committed acts with purpose to
19 alarm or seriously annoy such other person. The sponsor notes that
20 stalkers may use indirect threats that do not cause the victim to
21 reach the level of fear set out in the statute but that do alarm the
22 victim.

23 Finally, the bill upgrades the crime of stalking to a crime of the
24 third degree. Under current law, stalking is generally a crime of the
25 fourth degree for a first offense. Stalking is currently a crime of the
26 third degree if it is committed in violation of an existing court order
27 prohibiting the behavior, if it is a second or subsequent offense of
28 stalking against the same victim, or if the defendant commits the
29 crime of stalking while serving a term of imprisonment or while on
30 parole or probation. Under the bill, stalking would generally be a
31 crime of the third degree. In the specific cases set out above,
32 stalking would be punishable by a mandatory minimum term of
33 imprisonment of six months. The bill also provides that stalking
34 would be punishable by a mandatory six-month term if the victim is
35 less than 18 years of age.

36 A crime of the fourth degree is punishable by a term of
37 imprisonment of up to 18 months or a fine of up to \$10,000 or both;
38 a crime of the third degree, by a term of imprisonment of three to
39 five years, a fine of up to \$15,000, or both.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1563

STATE OF NEW JERSEY

DATED: FEBRUARY 25, 2008

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 1563.

Assembly Bill No. 1563 amends the State's stalking law to broaden protections for victims. The majority of the bill's provisions were recommended by the 2007 report of the National Center for Victims of Crime, "The Model Stalking Code Revisited: Responding to the New Realities of Stalking."

Under the bill, a person would be guilty of the crime of stalking if his actions cause the victim to fear for his safety or the safety of a third person. Current law provides that a person is guilty of stalking only if his actions cause the victim to fear bodily injury to or the death of himself or a member of his immediate family. The report by the National Center for Victims of Crime notes that reducing the level of fear required in a stalking statute would provide earlier and better protection for stalking victims. The report also states that stalkers may target third parties other than the victim's family members, such as employers or intimate partners, and that therefore these persons should be protected by the law.

The bill also provides that a person would be guilty of stalking if he purposefully or knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person to suffer emotional distress. According to the report, certain types of stalking behavior committed as part of a course of conduct might not meet the standard of "fear for safety" but nonetheless should be addressed by law, such as making repeated telephone calls to a victim.

The bill defines "emotional distress" as ". . . significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling."

The bill also amends the definition of "course of conduct" in the stalking statute. Under the bill, "course of conduct" would include ". . . directly, indirectly, or through third parties, by any action, method, device, or means, following, monitoring, observing, surveilling, threatening, or communicating to or about, a person, or interfering with a person's property; repeatedly committing harassment against a person, including but not limited to repeatedly making telephone calls." The new language is intended to cover stalking by means of new technology, such as situations where the

stalker tracks the victim through the use of a global positioning system attached to the victim's car.

The offense of harassment, set out in N.J.S.A.2C:33-4, provides that a person commits harassment if, with purpose to harass another, he makes, or causes to be made, a communication or communications anonymously or at extremely inconvenient hours, or in offensively coarse language, or any other manner likely to cause annoyance or alarm, or engages in any other course of alarming conduct or of repeatedly committed acts with purpose to alarm or seriously annoy such other person. Stalkers may use indirect threats that do not cause the victim to reach the level of fear set out in the statute but that do alarm the victim.

Finally, the bill upgrades the crime of stalking to a crime of the third degree. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. Currently, it is a crime of the fourth degree, which is punishable by imprisonment of up to 18 months, a fine of up to \$10,000, or both.

Under current law, stalking is upgraded to a crime of the third degree if: (1) it is committed in violation of an existing court order prohibiting the behavior; (2) if it is a second or subsequent offense of stalking against the same victim; or (3) if the defendant commits the crime of stalking while serving a term of imprisonment or while on parole or probation. Under the bill, a person who commits the crime of stalking under these circumstances would be guilty of a crime of the third degree, but would have to serve a mandatory minimum term of imprisonment of six months before being eligible for parole. The bill also provides for a mandatory minimum sentence of six months imprisonment for stalking a victim who is less than 18 years of age.

This bill was pre-filed for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1563

STATE OF NEW JERSEY

DATED: JUNE 5, 2008

The Senate Judiciary Committee reports favorably Assembly Bill No. 1563.

This bill would amend the stalking law to broaden protections for victims. The majority of the bill's provisions were recommended by the 2007 report of the National Center for Victims of Crime, "The Model Stalking Code Revisited: Responding to the New Realities of Stalking."

Under the bill, a person would be guilty of the crime of stalking if his actions cause the victim *to fear for his safety or the safety of a third person*. Current law provides that a person is guilty of stalking only if his actions cause the victim to fear bodily injury to or the death of himself or a member of his immediate family.

The bill also provides that a person would be guilty of stalking if he purposefully or knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person to suffer *emotional distress*. According to the report, certain types of stalking behavior committed as part of a course of conduct might not meet the standard of "fear for safety" but nonetheless should be addressed by law, such as making repeated telephone calls to a victim.

The bill defines "emotional distress" as "significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling."

The bill also amends the definition of "course of conduct" in the stalking statute. Under the bill, "course of conduct" would include "directly, indirectly, or through third parties, by any action, method, device, or means, following, monitoring, observing, surveilling, threatening, or communicating to or about, a person, or interfering with a person's property; repeatedly committing harassment against a person, including but not limited to repeatedly making telephone calls." The new language is intended to cover stalking by means of new technology, such as situations where the stalker tracks the victim through the use of a global positioning system attached to the victim's car.

The offense of harassment, set out in N.J.S.A.2C:33-4, provides that a person commits harassment if, with purpose to harass another, he makes, or causes to be made, a communication or communications anonymously or at extremely inconvenient hours, or in offensively

coarse language, or any other manner likely to cause annoyance or alarm, or engages in any other course of alarming conduct or of repeatedly committed acts with purpose to alarm or seriously annoy such other person.

Finally, the bill upgrades the crime of stalking to a crime of the third degree. Under current law, stalking is generally a crime of the fourth degree for a first offense. Stalking is currently a crime of the third degree if it is committed in violation of an existing court order prohibiting the behavior, if it is a second or subsequent offense of stalking against the same victim, or if the defendant commits the crime of stalking while serving a term of imprisonment or while on parole or probation. Under the bill, stalking would generally be a crime of the third degree. In the specific cases set out above, stalking would be punishable by a mandatory minimum term of imprisonment of six months. The bill also provides that stalking would be punishable by a mandatory six-month term if the victim is less than 18 years of age.

A crime of the fourth degree is punishable by a term of imprisonment of up to 18 months or a fine of up to \$10,000 or both; a crime of the third degree, by a term of imprisonment of three to five years, a fine of up to \$15,000, or both.

The report by the National Center for Victims of Crime notes that reducing the level of fear required in a stalking statute would provide earlier and better protection for stalking victims. The report also states that stalkers may target third parties other than the victim's family members, such as employers or intimate partners, and that therefore these persons should be protected by the law.

This bill is identical to Senate Bill No. 1106.

STATEMENT TO
ASSEMBLY, No. 1563

with Senate Floor Amendments
(Proposed By Senators BUONO, BECK and SCUTARI)

ADOPTED: NOVEMBER 24, 2008

This bill would broaden protections for stalking victims. These amendments would remove the bill's provisions for mandatory minimum terms, maintain the classification of stalking as a crime of the fourth degree, and clarify certain language.

As originally introduced, the bill would have upgraded the crime of stalking, currently a crime of the fourth degree, to a crime of the third degree. The bill would have also imposed a mandatory minimum term of six months' imprisonment on persons who commit the crime of stalking in violation of a court order, commit a second or subsequent offense of stalking against the same victim, commit the crime of stalking while serving a term of imprisonment or while on parole or probation, or commit the crime of stalking against a victim who is less than 18 years of age.

These amendments would remove the mandatory minimum terms and restore the sentencing for stalking offenses to that contained in current law: Currently, persons who commit stalking in violation of a court order, commit a second or subsequent offense against the same victim, or commit the offense while imprisoned or on parole or probation are guilty of a crime of the third degree. In all other cases, stalking is a crime of the fourth degree.

These amendments also modify the definition of "emotional distress" in the bill. As set out in the bill, "emotional distress" is defined as "significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling." The amendments remove the provision concerning treatment or counseling, so that "emotional distress" is now defined in the bill as simply "significant mental suffering or distress."

The amendments also clarify the bill's definition of "course of conduct," removing language that had provided that the term included "repeatedly committing harassment against a person, including but not limited to repeatedly making telephone calls." The amendments remove the provision concerning telephone calls as it is unnecessary: the definition already refers to using "any action, method, device, or means" to communicate to a person.

Finally, the amendments set out a definition of the phrase "cause a reasonable person to fear." Under the amendments, the phrase would be defined as "to cause fear which a reasonable victim, similarly situated, would have under the circumstances."

1 commits the crime of stalking while serving a term of imprisonment
2 or while on parole or probation as the result of a conviction for any
3 indictable offense under the laws of this State, any other state or the
4 United States shall be sentenced by the court to a mandatory
5 minimum term of imprisonment of six months, during which the
6 defendant shall be ineligible for parole.

7 f. A person who commits the crime of stalking against a victim
8 who is less than 18 years of age shall be sentenced by the court to a
9 mandatory minimum term of imprisonment of six months, during
10 which the defendant shall be ineligible for parole.

11 g. This act shall not apply to conduct which occurs during
12 organized group picketing.
13 (cf: P.L.2001, c.220, s.2)

14
15 2. This act shall take effect immediately.

16
17
18 SPONSOR'S STATEMENT

19
20 This bill would amend the stalking law to broaden protections for
21 victims. The majority of the bill's provisions were recommended
22 by the 2007 report of the National Center for Victims of Crime,
23 "The Model Stalking Code Revisited: Responding to the New
24 Realities of Stalking."

25 Under the bill, a person would be guilty of the crime of stalking
26 if his actions cause the victim *to fear for his safety or the safety of a*
27 *third person*. Current law provides that a person is guilty of
28 stalking only if his actions cause the victim to fear bodily injury to
29 or the death of himself or a member of his immediate family. The
30 report by the National Center for Victims of Crime notes that
31 reducing the level of fear required in a stalking statute would
32 provide earlier and better protection for stalking victims. The
33 report also states that stalkers may target third parties other than the
34 victim's family members, such as employers or intimate partners,
35 and that therefore these persons should be protected by the law.

36 The bill also provides that a person would be guilty of stalking if
37 he purposefully or knowingly engages in a course of conduct
38 directed at a specific person that would cause a reasonable person to
39 suffer *emotional distress*. According to the report, certain types of
40 stalking behavior committed as part of a course of conduct might
41 not meet the standard of "fear for safety" but nonetheless should be
42 addressed by law, such as making repeated telephone calls to a
43 victim.

44 The bill defines "emotional distress" as "significant mental
45 suffering or distress that may, but does not necessarily, require
46 medical or other professional treatment or counseling."

47 The bill also amends the definition of "course of conduct" in the
48 stalking statute. Under the bill, "course of conduct" would include

1 “directly, indirectly, or through third parties, by any action, method,
2 device, or means, following, monitoring, observing, surveilling,
3 threatening, or communicating to or about, a person, or interfering
4 with a person’s property; repeatedly committing harassment against
5 a person, including but not limited to repeatedly making telephone
6 calls.” The new language is intended to cover stalking by means of
7 new technology, such as situations where the stalker tracks the
8 victim through the use of a global positioning system attached to
9 the victim’s car.

10 The offense of harassment, set out in N.J.S.A.2C:33-4, provides
11 that a person commits harassment if, with purpose to harass
12 another, he makes, or causes to be made, a communication or
13 communications anonymously or at extremely inconvenient hours,
14 or in offensively coarse language, or any other manner likely to
15 cause annoyance or alarm, or engages in any other course of
16 alarming conduct or of repeatedly committed acts with purpose to
17 alarm or seriously annoy such other person. The sponsor notes that
18 stalkers may use indirect threats that do not cause the victim to
19 reach the level of fear set out in the statute but that do alarm the
20 victim.

21 Finally, the bill upgrades the crime of stalking to a crime of the
22 third degree. Under current law, stalking is generally a crime of the
23 fourth degree for a first offense. Stalking is currently a crime of the
24 third degree if it is committed in violation of an existing court order
25 prohibiting the behavior, if it is a second or subsequent offense of
26 stalking against the same victim, or if the defendant commits the
27 crime of stalking while serving a term of imprisonment or while on
28 parole or probation. Under the bill, stalking would generally be a
29 crime of the third degree. In the specific cases set out above,
30 stalking would be punishable by a mandatory minimum term of
31 imprisonment of six months. The bill also provides that stalking
32 would be punishable by a mandatory six-month term if the victim is
33 less than 18 years of age.

34 A crime of the fourth degree is punishable by a term of
35 imprisonment of up to 18 months or a fine of up to \$10,000 or both;
36 a crime of the third degree, by a term of imprisonment of three to
37 five years, a fine of up to \$15,000, or both.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1106

STATE OF NEW JERSEY

DATED: JUNE 5, 2008

The Senate Judiciary Committee reports favorably Senate Bill No. 1106.

This bill would amend the stalking law to broaden protections for victims. The majority of the bill's provisions were recommended by the 2007 report of the National Center for Victims of Crime, "The Model Stalking Code Revisited: Responding to the New Realities of Stalking."

Under the bill, a person would be guilty of the crime of stalking if his actions cause the victim *to fear for his safety or the safety of a third person*. Current law provides that a person is guilty of stalking only if his actions cause the victim to fear bodily injury to or the death of himself or a member of his immediate family.

The bill also provides that a person would be guilty of stalking if he purposefully or knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person to suffer *emotional distress*. According to the report, certain types of stalking behavior committed as part of a course of conduct might not meet the standard of "fear for safety" but nonetheless should be addressed by law, such as making repeated telephone calls to a victim.

The bill defines "emotional distress" as "significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling."

The bill also amends the definition of "course of conduct" in the stalking statute. Under the bill, "course of conduct" would include "directly, indirectly, or through third parties, by any action, method, device, or means, following, monitoring, observing, surveilling, threatening, or communicating to or about, a person, or interfering with a person's property; repeatedly committing harassment against a person, including but not limited to repeatedly making telephone calls." The new language is intended to cover stalking by means of new technology, such as situations where the stalker tracks the victim through the use of a global positioning system attached to the victim's car.

The offense of harassment, set out in N.J.S.A.2C:33-4, provides that a person commits harassment if, with purpose to harass another, he makes, or causes to be made, a communication or communications anonymously or at extremely inconvenient hours, or in offensively

coarse language, or any other manner likely to cause annoyance or alarm, or engages in any other course of alarming conduct or of repeatedly committed acts with purpose to alarm or seriously annoy such other person.

Finally, the bill upgrades the crime of stalking to a crime of the third degree. Under current law, stalking is generally a crime of the fourth degree for a first offense. Stalking is currently a crime of the third degree if it is committed in violation of an existing court order prohibiting the behavior, if it is a second or subsequent offense of stalking against the same victim, or if the defendant commits the crime of stalking while serving a term of imprisonment or while on parole or probation. Under the bill, stalking would generally be a crime of the third degree. In the specific cases set out above, stalking would be punishable by a mandatory minimum term of imprisonment of six months. The bill also provides that stalking would be punishable by a mandatory six-month term if the victim is less than 18 years of age.

A crime of the fourth degree is punishable by a term of imprisonment of up to 18 months or a fine of up to \$10,000 or both; a crime of the third degree, by a term of imprisonment of three to five years, a fine of up to \$15,000, or both.

The report by the National Center for Victims of Crime notes that reducing the level of fear required in a stalking statute would provide earlier and better protection for stalking victims. The report also states that stalkers may target third parties other than the victim's family members, such as employers or intimate partners, and that therefore these persons should be protected by the law.

This bill is identical to Assembly Bill No. 1563.

STATEMENT TO
SENATE, No. 1106

with Senate Floor Amendments
(Proposed By Senators BUONO, BECK and SCUTARI)

ADOPTED: OCTOBER 23, 2008

This bill would broaden protections for stalking victims. These amendments would remove the bill's provisions for mandatory minimum terms, maintain the classification of stalking as a crime of the fourth degree, and clarify certain language.

As originally introduced, the bill would have upgraded the crime of stalking, currently a crime of the fourth degree, to a crime of the third degree. The bill would have also imposed a mandatory minimum term of six months' imprisonment on persons who commit the crime of stalking in violation of a court order, commit a second or subsequent offense of stalking against the same victim, commit the crime of stalking while serving a term of imprisonment or while on parole or probation, or commit the crime of stalking against a victim who is less than 18 years of age.

These amendments would remove the mandatory minimum terms and restore the sentencing for stalking offenses to that contained in current law: Currently, persons who commit stalking in violation of a court order, commit a second or subsequent offense against the same victim, or commit the offense while imprisoned or on parole or probation are guilty of a crime of the third degree. In all other cases, stalking is a crime of the fourth degree.

These amendments also modify the definition of "emotional distress" in the bill. As set out in the bill, "emotional distress" is defined as "significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling." The amendments remove the provision concerning treatment or counseling, so that "emotional distress" is now defined in the bill as simply "significant mental suffering or distress."

The amendments also clarify the bill's definition of "course of conduct," removing language that had provided that the term included "repeatedly committing harassment against a person, including but not limited to repeatedly making telephone calls." The amendments remove the provision concerning telephone calls as it is unnecessary: the definition already refers to using "any action, method, device, or means" to communicate to a person.

Finally, the amendments set out a definition of the phrase "cause a reasonable person to fear." Under the amendments, the phrase would be defined as "to cause fear which a reasonable victim, similarly situated, would have under the circumstances."