

LEGISLATIVE HISTORY CHECKLIST
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(Bias Crimes)

NJSA: 2C:12-1

LAWS OF: 1995 **CHAPTER:** 211

BILL NO: S402

SPONSOR(S): Sinagra and Kyrillos

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY** ---
SENATE: Judiciary

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 19, 1995
SENATE: June 13, 1994

DATE OF APPROVAL: August 14, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

P.L.1995, CHAPTER 211, approved August 14, 1995
1994 Senate No. 402

1 AN ACT concerning bias crimes and amending N.J.S.2C:12-1,
2 N.J.S.2C:33-4, N.J.S.2C:44-3 and P.L.1981, c.282.

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

6 1. N.J.S.2C:12-1 is amended to read as follows:

7 2C:12-1. Assault. a. Simple assault. A person is guilty of
8 assault if he:

9 (1) Attempts to cause or purposely, knowingly or recklessly
10 causes bodily injury to another; or

11 (2) Negligently causes bodily injury to another with a deadly
12 weapon; or

13 (3) Attempts by physical menace to put another in fear of
14 imminent serious bodily injury.

15 Simple assault is a disorderly persons offense unless committed
16 in a fight or scuffle entered into by mutual consent, in which case
17 it is a petty disorderly persons offense.

18 b. Aggravated assault. A person is guilty of aggravated
19 assault if he:

20 (1) Attempts to cause serious bodily injury to another, or
21 causes such injury purposely or knowingly or under circumstances
22 manifesting extreme indifference to the value of human life
23 recklessly causes such injury; or

24 (2) Attempts to cause or purposely or knowingly causes bodily
25 injury to another with a deadly weapon; or

26 (3) Recklessly causes bodily injury to another with a deadly
27 weapon; or

28 (4) Knowingly under circumstances manifesting extreme
29 indifference to the value of human life points a firearm, as
30 defined in section 2C:39-1f., at or in the direction of another,
31 whether or not the actor believes it to be loaded; or

32 (5) Commits a simple assault as defined in subsection a. (1) and
33 (2) of this section upon:

34 (a) Any law enforcement officer acting in the performance of
35 his duties while in uniform or exhibiting evidence of his authority;
36 or

37 (b) Any paid or volunteer fireman acting in the performance of
38 his duties while in uniform or otherwise clearly identifiable as
39 being engaged in the performance of the duties of a fireman; or

40 (c) Any person engaged in emergency first-aid or medical
41 services acting in the performance of his duties while in uniform
42 or otherwise clearly identifiable as being engaged in the
43 performance of emergency first-aid or medical services; or

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 (d) Any school board member or school administrator, teacher
2 or other employee of a school board while clearly identifiable as
3 being engaged in the performance of his duties or because of his
4 status as a member or employee of a school board; or

5 (6) Causes bodily injury to another person while fleeing or
6 attempting to elude a law enforcement officer in violation of
7 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle
8 in violation of subsection c. of N.J.S.2C:20-10. Notwithstanding
9 any other provision of law to the contrary, a person shall be
10 strictly liable for a violation of this subsection upon proof of a
11 violation of subsection b. of N.J.S.2C:29-2 or while operating a
12 motor vehicle in violation of subsection c. of N.J.S.2C:20-10
13 which resulted in bodily injury to another person.

14 Aggravated assault under subsection b. (1) and b. (6) is a crime
15 of the second degree; under subsection b. (2) is a crime of the
16 third degree; under subsection b. (3) and b. (4) is a crime of the
17 fourth degree; and under subsection b. (5) is a crime of the third
18 degree if the victim suffers bodily injury, otherwise it is a crime
19 of the fourth degree.

20 c. A person is guilty of assault by auto or vessel when the
21 person drives a vehicle or vessel recklessly and causes either
22 serious bodily injury or bodily injury to another. Assault by auto
23 or vessel is a crime of the fourth degree if serious bodily injury
24 results and is a disorderly persons offense if bodily injury results.

25 As used in this section, "vessel" means a means of conveyance
26 for travel on water and propelled otherwise than by muscular
27 power.

28 d. A person who is employed by a facility as defined in section
29 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault
30 as defined in paragraph (1) or (2) of subsection a. of this section
31 upon an institutionalized elderly person as defined in section 2 of
32 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
33 degree.

34 e. A person who commits a simple assault as defined in
35 subsection a. of this section is guilty of a crime of the fourth
36 degree if the person acted [, at least in part, with ill will, hatred
37 or bias toward, and] with a purpose to intimidate [,] an individual
38 or group of individuals because of race, color, religion, gender,
39 handicap, sexual orientation, or ethnicity.

40 (cf: P.L.1993, c.219, s.2.)

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

42 2C:33-4. Harassment.

43 Except as provided in subsection d., a person commits a petty
44 disorderly persons offense if, with purpose to harass another, he:

45 a. Makes, or causes to be made, a communication or
46 communications anonymously or at extremely inconvenient hours,
47 or in offensively coarse language, or any other manner likely to
48 cause annoyance or alarm;

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

51 c. Engages in any other course of alarming conduct or of
52 repeatedly committed acts with purpose to alarm or seriously
53 annoy such other person.

54 A communication under subsection a. may be deemed to have

1 been made either at the place where it originated or at the place
2 where it was received.

3 d. A person commits a crime of the fourth degree if in
4 committing an offense under this section, he acted [at least in
5 part, with ill will, hatred or bias toward, and] with a purpose to
6 intimidate [,] an individual or group of individuals because of
7 race, color, religion, gender, handicap, sexual orientation or
8 ethnicity.

9 (cf: P.L.1990, c.87, s.2)

10 3. N.J.S.2C:44-3 is amended to read as follows:

11 2C:44-3. Criteria for Sentence of Extended Term of
12 Imprisonment.

13 The court may, upon application of the prosecuting attorney,
14 sentence a person who has been convicted of a crime of the first,
15 second or third degree to an extended term of imprisonment if it
16 finds one or more of the grounds specified in this section. The
17 court shall, upon application of the prosecuting attorney,
18 sentence a person who has been convicted of a crime, other than
19 a violation of N.J.S.2C:12-1a., N.J.S.2C:33-4, [or a violation of
20 section 1 or 2 of P.L.1981, c.282 (C.2C:33-10 or 2C:33-11),] or a
21 violation of N.J.S.2C:14-2 or 2C:14-3 if the grounds for the
22 application is purpose to intimidate because of gender, to an
23 extended term if it finds, by a preponderance of the evidence, the
24 grounds in subsection e. If the grounds specified in subsection d.
25 are found, and the person is being sentenced for commission of
26 any of the offenses enumerated in N.J.S.2C:43-6c. or
27 N.J.S.2C:43-6g., the court shall sentence the defendant to an
28 extended term as required by N.J.S.2C:43-6c. or N.J.S.2C:43-6g.,
29 and application by the prosecutor shall not be required. The
30 finding of the court shall be incorporated in the record.

31 a. The defendant is a persistent offender. A persistent
32 offender is a person who at the time of the commission of the
33 crime is 21 years of age or over, who has been previously
34 convicted on at least two separate occasions of two crimes,
35 committed at different times, when he was at least 18 years of
36 age, if the latest in time of these crimes or the date of the
37 defendant's last release from confinement, whichever is later, is
38 within 10 years of the date of the crime for which the defendant
39 is being sentenced.

40 b. The defendant is a professional criminal. A professional
41 criminal is a person who committed a crime as part of a
42 continuing criminal activity in concert with two or more persons,
43 and the circumstances of the crime show he has knowingly
44 devoted himself to criminal activity as a major source of
45 livelihood.

46 c. The defendant committed the crime as consideration for the
47 receipt, or in expectation of the receipt, of anything of pecuniary
48 value the amount of which was unrelated to the proceeds of the
49 crime or he procured the commission of the offense by payment
50 or promise of payment of anything of pecuniary value.

51 d. Second offender with a firearm. The defendant is at least
52 18 years of age and has been previously convicted of any of the
53 following crimes: 2C:11-3, 2C:11-4, 2C:12-1b, 2C:13-1,
54 2C:14-2a., 2C:14-3a., 2C:15-1, 2C:16-2, 2C:18-5, 2C:30-4a., or

1 has been previously convicted of an offense under Title 2A of the
2 New Jersey Statutes which is equivalent of the offenses
3 enumerated in this subsection and he used or possessed a firearm,
4 as defined in 2C:39-1f., in the course of committing or
5 attempting to commit any of these crimes, including the
6 immediate flight therefrom.

7 e. The defendant in committing the crime acted [at least in
8 part, with ill will, hatred or bias toward, and] with a purpose to
9 intimidate [.] an individual or group of individuals because of
10 race, color, gender, handicap, religion, sexual orientation or
11 ethnicity.

12 f. The defendant has been convicted of a crime under any of
13 the following sections: N.J.S.2C:11-4, N.J.S.2C:12-1b,
14 N.J.S.2C:13-1, N.J.S.2C:14-2a, N.J.S.2C:14-3a, N.J.S.2C:15-1,
15 N.J.S.2C:18-1, N.J.S.2C:39-2b, N.J.S.2C:39-5, N.J.S.2C:35-5,
16 and in the course of committing or attempting to commit the
17 crime, including the immediate flight therefrom, the defendant
18 used or was in possession of a stolen motor vehicle.

19 (cf: P.L.1983, c.132, s.2)

20 4. Section 1 of P.L.1981, c.282 (C.2C:33-10) is amended to
21 read as follows:

22 1. A person is guilty of a crime of the third degree if he
23 purposely, knowingly or recklessly puts or attempts to put
24 another in fear of bodily violence by placing on [public or] private
25 property of another a symbol, an object, a characterization, an
26 appellation or graffiti that exposes another to threats of violence
27 [, contempt or hatred on the basis of race, color, creed or
28 religion, including, but not limited to a burning cross or Nazi
29 swastika]. A person shall not be guilty of an attempt unless his
30 actions cause a serious and imminent likelihood of causing fear of
31 unlawful bodily violence.

32 (cf: P.L.1981, c.282, s.1)

33 5. Section 2 of P.L.1981, c.282 (C.2C:33-11) is amended to
34 read as follows:

35 2. A person is guilty of a crime of the fourth degree if he
36 purposely defaces or damages, without authorization of the owner
37 or tenant, any private premises or property primarily used for
38 religious, educational, residential, memorial, charitable, or
39 cemetery purposes, or for assembly by persons for a particular
40 race, color, creed or religion for purpose of exercising any right
41 guaranteed by law or by the Constitution of this State or of the
42 United States by placing thereon a symbol, an object, a
43 characterization, an appellation, or graffiti that exposes another
44 to threat of violence [, contempt or hatred on the basis of race,
45 color, creed or religion, including, but not limited to, a burning
46 cross or Nazi swastika].

47 (cf: P.L.1981, c.282, s.2)

48 6. This act shall take effect immediately.

49
50
51
52
53 Extends this crime to include crimes intended to intimidate
54 because of gender and handicap.

SENATE, No. 492
STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Senators SINAGRA and KYRILLOS

1 **AN ACT** concerning bias crimes and amending N.J.S.2C:12-1,
2 N.J.S.2C:33-4, N.J.S.2C:44-3 and P.L.1981, c.282.

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

6 1. N.J.S.2C:12-1 is amended to read as follows:

7 2C:12-1. **Assault.** a. **Simple assault.** A person is guilty of
8 assault if he:

9 (1) Attempts to cause or purposely, knowingly or recklessly
10 causes bodily injury to another; or

11 (2) Negligently causes bodily injury to another with a deadly
12 weapon; or

13 (3) Attempts by physical menace to put another in fear of
14 imminent serious bodily injury.

15 Simple assault is a disorderly persons offense unless committed
16 in a fight or scuffle entered into by mutual consent, in which case
17 it is a petty disorderly persons offense.

18 b. **Aggravated assault.** A person is guilty of aggravated
19 assault if he:

20 (1) Attempts to cause serious bodily injury to another, or
21 causes such injury purposely or knowingly or under circumstances
22 manifesting extreme indifference to the value of human life
23 recklessly causes such injury; or

24 (2) Attempts to cause or purposely or knowingly causes bodily
25 injury to another with a deadly weapon; or

26 (3) Recklessly causes bodily injury to another with a deadly
27 weapon; or

28 (4) Knowingly under circumstances manifesting extreme
29 indifference to the value of human life points a firearm, as
30 defined in section 2C:39-1f., at or in the direction of another,
31 whether or not the actor believes it to be loaded; or

32 (5) Commits a simple assault as defined in subsection a. (1) and
33 (2) of this section upon:

34 (a) Any law enforcement officer acting in the performance of
35 his duties while in uniform or exhibiting evidence of his authority;
36 or

37 (b) Any paid or volunteer fireman acting in the performance of
38 his duties while in uniform or otherwise clearly identifiable as
39 being engaged in the performance of the duties of a fireman; or

40 (c) Any person engaged in emergency first-aid or medical
41 services acting in the performance of his duties while in uniform
42 or otherwise clearly identifiable as being engaged in the
43 performance of emergency first-aid or medical services; or

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 (d) Any school board member or school administrator, teacher
2 or other employee of a school board while clearly identifiable as
3 being engaged in the performance of his duties or because of his
4 status as a member or employee of a school board; or

5 (6) Causes bodily injury to another person while fleeing or
6 attempting to elude a law enforcement officer in violation of
7 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle
8 in violation of subsection c. of N.J.S.2C:20-10. Notwithstanding
9 any other provision of law to the contrary, a person shall be
10 strictly liable for a violation of this subsection upon proof of a
11 violation of subsection b. of N.J.S.2C:29-2 or while operating a
12 motor vehicle in violation of subsection c. of N.J.S.2C:20-10
13 which resulted in bodily injury to another person.

14 Aggravated assault under subsection b. (1) and b. (6) is a crime
15 of the second degree; under subsection b. (2) is a crime of the
16 third degree; under subsection b. (3) and b. (4) is a crime of the
17 fourth degree; and under subsection b. (5) is a crime of the third
18 degree if the victim suffers bodily injury, otherwise it is a crime
19 of the fourth degree.

20 c. A person is guilty of assault by auto or vessel when the
21 person drives a vehicle or vessel recklessly and causes either
22 serious bodily injury or bodily injury to another. Assault by auto
23 or vessel is a crime of the fourth degree if serious bodily injury
24 results and is a disorderly persons offense if bodily injury results.

25 As used in this section, "vessel" means a means of conveyance
26 for travel on water and propelled otherwise than by muscular
27 power.

28 d. A person who is employed by a facility as defined in section
29 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault
30 as defined in paragraph (1) or (2) of subsection a. of this section
31 upon an institutionalized elderly person as defined in section 2 of
32 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
33 degree.

34 e. A person who commits a simple assault as defined in
35 subsection a. of this section is guilty of a crime of the fourth
36 degree if the person acted [at least in part, with ill will, hatred
37 or bias toward, and] with a purpose to intimidate [.] an individual
38 or group of individuals because of race, color, religion, gender,
39 handicap, sexual orientation, or ethnicity.

40 (cf: P.L.1993, c.219, s.2.)

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

42 2C:33-4. Harassment.

43 Except as provided in subsection d., a person commits a petty
44 disorderly persons offense if, with purpose to harass another, he:

45 a. Makes, or causes to be made, a communication or
46 communications anonymously or at extremely inconvenient hours,
47 or in offensively coarse language, or any other manner likely to
48 cause annoyance or alarm;

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

51 c. Engages in any other course of alarming conduct or of
52 repeatedly committed acts with purpose to alarm or seriously
53 annoy such other person.

54 A communication under subsection a. may be deemed to have

1 been made either at the place where it originated or at the place
2 where it was received.

3 d. A person commits a crime of the fourth degree if in
4 committing an offense under this section, he acted [at least in
5 part, with ill will, hatred or bias toward, and] with a purpose to
6 intimidate [.] an individual or group of individuals because of
7 race, color, religion, gender, handicap, sexual orientation or
8 ethnicity.

9 (cf: P.L.1990, c.87, s.2)

10 3. N.J.S.2C:44-3 is amended to read as follows:

11 2C:44-3. Criteria for Sentence of Extended Term of
12 Imprisonment.

13 The court may, upon application of the prosecuting attorney,
14 sentence a person who has been convicted of a crime of the first,
15 second or third degree to an extended term of imprisonment if it
16 finds one or more of the grounds specified in this section. The
17 court shall, upon application of the prosecuting attorney,
18 sentence a person who has been convicted of a crime, other than
19 a violation of N.J.S.2C:12-1a., N.J.S.2C:33-4, [for a violation of
20 section 1 or 2 of P.L.1981, c.282 (C.2C:33-10 or 2C:33-11).] or a
21 violation of N.J.S.2C:14-2 or 2C:14-3 if the grounds for the
22 application is purpose to intimidate because of gender, to an
23 extended term if it finds, by a preponderance of the evidence, the
24 grounds in subsection e. If the grounds specified in subsection d.
25 are found, and the person is being sentenced for commission of
26 any of the offenses enumerated in N.J.S.2C:43-6c. or
27 N.J.S.2C:43-6g., the court shall sentence the defendant to an
28 extended term as required by N.J.S.2C:43-6c. or N.J.S.2C:43-6g.,
29 and application by the prosecutor shall not be required. The
30 finding of the court shall be incorporated in the record.

31 a. The defendant is a persistent offender. A persistent
32 offender is a person who at the time of the commission of the
33 crime is 21 years of age or over, who has been previously
34 convicted on at least two separate occasions of two crimes,
35 committed at different times, when he was at least 18 years of
36 age, if the latest in time of these crimes or the date of the
37 defendant's last release from confinement, whichever is later, is
38 within 10 years of the date of the crime for which the defendant
39 is being sentenced.

40 b. The defendant is a professional criminal. A professional
41 criminal is a person who committed a crime as part of a
42 continuing criminal activity in concert with two or more persons,
43 and the circumstances of the crime show he has knowingly
44 devoted himself to criminal activity as a major source of
45 livelihood.

46 c. The defendant committed the crime as consideration for the
47 receipt, or in expectation of the receipt, of anything of pecuniary
48 value the amount of which was unrelated to the proceeds of the
49 crime or he procured the commission of the offense by payment
50 or promise of payment of anything of pecuniary value.

51 d. Second offender with a firearm. The defendant is at least
52 18 years of age and has been previously convicted of any of the
53 following crimes: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1,
54 2C:14-2a., 2C:14-3a., 2C:15-1, 2C:18-2, 2C:29-5, 2C:39-4a., or

1 has been previously convicted of an offense under Title 2A of the
2 New Jersey Statutes which is equivalent of the offenses
3 enumerated in this subsection and he used or possessed a firearm,
4 as defined in 2C:39-1f., in the course of committing or
5 attempting to commit any of these crimes, including the
6 immediate flight therefrom.

7 e. The defendant in committing the crime acted [, at least in
8 part, with ill will, hatred or bias toward, and] with a purpose to
9 intimidate [,] an individual or group of individuals because of
10 race, color, gender, handicap, religion, sexual orientation or
11 ethnicity.

12 f. The defendant has been convicted of a crime under any of
13 the following sections: N.J.S.2C:11-4, N.J.S.2C:12-1b.,
14 N.J.S.2C:13-1, N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1,
15 N.J.S.2C:18-2, N.J.S.2C:29-2b., N.J.S.2C:29-5, N.J.S.2C:35-5,
16 and in the course of committing or attempting to commit the
17 crime, including the immediate flight therefrom, the defendant
18 used or was in possession of a stolen motor vehicle.

19 (cf: P.L.1983, c.132, s.2)

20 4. Section 1 of P.L.1981, c.282 (C.2C:33-10) is amended to
21 read as follows:

22 1. A person is guilty of a crime of the third degree if he
23 purposely, knowingly or recklessly puts or attempts to put
24 another in fear of bodily violence by placing on [public or] private
25 property of another a symbol, an object, a characterization, an
26 appellation or graffiti that exposes another to threats of violence
27 [, contempt or hatred on the basis of race, color, creed or
28 religion, including, but not limited to a burning cross or Nazi
29 swastika]. A person shall not be guilty of an attempt unless his
30 actions cause a serious and imminent likelihood of causing fear of
31 unlawful bodily violence.

32 (cf: P.L.1981, c.282, s.1)

33 5. Section 2 of P.L.1981, c.282 (C.2C:33-11) is amended to
34 read as follows:

35 2. A person is guilty of a crime of the fourth degree if he
36 purposely defaces or damages, without authorization of the owner
37 or tenant, any private premises or property primarily used for
38 religious, educational, residential, memorial, charitable, or
39 cemetery purposes, or for assembly by persons [of a particular
40 race, color, creed or religion] for purpose of exercising any right
41 guaranteed by law or by the Constitution of this State or of the
42 United States by placing thereon a symbol, an object, a
43 characterization, an appellation, or graffiti that exposes another
44 to threat of violence [, contempt or hatred on the basis of race,
45 color, creed or religion, including, but not limited to, a burning
46 cross or Nazi swastika].

47 (cf: P.L.1981, c.282, s.2)

48 6. This act shall take effect immediately.

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53 Extends bias crime to include crimes intended to intimidate
54 because of gender and handicap.

SENATE, No. 402
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Senators SINAGRA and KYRILLOS

1 AN ACT concerning bias crimes and amending N.J.S.2C:12-1,
2 2C:33-4, 2C:44-3 and P.L.1981, c.282.

3

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

6 1. N.J.S.2C:12-1 is amended to read as follows:

7 2C:12-1. Assault. a. Simple assault. A person is guilty of
8 assault if he:

9 (1) Attempts to cause or purposely, knowingly or recklessly
10 causes bodily injury to another; or

11 (2) Negligently causes bodily injury to another with a deadly
12 weapon; or

13 (3) Attempts by physical menace to put another in fear of
14 imminent serious bodily injury.

15 Simple assault is a disorderly persons offense unless committed
16 in a fight or scuffle entered into by mutual consent, in which case
17 it is a petty disorderly persons offense.

18 b. Aggravated assault. A person is guilty of aggravated
19 assault if he:

20 (1) Attempts to cause serious bodily injury to another, or
21 causes such injury purposely or knowingly or under circumstances
22 manifesting extreme indifference to the value of human life
23 recklessly causes such injury; or

24 (2) Attempts to cause or purposely or knowingly causes bodily
25 injury to another with a deadly weapon; or

26 (3) Recklessly causes bodily injury to another with a deadly
27 weapon; or

28 (4) Knowingly under circumstances manifesting extreme
29 indifference to the value of human life points a firearm, as
30 defined in section 2C:39-1f., at or in the direction of another,
31 whether or not the actor believes it to be loaded; or

32 (5) Commits a simple assault as defined in subsection a. (1) and
33 (2) of this section upon:

34 (a) Any law enforcement officer acting in the performance of
35 his duties while in uniform or exhibiting evidence of his authority;
36 or

37 (b) Any paid or volunteer fireman acting in the performance of
38 his duties while in uniform or otherwise clearly identifiable as
39 being engaged in the performance of the duties of a fireman; or

40 (c) Any person engaged in emergency first-aid or medical
41 services acting in the performance of his duties while in uniform
42 or otherwise clearly identifiable as being engaged in the
43 performance of emergency first-aid or medical services; or

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 (4) Any school board member or school administrator, teacher
2 or other employee of a school board while clearly identifiable as
3 being engaged in the performance of his duties or because of his
4 status as a member or employee of a school board; or

5 (6) Causes serious bodily injury to another person while fleeing
6 or attempting to elude a law enforcement officer in violation of
7 subsection b. of N.J.S.2C:29-2. Notwithstanding any other
8 provision of law to the contrary, a person shall be strictly liable
9 for a violation of this subsection upon proof of a violation of
10 subsection b. of N.J.S.2C:29-2 which resulted in serious bodily
11 injury to another person; or

12 (7) Causes bodily injury to another person while fleeing or
13 attempting to elude a law enforcement officer in violation of
14 subsection b. of N.J.S.2C:29-2. Notwithstanding any other
15 provision of law to the contrary, a person shall be strictly liable
16 for a violation of this subsection upon proof of a violation of
17 subsection b. of N.J.S.2C:29-2 which resulted in bodily injury to
18 another person.

19 Aggravated assault under subsection b. (1) and b. (6) is a crime
20 of the second degree; under subsection b. (2) and b. (7) is a crime
21 of the third degree; under subsection b. (3) and b. (4) is a crime of
22 the fourth degree; and under subsection b. (5) is a crime of the
23 third degree if the victim suffers bodily injury, otherwise it is a
24 crime of the fourth degree.

25 c. A person is guilty of assault by auto or vessel when the
26 person drives a vehicle or vessel recklessly and causes either
27 serious bodily injury or bodily injury to another. Assault by auto
28 or vessel is a crime of the fourth degree if serious bodily injury
29 results and is a disorderly persons offense if bodily injury results.

30 As used in this section, "auto or vessel" means of conveyance
31 propelled otherwise than by muscular power.

32 d. A person who is employed by a facility as defined in section
33 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault
34 as defined in paragraph (1) or (2) of subsection a. of this section
35 upon an institutionalized elderly person as defined in section 2 of
36 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
37 degree.

38 e. A person who commits a simple assault as defined in
39 subsection a. of this section is guilty of a crime of the fourth
40 degree if the person acted [. at least in part, with ill will, hatred
41 or bias toward, and] with a purpose to intimidate [,] an individual
42 or group of individuals because of race, color, religion, gender,
43 handicap, sexual orientation, or ethnicity.

44 (cf: P.L.1991, c.341, s.2.)

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

46 2C:33-4. Harassment.

47 Except as provided in subsection d., a person commits a petty
48 disorderly persons offense if, with purpose to harass another, he:

49 a. Makes, or causes to be made, a communication or
50 communications anonymously or at extremely inconvenient hours,
51 or in offensively coarse language, or any other manner likely to
52 cause annoyance or alarm;

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

1 c. Engages in any other course of alarming conduct or of
2 repeatedly committed acts with purpose to alarm or seriously
3 annoy such other person.

4 A communication under subsection a. may be deemed to have
5 been made either at the place where it originated or at the place
6 where it was received.

7 d. A person commits a crime of the fourth degree if in
8 committing an offense under this section, he acted [, at least in
9 part, with ill will, hatred or bias toward, and] with a purpose to
10 intimidate [,] an individual or group of individuals because of
11 race, color, religion, gender, handicap, sexual orientation or
12 ethnicity.

13 (cf: P.L.1990, c.87, s.2.)

14 3. N.J.S.2C:44-3 is amended to read as follows:

15 2C:44-3. Criteria for Sentence of Extended Term of
16 Imprisonment.

17 The court may, upon application of the prosecuting attorney,
18 sentence a person who has been convicted of a crime of the first,
19 second or third degree to an extended term of imprisonment if it
20 finds one or more of the grounds specified in this section. The
21 court shall, upon application of the prosecuting attorney,
22 sentence a person who has been convicted of a crime, other than
23 a violation of N.J.S.2C:12-1a., N.J.S.2C:33-4, [or a violation of
24 section 1 or 2 of P.L.1991, c.282 (C.2C:33-10 or 2C:33-11),] or a
25 violation of N.J.S.2C:14-2 or 2C:14-3 if the grounds for the
26 application is purpose to intimidate because of gender, to an
27 extended term if it finds, by a preponderance of the evidence, the
28 grounds in subsection e. If the grounds specified in subsection d.
29 are found, and the person is being sentenced for commission of
30 any of the offenses enumerated in N.J.S.2C:43-6c. or
31 N.J.S.2C:43-6g., the court shall sentence the defendant to an
32 extended term as required by N.J.S.2C:43-6c. or N.J.S.2C:43-6g.,
33 and application by the prosecutor shall not be required. The
34 finding of the court shall be incorporated in the record.

35 a. The defendant is a persistent offender. A persistent
36 offender is a person who at the time of the commission of the
37 crime is 21 years of age or over, who has been previously
38 convicted on at least two separate occasions of two crimes,
39 committed at different times, when he was at least 18 years of
40 age, if the latest in time of these crimes or the date of the
41 defendant's last release from confinement, whichever is later, is
42 within 10 years of the date of the crime for which the defendant
43 is being sentenced.

44 b. The defendant is a professional criminal. A professional
45 criminal is a person who committed a crime as part of a
46 continuing criminal activity in concert with two or more persons,
47 and the circumstances of the crime show he has knowingly
48 devoted himself to criminal activity as a major source of
49 livelihood.

50 c. The defendant committed the crime as consideration for the
51 receipt, or in expectation of the receipt, of anything of pecuniary
52 value the amount of which was unrelated to the proceeds of the
53 crime or he procured the commission of the offense by payment
54 or promise of payment of anything of pecuniary value.

1 d. Second offender with a firearm. The defendant is at least
2 18 years of age and has been previously convicted of any of the
3 following crimes: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1,
4 2C:14-2a., 2C:14-3a., 2C:15-1, 2C:18-2, 2C:29-5, 2C:39-4a., or
5 has been previously convicted of an offense under Title 2A of the
6 New Jersey Statutes which is equivalent of the offenses
7 enumerated in this subsection and he used or possessed a firearm,
8 as defined in 2C:39-1f., in the course of committing or
9 attempting to commit any of these crimes, including the
10 immediate flight therefrom.

11 e. The defendant in committing the crime acted [, at least in
12 part, with ill will, hatred or bias toward, and] with a purpose to
13 intimidate [,] an individual or group of individuals because of
14 race, color, gender, handicap, religion, sexual orientation or
15 ethnicity.

16 (cf: P.L.1990, c.87, s.4)

17 4. Section 1 of P.L.1981, c.282 (C.2C:33-10) is amended to
18 read as follows:

19 1. A person is guilty of a crime of the third degree if he
20 purposely, knowingly or recklessly puts or attempts to put
21 another in fear of bodily violence by placing on [public or] private
22 property of another a symbol, an object, a characterization, an
23 appellation or graffiti that exposes another to threats of violence
24 [, contempt or hatred on the basis of race, color, creed or
25 religion, including, but not limited to a burning cross or Nazi
26 swastika]. A person shall not be guilty of an attempt unless his
27 actions cause a serious and imminent likelihood of causing fear of
28 unlawful bodily violence.

29 (cf: P.L.1981, c.282, s.1)

30 5. Section 2 of P.L.1981, c.282 (C.2C:33-11) is amended to
31 read as follows:

32 2. A person is guilty of a crime of the fourth degree if he
33 purposely defaces or damages, without authorization of the owner
34 or tenant, any private premises or property primarily used for
35 religious, educational, residential, memorial, charitable, or
36 cemetery purposes, or for assembly by persons [of a particular
37 race, color, creed or religion] for purpose of exercising any right
38 guaranteed by law or by the Constitution of this State or of the
39 United States by placing thereon a symbol, an object, a
40 characterization, an appellation, or graffiti that exposes another
41 to threat of violence [, contempt or hatred on the basis of race,
42 color, creed or religion, including, but not limited to, a burning
43 cross or Nazi swastika].

44 (cf: P.L.1981, c.282, s.2)

45 6. This act shall take effect immediately.

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STATEMENT

49

50 New Jersey's Code of Criminal Justice presently prohibits
51 crimes committed with the purpose to intimidate an individual or
52 group of individuals because of race, color, religion, sexual
53 orientation or ethnicity. This bill would amend these sections to
54 expand the Code to include crimes committed with a purpose to

1 intimidate because of gender or handicap.

2 The bill would also amend the criminal sentencing enhancement
3 provisions of the Code to permit applications for enhanced
4 penalties in two cases: (1) where the defendant has been found
5 guilty of putting another in fear of bodily violence by placing on
6 private property a symbol or object that exposes the other to
7 threats of violence, N.J.S.A.2C:33-10; and (2) where the
8 defendant has been found guilty of purposely defacing or
9 damaging private property or property primarily used for
10 religious, educational, residential, memorial, charitable or
11 cemetery purposes by placing a symbol or object that exposes
12 another person to threats of violence, N.J.S.A.2C:33-11.

13 Furthermore, the bill would amend N.J.S.A.2C:33-10 and
14 2C:33-11 to delete reference to particular forms of speech and
15 thereby eliminate the potential for constitutional challenge on
16 the basis of R.A.V. v. City of St. Paul, Minnesota, __
17 U.S. __ (No. 90-7675, decided June 22, 1992), 60 U.S.L.W 4667. In
18 R.A.V. the Supreme Court held that while a state may not single
19 out particular "fighting words" for punishment based on the
20 message those words convey, a state may continue to prohibit all
21 "fighting words" and words that convey threats of violence.

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26 Extends bias crime to include crimes intended to intimidate
27 because of gender and handicap.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 402

STATE OF NEW JERSEY

DATED: FEBRUARY 10, 1994

The Senate Judiciary Committee reports favorably Senate Bill No. 402.

New Jersey's Code of Criminal Justice presently provides enhanced penalties for the offenses of assault (N.J.S. 2C:12-1) and harassment (N.J.S. 2C:33-4) when those offenses are committed with the purpose to intimidate an individual or group of individuals because of race, color, religion, sexual orientation or ethnicity. The bill would amend these sections to include crimes committed with a purpose to intimidate because of gender or handicap.

This bill would also permit the prosecution to seek the imposition of an extended term of imprisonment for crimes committed with the purpose to intimidate because of gender or handicap and for violation of N.J.S. 2C:33-10 (placing signs or displays that imply threats of violence) and N.J.S. 2C:33-11 (desecrating religious or sectarian premises).

In addition, the bill would delete from several sections of the criminal code language which could be construed as a violation of the recent U.S. Supreme Court ruling in R.A.V. v. City of St. Paul Minnesota (No. 90-7675, decided June 22, 1992). In that case, the Supreme Court ruled that a St. Paul ordinance dealing with ethnic intimidation was unconstitutional because the ordinance was not narrowly tailored to meet a compelling state interest in protecting public safety and because it had a chilling effect on speech by prohibiting only fighting words which communicated unfavorable ideas.

This bill was prefiled for introduction in the 1994 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact: BECKY TAYLOR and
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TRENTON, N.J. 08625

Release: TUESDAY
AUGUST 15, 1995

Gov. Christie Whitman has signed legislation to expand the existing bias crimes law to provide enhanced penalties for crimes committed with the purpose of intimidating because of gender or handicap. Current law provides enhanced penalties for the offenses of assault and harassment when those offenses are committed with the purpose to intimidate a person or group of people because of race, color, religion, sexual orientation or ethnicity.

The bill will also now permit a prosecutor to seek extended terms of imprisonment for defendants convicted of a crime committed with the purpose to intimidate because of gender or handicap, for placing signs or displays that imply threats of violence and for desecrating religious or sectarian premises.

The sponsors of S-402/A-942 are Senators Jack Sinagra (R-Middlesex) and Joseph Kyriillos (R-Middlesex) and Byron Baer (D-Bergen) and Assemblymen Jeff Warsh (R-Middlesex) and Neil Cohen (D-Union).

Gov. Whitman also signed legislation establishing penalties for the illegal use of cards to access electronically distributed food stamp benefits. Plastic benefit cards have been recently introduced as a means to access food stamp benefits and reduce food stamp fraud under a newly-established electronic benefit distribution system. The Department of Human Services has already implemented the system in Camden County and will expand the system to Essex and Hudson Counties by 1996. Ultimately, the system will be implemented statewide.

Consistent with the fraud reduction purposes of the benefit cards, the bill makes it illegal for an individual to purposely or knowingly receive or use the proceeds of a card that the individual is not authorized to use, engage in any transaction to convert the benefit card to another form of property contrary to state or federal rules and regulations, or transfer a benefit card to another person who is not authorized to use it.

If the value of the benefit card is equal to or greater than \$150, the crime is a fourth degree offense and carries a penalty of up to 18 months in prison and a fine of up to \$7,500. If the value is under \$150, the crime is a disorderly persons offense, punishable by up to 6 months in prison or a fine of up to \$1,000.

The sponsors of S-1256/A-2147 are Senator Leonard Corbett (R-Atlantic) and Assemblymen Jeffrey Moran (R-Ocean) and Christopher Cannon (R-Ocean).