

ASSEMBLY, No. 1764

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

SYNOPSIS

Provides for a mandatory term of imprisonment for assault involving domestic violence.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning assault and amending N.J.S.2C:12-1.

2

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

5

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

7 2C:12-1. Assault. a. Simple assault. A person is guilty of
8 assault if he:

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

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

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

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

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

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

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

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

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

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

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

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

40 (c) Any person engaged in emergency first-aid or medical
41 services acting in the performance of his duties while in uniform or
42 otherwise clearly identifiable as being engaged in the performance
43 of emergency first-aid or medical services; or

44 (d) Any school board member, school administrator, teacher,
45 school bus driver or other employee of a public or nonpublic school

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

- 1 (k) Any direct care worker at a State or county psychiatric
2 hospital or State developmental center or veterans' memorial home,
3 while clearly identifiable as being engaged in the duties of
4 providing direct patient care or practicing the health care
5 profession, provided that the actor is not a patient or resident at the
6 facility who is classified by the facility as having a mental illness or
7 developmental disability; or
- 8 (6) Causes bodily injury to another person while fleeing or
9 attempting to elude a law enforcement officer in violation of
10 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
11 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
12 other provision of law to the contrary, a person shall be strictly
13 liable for a violation of this paragraph upon proof of a violation of
14 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
15 violation of subsection c. of N.J.S.2C:20-10 which resulted in
16 bodily injury to another person; or
- 17 (7) Attempts to cause significant bodily injury to another or
18 causes significant bodily injury purposely or knowingly or, under
19 circumstances manifesting extreme indifference to the value of
20 human life recklessly causes such significant bodily injury; or
- 21 (8) Causes bodily injury by knowingly or purposely starting a
22 fire or causing an explosion in violation of N.J.S.2C:17-1 which
23 results in bodily injury to any emergency services personnel
24 involved in fire suppression activities, rendering emergency
25 medical services resulting from the fire or explosion or rescue
26 operations, or rendering any necessary assistance at the scene of the
27 fire or explosion, including any bodily injury sustained while
28 responding to the scene of a reported fire or explosion. For
29 purposes of this paragraph, "emergency services personnel" shall
30 include, but not be limited to, any paid or volunteer fireman, any
31 person engaged in emergency first-aid or medical services and any
32 law enforcement officer. Notwithstanding any other provision of
33 law to the contrary, a person shall be strictly liable for a violation of
34 this paragraph upon proof of a violation of N.J.S.2C:17-1 which
35 resulted in bodily injury to any emergency services personnel; or
- 36 (9) Knowingly, under circumstances manifesting extreme
37 indifference to the value of human life, points or displays a firearm,
38 as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of
39 a law enforcement officer; or
- 40 (10) Knowingly points, displays or uses an imitation firearm, as
41 defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a
42 law enforcement officer with the purpose to intimidate, threaten or
43 attempt to put the officer in fear of bodily injury or for any unlawful
44 purpose; or
- 45 (11) Uses or activates a laser sighting system or device, or a
46 system or device which, in the manner used, would cause a
47 reasonable person to believe that it is a laser sighting system or
48 device, against a law enforcement officer acting in the performance

1 of his duties while in uniform or exhibiting evidence of his
2 authority. As used in this paragraph, "laser sighting system or
3 device" means any system or device that is integrated with or
4 affixed to a firearm and emits a laser light beam that is used to
5 assist in the sight alignment or aiming of the firearm; or

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

13 (13) Attempts to cause or causes bodily injury to another in the
14 course of committing an assault involving domestic violence.

15 Aggravated assault under paragraphs (1) and (6) of subsection b.
16 of this section is a crime of the second degree; under paragraphs
17 (2), (7), (9) and (10) of subsection b. of this section is a crime of the
18 third degree; under paragraphs (3) and (4) of subsection b. of this
19 section is a crime of the fourth degree; and under paragraph (5) of
20 subsection b. of this section is a crime of the third degree if the
21 victim suffers bodily injury, otherwise it is a crime of the fourth
22 degree. Aggravated assault under paragraph (8) of subsection b. of
23 this section is a crime of the third degree if the victim suffers bodily
24 injury; if the victim suffers significant bodily injury or serious
25 bodily injury it is a crime of the second degree. Aggravated assault
26 under paragraph (11) of subsection b. of this section is a crime of
27 the third degree. Aggravated assault under paragraph (12) of
28 subsection b. of this section is a crime of the third degree but the
29 presumption of non-imprisonment set forth in subsection e. of
30 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall
31 not apply. Aggravated assault under paragraph (13) of subsection
32 b. of this section is a crime of the third degree and a person
33 convicted of the crime shall be sentenced to a term of
34 imprisonment. Notwithstanding the presumption of
35 nonimprisonment set forth in subsection e. of N.J.S.2C:44-1, the
36 term of imprisonment shall include the imposition of a minimum
37 term of three years, during which the defendant shall be ineligible
38 for parole.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (cf: P.L.2015, c.100, s.1)

31

32 2. This act shall take effect immediately.

33

34

35 STATEMENT

36

37 This bill would upgrade the offense of assault against a victim of
38 domestic violence.

39 Under the bill a person who causes bodily injury to another in
40 the course of committing a crime involving domestic violence
41 would be guilty of a crime of the third degree. A crime of the third
42 degree is ordinarily punishable by a term of imprisonment of three
43 to five years, a fine of up to \$15,000, or both. This bill would
44 impose a mandatory term of imprisonment of three years.