

**ASSEMBLY, No. 301**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman VINCENT MAZZEO**

**District 2 (Atlantic)**

**Assemblyman JOHN ARMATO**

**District 2 (Atlantic)**

**SYNOPSIS**

Upgrades assault on attorneys to aggravated assault.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1   **AN ACT** concerning aggravated assault 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 subsection f. of N.J.S.2C:39-1, at or in the direction of another,  
32   whether or not the actor believes it to be loaded; or

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

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

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

41      (c) Any person engaged in emergency first-aid or medical  
42   services acting in the performance of his duties while in uniform or  
43   otherwise clearly identifiable as being engaged in the performance  
44   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 because of his  
29 status as a Department of Corrections employee, county corrections  
30 officer, juvenile corrections officer, State juvenile facility  
31 employee, juvenile detention staff member, juvenile detention  
32 officer, probation officer, sheriff, undersheriff, or sheriff's officer;  
33 or
- 34 (i) Any employee, including any person employed under  
35 contract, of a utility company as defined in section 2 of P.L.1971,  
36 c.224 (C.2A:42-86) or a cable television company subject to the  
37 provisions of the "Cable Television Act," P.L.1972, c.186  
38 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in  
39 the performance of his duties in regard to connecting, disconnecting  
40 or repairing or attempting to connect, disconnect or repair any gas,  
41 electric or water utility, or cable television or telecommunication  
42 service; or
- 43 (j) Any health care worker employed by a licensed health care  
44 facility to provide direct patient care, any health care professional  
45 licensed or otherwise authorized pursuant to Title 26 or Title 45 of  
46 the Revised Statutes to practice a health care profession, except a  
47 direct care worker at a State or county psychiatric hospital or State  
48 developmental center or veterans' memorial home, while clearly

1 identifiable as being engaged in the duties of providing direct  
2 patient care or practicing the health care profession; or

3 (k) Any direct care worker at a State or county psychiatric  
4 hospital or State developmental center or veterans' memorial home,  
5 while clearly identifiable as being engaged in the duties of  
6 providing direct patient care or practicing the health care  
7 profession, provided that the actor is not a patient or resident at the  
8 facility who is classified by the facility as having a mental illness or  
9 developmental disability; or

10 (l) Any attorney in a criminal matter including but not limited  
11 to any public defender, assigned counsel, private attorney,  
12 prosecuting authority, or a member of the attorney's staff while  
13 clearly identifiable as being engaged in the performance of court  
14 related duties or, in the case of an attorney, because of his status as  
15 a member of the bar.

16 (6) Causes bodily injury to another person while fleeing or  
17 attempting to elude a law enforcement officer in violation of  
18 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in  
19 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any  
20 other provision of law to the contrary, a person shall be strictly  
21 liable for a violation of this paragraph upon proof of a violation of  
22 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in  
23 violation of subsection c. of N.J.S.2C:20-10 which resulted in  
24 bodily injury to another person; or

25 (7) Attempts to cause significant bodily injury to another or  
26 causes significant bodily injury purposely or knowingly or, under  
27 circumstances manifesting extreme indifference to the value of  
28 human life recklessly causes such significant bodily injury; or

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

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

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

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

15 (12) Attempts to cause significant bodily injury or causes  
16 significant bodily injury purposely or knowingly or, under  
17 circumstances manifesting extreme indifference to the value of  
18 human life, recklessly causes significant bodily injury to a person  
19 who, with respect to the actor, meets the definition of a victim of  
20 domestic violence, as defined in subsection d. of section 3 of  
21 P.L.1991, c.261 (C.2C:25-19); or

22 (13) Knowingly or, under circumstances manifesting extreme  
23 indifference to the value of human life, recklessly obstructs the  
24 breathing or blood circulation of a person who, with respect to the  
25 actor, meets the definition of a victim of domestic violence, as  
26 defined in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-  
27 19), by applying pressure on the throat or neck or blocking the nose  
28 or mouth of such person, thereby causing or attempting to cause  
29 bodily injury.

30 Aggravated assault under paragraphs (1) and (6) of subsection b.  
31 of this section is a crime of the second degree; under paragraphs  
32 (2), (7), (9) and (10) of subsection b. of this section is a crime of the  
33 third degree; under paragraphs (3) and (4) of subsection b. of this  
34 section is a crime of the fourth degree; and under paragraph (5) of  
35 subsection b. of this section is a crime of the third degree if the  
36 victim suffers bodily injury, otherwise it is a crime of the fourth  
37 degree. Aggravated assault under paragraph (8) of subsection b. of  
38 this section is a crime of the third degree if the victim suffers bodily  
39 injury; if the victim suffers significant bodily injury or serious  
40 bodily injury it is a crime of the second degree. Aggravated assault  
41 under paragraph (11) of subsection b. of this section is a crime of  
42 the third degree. Aggravated assault under paragraph (12) or (13) of  
43 subsection b. of this section is a crime of the third degree but the  
44 presumption of non-imprisonment set forth in subsection e. of  
45 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall  
46 not apply.

47 c. (1) A person is guilty of assault by auto or vessel when the  
48 person drives a vehicle or vessel recklessly and causes either

1 serious bodily injury or bodily injury to another. Assault by auto or  
2 vessel is a crime of the fourth degree if serious bodily injury results  
3 and is a disorderly persons offense if bodily injury results. Proof  
4 that the defendant was operating a hand-held wireless telephone  
5 while driving a motor vehicle in violation of section 1 of P.L.2003,  
6 c.310 (C.39:4-97.3) may give rise to an inference that the defendant  
7 was driving recklessly.

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

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

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

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

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

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

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

36 It shall be no defense to a prosecution for a violation of  
37 subparagraph (a) or (b) of paragraph (3) of this subsection that the  
38 defendant was unaware that the prohibited conduct took place while  
39 on or within 1,000 feet of any school property or while driving  
40 through a school crossing. Nor shall it be a defense to a prosecution  
41 under subparagraph (a) or (b) of paragraph (3) of this subsection  
42 that no juveniles were present on the school property or crossing  
43 zone at the time of the offense or that the school was not in session.

44 (4) Assault by auto or vessel is a crime of the third degree if the  
45 person purposely drives a vehicle in an aggressive manner directed  
46 at another vehicle and serious bodily injury results and is a crime of  
47 the fourth degree if the person purposely drives a vehicle in an  
48 aggressive manner directed at another vehicle and bodily injury

1 results. For purposes of this paragraph, "driving a vehicle in an  
2 aggressive manner" shall include, but is not limited to,  
3 unexpectedly altering the speed of the vehicle, making improper or  
4 erratic traffic lane changes, disregarding traffic control devices,  
5 failing to yield the right of way, or following another vehicle too  
6 closely.

7 As used in this subsection, "vessel" means a means of  
8 conveyance for travel on water and propelled otherwise than by  
9 muscular power.

10 d. A person who is employed by a facility as defined in section  
11 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as  
12 defined in paragraph (1) or (2) of subsection a. of this section upon  
13 an institutionalized elderly person as defined in section 2 of  
14 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth  
15 degree.

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

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

36 (cf: P.L.2017, c.240, s.1)

37  
38 2. This act shall take effect immediately.  
39  
40

#### 41 STATEMENT

42  
43 This bill would upgrade simple assault to aggravated assault if  
44 the act is committed against an attorney in a criminal matter or a  
45 member of the attorney's staff while clearly identifiable as being  
46 engaged in the performance of court related duties or, in the case of  
47 an attorney, because of his status as a member of the bar.

1 Under N.J.S.2C:12-1, simple assault is generally a disorderly  
2 persons offense, punishable by a term of imprisonment of up to six  
3 months, a fine of up to \$1,000, or both. Under the bill, an act of  
4 simple assault would be upgraded when committed against any  
5 attorney in a criminal matter including but not limited to any public  
6 defender, assigned counsel, private attorney, prosecuting authority,  
7 or a member of the attorney's staff while clearly identifiable as  
8 being engaged in the performance of court related duties or, in the  
9 case of an attorney, because of his status as a member of the bar.  
10 Aggravated assault under these circumstances would be a crime of  
11 the third degree if the victim suffers bodily injury; otherwise it  
12 would be a crime of the fourth degree.

13 A recent assault by an Atlantic County defendant on his assigned  
14 public defender illustrates that attorneys are at heightened risk of  
15 being targeted for attack in charged courtroom situations, and in  
16 other settings while engaged in the performance of attorney duties  
17 or because of their status as a member of the bar.