SYNOPSIS

Jessica Rogers’ Law: upgrades assault by auto or vessel in situations of road rage.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel
**AN ACT** concerning assault by auto or vessel and designated as Jessica Rogers’ Law and amending N.J.S.2C:12-1.

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

1. N.J.S.2C:12-1 is amended to read as follows:

2C:12-1. Assault. a. Simple assault. A person is guilty of assault if he:

1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or

2) Negligently causes bodily injury to another with a deadly weapon; or

3) Attempts by physical menace to put another in fear of imminent serious bodily injury.

Simple assault is a disorderly persons offense unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty disorderly persons offense.

b. Aggravated assault. A person is guilty of aggravated assault if he:

1) Attempts to cause serious bodily injury to another, or causes such injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or

2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or

3) Recklessly causes bodily injury to another with a deadly weapon; or

4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in section 2C:39-1f., at or in the direction of another, whether or not the actor believes it to be loaded; or

5) Commits a simple assault as defined in subsection a. (1), (2) or (3) of this section upon:

   a) Any law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority or because of his status as a law enforcement officer; or

   b) Any paid or volunteer fireman acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of the duties of a fireman; or

   c) Any person engaged in emergency first-aid or medical services acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of emergency first-aid or medical services; or

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
(d) Any school board member, school administrator, teacher, school bus driver or other employee of a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a member or employee of a public or nonpublic school or school board or any school bus driver employed by an operator under contract to a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a school bus driver; or

(e) Any employee of the Division of Youth and Family Services while clearly identifiable as being engaged in the performance of his duties or because of his status as an employee of the division; or

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

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

(h) Any Department of Corrections employee, county corrections officer, juvenile corrections officer, State juvenile facility employee, juvenile detention staff member, juvenile detention officer, probation officer or any sheriff, undersheriff, or sheriff's officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority; or

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

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

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

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

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

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

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

Aggravated assault under subsections b. (1) and b. (6) is a crime of the second degree; under subsections b. (2), b. (7), b. (9) and b. (10) is a crime of the third degree; under subsections b. (3) and b. (4) is a crime of the fourth degree; and under subsection b. (5) is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree. Aggravated assault under subsection b.(8) is a crime of the third degree if the victim suffers bodily injury; if the victim suffers significant bodily injury or serious bodily injury it is a crime of the second degree. Aggravated assault under subsection b.(11) is a crime of the third degree.
c. (1) A person is guilty of assault by auto or vessel when the
person drives a vehicle or vessel recklessly and causes either
serious bodily injury or bodily injury to another. Assault by auto or
vessel is a crime of the fourth degree if serious bodily injury results
and is a disorderly persons offense if bodily injury results.

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

(3) Assault by auto or vessel is a crime of the second degree if
serious bodily injury results from the defendant operating the auto
or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981,
c.512 (C.39:4-50.4a) while:
   (a) on any school property used for school purposes which is
owned by or leased to any elementary or secondary school or school
board, or within 1,000 feet of such school property;
   (b) driving through a school crossing as defined in R.S.39:1-1 if
the municipality, by ordinance or resolution, has designated the
school crossing as such; or
   (c) driving through a school crossing as defined in R.S.39:1-1
knowing that juveniles are present if the municipality has not
designated the school crossing as such by ordinance or resolution.

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

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

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

(4) Assault by auto or vessel is a crime of the third degree if the
defendant operates the auto or vessel recklessly, in knowing
disregard of the rights or safety of others, in a manner so as to
endanger, or be likely to endanger, a person or property and causes
serious bodily injury to another. Assault by auto or vessel is a
crime of the fourth degree if the defendant operates the auto or
vessel recklessly, in knowing disregard of the rights or safety of
others, in a manner so as to endanger, or be likely to endanger, a
person or property and causes bodily injury to another.

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

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

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

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

(cf: P.L.2006, c.78, s.2)

2. This act shall take effect on the first day of the seventh month
after enactment.

STATEMENT

The bill would upgrade the crime of assault by auto or vessel in
cases where a person operates an auto or vessel recklessly, in
knowing disregard of the rights or safety of others, in a manner so
as to endanger, or be likely to endanger, a person or property and
causes injury to another person.

Under current law, assault by auto or vessel is a fourth degree
crime if the actor drives a vehicle or vessel recklessly and causes
serious bodily injury. “Serious bodily injury” means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. Assault by auto or vessel is a disorderly persons offense if the actor drives a vehicle or vessel recklessly and causes bodily injury. “Bodily injury” is defined as physical pain, illness or any impairment of physical condition.

Under the provisions of the bill, assault by auto or vessel is upgraded from a crime of the fourth degree to a crime of the third degree if a person operates an auto or vessel recklessly, in knowing disregard of the rights or safety of others, in a manner so as to endanger, or be likely to endanger, a person or property and causes serious bodily injury. Assault by auto or vessel is upgraded from a disorderly persons offense to a crime of the fourth degree if bodily injury results.

A crime of the third degree is punishable by term of imprisonment of three to five years, a fine of up to $15,000 or both. A crime of the fourth degree is punished by up to 18 months imprisonment, a fine of $10,000, or both. A disorderly persons offense is punishable by imprisonment for up to six months, a fine of $1,000, or both.

The bill is designed to address situations of road rage. It is designated “Jessica Rogers’ Law” after Jessica Rogers, a young woman from Hamilton, New Jersey who suffered severe injuries as a victim of road rage.