

[First Reprint]

ASSEMBLY, No. 235

STATE OF NEW JERSEY

216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

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SYNOPSIS

Provides that strangulation of victim resulting in bodily injury during commission of act of domestic violence constitutes aggravated assault.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on December 11, 2014, with amendments.

(Sponsorship Updated As Of: 5/15/2015)

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

2

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

5

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 ¹**section 2C:39-1f.** subsection f. of N.J.S.2C:39-1¹, at or in the
31 direction of another, whether or not the actor believes it to be
32 loaded; or

33 (5) Commits a simple assault as defined in ¹**paragraph (1), (2),**
34 **or (3) of** subsection a. ¹**[(1), (2) or (3)]**¹ of this section upon:

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

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

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AJU committee amendments adopted December 11, 2014.

- 1 (d) Any school board member, school administrator, teacher,
2 school bus driver or other employee of a public or nonpublic school
3 or school board while clearly identifiable as being engaged in the
4 performance of his duties or because of his status as a member or
5 employee of a public or nonpublic school or school board or any
6 school bus driver employed by an operator under contract to a
7 public or nonpublic school or school board while clearly
8 identifiable as being engaged in the performance of his duties or
9 because of his status as a school bus driver; or
- 10 (e) Any employee of the Division of Child Protection and
11 Permanency while clearly identifiable as being engaged in the
12 performance of his duties or because of his status as an employee of
13 the division; or
- 14 (f) Any justice of the Supreme Court, judge of the Superior
15 Court, judge of the Tax Court or municipal judge while clearly
16 identifiable as being engaged in the performance of judicial duties
17 or because of his status as a member of the judiciary; or
- 18 (g) Any operator of a motorbus or the operator's supervisor or
19 any employee of a rail passenger service while clearly identifiable
20 as being engaged in the performance of his duties or because of his
21 status as an operator of a motorbus or as the operator's supervisor or
22 as an employee of a rail passenger service; or
- 23 (h) Any Department of Corrections employee, county
24 corrections officer, juvenile corrections officer, State juvenile
25 facility employee, juvenile detention staff member, juvenile
26 detention officer, probation officer or any sheriff, undersheriff, or
27 sheriff's officer acting in the performance of his duties while in
28 uniform or exhibiting evidence of his authority; or
- 29 (i) Any employee, including any person employed under
30 contract, of a utility company as defined in section 2 of P.L.1971,
31 c.224 (C.2A:42-86) or a cable television company subject to the
32 provisions of the "Cable Television Act," P.L.1972, c.186
33 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in
34 the performance of his duties in regard to connecting, disconnecting
35 or repairing or attempting to connect, disconnect or repair any gas,
36 electric or water utility, or cable television or telecommunication
37 service; or
- 38 (j) Any health care worker employed by a licensed health care
39 facility to provide direct patient care, any health care professional
40 licensed or otherwise authorized pursuant to Title 26 or Title 45 of
41 the Revised Statutes to practice a health care profession, except a
42 direct care worker at a State or county psychiatric hospital or State
43 developmental center or veterans' memorial home, while clearly
44 identifiable as being engaged in the duties of providing direct
45 patient care or practicing the health care profession; or
- 46 (k) Any direct care worker at a State or county psychiatric
47 hospital or State developmental center or veterans' memorial home,

- 1 while clearly identifiable as being engaged in the duties of
2 providing direct patient care or practicing the health care
3 profession, provided that the actor is not a patient or resident at the
4 facility who is classified by the facility as having a mental illness or
5 developmental disability; or
- 6 (6) Causes bodily injury to another person while fleeing or
7 attempting to elude a law enforcement officer in violation of
8 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
9 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
10 other provision of law to the contrary, a person shall be strictly
11 liable for a violation of this ¹【subsection】 paragraph¹ upon proof of
12 a violation of subsection b. of N.J.S.2C:29-2 or while operating a
13 motor vehicle in violation of subsection c. of N.J.S.2C:20-10 which
14 resulted in bodily injury to another person; or
- 15 (7) Attempts to cause significant bodily injury to another or
16 causes significant bodily injury purposely or knowingly or, under
17 circumstances manifesting extreme indifference to the value of
18 human life recklessly causes such significant bodily injury; or
- 19 (8) Causes bodily injury by knowingly or purposely starting a
20 fire or causing an explosion in violation of N.J.S.2C:17-1 which
21 results in bodily injury to any emergency services personnel
22 involved in fire suppression activities, rendering emergency
23 medical services resulting from the fire or explosion or rescue
24 operations, or rendering any necessary assistance at the scene of the
25 fire or explosion, including any bodily injury sustained while
26 responding to the scene of a reported fire or explosion. For
27 purposes of this subsection, "emergency services personnel" shall
28 include, but not be limited to, any paid or volunteer fireman, any
29 person engaged in emergency first-aid or medical services and any
30 law enforcement officer. Notwithstanding any other provision of
31 law to the contrary, a person shall be strictly liable for a violation of
32 this ¹【subsection】 paragraph¹ upon proof of a violation of
33 N.J.S.2C:17-1 which resulted in bodily injury to any emergency
34 services personnel; or
- 35 (9) Knowingly, under circumstances manifesting extreme
36 indifference to the value of human life, points or displays a firearm,
37 as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of
38 a law enforcement officer; or
- 39 (10) Knowingly points, displays or uses an imitation firearm, as
40 defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a
41 law enforcement officer with the purpose to intimidate, threaten or
42 attempt to put the officer in fear of bodily injury or for any unlawful
43 purpose; or
- 44 (11) Uses or activates a laser sighting system or device, or a
45 system or device which, in the manner used, would cause a
46 reasonable person to believe that it is a laser sighting system or
47 device, against a law enforcement officer acting in the performance

1 of his duties while in uniform or exhibiting evidence of his
2 authority. As used in this paragraph, "laser sighting system or
3 device" means any system or device that is integrated with or
4 affixed to a firearm and emits a laser light beam that is used to
5 assist in the sight alignment or aiming of the firearm; or

6 (12) Causes bodily injury to ¹【a victim as a result of an act of
7 strangulation】 another by strangling the person in the course of
8 committing an act of domestic violence, as defined in section 3 of
9 P.L.1991, c.261 (C.2C:25-19), against the person¹.

10 Aggravated assault under ¹【subsections b. (1) and b. (6)】
11 paragraphs (1) and (6) of subsection b. of this section¹ is a crime of
12 the second degree; under ¹【subsections b. (2), b. (7), b. (9) and b.

13 (10)】 paragraphs (2), (7), (9), and (10) of subsection b. of this
14 section¹ is a crime of the third degree; under ¹【subsections b. (3)

15 and b. (4)】 paragraphs (3) and (4) of subsection b. of this section is
16 a crime of the fourth degree; and under ¹【subsection b. (5) and

17 b.(12)】 paragraphs (5) and (12) of subsection b. of this section¹ is a
18 crime of the third degree if the victim suffers bodily injury,
19 otherwise it is a crime of the fourth degree. Aggravated assault

20 under ¹【subsection b.(8)】 paragraph (8) of subsection b. of this
21 section¹ is a crime of the third degree if the victim suffers bodily
22 injury; if the victim suffers significant bodily injury or serious
23 bodily injury it is a crime of the second degree. Aggravated assault

24 under ¹【subsection b. (11)】 paragraph (11) of subsection b. of this
25 section¹ is a crime of the third degree.

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

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

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

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

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

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

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

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

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

27 (4) Assault by auto or vessel is a crime of the third degree if the
28 person purposely drives a vehicle in an aggressive manner directed
29 at another vehicle and serious bodily injury results and is a crime of
30 the fourth degree if the person purposely drives a vehicle in an
31 aggressive manner directed at another vehicle and bodily injury
32 results. For purposes of this paragraph, "driving a vehicle in an
33 aggressive manner" shall include, but is not limited to,
34 unexpectedly altering the speed of the vehicle, making improper or
35 erratic traffic lane changes, disregarding traffic control devices,
36 failing to yield the right of way, or following another vehicle too
37 closely.

38 As used in this ¹**[section]** subsection¹, "vessel" means a means
39 of conveyance for travel on water and propelled otherwise than by
40 muscular power.

41 d. A person who is employed by a facility as defined in section
42 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
43 defined in paragraph (1) or (2) of subsection a. of this section upon
44 an institutionalized elderly person as defined in section 2 of
45 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
46 degree.

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

1 f. A person who commits a simple assault as defined in
2 paragraph (1), (2) or (3) of subsection a. of this section in the
3 presence of a child under 16 years of age at a school or community
4 sponsored youth sports event is guilty of a crime of the fourth
5 degree. The defendant shall be strictly liable upon proof that the
6 offense occurred, in fact, in the presence of a child under 16 years
7 of age. It shall not be a defense that the defendant did not know
8 that the child was present or reasonably believed that the child was
9 16 years of age or older. The provisions of this subsection shall not
10 be construed to create any liability on the part of a participant in a
11 youth sports event or to abrogate any immunity or defense available
12 to a participant in a youth sports event. As used in this act, "school
13 or community sponsored youth sports event" means a competition,
14 practice or instructional event involving one or more interscholastic
15 sports teams or youth sports teams organized pursuant to a
16 nonprofit or similar charter or which are member teams in a youth
17 league organized by or affiliated with a county or municipal
18 recreation department and shall not include collegiate, semi-
19 professional or professional sporting events.

20 (cf: P.L.2012, c.22, s.2)

21

22 2. This act shall take effect immediately.