

# SENATE, No. 3209

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MAY 18, 2017

**Sponsored by:**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senators Allen and Beck**

**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 introduced.



**(Sponsorship Updated As Of: 10/6/2017)**

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

32 (5) Commits a simple assault as defined in paragraph (1), (2) or  
33 (3) of subsection a. 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.**

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 Child Protection and  
9 Permanency while clearly identifiable as being engaged in the  
10 performance of his duties or because of his status as an employee of  
11 the division; or

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

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

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

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

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

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

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

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

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

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

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

45 (11) Uses or activates a laser sighting system or device, or a  
46 system or device which, in the manner used, would cause a  
47 reasonable person to believe that it is a laser sighting system or  
48 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) Attempts to cause significant bodily injury or causes  
7 significant bodily injury purposely or knowingly or, under  
8 circumstances manifesting extreme indifference to the value of  
9 human life, recklessly causes significant bodily injury to a person  
10 who, with respect to the actor, meets the definition of a victim of  
11 domestic violence, as defined in subsection d. of section 3 of  
12 P.L.1991, c.261 (C.2C:25-19); or

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

21 Aggravated assault under paragraphs (1) and (6) of subsection b.  
22 of this section is a crime of the second degree; under paragraphs  
23 (2), (7), (9) and (10) of subsection b. of this section is a crime of the  
24 third degree; under paragraphs (3) and (4) of subsection b. of this  
25 section is a crime of the fourth degree; and under paragraph (5) of  
26 subsection b. of this section is a crime of the third degree if the  
27 victim suffers bodily injury, otherwise it is a crime of the fourth  
28 degree. Aggravated assault under paragraph (8) of subsection b. of  
29 this section is a crime of the third degree if the victim suffers bodily  
30 injury; if the victim suffers significant bodily injury or serious  
31 bodily injury it is a crime of the second degree. Aggravated assault  
32 under paragraph (11) of subsection b. of this section is a crime of  
33 the third degree. Aggravated assault under paragraph (12) or (13)  
34 of subsection b. of this section is a crime of the third degree but the  
35 presumption of non-imprisonment set forth in subsection e. of  
36 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall  
37 not apply.

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

47 (2) Assault by auto or vessel is a crime of the third degree if the  
48 person drives the vehicle while in violation of R.S.39:4-50 or

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (cf: P.L.2015, c.100, s.1)

28

29 2. This act shall take effect immediately.

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### STATEMENT

33

34 This bill upgrades the offense of assault in a domestic violence  
35 context when the defendant knowingly obstructs the victim's breathing  
36 or circulation under certain circumstances.

37 Under current law, a person is guilty of simple assault if the person  
38 attempts to cause or causes bodily injury to another. Simple assault is  
39 generally a disorderly persons offense, punishable by a term of  
40 imprisonment of up to six months or a fine of up to \$1,000, or both.

41 The bill provides that simple assault will be upgraded to  
42 aggravated assault if the defendant knowingly or, under circumstances  
43 manifesting extreme indifference to the value of human life, recklessly  
44 obstructs the breathing or blood circulation of a person who, with  
45 respect to the actor, meets the definition of a victim of domestic  
46 violence, by applying pressure on the throat or neck or blocking the  
47 nose or mouth of such person, thereby causing or attempting to cause  
48 bodily injury.

**S3209 GREENSTEIN, SARLO**

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1       Aggravated assault on a domestic violence victim under the  
2 circumstances set out in the bill will be a crime of the third degree. A  
3 crime of the third degree is generally punishable by a term of three to  
4 five years or a fine up to \$15,000, or both. Under current law, there is  
5 generally a presumption of non-imprisonment for a first offense of a  
6 crime of the third degree. The bill eliminates this presumption of non-  
7 imprisonment for crimes committed under the circumstances set out in  
8 the bill.