

# ASSEMBLY, No. 1304

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblyman RONALD S. DANCER**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Assemblyman JON M. BRAMNICK**

**District 21 (Morris, Somerset and Union)**

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**District 21 (Morris, Somerset and Union)**

**Co-Sponsored by:**

**Assemblymen C.A.Brown and Fiocchi.**

**SYNOPSIS**

Clarifies “knockout game” assault as third-degree aggravated assault; provides mandatory minimum term of imprisonment for such assault.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 5/9/2014)**

1 AN ACT concerning certain acts of aggravated assault, and  
2 amending N.J.S.2C:12-1.

3

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

6

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

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

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

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

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

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

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

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

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

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

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

34 (5) Commits a simple assault as defined in paragraph (1), (2) or  
35 (3) of subsection a. [(1), (2) or (3)] of this section upon:

36 (a) Any law enforcement officer acting in the performance of  
37 his duties while in uniform or exhibiting evidence of his authority  
38 or because of his status as a law enforcement officer; or

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

42 (c) Any person engaged in emergency first-aid or medical  
43 services acting in the performance of his duties while in uniform or  
44 otherwise clearly identifiable as being engaged in the performance  
45 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, school administrator, teacher,  
2 school bus driver or other employee of a public or nonpublic school  
3 or school board while clearly identifiable as being engaged in the  
4 performance of his duties or because of his status as a member or  
5 employee of a public or nonpublic school or school board or any  
6 school bus driver employed by an operator under contract to a  
7 public or nonpublic school or school board while clearly  
8 identifiable as being engaged in the performance of his duties or  
9 because of his status as a school bus driver; or
- 10 (e) Any employee of the Division of Child Protection and  
11 Permanency while clearly identifiable as being engaged in the  
12 performance of his duties or because of his status as an employee of  
13 the division; or
- 14 (f) Any justice of the Supreme Court, judge of the Superior  
15 Court, judge of the Tax Court or municipal judge while clearly  
16 identifiable as being engaged in the performance of judicial duties  
17 or because of his status as a member of the judiciary; or
- 18 (g) Any operator of a motorbus or the operator's supervisor or  
19 any employee of a rail passenger service while clearly identifiable  
20 as being engaged in the performance of his duties or because of his  
21 status as an operator of a motorbus or as the operator's supervisor or  
22 as an employee of a rail passenger service; or
- 23 (h) Any Department of Corrections employee, county  
24 corrections officer, juvenile corrections officer, State juvenile  
25 facility employee, juvenile detention staff member, juvenile  
26 detention officer, probation officer or any sheriff, undersheriff, or  
27 sheriff's officer acting in the performance of his duties while in  
28 uniform or exhibiting evidence of his authority; or
- 29 (i) Any employee, including any person employed under  
30 contract, of a utility company as defined in section 2 of P.L.1971,  
31 c.224 (C.2A:42-86) or a cable television company subject to the  
32 provisions of the "Cable Television Act," P.L.1972, c.186  
33 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in  
34 the performance of his duties in regard to connecting, disconnecting  
35 or repairing or attempting to connect, disconnect or repair any gas,  
36 electric or water utility, or cable television or telecommunication  
37 service; or
- 38 (j) Any health care worker employed by a licensed health care  
39 facility to provide direct patient care, any health care professional  
40 licensed or otherwise authorized pursuant to Title 26 or Title 45 of  
41 the Revised Statutes to practice a health care profession, except a  
42 direct care worker at a State or county psychiatric hospital or State  
43 developmental center or veterans' memorial home, while clearly  
44 identifiable as being engaged in the duties of providing direct  
45 patient care or practicing the health care profession; or
- 46 (k) Any direct care worker at a State or county psychiatric  
47 hospital or State developmental center or veterans' memorial home,

1 while clearly identifiable as being engaged in the duties of  
2 providing direct patient care or practicing the health care  
3 profession, provided that the actor is not a patient or resident at the  
4 facility who is classified by the facility as having a mental illness or  
5 developmental disability; or

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

15 (7) Attempts to cause significant bodily injury to another or  
16 causes significant bodily injury purposely or knowingly or, under  
17 circumstances manifesting extreme indifference to the value of  
18 human life recklessly causes such significant bodily injury. An  
19 aggravated assault described in this paragraph includes attempting  
20 to cause or causing another to lose consciousness by a single punch,  
21 kick, or other singular striking motion for the sole purpose of  
22 bringing about the loss of consciousness; or

23 (8) Causes bodily injury by knowingly or purposely starting a  
24 fire or causing an explosion in violation of N.J.S.2C:17-1 which  
25 results in bodily injury to any emergency services personnel  
26 involved in fire suppression activities, rendering emergency  
27 medical services resulting from the fire or explosion or rescue  
28 operations, or rendering any necessary assistance at the scene of the  
29 fire or explosion, including any bodily injury sustained while  
30 responding to the scene of a reported fire or explosion. For  
31 purposes of this **【subsection】 paragraph**, "emergency services  
32 personnel" shall include, but not be limited to, any paid or volunteer  
33 fireman, any person engaged in emergency first-aid or medical  
34 services and any law enforcement officer. Notwithstanding any  
35 other provision of law to the contrary, a person shall be strictly  
36 liable for a violation of this paragraph upon proof of a violation of  
37 N.J.S.2C:17-1 which resulted in bodily injury to any emergency  
38 services personnel; or

39 (9) Knowingly, under circumstances manifesting extreme  
40 indifference to the value of human life, points or displays a firearm,  
41 as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of  
42 a law enforcement officer; or

43 (10) Knowingly points, displays or uses an imitation firearm, as  
44 defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a  
45 law enforcement officer with the purpose to intimidate, threaten or  
46 attempt to put the officer in fear of bodily injury or for any unlawful  
47 purpose; or

1 (11) Uses or activates a laser sighting system or device, or a  
2 system or device which, in the manner used, would cause a  
3 reasonable person to believe that it is a laser sighting system or  
4 device, against a law enforcement officer acting in the performance  
5 of his duties while in uniform or exhibiting evidence of his  
6 authority. As used in this paragraph, "laser sighting system or  
7 device" means any system or device that is integrated with or  
8 affixed to a firearm and emits a laser light beam that is used to  
9 assist in the sight alignment or aiming of the firearm.

10 Aggravated assault under **【subsections b. (1) and b. (6)】**  
11 paragraphs (1) and (6) of subsection b. of this section is a crime of  
12 the second degree; under **【subsections b. (2), b. (7), b. (9) and b.**  
13 **(10)】** paragraphs (2), (7), (9) and (10) of subsection b. of this  
14 section is a crime of the third degree; under **【subsections b. (3) and**  
15 **b. (4)】** paragraphs (3) and (4) of subsection b. of this section is a  
16 crime of the fourth degree; and under **【subsection b. (5)】** paragraph  
17 (5) of subsection b. of this section is a crime of the third degree if  
18 the victim suffers bodily injury, otherwise it is a crime of the fourth  
19 degree. Aggravated assault under **【subsection b.(8)】** paragraph (8)  
20 of subsection b. of this section is a crime of the third degree if the  
21 victim suffers bodily injury; if the victim suffers significant bodily  
22 injury or serious bodily injury it is a crime of the second degree.  
23 Aggravated assault under **【subsection b. (11)】** paragraph (11) of  
24 subsection b. of this section is a crime of the third degree.

25 Additionally, a person convicted of aggravated assault under  
26 paragraph (7) of subsection b. of this section for attempting to cause  
27 or causing another to lose consciousness by a single punch, kick, or  
28 other singular striking motion for the sole purpose of bringing about  
29 the loss of consciousness shall, notwithstanding the presumption of  
30 nonimprisonment concerning a crime of the third degree set forth in  
31 subsection e. of N.J.S.2C:44-1, be sentenced to a term of  
32 imprisonment that shall include a mandatory minimum term of one-  
33 third to one-half of the sentence imposed, during which time the  
34 person shall not be eligible for parole.

35 c. (1) A person is guilty of assault by auto or vessel when the  
36 person drives a vehicle or vessel recklessly and causes either  
37 serious bodily injury or bodily injury to another. Assault by auto or  
38 vessel is a crime of the fourth degree if serious bodily injury results  
39 and is a disorderly persons offense if bodily injury results. Proof  
40 that the defendant was operating a hand-held wireless telephone  
41 while driving a motor vehicle in violation of section 1 of P.L.2003,  
42 c.310 (C.39:4-97.3) may give rise to an inference that the defendant  
43 was driving recklessly.

44 (2) Assault by auto or vessel is a crime of the third degree if the  
45 person drives the vehicle while in violation of R.S.39:4-50 or  
46 section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily  
47 injury results and is a crime of the fourth degree if the person drives

1 the vehicle while in violation of R.S.39:4-50 or section 2 of  
2 P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

3 (3) Assault by auto or vessel is a crime of the second degree if  
4 serious bodily injury results from the defendant operating the auto  
5 or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981,  
6 c.512 (C.39:4-50.4a) while:

7 (a) on any school property used for school purposes which is  
8 owned by or leased to any elementary or secondary school or school  
9 board, or within 1,000 feet of such school property;

10 (b) driving through a school crossing as defined in R.S.39:1-1  
11 the municipality, by ordinance or resolution, has designated the  
12 school crossing as such; or

13 (c) driving through a school crossing as defined in R.S.39:1-1  
14 knowing that juveniles are present if the municipality has not  
15 designated the school crossing as such by ordinance or resolution.

16 Assault by auto or vessel is a crime of the third degree if bodily  
17 injury results from the defendant operating the auto or vessel in  
18 violation of this paragraph.

19 A map or true copy of a map depicting the location and  
20 boundaries of the area on or within 1,000 feet of any property used  
21 for school purposes which is owned by or leased to any elementary  
22 or secondary school or school board produced pursuant to section 1  
23 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under  
24 subparagraph (a) of paragraph (3) of this subsection.

25 It shall be no defense to a prosecution for a violation of  
26 subparagraph (a) or (b) of paragraph (3) of this subsection that the  
27 defendant was unaware that the prohibited conduct took place while  
28 on or within 1,000 feet of any school property or while driving  
29 through a school crossing. Nor shall it be a defense to a prosecution  
30 under subparagraph (a) or (b) of paragraph (3) of this subsection  
31 that no juveniles were present on the school property or crossing  
32 zone at the time of the offense or that the school was not in session.

33 (4) Assault by auto or vessel is a crime of the third degree if the  
34 person purposely drives a vehicle in an aggressive manner directed  
35 at another vehicle and serious bodily injury results and is a crime of  
36 the fourth degree if the person purposely drives a vehicle in an  
37 aggressive manner directed at another vehicle and bodily injury  
38 results. For purposes of this paragraph, "driving a vehicle in an  
39 aggressive manner" shall include, but is not limited to,  
40 unexpectedly altering the speed of the vehicle, making improper or  
41 erratic traffic lane changes, disregarding traffic control devices,  
42 failing to yield the right of way, or following another vehicle too  
43 closely.

44 As used in this **[section]** subsection, "vessel" means a means of  
45 conveyance for travel on water and propelled otherwise than by  
46 muscular power.

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

7 e. (Deleted by amendment, P.L.2001, c.443).

8 f. A person who commits a simple assault as defined in  
9 paragraph (1), (2) or (3) of subsection a. of this section in the  
10 presence of a child under 16 years of age at a school or community  
11 sponsored youth sports event is guilty of a crime of the fourth  
12 degree. The defendant shall be strictly liable upon proof that the  
13 offense occurred, in fact, in the presence of a child under 16 years  
14 of age. It shall not be a defense that the defendant did not know  
15 that the child was present or reasonably believed that the child was  
16 16 years of age or older. The provisions of this subsection shall not  
17 be construed to create any liability on the part of a participant in a  
18 youth sports event or to abrogate any immunity or defense available  
19 to a participant in a youth sports event. As used in this act, "school  
20 or community sponsored youth sports event" means a competition,  
21 practice or instructional event involving one or more interscholastic  
22 sports teams or youth sports teams organized pursuant to a  
23 nonprofit or similar charter or which are member teams in a youth  
24 league organized by or affiliated with a county or municipal  
25 recreation department and shall not include collegiate, semi-  
26 professional or professional sporting events.

27 (cf: P.L.2012, c.22, s.2)

28  
29 2. This act shall take effect immediately and apply to any  
30 criminal offense occurring on or after the effective date.

31  
32  
33 STATEMENT

34  
35 This bill clarifies that a "knockout game" assault, which is an  
36 assault by a person attempting to cause or causing another to lose  
37 consciousness by a single punch, kick, or other singular striking  
38 motion for the sole purpose of bringing about the loss of  
39 consciousness, would be graded as a third-degree aggravated  
40 assault. Third-degree aggravated assault is normally punishable by  
41 a term of imprisonment of three to five years, a fine of up to  
42 \$15,000, or both.

43 Causing a person to lose consciousness represents a "significant  
44 bodily injury" to that person, see N.J.S.2C:11-1, and attempting or  
45 causing such injury is already subject to prosecution as a third-  
46 degree aggravated assault. However, by separately defining a  
47 "knockout game" assault within the broader third-degree aggravated

1 assault provisions, the bill is then able to establish a separate, more  
2 significant term of imprisonment specifically for such an act. Thus,  
3 under the bill, while generally a third-degree aggravated assault  
4 would continue to carry with it a presumption of nonimprisonment,  
5 see N.J.S.2C:44-1, subsection e., a person who committed a  
6 “knockout game” assault would be subject to a mandatory minimum  
7 term of imprisonment of one-third to one-half of the three to five  
8 year sentence imposed, during which time the person would not be  
9 eligible for parole.