

# SENATE, No. 802

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## STATE OF NEW JERSEY 219th LEGISLATURE

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**SYNOPSIS**

Includes certain armed security officers regulated by “Detective Melvin Vincent Santiago’s Law” in crimes of assault and disarming an officer.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1   **AN ACT** concerning offenses against certain armed security officers  
2       and amending N.J.S.2C:12-1 and P.L.1996, c.14.

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

45       (d) Any school board member, school administrator, teacher,  
46 school bus driver or other employee of a public or nonpublic school  
47 or school board while 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 his duties or because of his status as a member or  
2 employee of a public or nonpublic school or school board or any  
3 school bus driver employed by an operator under contract to a  
4 public or nonpublic school or school board while clearly  
5 identifiable as being engaged in the performance of his duties or  
6 because of his status as a school bus driver; or

7 (e) Any employee of the Division of Child Protection and  
8 Permanency while clearly identifiable as being engaged in the  
9 performance of his duties or because of his status as an employee of  
10 the division; or

11 (f) Any justice of the Supreme Court, judge of the Superior  
12 Court, judge of the Tax Court or municipal judge while clearly  
13 identifiable as being engaged in the performance of judicial duties  
14 or because of his status as a member of the judiciary; or

15 (g) Any operator of a motorbus or the operator's supervisor or  
16 any employee of a rail passenger service while clearly identifiable  
17 as being engaged in the performance of his duties or because of his  
18 status as an operator of a motorbus or as the operator's supervisor or  
19 as an employee of a rail passenger service; or

20 (h) Any Department of Corrections employee, county  
21 corrections officer, juvenile corrections officer, State juvenile  
22 facility employee, juvenile detention staff member, juvenile  
23 detention officer, probation officer or any sheriff, undersheriff, or  
24 sheriff's officer acting in the performance of his duties while in  
25 uniform or exhibiting evidence of his authority or because of his  
26 status as a Department of Corrections employee, county corrections  
27 officer, juvenile corrections officer, State juvenile facility  
28 employee, juvenile detention staff member, juvenile detention  
29 officer, probation officer, sheriff, undersheriff, or sheriff's officer;  
30 or

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

40 (j) Any health care worker employed by a licensed health care  
41 facility to provide direct patient care, any health care professional  
42 licensed or otherwise authorized pursuant to Title 26 or Title 45 of  
43 the Revised Statutes to practice a health care profession, except a  
44 direct care worker at a State or county psychiatric hospital or State  
45 developmental center or veterans' memorial home, while clearly  
46 identifiable as being engaged in the duties of providing direct  
47 patient care or practicing the health care profession; or

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

8 (l) Any armed security officer regulated pursuant to P.L.2004,  
9 c.134 (C.45:19A-1 et seq.) and sections 5 and 6 of P.L.2015, c.295  
10 (C.45:19A-6.1 and 45:19A-6.2) in the performance of his duties  
11 while in uniform or because of his status as an armed security  
12 officer;

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 fireman, 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 his duties while in uniform or exhibiting evidence of his  
8 authority. As used in this paragraph, "laser sighting system or  
9 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 the  
30 third degree; under paragraphs (3) and (4) of subsection b. of this  
31 section is a crime of the fourth degree; and under paragraph (5) of  
32 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.

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

1 that the defendant was operating a hand-held wireless telephone  
2 while driving a motor vehicle in violation of section 1 of P.L.2003,  
3 c.310 (C.39:4-97.3) may give rise to an inference that the defendant  
4 was driving recklessly.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (cf: P.L.2017, c.240)

34

35 2. Section 1 of P.L.1996, c.14 (C.2C:12-11) is amended to read  
36 as follows:

37 1. a. A person who knowingly takes or attempts to exercise  
38 unlawful control over a firearm or other weapon in the possession  
39 of a law enforcement or corrections officer or any armed security  
40 officer regulated pursuant to P.L.2004, c.134 (C.45:19A-1 et seq.)  
41 and sections 5 and 6 of P.L.2015, c.295 (C.45:19A-6.1 and 45:19A-  
42 6.2) when that officer is acting in the performance of his duties, and  
43 either is in uniform or exhibits evidence of his authority, is guilty of  
44 a crime of the second degree.

45 b. A person violating the provisions of subsection a. of this  
46 section shall be guilty of a crime of the first degree if:

47 (1) The person fires or discharges the firearm;

1 (2) The person uses or threatens to use the firearm or weapon  
2 against the officer or any other person; or

3 (3) The officer or another person suffers serious bodily injury.  
4 (cf: P.L.1996, c.14, s.1)

5  
6 3. This act shall take effect immediately.  
7  
8

9 STATEMENT  
10

11 This bill would upgrade simple assault to aggravated assault if  
12 the act is committed against an armed security officer. The bill also  
13 provides that the crime of disarming a law enforcement officer  
14 would apply to armed security officers.

15 Under N.J.S.2C:12-1, simple assault is generally a disorderly  
16 persons offense, punishable by a term of imprisonment of up to six  
17 months, a fine of up to \$1,000, or both. Under the bill, an act of  
18 simple assault committed against an armed security officer in the  
19 performance of the officer's duties while in uniform or because of  
20 his status as an armed security officer would be graded as  
21 aggravated assault. Aggravated assault under these circumstances  
22 would be a crime of the third degree if the victim suffers bodily  
23 injury; otherwise it would be a crime of the fourth degree.

24 The bill also amends section 1 of P.L.1996, c.14 (C.2C:12-11),  
25 concerning disarming a law enforcement officer, to add armed  
26 security officers to the provisions of the statute. Currently, the  
27 statute provides that a person who knowingly takes or attempts to  
28 exercise unlawful control over a firearm or other weapon in the  
29 possession of a law enforcement or corrections officer, when that  
30 officer is acting in the performance of his duties or exhibiting  
31 evidence of his authority, is guilty of a crime of the second degree.  
32 It is a crime of the first degree if the person violating the statute  
33 fires the firearm, uses or threatens to use the firearm or weapon, or  
34 if the officer or another person suffers serious bodily injury.

35 The bill applies to armed security guards regulated by the  
36 "Security Officer Registration Act," P.L.2004, c.134 (C.45:19A-  
37 1 et seq.), and by sections 5 and 6 of P.L.2015, c.295 (C.45:19A-6.1  
38 and 45:19A-6.2), known as "Detective Melvin Vincent Santiago's  
39 Law."

40 A crime of the first degree is generally punishable by a term of  
41 imprisonment of 10 to 20 years or a fine of up to \$200,000, or both;  
42 a crime of the second degree, by a term of five to 10 years or a fine  
43 up to \$150,000, or both; a crime of the third degree, by a term of  
44 three to five years or a fine up to \$15,000, or both, and a crime of  
45 the fourth degree, by a term up to 18 months or a fine up to  
46 \$10,000, or both.