

ASSEMBLY, No. 4684

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2020

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

SYNOPSIS

Establishes crime of aggravated assault in response to instruction or request to adhere to certain health and safety measures, such as wearing a mask or practicing social distancing, during declared emergency.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** establishing a crime of aggravated assault in response to
 2 instruction or request to adhere to certain health and safety
 3 measures during a declared emergency, and amending
 4 N.J.S.2C:12-1.

5
 6 **BE IT ENACTED** by the Senate and General Assembly of the State
 7 of New Jersey:

- 8
 9 1. N.J.S.2C:12-1 is amended to read as follows:
 10 2C:12-1. Assault. a. Simple assault. A person is guilty of
 11 assault if the person:
 12 (1) Attempts to cause or purposely, knowingly or recklessly
 13 causes bodily injury to another; or
 14 (2) Negligently causes bodily injury to another with a deadly
 15 weapon; or
 16 (3) Attempts by physical menace to put another in fear of
 17 imminent serious bodily injury.
 18 Simple assault is a disorderly persons offense unless committed
 19 in a fight or scuffle entered into by mutual consent, in which case it
 20 is a petty disorderly persons offense.
 21 b. Aggravated assault. A person is guilty of aggravated assault
 22 if the person:
 23 (1) Attempts to cause serious bodily injury to another, or causes
 24 injury purposely or knowingly or under circumstances manifesting
 25 extreme indifference to the value of human life recklessly causes
 26 such injury; or
 27 (2) Attempts to cause or purposely or knowingly causes bodily
 28 injury to another with a deadly weapon; or
 29 (3) Recklessly causes bodily injury to another with a deadly
 30 weapon; or
 31 (4) Knowingly under circumstances manifesting extreme
 32 indifference to the value of human life points a firearm, as defined
 33 in subsection f. of N.J.S.2C:39-1, at or in the direction of another,
 34 whether or not the actor believes it to be loaded; or
 35 (5) Commits a simple assault as defined in paragraph (1), (2), or
 36 (3) of subsection a. of this section upon:
 37 (a) Any law enforcement officer acting in the performance of
 38 the officer's duties while in uniform or exhibiting evidence of
 39 authority or because of the officer's status as a law enforcement
 40 officer; or
 41 (b) Any paid or volunteer firefighter acting in the performance
 42 of the firefighter's duties while in uniform or otherwise clearly
 43 identifiable as being engaged in the performance of the duties of a
 44 firefighter; 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 (c) Any person engaged in emergency first-aid or medical
2 services acting in the performance of the person's duties while in
3 uniform or otherwise clearly identifiable as being engaged in the
4 performance of emergency first-aid or medical services; or
- 5 (d) Any school board member, school administrator, teacher,
6 school bus driver, or other employee of a public or nonpublic
7 school or school board while clearly identifiable as being engaged
8 in the performance of the person's duties or because of the person's
9 status as a member or employee of a public or nonpublic school or
10 school board or any school bus driver employed by an operator
11 under contract to a public or nonpublic school or school board while
12 clearly identifiable as being engaged in the performance of the
13 person's duties or because of the person's status as a school bus
14 driver; or
- 15 (e) Any employee of the Division of Child Protection and
16 Permanency while clearly identifiable as being engaged in the
17 performance of the employee's duties or because of the status as an
18 employee of the division; or
- 19 (f) Any justice of the Supreme Court, judge of the Superior
20 Court, judge of the Tax Court or municipal judge while clearly
21 identifiable as being engaged in the performance of judicial duties
22 or because of the status as a member of the judiciary; or
- 23 (g) Any operator of a motorbus or the operator's supervisor or
24 any employee of a rail passenger service while clearly identifiable
25 as being engaged in the performance of the person's duties or
26 because of the status as an operator of a motorbus or as the
27 operator's supervisor or as an employee of a rail passenger service;
28 or
- 29 (h) Any Department of Corrections employee, county
30 correctional police officer, juvenile correctional police officer, State
31 juvenile facility employee, juvenile detention staff member,
32 juvenile detention officer, probation officer or any sheriff,
33 undersheriff, or sheriff's officer acting in the performance of the
34 person's duties while in uniform or exhibiting evidence of the
35 person's authority or because of the status as a Department of
36 Corrections employee, county correctional police officer, juvenile
37 correctional police officer, State juvenile facility employee, juvenile
38 detention staff member, juvenile detention officer, probation
39 officer, sheriff, undersheriff, or sheriff's officer; or
- 40 (i) Any employee, including any person employed under
41 contract, of a utility company as defined in section 2 of P.L.1971,
42 c.224 (C.2A:42-86) or a cable television company subject to the
43 provisions of the "Cable Television Act," P.L.1972, c.186
44 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in
45 the performance of the employee's duties in regard to connecting,
46 disconnecting, or repairing or attempting to connect, disconnect, or

1 repair any gas, electric, or water utility, or cable television or
2 telecommunication service; or

3 (j) Any health care worker employed by a licensed health care
4 facility to provide direct patient care, any health care professional
5 licensed or otherwise authorized pursuant to Title 26 or Title 45 of
6 the Revised Statutes to practice a health care profession, except a
7 direct care worker at a State or county psychiatric hospital or State
8 developmental center or veterans' memorial home, while clearly
9 identifiable as being engaged in the duties of providing direct
10 patient care or practicing the health care profession; or

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

18 (l) Any person in response to that person's instruction or
19 request to adhere to health and safety measures during the period of
20 a public health emergency declared by the Governor pursuant to the
21 "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-
22 1 et seq.), or a state of emergency declared by the Governor
23 pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or both, which
24 measures are based on guidance, regulations, rules, and
25 administrative orders promulgated by the federal Centers for
26 Disease Control and Prevention, the federal Occupational Safety
27 and Health Administration, the State Departments of Health,
28 Human Services, and Labor and Workforce Development, or any
29 other applicable federal or State department, division, commission,
30 board, bureau, or agency, as well as Executive Orders or applicable
31 portions of those orders issued by the Governor; or

32 (6) Causes bodily injury to another person while fleeing or
33 attempting to elude a law enforcement officer in violation of
34 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
35 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
36 other provision of law to the contrary, a person shall be strictly
37 liable for a violation of this paragraph upon proof of a violation of
38 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
39 violation of subsection c. of N.J.S.2C:20-10 which resulted in
40 bodily injury to another person; or

41 (7) Attempts to cause significant bodily injury to another or
42 causes significant bodily injury purposely or knowingly or, under
43 circumstances manifesting extreme indifference to the value of
44 human life recklessly causes such significant bodily injury; or

45 (8) Causes bodily injury by knowingly or purposely starting a
46 fire or causing an explosion in violation of N.J.S.2C:17-1 which
47 results in bodily injury to any emergency services personnel

1 involved in fire suppression activities, rendering emergency
2 medical services resulting from the fire or explosion or rescue
3 operations, or rendering any necessary assistance at the scene of the
4 fire or explosion, including any bodily injury sustained while
5 responding to the scene of a reported fire or explosion. For
6 purposes of this paragraph, "emergency services personnel" shall
7 include, but not be limited to, any paid or volunteer firefighter, any
8 person engaged in emergency first-aid or medical services and any
9 law enforcement officer. Notwithstanding any other provision of
10 law to the contrary, a person shall be strictly liable for a violation of
11 this paragraph upon proof of a violation of N.J.S.2C:17-1 which
12 resulted in bodily injury to any emergency services personnel; or

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

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

22 (11) Uses or activates a laser sighting system or device, or a
23 system or device which, in the manner used, would cause a
24 reasonable person to believe that it is a laser sighting system or
25 device, against a law enforcement officer acting in the performance
26 of the officer's duties while in uniform or exhibiting evidence of the
27 officer's authority. As used in this paragraph, "laser sighting system
28 or device" means any system or device that is integrated with or
29 affixed to a firearm and emits a laser light beam that is used to
30 assist in the sight alignment or aiming of the firearm; or

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

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

46 Aggravated assault under paragraphs (1) and (6) of subsection b.
47 of this section is a crime of the second degree; under paragraphs

1 (2), (7), (9), and (10) of subsection b. of this section is a crime of
2 the third degree; under paragraphs (3) and (4) of subsection b. of
3 this section is a crime of the fourth degree; and under paragraph (5)
4 of subsection b. of this section is a crime of the third degree if the
5 victim suffers bodily injury, otherwise it is a crime of the fourth
6 degree. Aggravated assault under paragraph (8) of subsection b. of
7 this section is a crime of the third degree if the victim suffers bodily
8 injury; if the victim suffers significant bodily injury or serious
9 bodily injury it is a crime of the second degree. Aggravated assault
10 under paragraph (11) of subsection b. of this section is a crime of
11 the third degree. Aggravated assault under paragraph (12) or (13)
12 of subsection b. of this section is a crime of the third degree but the
13 presumption of non-imprisonment set forth in subsection e. of
14 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall
15 not apply.

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

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

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

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

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

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

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

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

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

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

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

29 d. A person who is employed by a facility as defined in section
30 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
31 defined in paragraph (1) or (2) of subsection a. of this section upon
32 an institutionalized elderly person as defined in section 2 of
33 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
34 degree.

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

36 f. A person who commits a simple assault as defined in
37 paragraph (1), (2), or (3) of subsection a. of this section in the
38 presence of a child under 16 years of age at a school or community
39 sponsored youth sports event is guilty of a crime of the fourth
40 degree. The defendant shall be strictly liable upon proof that the
41 offense occurred, in fact, in the presence of a child under 16 years
42 of age. It shall not be a defense that the defendant did not know
43 that the child was present or reasonably believed that the child was
44 16 years of age or older. The provisions of this subsection shall not
45 be construed to create any liability on the part of a participant in a
46 youth sports event or to abrogate any immunity or defense available
47 to a participant in a youth sports event. As used in this act, "school

1 or community sponsored youth sports event" means a competition,
2 practice, or instructional event involving one or more
3 interscholastic sports teams or youth sports teams organized
4 pursuant to a nonprofit or similar charter or which are member
5 teams in a youth league organized by or affiliated with a county or
6 municipal recreation department and shall not include collegiate,
7 semi-professional or professional sporting events.

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

9
10 2. This act shall take effect immediately.

11
12
13 STATEMENT

14
15 This bill would establish a new category of aggravated assault
16 when the act was committed in response to a person's instruction or
17 request to adhere to health and safety measures during the period of
18 a public health emergency declared by the Governor pursuant to the
19 "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et
20 seq.), or a state of emergency declared by the Governor pursuant to
21 P.L.1942, c.251 (C.App.A.9-33 et seq.), or both. The health and
22 safety measures for which compliance was sought which resulted in
23 the aggravated assault are those based on guidance, regulations,
24 rules, and administrative orders promulgated by the federal Centers
25 for Disease Control and Prevention, the federal Occupational Safety
26 and Health Administration, the State Departments of Health,
27 Human Services, and Labor and Workforce Development, or any
28 other applicable federal or State department, division, commission,
29 board, bureau, or agency, as well as Executive Orders or applicable
30 portions of those orders issued by the Governor.

31 This new category of aggravated assault would be graded as a
32 crime of the third degree if the act resulted in bodily injury to the
33 victim, and would be punishable by a term of imprisonment of three
34 to five years, a fine of up to \$15,000, or both. If no bodily injury
35 occurred, the act would be graded a crime of the fourth degree, and
36 would be punishable by a term of imprisonment of up to 18 months,
37 a fine of up to \$10,000, or both.