

# ASSEMBLY, No. 1548

## STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Assemblyman ERIK PETERSON**

**District 23 (Hunterdon, Somerset and Warren)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblyman RONALD S. DANCER**

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

**Assemblywoman MARIA RODRIGUEZ-GREGG**

**District 8 (Atlantic, Burlington and Camden)**

**Co-Sponsored by:**

**Assemblywoman Handlin, Assemblymen McGuckin, Benson and Coughlin**

**SYNOPSIS**

Upgrades domestic violence-related assault to crime of the fourth degree; upgrades second or subsequent offense to crime of the third degree.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 2/16/2017)**

1 AN ACT concerning domestic violence and amending N.J.S.2C:12-  
2 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,  
33 c.186 (C.48:5A-1 et seq.) while clearly identifiable as being  
34 engaged in the performance of his duties in regard to connecting,  
35 disconnecting or repairing or attempting to connect, disconnect or  
36 repair any gas, electric or water utility, or cable television or  
37 telecommunication 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,  
48 while clearly identifiable as being engaged in the duties of

1 providing direct patient care or practicing the health care  
2 profession, provided that the actor is not a patient or resident at the  
3 facility who is classified by the facility as having a mental illness or  
4 developmental disability; 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 in  
8 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any  
9 other provision of law to the contrary, a person shall be strictly  
10 liable for a violation of this **【subsection】** paragraph 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 which  
13 resulted in bodily injury to another person; or

14 (7) Attempts to cause significant bodily injury to another or  
15 causes significant bodily injury purposely or knowingly or, under  
16 circumstances manifesting extreme indifference to the value of  
17 human life recklessly causes such significant bodily injury; or

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

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

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

43 (11) Uses or activates a laser sighting system or device, or a  
44 system or device which, in the manner used, would cause a  
45 reasonable person to believe that it is a laser sighting system or  
46 device, against a law enforcement officer acting in the performance  
47 of his duties while in uniform or exhibiting evidence of his  
48 authority. As used in this paragraph, "laser sighting system or

1 device" means any system or device that is integrated with or  
2 affixed to a firearm and emits a laser light beam that is used to  
3 assist in the sight alignment or aiming of the firearm; or

4 (12) Attempts to cause or purposely, knowingly, or recklessly  
5 causes bodily injury to another:

6 (a) in the course of committing an act of domestic violence as  
7 defined in subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-  
8 19) against that person; or

9 (b) in the course of committing a violation of subsection b. of  
10 N.J.S.2C:29-9, contempt of an order entered under the provisions of  
11 the "Prevention of Domestic Violence Act of 1991," P.L.1991,  
12 c.261 (C.2C:25-17 et al.) or an order entered under the provisions of  
13 a substantially similar statute under the laws of another state or the  
14 United States.

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

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

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

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

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

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

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

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

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

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

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

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

45 d. A person who is employed by a facility as defined in section  
46 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as  
47 defined in paragraph (1) or (2) of subsection a. of this section upon  
48 an institutionalized elderly person as defined in section 2 of

1 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth  
2 degree.

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

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

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

24

25 2. This act shall take effect immediately.

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#### STATEMENT

29

30 This bill would make it a crime of the fourth degree to commit  
31 assault in connection with an act of domestic violence or in  
32 connection with an act of contempt of a domestic violence  
33 restraining order. A second or subsequent offense would be a crime  
34 of the third degree.

35 Currently, a person is guilty of assault if he attempts to cause or  
36 purposely, knowingly or recklessly causes bodily injury to another;  
37 negligently causes bodily injury to another with a deadly weapon;  
38 or attempts by physical menace to put another in fear of imminent  
39 serious bodily injury. Assault is generally a disorderly persons  
40 offense unless committed in a fight or scuffle entered into by  
41 mutual consent, in which case it is a petty disorderly persons  
42 offense.

43 Under the bill, a person would be guilty of the crime of  
44 aggravated assault if he attempts to cause or purposely, knowingly  
45 or recklessly causes bodily injury to another in the course of  
46 committing an act of domestic violence as defined in subsection a.  
47 of section 3 of P.L.1991, c.261 (C.2C:25-19) against that person. A  
48 person would also be guilty of the crime of aggravated assault if he

1 attempts to cause or purposely, knowingly or recklessly causes  
2 bodily injury to another in the course of committing a violation of  
3 subsection b. of N.J.S.2C:29-9, contempt of an order entered under  
4 the provisions of the "Prevention of Domestic Violence Act of  
5 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an order entered  
6 under the provisions of a substantially similar statute under the laws  
7 of another state or the United States.

8 The bill provides that aggravated assault under these  
9 circumstances would be a crime of the fourth degree. A second or  
10 subsequent offense of aggravated assault under these circumstances  
11 would be a crime of the third degree.

12 A disorderly persons offense is punishable by a term of  
13 imprisonment of up to six months or a fine of up to \$1,000, or both;  
14 a crime of the fourth degree, by a term of up to 18 months or a fine  
15 of up to \$10,000, or both; and a crime of the third degree, by a term  
16 of three to five years or a fine of up to \$15,000, or both.