

SENATE, No. 1436

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Upgrades domestic violence-related assault under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning domestic violence and amending N.J.S.2C:12-
2 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; or

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

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

46 (10) Knowingly points, displays or uses an imitation firearm, as
47 defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a
48 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; or

27 (14) In the course of committing a violation of subsection b. of
28 N.J.S.2C:29-9, contempt of an order entered under the provisions of
29 the "Prevention of Domestic Violence Act of 1991," P.L.1991,
30 c.261 (C.2C:25-17 et al.), or an order entered under the provisions
31 of a substantially similar statute under the laws of another state or
32 the United States, commits:

33 (a) an aggravated assault as defined in paragraph (1) of this
34 subsection;

35 (b) an aggravated assault as defined in paragraph (2) of this
36 subsection; or

37 (c) an aggravated assault as defined in paragraph (3) or (4) of
38 this subsection; or

39 (d) a simple assault as defined in paragraph (1), (2) or (3) of
40 subsection a. of this section.

41 Aggravated assault under paragraphs (1) and (6) of subsection b.
42 of this section is a crime of the second degree; under paragraphs
43 (2), (7), (9), and (10) of subsection b. of this section is a crime of
44 the third degree; under paragraphs (3) and (4) of subsection b. of
45 this section is a crime of the fourth degree; and under paragraph (5)
46 of subsection b. of this section is a crime of the third degree if the
47 victim suffers bodily injury, otherwise it is a crime of the fourth
48 degree. Aggravated assault under paragraph (8) of subsection b. of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11
12 2. This act shall take effect immediately.

13
14
15 STATEMENT

16
17 This bill upgrades domestic violence-related assault under certain
18 circumstances.

19 P.L.2015, c.98 made it aggravated assault, a crime of the third
20 degree, to attempt to cause or to cause significant bodily injury to a
21 person who, with respect to the actor, meets the definition of a "victim
22 of domestic violence" pursuant to the law. In addition, the enactment
23 eliminated the presumption of non-imprisonment for these assaults.

24 This bill specifically upgrades assault committed in the course of
25 violating a domestic violence restraining order. The bill provides for a
26 gradation scheme which would take into account the infliction of
27 serious bodily injury or bodily injury in the course of the restraining
28 order violation. The penalties range from a crime of the fourth degree
29 to a crime of the first degree, depending on the circumstances:

- 30 • It would be a crime of the first degree if a person commits
31 an aggravated assault by attempting to cause serious bodily
32 injury to another or causing such injury purposely or
33 knowingly or under extreme indifference to the value of
34 human life recklessly causing such injury. (Subparagraph
35 (a) of paragraph (14) of subsection b.)
- 36 • It would be a crime of the second degree if a person
37 commits an aggravated assault by attempting to cause or
38 purposely or knowingly causing bodily injury to another
39 with a deadly weapon. (Subparagraph (b) of paragraph (14)
40 of subsection b.)
- 41 • It would be a crime of the third degree (but the presumption
42 of non-imprisonment would not apply) if a person
43 recklessly causes bodily injury to another with a deadly
44 weapon or if the person knowingly, under circumstances
45 manifesting extreme indifference to the value of human
46 life, points a firearm at or in the direction of another,
47 whether or not the actor believes it to be loaded.
48 (Subparagraph (c) of paragraph (14) of subsection b.)

1 • It would be a crime of the fourth degree (but the
2 presumption of non-imprisonment would not apply) if the
3 person commits a simple assault. A person is guilty of
4 simple assault if he attempts to cause or purposely or
5 knowingly causes bodily injury to another, or negligently
6 causes bodily injury to another with a deadly weapon, or
7 attempts by physical menace to put another in fear of
8 imminent serious bodily injury. (Subparagraph (d) of
9 paragraph (14) of subsection b.)

10

11 A crime of the first degree is punishable by a term of imprisonment
12 of 10-20 years, a fine of up to \$200,000, or both. A crime of the
13 second degree is punishable by a term of imprisonment of five to 10
14 years, a fine up to \$150,000, or both. A crime of the third degree is
15 punishable by a term of imprisonment of three to five years, a fine of
16 up to \$15,000, or both. A crime of the fourth degree is punishable by a
17 term of imprisonment of up to 18 months, a fine of up to \$10,000, or
18 both.