

**LEGISLATIVE HISTORY CHECKLIST**  
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(Bias crime)

**NJSA:** 2A:53A-21

**LAWS OF:** 1993 **CHAPTER:** 137

**BILL NO:** S1146

**SPONSOR(S)** Gormley and others

**DATE INTRODUCED:** September 10, 1992

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

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:** **ASSEMBLY:** May 13, 1993  
**SENATE:** December 7, 1992

**DATE OF APPROVAL:** June 11, 1993

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes  
**SENATE:** Yes

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

See newspaper clippings--attached:

"Bias crime victims gain right to sue criminals...", 6-12-93 Trenton Times.

"Law gives bigots targets' clout," 6-12-93 Home News.

KBG:pp

P.L.1993, CHAPTER 137, approved June 11, 1993  
1992 Senate No. 1146

1 AN ACT to provide a civil cause of action for the benefit of  
2 victims of bias crime and supplementing Title 2A of the New  
3 Jersey Statutes.

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

7 1. a. A person, acting with purpose to intimidate an individual  
8 or group of individuals because of race, color, religion, gender,  
9 handicap, sexual orientation or ethnicity, who engages in conduct  
10 that is an offense under the provisions of the "New Jersey Code  
11 of Criminal Justice," Title 2C of the New Jersey Statutes,  
12 commits a civil offense.

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

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

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

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

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

39 (3) Such injunctive relief as the Court may deem necessary to  
40 avoid the defendant's continued violation of subsection a.; and,

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

43 e. An award entered pursuant to paragraph (1) of subsection d.  
44 of this section shall be reduced by the amount of any restitution  
45 that has been awarded for the same injury following criminal

1 conviction or juvenile adjudication, and, notwithstanding the  
2 provisions of paragraph (1.) of subsection d., damages awarded for  
3 injuries that have previously been compensated by the Violent  
4 Crimes Compensation Board shall be paid to the Board for deposit  
5 in the Violent Crimes Compensation Board Account.

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

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

17 2. There shall be established in the State Treasury a separate,  
18 nonlapsing fund designated the Civil Rights Enforcement Fund.  
19 Amounts credited to the fund shall be used by the Attorney  
20 General for the payment of expenses and costs incurred by the  
21 Attorney General in enforcement of the laws of this State  
22 protecting civil rights, in the development and delivery of  
23 training for public employees, including law enforcement  
24 officers, responsible for enforcement of these law and in the  
25 development and delivery of related public education programs.

26 3. The provisions of this act are intended to provide remedies  
27 independent of and in addition to those that may apply under the  
28 provisions of the "New Jersey Code of Criminal Justice". The  
29 civil actions authorized by this act are available whether or not  
30 the conduct has been prosecuted as an offense under the  
31 provisions of Title 2C of the New Jersey Statutes and whether or  
32 not any such prosecution has resulted in a conviction.

33 4. The terms "conduct" and "offense" shall have the meaning  
34 provided in N.J.S.2C:1-14. The term "juvenile" shall have the  
35 meaning provided in section 24 of P.L.1982, c.77 (2A:4A-43).

36 5. This act shall take effect immediately.

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#### STATEMENT

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41 This bill would provide a civil remedy independent of and in  
42 addition to those available under the criminal provisions of the  
43 New Jersey Statutes for victims of bias crimes. The bill provides  
44 that a person, acting with the purpose to intimidate an individual  
45 or group of individuals because of race, color, religion, gender,  
46 handicap, sexual orientation or ethnicity, who engages in conduct  
47 that is an offense under the provisions of the criminal code  
48 commits a civil offense. Under the provisions of this bill, any  
49 person who commits this civil offense would be civilly liable for  
50 any injury or property damage resulting from his actions. The bill  
51 would also provide that the Attorney General, as *parents patriae*,  
52 would be authorized to bring an action against any person who  
53 commits this civil offense.

54 In addition, the bill provides that any party seeking recovery

1 under the provisions of this bill would be entitled to damages  
2 including punitive damages, reasonable attorney's fees and costs,  
3 damages for emotional distress or any other appropriate equitable  
4 relief. The bill also provides that any award received under the  
5 act would be reduced by the amount of any restitution that has  
6 been awarded for the same injury following a criminal conviction.

7 Finally, under the provisions of the bill the Attorney General  
8 may be awarded reasonable attorney's fees and cost for any case  
9 in which he has participated. These monies would be deposited in  
10 a Civil Rights Enforcement Fund established under the provisions  
11 of the bill.

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16 Establishes a civil cause of action for victims of bias crimes.

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16 Establishes a civil cause of action for victims of bias crimes.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY  
COMMITTEE

STATEMENT TO

SENATE, No. 1146

STATE OF NEW JERSEY

DATED: MARCH 22, 1993

The Assembly Judiciary, Law and Public Safety Committee reports favorably Senate Bill No. 1146.

This bill provides that a person acting with the purpose to intimidate an individual or group of individuals because of race, color, religion, gender, handicap, sexual orientation or ethnicity who engages in conduct that constitutes a criminal offense also commits a civil offense. Under the provisions of this bill, any person who commits this civil offense would be liable in a civil action for any injury or property damage resulting from his actions. This bill would also authorize that the Attorney General, as *parens patriae*, to bring an action against any person who commits this civil offense.

In addition, the bill provides that any party seeking recovery for this civil offense would be entitled to damages including punitive damages, reasonable attorney's fees and costs, damages for emotional distress or any other appropriate equitable relief. It also provides that any damages received as the result of an action brought under the act would be reduced by the amount of any restitution that has been awarded for the same injury following a criminal conviction.

Under the provisions of the bill, the Attorney General may be awarded reasonable attorney's fees and costs for any case in which he has participated. These monies would be deposited in a Civil Rights Enforcement Fund established under the provisions of the bill.

The civil remedy established by the bill would be independent of, and in addition to, penalties which may be imposed for crimes involving bias under New Jersey's criminal statutes.

This bill is identical to the Assembly Committee Substitute for Assembly Bill Nos. 1697 and 142.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1146

STATE OF NEW JERSEY

DATED: OCTOBER 1, 1992

The Senate Judiciary Committee reports favorably Senate Bill No. 1146.

S-1146 provides that a person acting with the purpose to intimidate an individual or group of individuals because of race, color, religion, gender, handicap, sexual orientation or ethnicity who engages in conduct that constitutes a criminal offense also commits a civil offense. Under the provisions of this bill, any person who commits this civil offense would be liable in a civil action for any injury or property damage resulting from his actions. S-1146 would also authorize that the Attorney General, as *parens patriae*, to bring an action against any person who commits this civil offense.

In addition, S-1146 provides that any party seeking recovery for this civil offense would be entitled to damages including punitive damages, reasonable attorney's fees and costs, damages for emotional distress or any other appropriate equitable relief. S-1146 also provides that any damages received as the result of an action brought under the act would be reduced by the amount of any restitution that has been awarded for the same injury following a criminal conviction.

Finally, under the provisions of S-1146, the Attorney General may be awarded reasonable attorney's fees and costs for any case in which he has participated. These monies would be deposited in a Civil Rights Enforcement Fund established under the provisions of the bill.

The civil remedy established by S-1146 would be independent of, and in addition to, penalties imposable for crimes involving bias under New Jersey's criminal statutes.





# OFFICE OF THE GOVERNOR

## NEWS RELEASE

**CN-001**  
**Contact:**

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**TRENTON, N.J. 08625**

**Release:** Friday  
June 11, 1993

### *NEW LAW STRENGTHENS PROTECTION FROM BIAS CRIMES*

**SOUTH RIVER --** Bias crime victims will not only be able to see criminals punished, but can seek financial relief as well in New Jersey courts under legislation signed today by Governor Jim Florio, who said the state and nation must fight a rising tide of intolerance. The Attorney General also released a report today showing a 34 percent increase in bias crimes statewide.

"New Jersey already has some of the toughest laws against hate crimes in this nation. But sometimes the best deterrent is to hit people in the pocketbook and that's what this law does," said Governor Florio, who signed the new law at Congregation Anshe Emeth. "No one who has suffered the emotional and physical trauma of hate crime should be forced to suffer a financial trauma as well."

"We're sending a clear message: if you commit a hate crime in New Jersey, you'll pay a price -- literally," he said.

Congregation Anshe Emeth is led by Rabbi Joseph Maza, whose home was desecrated by anti-Semitic graffiti last month. An 18-year old borough resident was arrested last week and charged with the crime. The incident is one of several that have occurred in the borough in recent weeks. A 24-year old man was arrested last week for allegedly chasing three African-American girls and shouting racial slurs. Vandals also spray-painted 10 cars -- drawing a swastika on one -- at a car repair business.

The new law is an additional deterrent against bias crime which allows victims to sue their attackers for financial relief, beyond that available as a result of a criminal prosecution. Under the new law, a crime victim will be able to seek relief whenever a crime is committed by a person acting to intimidate an individual or group because of race, color, religion, gender, handicap sexual orientation or ethnicity.

The victim would be able to sue for damages such as medical and counseling bills, time lost from work, punitive damages, attorney's fees, damages for emotional distress or other equitable relief. Any damages received as a result of the civil action

-more-

would be reduced by the amount of restitution awarded for the same injury following a criminal conviction. The law also allows the state to sue on the victim's behalf. The defendant will be responsible for paying any costs of litigation collected by the state which will go into a special fund to enforce bias crime laws and support community and education programs aimed at increasing tolerance.

Parents and guardians would also be liable for the same legal and financial penalties levied on their children if the adult's conduct is found to be a significant contributing factor in the child's actions.

"We cannot legislate decency, but we will not tolerate hatred," said Governor Florio. "Whether they involve a gun, a fist or just a can of spray paint, hate crimes are the most corrosive crimes because they tear at our communities and families in very divisive ways."

Also today, Attorney General Robert Del Tufo released the 1992 Bias Crime Report, an annual study prepared by the State Police Uniform Crime Reporting Unit. The report indicated a 34 percent increase in bias crimes in 1992 and an increase in arrests for bias crimes of nearly 50 percent. In 1992, police reported 1,303 bias incidents compared to 976 incidents reported in 1991. Police made 444 arrests (288 adults and 156 juveniles) in 1992, a 49 percent increase over the 297 arrests made in 1991.

"Much of the increase in hate crimes can be attributed to more accurate reporting, a direct result of better relations between police and minority communities," said Governor Florio. "But some of the increase reflects the strain of these difficult economic times. The simple truth is, people are anxious about the future and instead of turning to each other, too many people are turning on each other. We won't tolerate that."

Last year, under Governor Florio's direction, the Attorney General created the first statewide Office of Bias Crime and Community Relations in the country. The office has developed numerous educational programs aimed at young people, persons who commit hate crimes and their families, and citizens who are victims of bias offenses.

The state's new law is a companion to the Ethnic Intimidation Act signed by the Governor in August, 1990 -- the toughest anti-bias law in the United States. The law increases penalties for those convicted of a crime motivated by race or hate. In an effort to help community awareness and education, Governor Florio also signed an Executive Order creating a statewide Commission on Racism, Racial and Religious Violence.

S 1146/A 1697/142 was sponsored by Senators William Gormley and Mathew Feldman, and Assemblypersons Joseph Azzolina, Jeff Warsh and Michael Arnone.

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