

**LEGISLATIVE HISTORY CHECKLIST**  
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**NJSA:** 2C:12-10 (Stalking--criminal offense)

**LAWS OF:** 1992 **CHAPTER:** 209

**BILL NO:** S256

**SPONSOR(S):** Cafiero

**DATE INTRODUCED:** February 3, 1992

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

**AMENDED DURING PASSAGE:** Yes Amendments during passage denoted by asterisks

**DATE OF PASSAGE:** **ASSEMBLY:** October 29, 1992  
**SENATE:** November 9, 1992

**DATE OF APPROVAL:** January 5, 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

California statute, referred to: attached. (Penal Code 646.9)

See also: newspaper clippings--attached:

"Governor signs measure making stalking a crime," 1-6-93, Atlantic City Press.

"Stalkers lose as victims gain power," 1-6-93, Asbury Park Press.

"Florio signs law on stalking," 1-6-93, Philadelphia Inquirer.

KBP:pp

[SECOND REPRINT]

SENATE, No. 256

STATE OF NEW JERSEY

INTRODUCED JANUARY 28, 1992

By Senators CAFIERO, Feldman,  
Girgenti, Smith, Assemblymen LoBiondo and Gibson

1 AN ACT creating the crime of stalking and supplementing Title  
2 2C of the New Jersey Statutes.

3

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

6 1. a. As used in this act:

7 (1) "Course of conduct" means a <sup>2</sup>[pattern] knowing and willful  
8 course<sup>2</sup> of conduct <sup>2</sup>directed at a specific person,<sup>2</sup> composed of a  
9 series of acts over a period of time, however short, evidencing a  
10 continuity of purpose <sup>2</sup>which alarms or annoys that person and  
11 which serves no legitimate purpose. The course of conduct must  
12 be such as to cause a reasonable person to suffer emotional  
13 distress<sup>2</sup>. Constitutionally protected activity is not included  
14 within the meaning of "course of conduct."

15 (2) "Credible threat" means <sup>1</sup>[a] an explicit or implicit<sup>1</sup> threat  
16 made with the intent and the apparent ability to carry out the  
17 threat, so as to cause the person who is the target of the threat  
18 to reasonably fear for <sup>2</sup>[the] that<sup>2</sup> person's safety.

19 <sup>2</sup>[(3) "Harasses" means a knowing and wilful course of conduct  
20 directed at a specific person which seriously alarms, annoys or  
21 harasses the person, and which serves no legitimate purpose. The  
22 course of conduct must be such as would cause a reasonable  
23 person to suffer substantial emotional distress, and must actually  
24 cause substantial emotional distress to the person.]<sup>2</sup>

25 b. A person is guilty of stalking, a crime of the fourth degree,  
26 if he purposely and repeatedly follows <sup>2</sup>[or harasses]<sup>2</sup> another  
27 person and <sup>2</sup>engages in a course of conduct or<sup>2</sup> makes a credible  
28 threat with the intent <sup>2</sup>[to place] of annoying or placing<sup>2</sup> that  
29 person in reasonable fear of death or <sup>1</sup>[serious]<sup>1</sup> bodily injury.

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

33 d. A person who commits a second or subsequent offense of  
34 stalking which involves an act of violence or a credible threat of  
35 violence against the same victim is guilty of a crime of the third  
36 degree.

37 e. This act shall not apply to conduct which occurs during  
38 <sup>1</sup>[labor] organized group<sup>1</sup> picketing.

39 2. This act shall take effect immediately.

40

41

42

43 Makes "stalking" a crime.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly AJL committee amendments adopted September 14, 1992.

<sup>2</sup> Assembly floor amendments adopted October 8, 1992.

SENATE, No. 256

STATE OF NEW JERSEY

INTRODUCED JANUARY 28, 1992

By Senator CAFIERO

1 AN ACT creating the crime of stalking and supplementing Title  
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4 BE IT ENACTED *by the Senate and General Assembly of the*  
5 *State of New Jersey:*

6 1. a. As used in this act:

7 (1) "Course of conduct" means a pattern of conduct composed  
8 of a series of acts over a period of time, however short,  
9 evidencing a continuity of purpose. Constitutionally protected  
10 activity is not included within the meaning of "course of  
11 conduct."

12 (2) "Credible threat" means a threat made with the intent and  
13 the apparent ability to carry out the threat, so as to cause the  
14 person who is the target of the threat to reasonably fear for the  
15 person's safety.

16 (3) "Harasses" means a knowing and wilful course of conduct  
17 directed at a specific person which seriously alarms, annoys or  
18 harasses the person, and which serves no legitimate purpose. The  
19 course of conduct must be such as would cause a reasonable  
20 person to suffer substantial emotional distress, and must actually  
21 cause substantial emotional distress to the person.

22 b. A person is guilty of stalking, a crime of the fourth degree,  
23 if he purposely and repeatedly follows or harasses another person  
24 and makes a credible threat with the intent to place that person  
25 in reasonable fear of death or serious bodily injury.

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

29 d. A person who commits a second or subsequent offense of  
30 stalking which involves an act of violence or a credible threat of  
31 violence against the same victim is guilty of a crime of the third  
32 degree.

33 e. This act shall not apply to conduct which occurs during  
34 labor picketing.

35 2. This act shall take effect immediately.

36

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SPONSOR'S STATEMENT

39

40 This bill would make "stalking" a crime. The bill is intended to  
41 protect victims who are repeatedly followed and threatened.

42 The bill is modeled on a California statute enacted in  
43 September, 1990. The bill provides that a person is guilty of  
44 stalking if he purposely and repeatedly follows or harasses  
45 another person and makes a credible threat with the intent to

1 place that person in reasonable fear of death or serious bodily  
2 injury. Stalking would be a crime of the fourth degree. A crime  
3 of the fourth degree is punishable by a term of imprisonment of  
4 up to 18 months, or a fine of up to \$7,500, or both.

5 If the defendant commits the crime of stalking in violation of  
6 an existing court order prohibiting the behavior, he is guilty of a  
7 crime of the third degree (punishable by a term of imprisonment  
8 of three to five years, or a fine of up to \$7,500, or both).

9 A second or subsequent offense of stalking which involves an  
10 act of violence or a credible threat of violence against the same  
11 victim is also a crime of the third degree.

12 The bill would not apply to conduct which occurs during labor  
13 picketing.

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18 Makes "stalking" a crime.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY  
COMMITTEE

STATEMENT TO

**SENATE, No. 256**

with committee amendments

**STATE OF NEW JERSEY**

DATED: AUGUST 24, 1992

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 256.

This bill would make "stalking" a crime. The bill is intended to protect victims who are repeatedly followed and threatened.

This bill is modeled on a California statute enacted in September, 1990. The bill provides that a person is guilty of stalking if he purposely and repeatedly follows or harasses another person and makes a credible threat with the intent to place that person in reasonable fear of death or serious bodily injury. Stalking would be punishable as a crime of the fourth degree. Crimes of the fourth degree are punishable by a term of imprisonment of up to 18 months, or a fine of up to \$7,500, or both.

If the defendant commits the crime of stalking in violation of an existing court order prohibiting the behavior, the offense would be graded as a crime of the third degree which is punishable by a term of imprisonment of three to five years, or a fine of up to \$7,500 or both.

A second or subsequent offense of stalking which involves an act of violence or a credible threat of violence against the same victim would also be punishable as a crime of the third degree.

The amendments adopted by the committee clarify that making either an explicit or an implicit threat is an element of the crime. In addition, the amendments broaden the bill to criminalize placing a victim in reasonable fear of "bodily injury" (rather than "serious bodily injury," as the bill provided when originally introduced.) The amendments also provide that the bill will not apply to conduct which occurs during organized group picketing. The bill in its original form included "labor" picketing.

This bill is identical to Assembly Bill No. 801 [1R].

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 256

STATE OF NEW JERSEY

DATED: MAY 4, 1992

The Senate Judiciary Committee reports favorably Senate Bill No. 256.

This bill would make "stalking" a crime. The bill is intended to protect victims who are repeatedly followed and threatened.

This bill is modeled on a California statute enacted in September, 1990. The bill provides that a person is guilty of stalking if he purposely and repeatedly follows or harasses another person and makes a credible threat with the intent to place that person in reasonable fear of death or serious bodily injury. Stalking would be punishable as a crime of the fourth degree. Crimes of the fourth degree are punishable by a term of imprisonment of up to 18 months, or a fine of up to \$7,500, or both.

If the defendant commits the crime of stalking in violation of an existing court order prohibiting the behavior, the offense would be graded as a crime of the third degree (punishable by a term of imprisonment of three to five years, or a fine of up to \$7,500, or both).

A second or subsequent offense of stalking which involves an act of violence or a credible threat of violence against the same victim would also be punishable as a crime of the third degree.

The bill would not apply to conduct which occurs during labor picketing.



# OFFICE OF THE GOVERNOR

## NEWS RELEASE

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

Jon Shure  
Jo Glading  
609/777-2600

**TRENTON, N.J. 08625**

**Release:** Tuesday  
January 5, 1993

### *GOVERNOR SIGNS LEGISLATION TO MAKE STALKING A CRIME*

Taking aim at "psychological terrorists" who use fear as a weapon, Governor Jim Florio today signed a law that makes stalking a crime in New Jersey and called the measure a "bold step" in strengthening victims' rights.

"Our highest goal must be to stop the criminal, to prevent the crime before there is a victim. The anti-stalking bill is a bold step toward that goal," said Governor Florio. "This bill sends a powerful message to stalkers: you can't twist the law in New Jersey. New Jersey is on the side of the victim. Now, when victims are threatened or harassed -- either verbally or by a series of physical actions -- the police have the power to stop stalkers in their tracks."

"Stalkers are psychological terrorists and fear is the stalker's most potent weapon. They torture their victims mentally. They rob innocent people of the security of every day life in our homes, neighborhoods and on the job. They terrorize our sisters and our daughters by making them feel that even the police can't protect them," the Governor said. "That is a crime and now it's against the law in New Jersey. Today, we're breaking the power of stalkers to build psychological prisons."

The law is aimed at closing loopholes that leave a gap between laws dealing with harassment and those covering actual physical attack, threat or sexual assault. Because the conduct described as stalking usually does not involve physical contact or explicit threat, gaps in the criminal code allow stalkers to terrorize their victims and yet avoid prosecution for a felony.

Under the new law, a person has committed the crime of stalking if the person repeatedly follows another person and either threatens that other person or performs a series of connected acts that alarm that person and serve no legitimate purpose. The threat need not be explicit and there is no requirement for any physical contact with the victim. The New Jersey law follows a California law which was prompted by the murders of actress Rebecca Schaeffer and five other women who had been stalked.

Stalking convictions for most first offenders carry a prison term of up to 18 months and/or a \$7,500 fine. A second offense or violation of a court order can lead to 3 to 5 years imprisonment and a \$7,500 fine. By contrast, harassment is regarded as a

petty disorderly persons offense, with a maximum imprisonment of 30 days and a \$500 fine and does not lead to a criminal record.

Most stalking victims are women, and this vicious crime is part of a destructive pattern that robs women of their dignity and the power to control their own lives. Stalking has spread across this country because dangerously obsessive individuals have discovered that they can use the law to their advantage. "Government can and must constantly balance the scales of justice, so that we always favor the innocent, we always protect the weak and we never give the criminal an advantage," Governor Florio said.

The law, S 256, was sponsored by Senator James Cafiero and Assemblypersons Frank LoBiondo and John Gibson.

Governor Florio has taken several actions on behalf of crime victims. In July, Governor Florio signed legislation allowing crime victims or their relatives to testify before parole hearings. Last November, to crack down on parolees who commit crimes, he signed a bill that would make it easier to revoke their paroles, and also bans them from owning or carrying weapons or drugs while on parole.

Last year, the Governor helped lead the fight to get a proposed crime victims' rights constitutional amendment on the November 1991 ballot, which mandated that crime victims and their families be treated with fairness and compassion, and should have an opportunity to attend judicial proceedings. The amendment was overwhelmingly approved by voters.

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Addition



the knowledge or consent of the employer, in return for using or agreeing to use his or her position for the benefit of that other person, and any person who offers or gives an employee money or any thing of value under those circumstances, is guilty of commercial bribery.

(b) This section does not apply where the amount of money or monetary worth of the thing of value is one hundred dollars (\$100) or less.

(c) Commercial bribery is punishable by imprisonment in the county jail for not more than one year if the amount of the bribe is one thousand dollars (\$1,000) or less, or by imprisonment in the county jail, or in the state prison for 16 months, or two or three years if the amount of the bribe exceeds one thousand dollars (\$1,000).

(d) For purposes of this section:

(1) "Employee" means an officer, director, agent, trustee, partner, or employee.

(2) "Employer" means a corporation, association, organization, trust, partnership, or sole proprietorship.

(3) "Corruptly" means that the person specifically intends to injure or defraud (A) his or her employer, (B) the employer of the person to whom he or she offers, gives, or agrees to give the money or a thing of value, (C) the employer of the person from whom he or she requests, receives, or agrees to receive the money or a thing of value, or (D) a competitor of any such employer.

(Added by Stats.1989, c. 308, § 1.)

#### Historical and Statutory Notes

##### 1989 Legislation

Section 2 of Stats.1989, c. 308, provides:

"This act does not apply to acts or practices involving financial institutions defined in Sections 102 and 3360 of

the Financial Code to the extent that these acts or practices are prohibited by Chapter 18 (commencing with Section 3350) of Division 1 of the Financial Code."

#### § 646.9. Stalking

(a) Any person who willfully, maliciously, and repeatedly follows or harasses another person and who makes a credible threat with the intent to place that person in reasonable fear of death or great bodily injury or to place that person in reasonable fear of the death or great bodily injury of his or her immediate family is guilty of the crime of stalking, punishable by imprisonment in a county jail for not more than one year or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) Any person who violates subdivision (a) when there is a temporary restraining order \* \* \* injunction, or \* \* \* any other court order in effect prohibiting the behavior described in subdivision (a) against the same party, is punishable by imprisonment in a county jail for not more than one year or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

(c) A second or subsequent conviction occurring within seven years of a prior conviction under subdivision (a) against the same victim, and involving an act of violence or "a credible threat" of violence, as defined in subdivision (f), is punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

(d) Every person who, having been convicted of a felony under this section, commits a second or subsequent violation of this section against the same victim and involving an act of violence or "a credible threat" of violence, as defined in subdivision (f), is punishable in the state prison, for 16 months, two or three years and a fine up to ten thousand dollars (\$10,000).

(e) For the purposes of this section, "harasses" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or terrorizes the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the person. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

(f) For the purposes of this section, "a credible threat" means a threat made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family. The threat must be against the life of, or a threat to cause great bodily injury to, a person as defined in Section 12022.7.

Additions or changes indicated by underline; deletions by asterisks \* \* \*

(g) This section shall not apply to conduct which occurs during labor picketing.

(h) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under this section, it shall be a condition of probation that the person participate in counseling, as designated by the court. However, the court, upon a showing of good cause, may find that the counseling requirement shall not be imposed.

(i) The court shall also consider issuing an order restraining the defendant from any contact with the victim, that may be valid for up to 10 years, as determined by the court. It is the intent of the Legislature that the length of any restraining order be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and his or her immediate family. The duration of the restraining order may be longer than five years only in an extreme case, where a longer duration is necessary to protect the safety of the victim or his or her immediate family.

(Added by Stats.1990, c. 1527 (S.B.2184), § 1. Amended by Stats.1992, c. 627 (S.B.1342), § 1.)

**Historical and Statutory Notes**

**1992 Legislation**

The 1992 amendment rewrote the section, which previously read:

"(a) Any person who willfully, maliciously, and repeatedly follows or harasses another person and who makes a credible threat with the intent to place that person in reasonable fear of death or great bodily injury is guilty of the crime of stalking, punishable by imprisonment in a county jail for not more than one year or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.

"(b) Any person who violates subdivision (a) when there is a temporary restraining order or an injunction, or both, in effect prohibiting the behavior described in subdivision (a) against the same party, is punishable by imprisonment in a county jail for not more than one year or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

"(c) A second or subsequent conviction occurring within seven years of a prior conviction under subdivision (a) against the same victim, and involving an act of violence or 'a credible threat' of violence, as defined in subdivision (e), is punishable by imprisonment in a county jail for not more than one year, or by a fine of

not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

"(d) For the purposes of this section, 'harasses' means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or harasses the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the person. 'Course of conduct' means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of 'course of conduct.'

"(e) For the purposes of this section, a 'credible threat' means a threat made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety. The threat must be against the life of, or a threat to cause great bodily injury to, a person as defined in Section 12022.7.

"This section shall not apply to conduct which occurs during labor picketing."

**Cross References**

Release on recognizance, see § 1270.

**Law Review Commentaries**

Review of selected 1990 California legislation. 22 Pac.L.J. 500 (1991).

**§ 647. Disorderly conduct**

Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) Who solicits or who agrees to engage in or who engages in any act of prostitution. A person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in prostitution. No agreement to engage in an act of prostitution shall constitute a violation of this subdivision unless some act, beside the agreement, be done within this state in furtherance of the commission of an act of prostitution by the person agreeing to engage in that act. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.

Additions or changes indicated by underline; deletions by asterisks \* \* \*