

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### **SENATE, No. 2975**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 13, 2007

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

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 In addition, section 1 replaces the outdated term “handicap” with the more contemporary term “disability.”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

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

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

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

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

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

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

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

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

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

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

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

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

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

The commission shall study and make recommendations regarding:

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

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

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

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

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

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

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