

ASSEMBLY, No. 4588

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED AUGUST 25, 2020

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

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District 25 (Morris and Somerset)

Co-Sponsored by:

**Assemblywomen Vainieri Huttie, Swain, Assemblyman Auth and
Assemblywoman Murphy**

SYNOPSIS

Increases strangulation assault to crime of second degree.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/20/2021)

1 AN ACT concerning strangulation assault and amending
2 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
45 uniform or otherwise clearly identifiable as being engaged in the

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

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

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

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

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

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

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

45 (10) Knowingly points, displays or uses an imitation firearm, as
46 defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a
47 law enforcement officer with the purpose to intimidate, threaten, or

1 attempt to put the officer in fear of bodily injury or for any unlawful
2 purpose; or

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

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

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

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

45 c. (1) A person is guilty of assault by auto or vessel when the
46 person drives a vehicle or vessel recklessly and causes either
47 serious bodily injury or bodily injury to another. Assault by auto or
48 vessel is a crime of the fourth degree if serious bodily injury results

1 and is a disorderly persons offense if bodily injury results. Proof
2 that the defendant was operating a hand-held wireless telephone
3 while driving a motor vehicle in violation of section 1 of P.L.2003,
4 c.310 (C.39:4-97.3) may give rise to an inference that the defendant
5 was driving recklessly.

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

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

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

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

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

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

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

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

42 (4) Assault by auto or vessel is a crime of the third degree if the
43 person purposely drives a vehicle in an aggressive manner directed
44 at another vehicle and serious bodily injury results and is a crime of
45 the fourth degree if the person purposely drives a vehicle in an
46 aggressive manner directed at another vehicle and bodily injury
47 results. For purposes of this paragraph, "driving a vehicle in an
48 aggressive manner" shall include, but is not limited to,

1 unexpectedly altering the speed of the vehicle, making improper or
2 erratic traffic lane changes, disregarding traffic control devices,
3 failing to yield the right of way, or following another vehicle too
4 closely.

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

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

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

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

34 (cf: P.L.2019, c.219, s.3)

35

36 2. This act shall take effect immediately.

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38

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STATEMENT

40

41 Currently, under N.J.S. 2C:12-1b.(13), strangulation is graded as
42 a crime of the third degree, punishable by up to five years
43 imprisonment, a fine of up to \$15,000, or both. This bill elevates
44 strangulation, committed in the domestic violence context against a
45 victim of domestic violence, to a crime of the second degree,
46 punishable by up to 10 years imprisonment, a fine of up to
47 \$150,000, or both.

1 In 2019, the New Jersey Domestic Violence Fatality Near
2 Fatality Review Board published the 2018 Annual Report, Fatality
3 By Strangulation. In the domestic violence context, the report
4 declared that strangulation is one of the strongest predictors for the
5 subsequent homicide of victims of domestic violence, and
6 referenced research showing that victims of attempted strangulation
7 are seven times more likely of becoming a homicide victim, when
8 compared to victims without a strangulation history, and that non-
9 fatal strangulation are tactics used by abusers in a coercive manner
10 against their victims as a method of power and control.