

SENATE, No. 1288

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Senator ANTHONY M. BUCCO

District 25 (Morris and Somerset)

Senator ANTHONY R. BUCCO

District 25 (Morris and Somerset)

SYNOPSIS

Provides for a mandatory term of imprisonment for assault involving domestic violence.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/25/2019)

1 AN ACT concerning assault 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 his
35 duties while in uniform or exhibiting evidence of his authority or
36 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 corrections
22 officer, juvenile corrections officer, State juvenile facility
23 employee, juvenile detention staff member, juvenile detention
24 officer, probation officer or any sheriff, undersheriff, or sheriff's
25 officer acting in the performance of his duties while in uniform or
26 exhibiting evidence of his authority or because of his status as a
27 Department of Corrections employee, county corrections officer,
28 juvenile corrections officer, State juvenile facility employee,
29 juvenile detention staff member, juvenile detention officer,
30 probation officer, sheriff, undersheriff, or sheriff's officer; or

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

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

21 (14) Attempts to cause or causes bodily injury to another in the
22 course of committing an assault involving domestic violence.

23 Aggravated assault under paragraphs (1) and (6) of subsection b.
24 of this section is a crime of the second degree; under paragraphs
25 (2), (7), (9) and (10) of subsection b. of this section is a crime of the
26 third degree; under paragraphs (3) and (4) of subsection b. of this
27 section is a crime of the fourth degree; and under paragraph (5) of
28 subsection b. of this section is a crime of the third degree if the
29 victim suffers bodily injury, otherwise it is a crime of the fourth
30 degree. Aggravated assault under paragraph (8) of subsection b. of
31 this section is a crime of the third degree if the victim suffers bodily
32 injury; if the victim suffers significant bodily injury or serious
33 bodily injury it is a crime of the second degree. Aggravated assault
34 under paragraph (11) of subsection b. of this section is a crime of
35 the third degree. Aggravated assault under paragraph (12) or (13)
36 of subsection b. of this section is a crime of the third degree but the
37 presumption of non-imprisonment set forth in subsection e. of
38 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall
39 not apply. Aggravated assault under paragraph (14) of subsection b.
40 of this section is a crime of the third degree and a person convicted
41 of the crime shall be sentenced to a term of imprisonment.
42 Notwithstanding the presumption of nonimprisonment set forth in
43 subsection e. of N.J.S.2C:44-1, the term of imprisonment shall
44 include the imposition of a minimum term of three years, during
45 which the defendant shall be ineligible for parole.

46 c. (1) A person is guilty of assault by auto or vessel when the
47 person drives a vehicle or vessel recklessly and causes either
48 serious bodily injury or bodily injury to another. Assault by auto or

1 vessel is a crime of the fourth degree if serious bodily injury results
2 and is a disorderly persons offense if bodily injury results. Proof
3 that the defendant was operating a hand-held wireless telephone
4 while driving a motor vehicle in violation of section 1 of P.L.2003,
5 c.310 (C.39:4-97.3) may give rise to an inference that the defendant
6 was driving recklessly.

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

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

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

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

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

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

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

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

43 (4) Assault by auto or vessel is a crime of the third degree if the
44 person purposely drives a vehicle in an aggressive manner directed
45 at another vehicle and serious bodily injury results and is a crime of
46 the fourth degree if the person purposely drives a vehicle in an
47 aggressive manner directed at another vehicle and bodily injury
48 results. For purposes of this paragraph, "driving a vehicle in an

1 aggressive manner" shall include, but is not limited to,
2 unexpectedly altering the speed of the vehicle, making improper or
3 erratic traffic lane changes, disregarding traffic control devices,
4 failing to yield the right of way, or following another vehicle too
5 closely.

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

9 d. A person who is employed by a facility as defined in section
10 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
11 defined in paragraph (1) or (2) of subsection a. of this section upon
12 an institutionalized elderly person as defined in section 2 of
13 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
14 degree.

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

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

35 (cf: P.L.2017, c.240, s.1)

36

37 2. This act shall take effect immediately.

38

39 STATEMENT

40

41 This bill would upgrade the offense of assault against a victim of
42 domestic violence.

43 Under the bill a person who causes bodily injury to another in
44 the course of committing a crime involving domestic violence
45 would be guilty of a crime of the third degree. A crime of the third
46 degree is ordinarily punishable by a term of imprisonment of three
47 to five years, a fine of up to \$15,000, or both. This bill would
48 impose a mandatory term of imprisonment of three years.