

ASSEMBLY, No. 1803

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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and McKnight**

SYNOPSIS

Upgrades domestic violence-related assault under certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/1/2021)

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

19 (7) Attempts to cause significant bodily injury to another or
20 causes significant bodily injury purposely or knowingly or, under
21 circumstances manifesting extreme indifference to the value of
22 human life recklessly causes such significant bodily injury; 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 paragraph, "emergency services personnel" shall
32 include, but not be limited to, any paid or volunteer fireman, any
33 person engaged in emergency first-aid or medical services and any
34 law enforcement officer. Notwithstanding any other provision of
35 law to the contrary, a person shall be strictly liable for a violation of
36 this paragraph upon proof of a violation of N.J.S.2C:17-1 which
37 resulted in bodily injury to any emergency services personnel; or

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

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

47 (11) Uses or activates a laser sighting system or device, or a
48 system or device which, in the manner used, would cause a

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

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

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

21 (a) an aggravated assault as defined in paragraph (1) of this
22 subsection;

23 (b) an aggravated assault as defined in paragraph (2) of this
24 subsection; or

25 (c) an aggravated assault as defined in paragraph (3) or (4) of
26 this subsection; or

27 (d) a simple assault as defined in paragraph (1), (2) or (3) of
28 subsection a. of this section.

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

1 paragraph (13) of subsection b. of this section is a crime of the third
2 degree but the presumption of non-imprisonment set forth in
3 subsection e. of N.J.S.2C:44-1 for a first offense of a crime of the
4 third degree shall not apply; and under subparagraph (d) of
5 paragraph (13) of subsection b. of this section is a crime of the
6 fourth degree but the presumption of non-imprisonment set forth in
7 subsection e. of N.J.S.2C:44-1 for a first offense of a crime of the
8 fourth degree shall not apply.

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

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

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

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

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

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

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

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

46 It shall be no defense to a prosecution for a violation of
47 subparagraph (a) or (b) of paragraph (3) of this subsection that the
48 defendant was unaware that the prohibited conduct took place while

1 on or within 1,000 feet of any school property or while driving
2 through a school crossing. Nor shall it be a defense to a prosecution
3 under subparagraph (a) or (b) of paragraph (3) of this subsection
4 that no juveniles were present on the school property or crossing
5 zone at the time of the offense or that the school was not in session.

6 (4) Assault by auto or vessel is a crime of the third degree if the
7 person purposely drives a vehicle in an aggressive manner directed
8 at another vehicle and serious bodily injury results and is a crime of
9 the fourth degree if the person purposely drives a vehicle in an
10 aggressive manner directed at another vehicle and bodily injury
11 results. For purposes of this paragraph, "driving a vehicle in an
12 aggressive manner" shall include, but is not limited to,
13 unexpectedly altering the speed of the vehicle, making improper or
14 erratic traffic lane changes, disregarding traffic control devices,
15 failing to yield the right of way, or following another vehicle too
16 closely.

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

20 d. A person who is employed by a facility as defined in section
21 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
22 defined in paragraph (1) or (2) of subsection a. of this section upon
23 an institutionalized elderly person as defined in section 2 of
24 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
25 degree.

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

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

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

47

48 2. This act shall take effect immediately.

STATEMENT

This bill provides for an enhanced gradation scheme for certain assaults against a person, in the course of committing an act of domestic violence, or in the course of committing contempt of a domestic violence restraining order. This gradation scheme will take into account the infliction of serious bodily injury or bodily injury in the course of violating a domestic violence restraining order. The penalties range from a crime of the fourth degree to a crime of the first degree, depending on the circumstances:

- It would be a crime of the first degree if a person commits an aggravated assault by attempting to cause serious bodily injury to another or causing such injury purposely or knowingly or under extreme indifference to the value of human life recklessly causing such injury. (Subparagraph (a) of paragraph (13) of subsection b.)
- It would be a crime of the second degree if a person commits an aggravated assault by attempting to cause or purposely or knowingly causing bodily injury to another with a deadly weapon. (Subparagraph (b) of paragraph (13) of subsection b.)
- It would be a crime of the third degree (but the presumption of non-imprisonment would not apply) if a person recklessly causes bodily injury to another with a deadly weapon or if the person knowingly, under circumstances manifesting extreme indifference to the value of human life, points a firearm at or in the direction of another, whether or not the actor believes it to be loaded. (Subparagraph (c) of paragraph (13) of subsection b.)
- It would be a crime of the fourth degree (but the presumption of non-imprisonment would not apply) if the person commits a simple assault. A person is guilty of simple assault if he attempts to cause or purposely or knowingly causes bodily injury to another, or negligently causes bodily injury to another with a deadly weapon, or attempts by physical menace to put another in fear of imminent serious bodily injury. (Subparagraph (d) of paragraph (13) of subsection b.)

A crime of the first degree is punishable by a term of imprisonment of 10-20 years, a fine of up to \$200,000, or both. A crime of the second degree is punishable by a term of imprisonment of five to 10 years, a fine up to \$150,000, or both. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. A crime of the fourth degree is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.