

ASSEMBLY, No. 3752

STATE OF NEW JERSEY

219th LEGISLATURE

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Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Clarifies “knockout game” assault as third-degree aggravated assault; provides mandatory minimum term of imprisonment for such assault.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain acts of aggravated assault, and
2 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 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
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

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 uniform or otherwise clearly identifiable as being engaged in the
2 performance of emergency first-aid or medical services; or

3 (d) Any school board member, school administrator, teacher,
4 school bus driver, or other employee of a public or nonpublic
5 school or school board while clearly identifiable as being engaged
6 in the performance of the person's duties or because of the person's
7 status as a member or employee of a public or nonpublic school or
8 school board or any school bus driver employed by an operator
9 under contract to a public or nonpublic school or school board while
10 clearly identifiable as being engaged in the performance of the
11 person's duties or because of the person's status as a school bus
12 driver; or

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

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

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

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

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

47 (j) Any health care worker employed by a licensed health care
48 facility to provide direct patient care, any health care professional

1 licensed or otherwise authorized pursuant to Title 26 or Title 45 of
2 the Revised Statutes to practice a health care profession, except a
3 direct care worker at a State or county psychiatric hospital or State
4 developmental center or veterans' memorial home, while clearly
5 identifiable as being engaged in the duties of providing direct
6 patient care or practicing the health care profession; or

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

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

23 (7) Attempts to cause significant bodily injury to another or
24 causes significant bodily injury purposely or knowingly or, under
25 circumstances manifesting extreme indifference to the value of
26 human life recklessly causes such significant bodily injury. An
27 aggravated assault described in this paragraph includes attempting
28 to cause or causing another to lose consciousness by a single punch,
29 kick, or other singular striking motion for the sole purpose of
30 bringing about the loss of consciousness; or

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

46 (9) Knowingly, under circumstances manifesting extreme
47 indifference to the value of human life, points or displays a firearm,

1 as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of
2 a law enforcement officer; or

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

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

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

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

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

1 Additionally, a person convicted of aggravated assault under
2 paragraph (7) of subsection b. of this section for attempting to cause
3 or causing another to lose consciousness by a single punch, kick, or
4 other singular striking motion for the sole purpose of bringing about
5 the loss of consciousness shall, notwithstanding the presumption of
6 nonimprisonment concerning a crime of the third degree set forth in
7 subsection e. of N.J.S.2C:44-1, be sentenced to a term of
8 imprisonment that shall include a mandatory minimum term of one-
9 third to one-half of the sentence imposed, during which time the
10 person shall not be eligible for parole.

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

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

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

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

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

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

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

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

1 semi-professional or professional sporting events.
2 (cf: P.L.2019, c.219, s.3)

3
4 2. This act shall take effect immediately and apply to any
5 criminal offense occurring on or after the effective date.
6
7

8 STATEMENT
9

10 This bill clarifies that a “knockout game” assault, which is an
11 assault by a person attempting to cause or causing another to lose
12 consciousness by a single punch, kick, or other singular striking
13 motion for the sole purpose of bringing about the loss of
14 consciousness, would be graded as a third-degree aggravated
15 assault. Third-degree aggravated assault could be punishable by a
16 term of imprisonment of three to five years, a fine of up to \$15,000,
17 or both.

18 Causing a person to lose consciousness represents a “significant
19 bodily injury” to that person, see N.J.S.2C:11-1, and attempting or
20 causing such injury is already subject to prosecution as a third-
21 degree aggravated assault. However, by separately defining a
22 “knockout game” assault within the broader third-degree aggravated
23 assault provisions, the bill is then able to establish a separate, more
24 significant term of imprisonment specifically for such an act.
25 Under the bill, while generally a third-degree aggravated assault
26 would continue to carry with it a presumption of non-imprisonment,
27 see N.J.S.2C:44-1, subsection e., a person who committed a
28 “knockout game” assault would be subject to a mandatory minimum
29 term of imprisonment of one-third to one-half of the three to five
30 year sentence imposed, during which time the person would not be
31 eligible for parole.