

SENATE, No. 1830

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED MAY 3, 2012

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Provides that videotaping of aggravated assault is a fourth degree crime.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning certain assaults and amending N.J.S.2C:12-1.

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

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

7 2C:12-1. Assault. a. Simple assault. A person is guilty of
8 assault if he:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

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- 1 or school board while clearly identifiable as being engaged in the
2 performance of his duties or because of his status as a member or
3 employee of a public or nonpublic school or school board or any
4 school bus driver employed by an operator under contract to a
5 public or nonpublic school or school board while clearly
6 identifiable as being engaged in the performance of his duties or
7 because of his status as a school bus driver; or
- 8 (e) Any employee of the Division of Youth and Family Services
9 while clearly identifiable as being engaged in the performance of
10 his duties or because of his status as an employee of the division; or
- 11 (f) Any justice of the Supreme Court, judge of the Superior
12 Court, judge of the Tax Court or municipal judge while clearly
13 identifiable as being engaged in the performance of judicial duties
14 or because of his status as a member of the judiciary; or
- 15 (g) Any operator of a motorbus or the operator's supervisor or
16 any employee of a rail passenger service while clearly identifiable
17 as being engaged in the performance of his duties or because of his
18 status as an operator of a motorbus or as the operator's supervisor or
19 as an employee of a rail passenger service; or
- 20 (h) Any Department of Corrections employee, county
21 corrections officer, juvenile corrections officer, State juvenile
22 facility employee, juvenile detention staff member, juvenile
23 detention officer, probation officer or any sheriff, undersheriff, or
24 sheriff's officer acting in the performance of his duties while in
25 uniform or exhibiting evidence of his authority; or
- 26 (i) Any employee, including any person employed under
27 contract, of a utility company as defined in section 2 of P.L.1971,
28 c.224 (C.2A:42-86) or a cable television company subject to the
29 provisions of the "Cable Television Act," P.L.1972, c.186
30 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in
31 the performance of his duties in regard to connecting, disconnecting
32 or repairing or attempting to connect, disconnect or repair any gas,
33 electric or water utility, or cable television or telecommunication
34 service; or
- 35 (j) Any health care worker employed by a licensed health care
36 facility to provide direct patient care, any health care professional
37 licensed or otherwise authorized pursuant to Title 26 or Title 45 of
38 the Revised Statutes to practice a health care profession, except a
39 direct care worker at a State or county psychiatric hospital or State
40 developmental center or veterans' memorial home, while clearly
41 identifiable as being engaged in the duties of providing direct
42 patient care or practicing the health care profession; or
- 43 (k) Any direct care worker at a State or county psychiatric
44 hospital or State developmental center or veterans' memorial home,
45 while clearly identifiable as being engaged in the duties of
46 providing direct patient care or practicing the health care
47 profession, provided that the actor is not a patient or resident at the

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- 1 facility who is classified by the facility as having a mental illness or
2 developmental disability; or
- 3 (6) Causes bodily injury to another person while fleeing or
4 attempting to elude a law enforcement officer in violation of
5 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
6 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
7 other provision of law to the contrary, a person shall be strictly
8 liable for a violation of this subsection upon proof of a violation of
9 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
10 violation of subsection c. of N.J.S.2C:20-10 which resulted in
11 bodily injury to another person; or
- 12 (7) Attempts to cause significant bodily injury to another or
13 causes significant bodily injury purposely or knowingly or, under
14 circumstances manifesting extreme indifference to the value of
15 human life recklessly causes such significant bodily injury; or
- 16 (8) Causes bodily injury by knowingly or purposely starting a
17 fire or causing an explosion in violation of N.J.S.2C:17-1 which
18 results in bodily injury to any emergency services personnel
19 involved in fire suppression activities, rendering emergency
20 medical services resulting from the fire or explosion or rescue
21 operations, or rendering any necessary assistance at the scene of the
22 fire or explosion, including any bodily injury sustained while
23 responding to the scene of a reported fire or explosion. For
24 purposes of this subsection, "emergency services personnel" shall
25 include, but not be limited to, any paid or volunteer fireman, any
26 person engaged in emergency first-aid or medical services and any
27 law enforcement officer. Notwithstanding any other provision of
28 law to the contrary, a person shall be strictly liable for a violation of
29 this paragraph upon proof of a violation of N.J.S.2C:17-1 which
30 resulted in bodily injury to any emergency services personnel; or
- 31 (9) Knowingly, under circumstances manifesting extreme
32 indifference to the value of human life, points or displays a firearm,
33 as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of
34 a law enforcement officer; or
- 35 (10) Knowingly points, displays or uses an imitation firearm, as
36 defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a
37 law enforcement officer with the purpose to intimidate, threaten or
38 attempt to put the officer in fear of bodily injury or for any unlawful
39 purpose; or
- 40 (11) Uses or activates a laser sighting system or device, or a
41 system or device which, in the manner used, would cause a
42 reasonable person to believe that it is a laser sighting system or
43 device, against a law enforcement officer acting in the performance
44 of his duties while in uniform or exhibiting evidence of his
45 authority. As used in this paragraph, "laser sighting system or
46 device" means any system or device that is integrated with or
47 affixed to a firearm and emits a laser light beam that is used to
48 assist in the sight alignment or aiming of the firearm; or

1 (12) Is an actor or an accomplice who, in the course of
2 committing a crime under this subsection, knowingly videotapes in
3 whole or part the commission of the offense. A conviction under
4 this paragraph shall not merge with any other conviction under this
5 subsection.

6 Aggravated assault under subsections b. (1) and b. (6) is a crime
7 of the second degree; under subsections b. (2), b. (7), b. (9) and b.
8 (10) is a crime of the third degree; under subsections b. (3) **[and]** ,
9 b. (4) and b. (12) is a crime of the fourth degree; and under
10 subsection b. (5) is a crime of the third degree if the victim suffers
11 bodily injury, otherwise it is a crime of the fourth degree.
12 Aggravated assault under subsection b. (8) is a crime of the third
13 degree if the victim suffers bodily injury; if the victim suffers
14 significant bodily injury or serious bodily injury it is a crime of the
15 second degree. Aggravated assault under subsection b. (11) is a
16 crime of the third degree.

17 c. (1) A person is guilty of assault by auto or vessel when the
18 person drives a vehicle or vessel recklessly and causes either
19 serious bodily injury or bodily injury to another. Assault by auto or
20 vessel is a crime of the fourth degree if serious bodily injury results
21 and is a disorderly persons offense if bodily injury results.

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

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

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

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

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

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

44 A map or true copy of a map depicting the location and
45 boundaries of the area on or within 1,000 feet of any property used
46 for school purposes which is owned by or leased to any elementary
47 or secondary school or school board produced pursuant to section 1

1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
2 subparagraph (a) of paragraph (3) of this subsection.

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

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

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

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

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

40 (cf: P.L.2010, c.109, s.1)

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42 2. This act shall take effect immediately.

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STATEMENT

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47 This bill provides that the videotaping of an aggravated assault
48 would be punishable as a fourth degree crime. Under the bill's

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1 provisions, an offender or an accomplice who knowingly videotapes
2 an aggravated assault would be guilty of a crime of the fourth
3 degree. This conviction would not merge with any other conviction
4 under the aggravated assault statute. A crime of the fourth degree is
5 punishable by imprisonment for not more than 18 months, a fine of
6 up to \$10,000, or both.