

ASSEMBLY, No. 1400

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Includes certain armed security officers regulated by “Detective Melvin Vincent Santiago’s Law” in crimes of assault and disarming an officer.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee with technical review.



1 **AN ACT** concerning offenses against certain armed security officers
2 and amending N.J.S.2C:12-1 and P.L.1996, c.14.

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 the person:

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 the person:

21 (1) Attempts to cause serious bodily injury to another, or causes
22 injury purposely or knowingly or under circumstances manifesting
23 extreme indifference to the value of human life recklessly causes
24 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 the officer's duties while in uniform or exhibiting evidence of his
37 authority or because of the officer's status as a law enforcement
38 officer; or

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

43 (c) Any person engaged in emergency first-aid or medical
44 services acting in the performance of the person's duties while in
45 uniform or otherwise clearly identifiable as being engaged in the
46 performance 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
3 school or school board while clearly identifiable as being engaged
4 in the performance of the person's duties or because of the person's
5 status as a member or employee of a public or nonpublic school or
6 school board or any school bus driver employed by an operator
7 under contract to a public or nonpublic school or school board while
8 clearly identifiable as being engaged in the performance of the
9 person's duties or because of the the person's status as a school bus
10 driver; or

11 (e) Any employee of the Division of Child Protection and
12 Permanency while clearly identifiable as being engaged in the
13 performance of the employee's duties or because of the status as an
14 employee of the division; or

15 (f) Any justice of the Supreme Court, judge of the Superior
16 Court, judge of the Tax Court or municipal judge while clearly
17 identifiable as being engaged in the performance of judicial duties
18 or because of the status as a member of the judiciary; or

19 (g) Any operator of a motorbus or the operator's supervisor or
20 any employee of a rail passenger service while clearly identifiable
21 as being engaged in the performance of the person's duties or
22 because of the status as an operator of a motorbus or as the
23 operator's supervisor or as an employee of a rail passenger service;
24 or

25 (h) Any Department of Corrections employee, county
26 correctional police officer, juvenile correctional police officer, State
27 juvenile facility employee, juvenile detention staff member,
28 juvenile detention officer, probation officer or any sheriff,
29 undersheriff, or sheriff's officer acting in the performance of the
30 person's duties while in uniform or exhibiting evidence of the
31 person's authority or because of the status as a Department of
32 Corrections employee, county correctional police officer, juvenile
33 correctional police officer, State juvenile facility employee, juvenile
34 detention staff member, juvenile detention officer, probation
35 officer, sheriff, undersheriff, or sheriff's officer; or

36 (i) Any employee, including any person employed under
37 contract, of a utility company as defined in section 2 of P.L.1971,
38 c.224 (C.2A:42-86) or a cable television company subject to the
39 provisions of the "Cable Television Act," P.L.1972, c.186
40 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in
41 the performance of the employee's duties in regard to connecting,
42 disconnecting or repairing or attempting to connect, disconnect or
43 repair any gas, electric, or water utility, or cable television or
44 telecommunication service; or

45 (j) Any health care worker employed by a licensed health care
46 facility to provide direct patient care, any health care professional
47 licensed or otherwise authorized pursuant to Title 26 or Title 45 of
48 the Revised Statutes to practice a health care profession, except a

1 direct care worker at a State or county psychiatric hospital or State
2 developmental center or veterans' memorial home, while clearly
3 identifiable as being engaged in the duties of providing direct
4 patient care or practicing the health care profession; or

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

12 (l) Any armed security officer regulated pursuant to P.L.2004,
13 c.134 (C.45:19A-1 et seq.) and sections 5 and 6 of P.L.2015, c.295
14 (C.45:19A-6.1 and 45:19A-6.2) in the performance of his duties
15 while in uniform or because of his status as an armed security
16 officer;

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

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

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

45 (9) Knowingly, under circumstances manifesting extreme
46 indifference to the value of human life, points or displays a firearm,
47 as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of
48 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 the officer's duties while in uniform or exhibiting evidence of the
11 officer's authority. As used in this paragraph, "laser sighting
12 system or device" means any system or device that is integrated
13 with or affixed to a firearm and emits a laser light beam that is used
14 to 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
33 the third degree; under paragraphs (3) and (4) of subsection b. of
34 this section is a crime of the fourth degree; and under paragraph (5)
35 of 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)
43 of 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
31 interscholastic sports teams or youth sports teams organized
32 pursuant to a nonprofit or similar charter or which are member
33 teams in a youth league organized by or affiliated with a county or
34 municipal recreation department and shall not include collegiate,
35 semi-professional or professional sporting events.

36 (cf: P.L.2019, c.219, s.3)

37

38 2. Section 1 of P.L.1996, c.14 (C.2C:12-11) is amended to read
39 as follows:

40 1. a. A person who knowingly takes or attempts to exercise
41 unlawful control over a firearm or other weapon in the possession
42 of a law enforcement or corrections officer or any armed security
43 officer regulated pursuant to P.L.2004, c.134 (C.45:19A-1 et seq.)
44 and sections 5 and 6 of P.L.2015, c.295 (C.45:19A-6.1 and 45:19A-
45 6.2) when that officer is acting in the performance of his duties, and
46 either is in uniform or exhibits evidence of his authority, is guilty of
47 a crime of the second degree.

- 1 b. A person violating the provisions of subsection a. of this
- 2 section shall be guilty of a crime of the first degree if:
- 3 (1) The person fires or discharges the firearm;
- 4 (2) The person uses or threatens to use the firearm or weapon
- 5 against the officer or any other person; or
- 6 (3) The officer or another person suffers serious bodily injury.
- 7 (cf: P.L.1996, c.14, s.1)
- 8
- 9 3. This act shall take effect immediately.