

ASSEMBLY, No. 2167

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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SYNOPSIS

Upgrades simple assault to aggravated assault if committed against crossing guard or parking enforcement officer.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning assault on crossing guards and parking
2 enforcement officers and amending N.J.S.2C:12-1.

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 parking enforcement officer appointed pursuant to section
11 22 of P.L. 1948, c.198 (C.40:11A-22) or paid or volunteer crossing
12 guard while in uniform or otherwise clearly identifiable as being
13 engaged in the performance of official duties or because of the
14 person's status as a parking enforcement officer or crossing guard;
15 or

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).

22 Aggravated assault under paragraphs (1) and (6) of subsection b.
23 of this section is a crime of the second degree; under paragraphs
24 (2), (7), (9) and (10) of subsection b. of this section is a crime of the
25 third degree; under paragraphs (3) and (4) of subsection b. of this
26 section is a crime of the fourth degree; and under paragraph (5) of
27 subsection b. of this section is a crime of the third degree if the
28 victim suffers bodily injury, otherwise it is a crime of the fourth
29 degree. Aggravated assault under paragraph (8) of subsection b. of
30 this section is a crime of the third degree if the victim suffers bodily
31 injury; if the victim suffers significant bodily injury or serious
32 bodily injury it is a crime of the second degree. Aggravated assault
33 under paragraph (11) of subsection b. of this section is a crime of
34 the third degree. Aggravated assault under paragraph (12) of
35 subsection b. of this section is a crime of the third degree but the
36 presumption of non-imprisonment set forth in subsection e. of
37 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall
38 not apply.

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 upgrades the crime of simple assault to aggravated
38 assault if the victim is a crossing guard or parking enforcement
39 officer who is in uniform or engaged in official duties, or when the
40 assault is due to the person's status as a crossing guard or parking
41 enforcement officer.

42 Currently, N.J.S.2C:12-1 establishes increased criminal penalties
43 when certain victims - including law enforcement officers, school
44 employees, and health care workers - are assaulted while performing
45 official duties or because of their job status. This bill extends that
46 protection to crossing guards and parking enforcement officers.

47 Aggravated assault under paragraph (5) of subsection b. of
48 N.J.S.2C:12-1 is a crime of the third degree if the victim suffers

1 bodily injury; otherwise it is a crime of the fourth degree. A crime
2 of the third degree is punishable by a term of imprisonment of three
3 to five years; a fine of up to \$15,000, or both. A crime of the fourth
4 degree is punishable by a term of imprisonment for not more than
5 18 months, a fine of up to \$10,000, or both.