

**ASSEMBLY, No. 2550**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblyman JAY WEBBER**

**District 26 (Essex, Morris and Passaic)**

**Co-Sponsored by:**

**Assemblyman Caputo, Assemblywomen Speight and McKnight**

**SYNOPSIS**

Upgrades assault on victims who are elderly or disabled.

**CURRENT VERSION OF TEXT**

As introduced.



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

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:

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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 the person:

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 the person:

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

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

42 (c) Any person engaged in emergency first-aid or medical  
43 services acting in the performance of the person's duties while in  
44 uniform or otherwise clearly identifiable as being engaged in the  
45 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 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 (6) Causes bodily injury to another person while fleeing or  
13 attempting to elude a law enforcement officer in 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. Notwithstanding any  
16 other provision of law to the contrary, a person shall be strictly  
17 liable for a violation of this paragraph upon proof of a 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 which resulted in  
20 bodily injury to another person; or

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

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

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

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

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

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

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

25 (14 ) Causes bodily injury to a person with a disability or to a  
26 senior citizen who is 60 years of age or older. As used in this  
27 paragraph, "person with a disability" means a person who by reason  
28 of a pre-existing medically determinable physical or mental  
29 impairment is substantially incapable of exercising normal physical  
30 or mental power of resistance, and includes, but is not limited to, a  
31 person determined disabled pursuant to the federal Social Security  
32 Act or any other governmental retirement or benefits program that  
33 uses substantially the same criteria for determining eligibility.

34 Aggravated assault under paragraphs (1) and (6) of subsection b.  
35 of this section is a crime of the second degree; under paragraphs  
36 (2), (7), (9), and (10) of subsection b. of this section is a crime of  
37 the third degree; under paragraphs (3) and (4) of subsection b. of  
38 this section is a crime of the fourth degree; and under paragraph (5)  
39 of subsection b. of this section is a crime of the third degree if the  
40 victim suffers bodily injury, otherwise it is a crime of the fourth  
41 degree. Aggravated assault under paragraph (8) of subsection b. of  
42 this section is a crime of the third degree if the victim suffers bodily  
43 injury; if the victim suffers significant bodily injury or serious  
44 bodily injury it is a crime of the second degree. Aggravated assault  
45 under paragraph (11) of subsection b. of this section is a crime of  
46 the third degree. Aggravated assault under paragraph (12) or (13)  
47 of subsection b. of this section is a crime of the third degree but the

1 presumption of non-imprisonment set forth in subsection e. of  
2 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall  
3 not apply. Aggravated assault under paragraph (14) of subsection  
4 b. of this section is a crime of the third degree if the victim suffers  
5 bodily injury and a crime of the second degree if the victim suffers  
6 significant bodily injury or serious bodily injury; a person convicted  
7 of a violation under paragraph (14) of subsection b. of this section  
8 shall be sentenced to a term of imprisonment. The term of  
9 imprisonment shall include the imposition of a minimum term of  
10 three years during which the defendant shall be ineligible for  
11 parole.

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

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

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

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

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

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

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

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

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

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

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

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

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

30 f. A person who commits a simple assault as defined in  
31 paragraph (1), (2), or (3) of subsection a. of this section in the  
32 presence of a child under 16 years of age at a school or community  
33 sponsored youth sports event is guilty of a crime of the fourth  
34 degree. The defendant shall be strictly liable upon proof that the  
35 offense occurred, in fact, in the presence of a child under 16 years  
36 of age. It shall not be a defense that the defendant did not know  
37 that the child was present or reasonably believed that the child was  
38 16 years of age or older. The provisions of this subsection shall not  
39 be construed to create any liability on the part of a participant in a  
40 youth sports event or to abrogate any immunity or defense available  
41 to a participant in a youth sports event. As used in this act, "school  
42 or community sponsored youth sports event" means a competition,  
43 practice, or instructional event involving one or more  
44 interscholastic sports teams or youth sports teams organized  
45 pursuant to a nonprofit or similar charter or which are member  
46 teams in a youth league organized by or affiliated with a county or  
47 municipal recreation department and shall not include collegiate,  
48 semi-professional or professional sporting events.  
49 (cf: P.L.2019, c.219, s.3)

1       2. This act shall take effect immediately.

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STATEMENT

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6       This bill would upgrade the offense of assault in situations where  
7 the victim is disabled or elderly. Under the bill, a person who  
8 causes bodily injury to a person with a disability or to a senior  
9 citizen who is 60 years of age or older would be guilty of a crime of  
10 the third degree and would be sentenced to a mandatory term of  
11 imprisonment of three years.

12       Under the bill, a "person with a disability" means a person who  
13 by reason of a pre-existing medically determinable physical or  
14 mental impairment is substantially incapable of exercising normal  
15 physical or mental power of resistance, and includes, but is not  
16 limited to, a person determined disabled pursuant to the federal  
17 Social Security Act or any other governmental retirement or  
18 benefits program that uses substantially the same criteria for  
19 determining eligibility.

20       This bill was prompted in part by the brutal assault and mugging  
21 of Joey Damiano, a Trenton man with an intellectual disability.  
22 According to Trenton police, Joey was beaten and blinded in one  
23 eye by an unknown assailant, or group of assailants, as he was  
24 taking his daily walk on Washington Street and Roebling Avenue in  
25 the Chambersburg section of Trenton. Further, the bill was  
26 prompted by recent assaults involving elderly victims. One  
27 instance involved an assault and restraint involving a 92 year old  
28 woman during a home invasion in Ewing. Another assault involved  
29 the carjacking and robbery of a 78 year old woman at a shopping  
30 center in Lawrence Township.