

SENATE, No. 1206

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED FEBRUARY 3, 2022

Sponsored by:

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

Senator ROBERT W. SINGER

District 30 (Monmouth and Ocean)

Co-Sponsored by:

Senators Holzapfel and Durr

SYNOPSIS

Broadens riot; enhances penalties for certain crimes committed during riot; creates new crimes of mob intimidation and cyber-intimidation by publication; establishes duty in municipality to permit law enforcement to respond appropriately.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/26/2022)

1 AN ACT concerning riot and amending and supplementing various
2 sections of law.

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:33-1 is amended to read as follows:

8 2C:33-1. Riot. a. **【**Riot. A person is guilty of riot if he
9 participates with four or more others in a course of disorderly
10 conduct as defined in section 2C:33-2a:

11 (1) With purpose to commit or facilitate the commission of a
12 crime;

13 (2) With purpose to prevent or coerce official action; or

14 (3) When he or any other participant, known to him, uses or
15 plans to use a firearm or other deadly weapon.

16 Riot if committed under circumstances set forth in paragraph (3)
17 is a crime of the third degree. Otherwise riot is a crime of the
18 fourth degree. **】**

19 A person commits a riot if he participates in a violent public
20 disturbance involving an assembly of three or more persons, acting
21 with a common intent to assist each other in violent and disorderly
22 conduct, resulting in:

23 (1) Injury to another person;

24 (2) Damage to property; or

25 (3) Imminent danger of injury to another person or damage to
26 property.

27 A person who commits a riot when he or any other participant,
28 known to him, uses or plans to use a firearm or other deadly weapon
29 is guilty of a crime of the third degree. Otherwise riot is a crime of
30 the fourth degree.

31 b. A person commits aggravated riot if, in the course of
32 committing a riot, he:

33 (1) Participates with 25 or more other persons;

34 (2) Causes serious bodily injury to a person not participating in
35 the riot;

36 (3) Causes property damage in excess of \$5,000;

37 (4) Displays, uses, threatens to use, or attempts to use a deadly
38 weapon; or

39 (5) By force, or threat of force, endangers the safe movement of
40 a vehicle traveling on a public street, highway, or road.

41 A person who commits aggravating riot is guilty of a crime of
42 the second degree.

43 c. A person commits inciting a riot if he willfully incites
44 another person to participate in a riot, resulting in a riot or imminent

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 danger of a riot. A person who commits inciting a riot is guilty of a
2 crime of the third degree.

3 d. A person commits aggravated inciting a riot if he:

4 (1) Incites a riot resulting in serious bodily harm to another
5 person not participating in the riot;

6 (2) Incites a riot resulting in property damage in excess of
7 \$5,000; or

8 (3) Supplies a deadly weapon to another person or teaches
9 another person to prepare a deadly weapon with intent that the
10 deadly weapon be used in a riot for an unlawful purpose.

11 A person who commits aggravated inciting a riot is guilty of a
12 crime of the second degree.

13 A person arrested for a violation of subsection a. through d. of
14 this section shall be held in custody until brought before the court
15 for a pretrial detention hearing.

16 Subsection a. through subsection d. of this section shall not be
17 construed to prohibit constitutionally protected activity such as a
18 peaceful protest.

19 **【b.】** e. Failure of disorderly persons to disperse upon official
20 order. Where five or more persons are participating in a course of
21 disorderly conduct as defined in section 2C:33-2 a. likely to cause
22 substantial harm, a peace officer or other public servant engaged in
23 executing or enforcing the law may order the participants and others
24 in the immediate vicinity to disperse. A person who refuses or
25 knowingly fails to obey such an order commits a disorderly persons
26 offense.

27 (cf: P.L.1981, c.290, s.35)

28

29 2. N.J.S. 2C:33-7 is amended to read as follows:

30 2C:33-7. a. **【A】** It shall be unlawful for a person, 【who,】
31 having no legal privilege to do so, to purposely or recklessly
32 **【obstructs】** obstruct any highway or other public passage whether
33 alone or with others【, commits a petty disorderly persons offense】.
34 "Obstructs" means renders impassable without unreasonable
35 inconvenience or hazard and shall include standing on or remaining
36 in the street, highway, or road. No person shall be deemed **【guilty**
37 **of recklessly obstructing】** in violation of this subsection solely
38 because of a gathering of persons to hear him speak or otherwise
39 communicate, or solely because of being a member of such a
40 gathering.

41 b. A person in a gathering commits a petty disorderly persons
42 offense if he refuses to obey a reasonable official request or order to
43 move:

44 (1) To prevent obstruction of a highway or other public passage;
45 or

46 (2) To maintain public safety by dispersing those gathered in
47 dangerous proximity to a fire or other hazard.

1 An order to move, addressed to a person whose speech or other
2 lawful behavior attracts an obstructing audience, shall not be
3 deemed reasonable if the obstruction can be readily remedied by
4 police control of the size or location of the gathering.

5 (cf: P.L.1978, c.95, s.2C:33-7)

6
7 3. 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 assault
9 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
46 performance of emergency first-aid or medical services; or

47 (d) Any school board member, school administrator, teacher,
48 school bus driver, or other employee of a public or nonpublic

1 school or school board while clearly identifiable as being engaged
2 in the performance of the person's duties or because of the person's
3 status as a member or employee of a public or nonpublic school or
4 school board or any school bus driver employed by an operator
5 under contract to a public or nonpublic school or school board while
6 clearly identifiable as being engaged in the performance of the
7 person's duties or because of the person's status as a school bus
8 driver; or

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

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

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

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

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

43 (j) Any health care worker employed by a licensed health care
44 facility to provide direct patient care, any health care professional
45 licensed or otherwise authorized pursuant to Title 26 or Title 45 of
46 the Revised Statutes to practice a health care profession, except a
47 direct care worker at a State or county psychiatric hospital or State
48 developmental center or veterans' memorial home, while clearly

1 identifiable as being engaged in the duties of providing direct
2 patient care or practicing the health care profession; or

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

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

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

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

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

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

47 (11) Uses or activates a laser sighting system or device, or a
48 system or device which, in the manner used, would cause a

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

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

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

23 (14) Attempts to cause or purposely, knowingly or recklessly
24 causes bodily injury to another in the course of a riot.

25 Aggravated assault under paragraphs (1) and (6) of subsection b.
26 of this section is a crime of the second degree; under paragraphs
27 (2), (7), (9), and (10) of subsection b. of this section is a crime of
28 the third degree; under paragraphs (3) and (4) of subsection b. of
29 this section is a crime of the fourth degree; and under paragraph (5)
30 of subsection b. of this section is a crime of the third degree if the
31 victim suffers bodily injury, or if, during the course of a riot or
32 aggravated riot a person enumerated in subparagraph (a), (b) or) (c)
33 of paragraph (5) of subsection b. is struck with or an object is
34 thrown at the victim, in which case the presumption of non-
35 imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first
36 offense of a crime of the third degree shall not apply, and a
37 mandatory period of six months imprisonment shall apply,
38 otherwise it is a crime of the fourth degree. Aggravated assault
39 under paragraph (8) of subsection b. of this section is a crime of the
40 third degree if the victim suffers bodily injury; if the victim suffers
41 significant bodily injury or serious bodily injury it is a crime of the
42 second degree. Aggravated assault under paragraph (11) of
43 subsection b. of this section is a crime of the third degree.
44 Aggravated assault under paragraph (12) of subsection b. of this
45 section is a crime of the third degree but the presumption of non-
46 imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first
47 offense of a crime of the third degree shall not apply. Aggravated
48 assault under paragraph (13) of subsection b. of this section is a

1 crime of the second degree. Aggravated assault under paragraph
2 (14) of subsection b. of this section is a crime of the third degree.

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

12 (2) Assault by auto or vessel is a crime of the third degree if the
13 person drives the vehicle while in violation of R.S.39:4-50 or
14 section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily
15 injury results and is a crime of the fourth degree if the person drives
16 the vehicle while in violation of R.S.39:4-50 or section 2 of
17 P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

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

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

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

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

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

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

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

1 (4) Assault by auto or vessel is a crime of the third degree if the
2 person purposely drives a vehicle in an aggressive manner directed
3 at another vehicle and serious bodily injury results and is a crime of
4 the fourth degree if the person purposely drives a vehicle in an
5 aggressive manner directed at another vehicle and bodily injury
6 results. For purposes of this paragraph, "driving a vehicle in an
7 aggressive manner" shall include, but is not limited to,
8 unexpectedly altering the speed of the vehicle, making improper or
9 erratic traffic lane changes, disregarding traffic control devices,
10 failing to yield the right of way, or following another vehicle too
11 closely.

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

15 d. A person who is employed by a facility as defined in section
16 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
17 defined in paragraph (1) or (2) of subsection a. of this section upon
18 an institutionalized elderly person as defined in section 2 of
19 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
20 degree.

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

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

41 (cf:P.L.2021, c.172)

42

43 4. N.J.S.2C:17-3 is amended to read as follows:

44 2C:17-3. a. Offense defined. A person is guilty of criminal
45 mischief if he:

46 (1) Purposely or knowingly damages tangible property of
47 another or damages tangible property of another recklessly or

1 negligently in the employment of fire, explosives or other
2 dangerous means listed in subsection a. of N.J.S.2C:17-2; or

3 (2) Purposely, knowingly or recklessly tampers with tangible
4 property of another so as to endanger person or property, including
5 the damaging or destroying of a rental premises by a tenant in
6 retaliation for institution of eviction proceedings; or

7 (3) Purposely, knowingly or recklessly, defaces, injures, or
8 otherwise damages by any means a memorial or historic property,
9 as defined in subsection d., and the value of the damage to the
10 memorial or historic property is greater than \$200.00.

11 b. Grading. (1) Criminal mischief is a crime of the third
12 degree if the actor purposely or knowingly, or recklessly causes
13 pecuniary loss of \$2,000.00 or more, or, if the pecuniary loss is to a
14 memorial or historic property, and the value of the damage \$200.00
15 or more.

16 (2) Criminal mischief is a crime of the fourth degree if the actor
17 causes pecuniary loss in excess of \$500.00 but less than \$2000.00.
18 It is a disorderly persons offense if the actor causes pecuniary loss
19 of \$500.00 or less.

20 (3) Criminal mischief is a crime of the third degree if the actor
21 damages, defaces, eradicates, alters, receives, releases or causes the
22 loss of any research property used by the research facility, or
23 otherwise causes physical disruption to the functioning of the
24 research facility. The term "physical disruption" does not include
25 any lawful activity that results from public, governmental, or
26 research facility employee reaction to the disclosure of information
27 about the research facility.

28 (4) Criminal mischief is a crime of the fourth degree if the actor
29 damages, removes or impairs the operation of any device, including,
30 but not limited to, a sign, signal, light or other equipment, which
31 serves to regulate or ensure the safety of air traffic at any airport,
32 landing field, landing strip, heliport, helistop or any other aviation
33 facility; however, if the damage, removal or impediment of the
34 device recklessly causes bodily injury or damage to property, the
35 actor is guilty of a crime of the third degree, or if it recklessly
36 causes a death, the actor is guilty of a crime of the second degree.

37 (5) Criminal mischief is a crime of the fourth degree if the actor
38 interferes or tampers with any airport, landing field, landing strip,
39 heliport, helistop or any other aviation facility; however if the
40 interference or tampering with the airport, landing field, landing
41 strip, heliport, helistop or other aviation facility recklessly causes
42 bodily injury or damage to property, the actor is guilty of a crime of
43 the third degree, or if it recklessly causes a death, the actor is guilty
44 of a crime of the second degree.

45 (6) Criminal mischief is a crime of the third degree if the actor
46 tampers with a grave, crypt, mausoleum or other site where human
47 remains are stored or interred, with the purpose to desecrate,
48 destroy or steal such human remains or any part thereof.

1 (7) Criminal mischief is a crime of the third degree if the actor
2 purposely or knowingly causes a substantial interruption or
3 impairment of public communication, transportation, supply of
4 water, oil, gas or power, or other public service. Criminal mischief
5 is a crime of the second degree if the substantial interruption or
6 impairment recklessly causes death.

7 (8) Criminal mischief is a crime of the fourth degree if the actor
8 purposely or knowingly breaks, digs up, obstructs or otherwise
9 tampers with any pipes or mains for conducting gas, oil or water, or
10 any works erected for supplying buildings with gas, oil or water, or
11 any appurtenances or appendages therewith connected, or injures,
12 cuts, breaks down, destroys or otherwise tampers with any electric
13 light wires, poles or appurtenances, or any telephone,
14 telecommunications, cable television or telegraph wires, lines, cable
15 or appurtenances.

16 c. (1) **[A]** Except as provided in paragraph (2) of this
17 subsection , a person convicted of an offense of criminal mischief
18 that involves an act of graffiti may, in addition to any other penalty
19 imposed by the court, be required to pay to the owner of the
20 damaged property monetary restitution in the amount of the
21 pecuniary damage caused by the act of graffiti and to perform
22 community service, which shall include removing the graffiti from
23 the property, if appropriate. If community service is ordered, it
24 shall be for either not less than 20 days or not less than the number
25 of days necessary to remove the graffiti from the property.

26 (2) A court shall order any person convicted of violating
27 paragraph (3) of subsection a. to pay restitution, which shall include
28 the full cost of repair or replacement of such memorial or historic
29 property.

30 d. As used in this section:

31 "Act of graffiti" means the drawing, painting or making of any
32 mark or inscription on public or private real or personal property
33 without the permission of the owner.

34 "Historic property" means any building, structure, site, or object
35 that has been officially designated or approved for inclusion, or
36 which meets the criteria for inclusion, in the New Jersey Register of
37 Historic Places pursuant to P.L.1970, c.268 (C.13:1B-
38 15.128 et seq.) as a historic building, historic structure, historic site,
39 or historic object through a federal, State, or local designation
40 program.

41 "Memorial" means a plaque, statue, marker, flag, banner,
42 cenotaph, religious symbol, painting, seal, tombstone, structure
43 name, or display that is constructed and located with the intent of
44 being permanently displayed or perpetually maintained; is dedicated
45 to a historical person, an entity, an event, or a series of events; and
46 honors or recounts the military service of any past or present United
47 States Armed Forces military personnel, or the past or present

1 public service of a resident of the geographical area comprising the
2 State or the United States.

3 e. A person convicted of an offense of criminal mischief that
4 involves the damaging or destroying of a rental premises by a tenant
5 in retaliation for institution of eviction proceedings, may, in
6 addition to any other penalty imposed by the court, be required to
7 pay to the owner of the property monetary restitution in the amount
8 of the pecuniary damage caused by the damage or destruction.

9 (cf: P.L.2014, c.69, s.2)

10

11 5. N.J.S.2C:18-2 is amended to read as follows:

12 2C:18-2. Burglary. a. Burglary defined. A person is guilty of
13 burglary if, with purpose to commit an offense therein or thereon
14 he:

15 (1) Enters a research facility, structure, or a separately secured
16 or occupied portion thereof unless the structure was at the time
17 open to the public or the actor is licensed or privileged to enter;

18 (2) Surreptitiously remains in a research facility, structure, or a
19 separately secured or occupied portion thereof knowing that he is
20 not licensed or privileged to do so; or

21 (3) Trespasses in or upon utility company property where public
22 notice prohibiting trespass is given by conspicuous posting, or
23 fencing or other enclosure manifestly designed to exclude intruders.

24 b. Grading. Burglary is a crime of the second degree if in the
25 course of committing the offense, the actor:

26 (1) Purposely, knowingly or recklessly inflicts, attempts to
27 inflict or threatens to inflict bodily injury on anyone; **[or]**

28 (2) Is armed with or displays what appear to be explosives or a
29 deadly weapon; or

30 (3) Is committed during a riot or an aggravated riot and the
31 perpetration of the burglary is facilitated by conditions arising from
32 the riot.

33 Otherwise burglary is a crime of the third degree. An act shall
34 be deemed "in the course of committing" an offense if it occurs in
35 an attempt to commit an offense or in immediate flight after the
36 attempt or commission. As used in this section, "conditions arising
37 from the riot" means civil unrest, power outages, curfews, or a
38 reduction in the presence of or response time for first responders or
39 homeland security personnel. A person arrested for committing a
40 burglary during a riot or aggravated riot may not be released until
41 the person appears before a judge at a pretrial detention hearing.

42 (cf: P.L.2009, c.283, s.2)

43

44 6. N.J.S.2C:20-2 is amended to read as follows:

45 2C:20-2. a. Consolidation of Theft and Computer Criminal
46 Activity Offenses. Conduct denominated theft or computer
47 criminal activity in this chapter constitutes a single offense, but
48 each episode or transaction may be the subject of a separate

1 prosecution and conviction. A charge of theft or computer criminal
2 activity may be supported by evidence that it was committed in any
3 manner that would be theft or computer criminal activity under this
4 chapter, notwithstanding the specification of a different manner in
5 the indictment or accusation, subject only to the power of the court
6 to ensure fair trial by granting a bill of particulars, discovery, a
7 continuance, or other appropriate relief where the conduct of the
8 defense would be prejudiced by lack of fair notice or by surprise.

9 b. Grading of theft offenses.

10 (1) Theft constitutes a crime of the second degree if:

11 (a) The amount involved is \$75,000.00 or more;

12 (b) The property is taken by extortion;

13 (c) The property stolen is a controlled dangerous substance or
14 controlled substance analog as defined in N.J.S.2C:35-2 and the
15 quantity is in excess of one kilogram;

16 (d) The property stolen is a person's benefits under federal or
17 State law, or from any other source, which the Department of
18 Human Services or an agency acting on its behalf has budgeted for
19 the person's health care and the amount involved is \$75,000.00 or
20 more;

21 (e) The property stolen is human remains or any part thereof;
22 except that, if the human remains are stolen by deception or
23 falsification of a document by which a gift of all or part of a human
24 body may be made pursuant to P.L.2008, c.50 (C.26:6-77 et al.), the
25 theft constitutes a crime of the first degree; **【or】**

26 (f) It is in breach of an obligation by a person in his capacity as
27 a fiduciary and the amount involved is \$50,000.00 or more;

28 (g) The property stolen is law enforcement equipment, valued at
29 \$300 or more, that is taken from an authorized emergency vehicle,
30 as defined in R.S.39:1-1. However, if the property is stolen during
31 a riot or an aggravated riot prohibited under N.J.S.2C:33-1 and the
32 perpetration of the theft is facilitated by conditions arising from the
33 riot; the theft is committed after the declaration of emergency is
34 made, and the perpetration of the theft is facilitated by conditions
35 arising from the emergency, the theft is a crime of the second
36 degree.

37 As used in this paragraph, the term "emergency medical
38 equipment" means mechanical or electronic apparatus used to
39 provide emergency services and care or to treat medical
40 emergencies.

41 "Law enforcement equipment" means any property, device, or
42 apparatus used by any law enforcement officer as defined in section
43 3 of P.L.1993, c. 220 (C.52:17B-161) in the officer's official
44 business.

45 "Conditions arising from the riot" means civil unrest, power
46 outages, curfews, or a reduction in the presence of or response time
47 for first responders or homeland security personnel.

1 “Conditions arising from the emergency” means civil unrest,
2 power outages, curfews, voluntary or mandatory evacuations, or a
3 reduction in the presence of or response time for first responders or
4 homeland security personnel.

5 A person arrested for committing a theft during a riot or an
6 aggravated riot may not be released until the person appears before
7 a committing magistrate at a pretrial detention hearing.

8 (2) Theft constitutes a crime of the third degree if:

9 (a) The amount involved exceeds \$500.00 but is less than
10 \$75,000.00;

11 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
12 horse, domestic companion animal or airplane;

13 (c) The property stolen is a controlled dangerous substance or
14 controlled substance analog as defined in N.J.S.2C:35-2 and the
15 amount involved is less than \$75,000.00 or is undetermined and the
16 quantity is one kilogram or less;

17 (d) It is from the person of the victim;

18 (e) It is in breach of an obligation by a person in his capacity as
19 a fiduciary and the amount involved is less than \$50,000.00;

20 (f) It is by threat not amounting to extortion;

21 (g) It is of a public record, writing or instrument kept, filed or
22 deposited according to law with or in the keeping of any public
23 office or public servant;

24 (h) The property stolen is a person's benefits under federal or
25 State law, or from any other source, which the Department of
26 Human Services or an agency acting on its behalf has budgeted for
27 the person's health care and the amount involved is less than
28 \$75,000.00;

29 (i) The property stolen is any real or personal property related
30 to, necessary for, or derived from research, regardless of value,
31 including, but not limited to, any sample, specimens and
32 components thereof, research subject, including any warm-blooded
33 or cold-blooded animals being used for research or intended for use
34 in research, supplies, records, data or test results, prototypes or
35 equipment, as well as any proprietary information or other type of
36 information related to research;

37 (j) The property stolen is a New Jersey Prescription Blank as
38 referred to in R.S.45:14-14;

39 (k) The property stolen consists of an access device or a defaced
40 access device; **[or]**

41 (l) The property stolen consists of anhydrous ammonia and the
42 actor intends it to be used to manufacture methamphetamine; or

43 (m) If the property is stolen during a riot or an aggravated riot
44 prohibited under N.J.S.2C:33-1 and the perpetration of the theft is
45 facilitated by conditions arising from the riot; the property is stolen
46 after the declaration of emergency is made, and the perpetration of
47 the theft is facilitated by conditions arising from the emergency, the
48 offender commits a crime of the second degree.

1 As used in this paragraph, the terms “conditions arising from a
2 riot” and “conditions arising from the emergency” have the same
3 meanings as provided in subparagraph (g) of paragraph (1) of this
4 subsection. A person arrested for committing a theft during a riot
5 or an aggravated riot may not be released until the person appears
6 before a judge of the Superior Court at a pretrial detention hearing.

7 (3) Theft constitutes a crime of the fourth degree if the amount
8 involved is at least \$200.00 but does not exceed \$500.00.

9 (4) Theft constitutes a disorderly persons offense if:

10 (a) The amount involved was less than \$200.00; or

11 (b) The property stolen is an electronic vehicle identification
12 system transponder.

13 The amount involved in a theft or computer criminal activity
14 shall be determined by the trier of fact. The amount shall include,
15 but shall not be limited to, the amount of any State tax avoided,
16 evaded or otherwise unpaid, improperly retained or disposed of.
17 Amounts involved in thefts or computer criminal activities
18 committed pursuant to one scheme or course of conduct, whether
19 from the same person or several persons, may be aggregated in
20 determining the grade of the offense.

21 c. Claim of right. It is an affirmative defense to prosecution
22 for theft that the actor:

23 (1) Was unaware that the property or service was that of
24 another;

25 (2) Acted under an honest claim of right to the property or
26 service involved or that he had a right to acquire or dispose of it as
27 he did; or

28 (3) Took property exposed for sale, intending to purchase and
29 pay for it promptly, or reasonably believing that the owner, if
30 present, would have consented.

31 d. Theft from spouse. It is no defense that theft or computer
32 criminal activity was from or committed against the actor's spouse,
33 except that misappropriation of household and personal effects, or
34 other property normally accessible to both spouses, is theft or
35 computer criminal activity only if it occurs after the parties have
36 ceased living together.

37 (cf: P.L.2013, c.58, s.2)

38
39 7. N.J.S.59:2-2 is amended to read as follows:

40 59:2-2. a. A public entity is liable for injury proximately caused
41 by an act or omission of a public employee within the scope of his
42 employment in the same manner and to the same extent as a private
43 individual under like circumstances.

44 b. A public entity is not liable for an injury resulting from an
45 act or omission of a public employee where the public employee is
46 not liable.

47 c. A municipality has a duty to allow the municipal law
48 enforcement agency to respond appropriately to protect persons and

1 property during a riot or an unlawful assembly based on the
2 availability of adequate equipment to its municipal law enforcement
3 officers and relevant State and federal laws. If the governing body
4 of a municipality or a person authorized by the governing body of
5 the municipality breaches that duty, the municipality is civilly liable
6 for any damages including damages arising from personal injury,
7 wrongful death, or property damages proximately caused by the
8 municipality's breach of duty.

9 (cf: P.L.1972, c.45, s.59:2-2)

10

11 8. a. (New section) Mob intimidation. It is unlawful for a
12 person, assembled with two or more other persons and acting with a
13 common intent, to use force or threaten to use imminent force, to
14 compel or induce, or attempt to compel or induce, another person to
15 do or refrain from doing any act or to assume, abandon, or maintain
16 a particular viewpoint against his or her will.

17 b. A person who violates subsection a. commits a disorderly
18 persons offense.

19 c. A person arrested for a violation of this section shall be held
20 in custody until brought before the court for a pretrial detention
21 hearing.

22

23 9. (New section) Cyber-intimidation by publication. As used
24 in this section, the term:

25 "Electronically publish" means to disseminate, post, or otherwise
26 disclose information to an Internet site or forum.

27 "Harass" has the same meaning as provided in N.J.S.2C:33-4.

28 It is unlawful for a person to electronically publish another
29 person's personal identification information with the intent to, or
30 with the intent that a third party will use the information to:

31 Incite violence or commit a crime against the person; or

32 Threaten or harass the person, placing such person in reasonable
33 fear of bodily harm.

34 A person who violates this section commits a crime of the fourth
35 degree.

36

37 10. (New section) Affirmative defense in civil action; party
38 convicted of riot.

39 a. In a civil action for damages for personal injury, wrongful
40 death, or property damage, it is an affirmative defense that such
41 action arose from an injury or damage sustained by a participant
42 acting in furtherance of a riot. The affirmative defense authorized
43 by this section shall be established by evidence that the participant
44 has been convicted of a riot or an aggravated riot prohibited under
45 N.J.S.2C:33-1 or by proof of the commission of such crime by a
46 preponderance of the evidence.

47 b. In a civil action in which a defendant raises an affirmative
48 defense under this section, the court must, on motion by the

1 defendant, stay the action during the pendency of a criminal action
2 that forms the basis for the defense, unless the court finds that a
3 conviction in the criminal action would not form a valid defense
4 under this section.

5
6 11. (New section) If the tentative budget of a municipality
7 contains a funding reduction to the operating budget of the
8 municipal law enforcement agency, the municipal attorney or a
9 member of the governing body who objects to the funding
10 reduction, may file an appeal to the Division of Local Government
11 Services in the Department of Community Affairs within 30 days
12 after the day the tentative budget is posted to the official website of
13 the municipality.

14
15 12. This act shall take effect immediately.

16
17
18 STATEMENT

19
20 This omnibus bill addresses riot and certain violent crime
21 committed during the course of riot. Presently, a person is guilty of
22 riot if he participates with four or more others in a course of
23 disorderly conduct with an unlawful purpose, enumerated in the
24 statute. This bill amends subsection b. of N.J.S.2C:33-1, riot, and
25 expands the categories of riot to include aggravated riot, inciting a
26 riot and aggravated inciting a riot. Under the bill, a person commits
27 riot if the he participates in a violent public disturbance involving
28 an assembly of three or more persons, acting with a common intent
29 to assist each other in violent and disorderly conduct, resulting in
30 (1) Injury to another person; (2) Damage to property; or (3)
31 Imminent danger of injury to another person or damage to property.
32 A person who commits a riot when he or any other participant,
33 known to him, uses or plans to use a firearm or other deadly weapon
34 is guilty of a crime of the third degree. A crime of the third degree
35 is punishable by up to 5 years imprisonment, a fine of up to
36 \$15,000, or both. Otherwise riot is a crime of the fourth degree. A
37 crime of the fourth degree is punishable by up to 18 months
38 imprisonment, a fine of up to \$10,000, or both.

39 New subsection b. is added to N.J.S.2C:33-1 to provide a person
40 commits aggravated riot if, in the course of committing a riot, he:
41 (1) Participates with 25 or more other persons; (2) Causes serious
42 bodily injury to a person not participating in the riot; (3) Causes
43 property damage in excess of \$5,000; (4) Displays, uses, threatens
44 to use, or attempts to use a deadly weapon; or (5) By force, or threat
45 of force, endangers the safe movement of a vehicle traveling on a
46 public street, highway, or road. A person who commits aggravating
47 riot commits a crime of the second degree. A crime of the second

1 degree is punishable by up to 10 years imprisonment, a fine of up to
2 \$150,000, or both.

3 New subsection c. is added to N.J.S.2C:33-1 to provide a person
4 commits inciting a riot if he willfully incites another person to
5 participate in a riot, resulting in a riot or imminent danger of a riot.
6 A person who commits inciting a riot commits a crime of the third
7 degree.

8 New subsection d. is added to N.J.S.2C:33-1 to provide a person
9 commits aggravated inciting a riot if he (1) Incites a riot resulting in
10 serious bodily harm to another person not participating in the riot;
11 (2) Incites a riot resulting in property damage in excess of \$5,000;
12 or (3) Supplies a deadly weapon to another person or teaches
13 another person to prepare a deadly weapon with intent that the
14 deadly weapon be used in a riot for an unlawful purpose. A person
15 who commits aggravated inciting a riot commits a crime of the
16 second degree.

17 Under the bill, a person arrested for a violation of N.J.S.2C:33-1
18 shall be held in custody until brought before the court for a pretrial
19 detention hearing. The bill does not prohibit constitutionally
20 protected activity such as a peaceful protest.

21 The bill amends N.J.S.2C:33-7, obstructing highways or other
22 passages, to provide that it shall be unlawful for a person, having no
23 legal privilege to do so, to purposely or recklessly obstruct any
24 highway or other public passage whether alone or with others. No
25 person shall be deemed in violation of this subsection solely
26 because of a gathering of persons to hear him speak or otherwise
27 communicate, or solely because of being a member of such a
28 gathering. The amendment leaves intact subsection b. of
29 N.J.S.2C:33-7, which concerns refusal to obey a reasonable official
30 request or order to move.

31 The bill amends N.J.S.2C:12-1, Assault. Currently, paragraph
32 (5) of subsection b. enumerates specific circumstances when
33 aggravated assault occurs. This bill adds that a person is guilty of
34 aggravated assault if he attempts to cause or purposely, knowingly
35 or recklessly causes bodily injury to another in the course of a riot.
36 Aggravated assault under this circumstance is a crime of the third
37 degree, punishable by up to five years imprisonment, a fine of up to
38 \$15,000, or both.

39 Paragraph (5) of subsection b. of N.J.S.2C:12-1 further elevates
40 simple assault to aggravated assault when committed against certain
41 categories of persons, including when committed against a law
42 enforcement officer acting in the performance of the officer's duties
43 while in uniform or exhibiting evidence of authority or because of
44 the officer's status as a law enforcement officer, and is graded as a
45 crime of the third degree. Under the bill, if, in the course of a riot,
46 an object is thrown at certain emergency personnel including law
47 enforcement officers, or if the emergency personnel is struck,
48 whether or not with an object, the presumption of non-

1 imprisonment for a first offense of a crime of the third degree shall
2 not apply, and a mandatory period of six months imprisonment shall
3 apply.

4 The bill amends N.J.S.2C:17-3, criminal mischief, to add an
5 additional category to the offense. Under the new provision, a
6 person is guilty of criminal mischief if he without the consent of the
7 owner thereof, willfully and maliciously defaces, injures, or
8 otherwise damages by any means a memorial or historic property,
9 and the value of the damage to the memorial or historic property is
10 greater than \$200. The bill grades this offense as a crime of the
11 third degree where the damage is to a memorial or historic property.
12 The bill provides that “historic property” means any building,
13 structure, site, or object that has been officially designated or
14 approved for inclusion, or which meets the criteria for inclusion, in
15 the New Jersey Register of Historic Places pursuant to P.L.1970,
16 c.268 (C.13:1B-15.128 et seq.) as a historic building, historic
17 structure, historic site, or historic object through a federal, state, or
18 local designation program. “Memorial” means a plaque, statue,
19 marker, flag, banner, cenotaph, religious symbol, painting, seal,
20 tombstone, structure name, or display that is constructed and
21 located with the intent of being permanently displayed or
22 perpetually maintained; is dedicated to a historical person, an entity,
23 an event, or a series of events; and honors or recounts the military
24 service of any past or present United States Armed Forces military
25 personnel, or the past or present public service of a resident of the
26 geographical area comprising the state or the United States. A court
27 shall order any person convicted of violating this provision to pay
28 restitution, which shall include the full cost of repair or replacement
29 of such memorial or historic property.

30 The bill amends N.J.S.A.2C:18-2, burglary, to add an additional
31 circumstance to the grading scheme. Under the bill, burglary is a
32 crime of the second degree if it occurs during a riot or an
33 aggravated riot and the perpetration of the burglary is facilitated by
34 conditions arising from the riot. The section is further amended to
35 provide that “conditions arising from the riot,” means civil unrest,
36 power outages, curfews, or a reduction in the presence of or
37 response time for first responders or homeland security personnel.
38 A person arrested for committing a burglary during a riot or
39 aggravated riot may not be released until the person appears before
40 a judge at a pretrial detention hearing.

41 The bill amends N.J.S.A.2C:20-2, theft, to add an additional
42 circumstances to the grading scheme. Under the bill, theft is a
43 crime of the second degree if the property stolen is law enforcement
44 equipment, valued at \$300 or more, that is taken from an authorized
45 emergency vehicle, as defined in R.S.39:1-1. “Emergency medical
46 equipment” means mechanical or electronic apparatus used to
47 provide emergency services and care or to treat medical
48 emergencies. “Law enforcement equipment” means any property,

1 device, or apparatus used by any law enforcement officer as defined
2 in section 3 of P.L.1993, c.220, (C.52:17B-161) in the officer's
3 official business. If the property is stolen during a riot or an
4 aggravated riot prohibited under section N.J.S.2C:33-1 and the
5 perpetration of the theft is facilitated by conditions arising from the
6 riot; the theft is committed after the declaration of emergency is
7 made, and the perpetration of the theft is facilitated by conditions
8 arising from the emergency, the theft is a crime of the second
9 degree. Under the bill, the term "conditions arising from the riot"
10 means civil unrest, power outages, curfews, or a reduction in the
11 presence of or response time for first responders or homeland
12 security personnel and the term "conditions arising from the
13 emergency" means civil unrest, power outages, curfews, voluntary
14 or mandatory evacuations, or a reduction in the presence of or
15 response time for first responders or homeland security personnel.

16 Third degree theft is elevated to a crime of the second degree if
17 the property is stolen during a riot or an aggravated riot prohibited
18 under N.J.S.2C:33-1 and the perpetration of the theft is facilitated
19 by conditions arising from the riot; the property is stolen after the
20 declaration of emergency is made, and the perpetration of the theft
21 is facilitated by conditions arising from the emergency.

22 A person arrested for committing a theft during a riot crime, or
23 other crime amended by the bill, may not be released until the
24 person appears before a judge at a pretrial detention hearing.

25 The bill amends N.J.S.59:2-2, concerning public entity liability
26 to provide that a municipality has a duty to allow the municipal law
27 enforcement agency to respond appropriately to protect persons and
28 property during a riot or an unlawful assembly based on the
29 availability of adequate equipment to its municipal law enforcement
30 officers and relevant State and federal laws.

31 The bill creates the new offenses of mob intimidation and cyber-
32 intimidation by publication. Under the bill, mob intimidation
33 occurs when a person, assembled with two or more other persons
34 and acting with a common intent, to use force or threaten to use
35 imminent force, to compel or induce, or attempt to compel or
36 induce, another person to do or refrain from doing any act or to
37 assume, abandon, or maintain a particular viewpoint against his or
38 her will. A person who violates this section commits a disorderly
39 persons offense. A disorderly persons offense is punishable by up
40 to 6 months imprisonment, a fine of up to \$1,000, or both. A
41 person arrested for a violation of this section shall be held in
42 custody until brought before the court for a pretrial detention
43 hearing.

44 Under the bill, cyber-intimidation by publication occurs when a
45 person electronically publishes another person's personal
46 identification information with the intent to, or with the intent that a
47 third party will use the information to (a) Incite violence or commit
48 a crime against the person; or (b) Threaten or harass the person,

S1206 PENNACCHIO, SINGER

21

1 placing such person in reasonable fear of bodily harm. A person
2 who violates this subsection commits a crime of the fourth degree.

3 The bill establishes an affirmative defense in action for personal
4 injury, wrongful death, or property damage that action arose from
5 an injury or damage sustained by a participant acting in furtherance
6 of a riot.

7 The bill establishes a procedure to appeal law enforcement
8 funding reduction proposal in local budgets.

9 This bill is modeled closely on Florida Laws ch.6; 2021 Fla. HB
10 1.