

SENATE, No. 3261

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED DECEMBER 10, 2020

Sponsored by:

Senator ANTHONY M. BUCCO

District 25 (Morris and Somerset)

SYNOPSIS

Broadens riot and disorderly conduct; enhances penalties for public monument destruction; addresses riot victim assaults; creates crime of promotion of violent, disorderly assembly.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning riot and related offenses and amending and
2 supplementing Title 2C of the New Jersey Statutes.

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

6
7 1. N.J.S.2C:33-1 is amended to read as follows:

8 2C:33-1. a. Riot. A person is guilty of riot if he participates
9 with four or more others in a course of disorderly conduct as
10 defined in section 2C:33-2a:

11 (1) With purpose to commit or facilitate the commission of a
12 crime;

13 (2) With purpose to prevent or coerce official action; **[or]**

14 (3) When he or any other participant, known to him, uses or
15 plans to use a firearm or other deadly weapon; or

16 (4) When he causes damage to property or injury to another
17 person.

18 Riot if committed under circumstances set forth in paragraph (3)
19 or paragraph (4) is a crime of the third degree. Otherwise riot is a
20 crime of the fourth degree.

21 b. Failure of disorderly persons to disperse upon official order.
22 Where five or more persons are participating in a course of
23 disorderly conduct as defined in section 2C:33-2 a. likely to cause
24 substantial harm, a peace officer or other public servant engaged in
25 executing or enforcing the law may order the participants and others
26 in the immediate vicinity to disperse. A person who refuses or
27 knowingly fails to obey such an order commits a disorderly persons
28 offense.

29 (cf: P.L.1981, c. 290, s. 35)

30

31 2. N.J.S. 2C:33-7 is amended to read as follows:

32 2C:33-7. a. A person, who, having no legal privilege to do so,
33 purposely or recklessly obstructs any highway or other public
34 passage whether alone or with others, commits a petty disorderly
35 persons offense. A person who violates this section in a course of
36 riot as defined in N.J.S.2C:33-1 or disorderly conduct as defined in
37 subsection a. of N.J.S.2C:33-2, commits a crime of the fourth
38 degree. "Obstructs" means renders impassable without
39 unreasonable inconvenience or hazard. No person shall be deemed
40 guilty of recklessly obstructing in violation of this subsection solely
41 because of a gathering of persons to hear him speak or otherwise
42 communicate, or solely because of being a member of such a
43 gathering.

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 b. A person in a gathering commits a petty disorderly persons
2 offense if he refuses to obey a reasonable official request or order to
3 move:

4 (1) To prevent obstruction of a highway or other public passage;
5 or

6 (2) To maintain public safety by dispersing those gathered in
7 dangerous proximity to a fire or other hazard.

8 An order to move, addressed to a person whose speech or other
9 lawful behavior attracts an obstructing audience, shall not be
10 deemed reasonable if the obstruction can be readily remedied by
11 police control of the size or location of the gathering.

12 (cf: P.L.1978, c. 95, s. 2C:33-7)

13

14 3. N.J.S.2C:33-9 is amended to read as follows:

15 2C:33-9. Desecration of venerated objects

16 A person commits a disorderly persons offense if he purposely
17 desecrates any public monument, insignia, symbol, or structure, or
18 place of worship or burial. It is a crime of the fourth degree if the
19 desecration occurs during the course of a riot. "Desecrate" means
20 defacing, damaging, destroying, toppling or polluting.

21 (cf:P.L.1978, c. 95, s. 2C:33-9).

22

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

24 2C:12-1. Assault. a. Simple assault. A person is guilty of
25 assault if the person:

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

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

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

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

35 b. Aggravated assault. A person is guilty of aggravated assault
36 if the person:

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

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

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

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

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

3 (a) Any law enforcement officer acting in the performance of
4 the officer's duties while in uniform or exhibiting evidence of
5 authority or because of the officer's status as a law enforcement
6 officer; or

7 (b) Any paid or volunteer firefighter acting in the performance
8 of the firefighter's duties while in uniform or otherwise clearly
9 identifiable as being engaged in the performance of the duties of a
10 firefighter; or

11 (c) Any person engaged in emergency first-aid or medical
12 services acting in the performance of the person's duties while in
13 uniform or otherwise clearly identifiable as being engaged in the
14 performance of emergency first-aid or medical services; or

15 (d) Any school board member, school administrator, teacher,
16 school bus driver, or other employee of a public or nonpublic
17 school or school board while clearly identifiable as being engaged
18 in the performance of the person's duties or because of the person's
19 status as a member or employee of a public or nonpublic school or
20 school board or any school bus driver employed by an operator
21 under contract to a public or nonpublic school or school board while
22 clearly identifiable as being engaged in the performance of the
23 person's duties or because of the person's status as a school bus
24 driver; or

25 (e) Any employee of the Division of Child Protection and
26 Permanency while clearly identifiable as being engaged in the
27 performance of the employee's duties or because of the status as an
28 employee of the division; or

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

33 (g) Any operator of a motorbus or the operator's supervisor or
34 any employee of a rail passenger service while clearly identifiable
35 as being engaged in the performance of the person's duties or
36 because of the status as an operator of a motorbus or as the
37 operator's supervisor or as an employee of a rail passenger service;
38 or

39 (h) Any Department of Corrections employee, county
40 correctional police officer, juvenile correctional police officer, State
41 juvenile facility employee, juvenile detention staff member,
42 juvenile detention officer, probation officer or any sheriff,
43 undersheriff, or sheriff's officer acting in the performance of the
44 person's duties while in uniform or exhibiting evidence of the
45 person's authority or because of the status as a Department of
46 Corrections employee, county correctional police officer, juvenile
47 correctional police officer, State juvenile facility employee, juvenile

1 detention staff member, juvenile detention officer, probation
2 officer, sheriff, undersheriff, or sheriff's officer; or

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

12 (j) Any health care worker employed by a licensed health care
13 facility to provide direct patient care, any health care professional
14 licensed or otherwise authorized pursuant to Title 26 or Title 45 of
15 the Revised Statutes to practice a health care profession, except a
16 direct care worker at a State or county psychiatric hospital or State
17 developmental center or veterans' memorial home, while clearly
18 identifiable as being engaged in the duties of providing direct
19 patient care or practicing the health care profession; or

20 (k) Any direct care worker at a State or county psychiatric
21 hospital or State developmental center or veterans' memorial home,
22 while clearly identifiable as being engaged in the duties of
23 providing direct patient care or practicing the health care
24 profession, provided that the actor is not a patient or resident at the
25 facility who is classified by the facility as having a mental illness or
26 developmental disability; or

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

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

40 (8) Causes bodily injury by knowingly or purposely starting a
41 fire or causing an explosion in violation of N.J.S.2C:17-1 which
42 results in bodily injury to any emergency services personnel
43 involved in fire suppression activities, rendering emergency
44 medical services resulting from the fire or explosion or rescue
45 operations, or rendering any necessary assistance at the scene of the
46 fire or explosion, including any bodily injury sustained while
47 responding to the scene of a reported fire or explosion. For
48 purposes of this paragraph, "emergency services personnel" shall

1 include, but not be limited to, any paid or volunteer firefighter, any
2 person engaged in emergency first-aid or medical services and any
3 law enforcement officer. Notwithstanding any other provision of
4 law to the contrary, a person shall be strictly liable for a violation of
5 this paragraph upon proof of a violation of N.J.S.2C:17-1 which
6 resulted in bodily injury to any emergency services personnel; or

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

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

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

25 (12) Attempts to cause significant bodily injury or causes
26 significant bodily injury purposely or knowingly or, under
27 circumstances manifesting extreme indifference to the value of
28 human life, recklessly causes significant bodily injury to a person
29 who, with respect to the actor, meets the definition of a victim of
30 domestic violence, as defined in subsection d. of section 3 of
31 P.L.1991, c.261 (C.2C:25-19); or

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

40 (14) Attempts to cause or purposely, knowingly or recklessly
41 causes bodily injury to another in the course of a riot.

42 Aggravated assault under paragraphs (1) and (6) of subsection b.
43 of this section is a crime of the second degree; under paragraphs
44 (2), (7), (9), and (10) of subsection b. of this section is a crime of
45 the third degree; under paragraphs (3) and (4) of subsection b. of
46 this section is a crime of the fourth degree; and under paragraph (5)
47 of subsection b. of this section is a crime of the third degree if the
48 victim suffers bodily injury, or if, during the course of a riot, the

1 victim is struck with or an object is thrown at the victim, in which
2 case the presumption of non-imprisonment set forth in subsection e.
3 of N.J.S.2C:44-1 for a first offense of a crime of the third degree
4 shall not apply, and a mandatory period of six months imprisonment
5 shall apply, otherwise it is a crime of the fourth degree. Aggravated
6 assault under paragraph (8) of subsection b. of this section is a
7 crime of the third degree if the victim suffers bodily injury; if the
8 victim suffers significant bodily injury or serious bodily injury it is
9 a crime of the second degree. Aggravated assault under paragraph
10 (11) of subsection b. of this section is a crime of the third degree.
11 Aggravated assault under paragraph (12) or (13) of subsection b. of
12 this section is a crime of the third degree but the presumption of
13 non-imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a
14 first offense of a crime of the third degree shall not apply.
15 Aggravated assault under paragraph (14) of subsection b. of this
16 section is a 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. Proof
22 that the defendant was operating a hand-held wireless telephone
23 while driving a motor vehicle in violation of section 1 of P.L.2003,
24 c.310 (C.39:4-97.3) may give rise to an inference that the defendant
25 was driving recklessly.

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

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

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

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

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

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

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

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

15 (4) Assault by auto or vessel is a crime of the third degree if the
16 person purposely drives a vehicle in an aggressive manner directed
17 at another vehicle and serious bodily injury results and is a crime of
18 the fourth degree if the person purposely drives a vehicle in an
19 aggressive manner directed at another vehicle and bodily injury
20 results. For purposes of this paragraph, "driving a vehicle in an
21 aggressive manner" shall include, but is not limited to,
22 unexpectedly altering the speed of the vehicle, making improper or
23 erratic traffic lane changes, disregarding traffic control devices,
24 failing to yield the right of way, or following another vehicle too
25 closely.

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

29 d. A person who is employed by a facility as defined in section
30 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
31 defined in paragraph (1) or (2) of subsection a. of this section upon
32 an institutionalized elderly person as defined in section 2 of
33 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
34 degree.

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

36 f. A person who commits a simple assault as defined in
37 paragraph (1), (2), or (3) of subsection a. of this section in the
38 presence of a child under 16 years of age at a school or community
39 sponsored youth sports event is guilty of a crime of the fourth
40 degree. The defendant shall be strictly liable upon proof that the
41 offense occurred, in fact, in the presence of a child under 16 years
42 of age. It shall not be a defense that the defendant did not know
43 that the child was present or reasonably believed that the child was
44 16 years of age or older. The provisions of this subsection shall not
45 be construed to create any liability on the part of a participant in a
46 youth sports event or to abrogate any immunity or defense available
47 to a participant in a youth sports event. As used in this act, "school
48 or community sponsored youth sports event" means a competition,

1 practice, or instructional event involving one or more
2 interscholastic sports teams or youth sports teams organized
3 pursuant to a nonprofit or similar charter or which are member
4 teams in a youth league organized by or affiliated with a county or
5 municipal recreation department and shall not include collegiate,
6 semi-professional or professional sporting events.
7 (cf: P.L.2019, c.219, s.3)

8
9 5. (New section) Crime of promotion of violent, disorderly
10 assembly. a. A person promotes violent, disorderly assembly if he
11 conspires with others as an organizer, supervisor, financier or
12 manager to commit any crime specified in chapters 11 through 18,
13 20, 33, 35, or 37 of Title 2C of the New Jersey Statutes;
14 N.J.S.2C:34-1; N.J.S.2C:39-3; N.J.S.2C:39-4; section 1 of
15 P.L.1998, c.26 (C.2C:39-4.1); N.J.S.2C:39-5; or N.J.S.2C:39-9 in
16 the course of a riot or at the site of a peaceable assembly.

17 b. Grading. Promotion of violent, disorderly assembly is a
18 crime of one degree higher than the most serious underlying crime
19 referred to in subsection a. of this section, except that where the
20 underlying offense is a crime of the first degree, promotion of
21 violent, disorderly assembly is a first degree crime and the
22 defendant, upon conviction, and notwithstanding the provisions of
23 paragraph (1) of subsection a of N.J.S.2C:43-6, shall be sentenced
24 to an ordinary term of imprisonment between 15 and 30 years.

25
26 6. This act shall take effect immediately.

27 28 29 STATEMENT

30
31 In light of the exponentially greater risk of injury and damage
32 caused by crowd based destructive behavior, this omnibus bill
33 addresses certain violent crime committed during the course of riot.
34 Presently, a person is guilty of riot if he participates with four or
35 more others in a course of disorderly conduct with an unlawful
36 purpose, enumerated in the statute. This bill expands the categories
37 of unlawful purposes to include when the actor causes damage to
38 property or injury to another. Riot under these circumstances is a
39 crime of the fourth degree punishable by up to 18 months
40 imprisonment, a fine of up to \$10,000, or both.

41 Under the bill, a person commits a crime of the fourth degree if,
42 during a riot, he violates N.J.S.A.2C:33-2, Disorderly conduct, in a
43 place of public accommodation. "Place of public accommodation,
44 resort or amusement" includes any inn, tavern, road house or hotel,
45 whether for entertainment of transient guests or accommodation of
46 those seeking health, recreation or rest; any restaurant, eating
47 house, or place where food is sold for consumption on the premises;
48 any place maintained for sale of ice cream, ice and fruit

1 preparations or their derivatives, soda water or confections, or
2 where any beverages of any kind are retailed for consumption on
3 the premises; any garage, any public conveyance operated on land
4 or water, and stations and terminals thereof; any public bathhouse,
5 public boardwalk, public seashore accommodation; any theater, or
6 other place of public amusement, motion-picture house, airdrome,
7 music hall, roof garden, skating rink, amusement and recreation
8 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
9 pool parlor; any dispensary, clinic, hospital, public library,
10 kindergarten, primary and secondary school, high school, academy,
11 college and university, or any educational institution under the
12 supervision of the regents of the State of New Jersey. Under these
13 circumstances, the offense is a crime of the fourth degree.

14 The bill amends N.J.S.A.2C:33-7, Obstructing highways and
15 other public passages, to elevate the offense to a crime of the fourth
16 degree if a person, who, having no legal privilege to do so,
17 purposely or recklessly obstructs any highway or other public
18 passage in the course of committing riot or disorderly conduct.

19 The bill amends N.J.S.2C:33-9, Desecration of venerated objects,
20 to elevate the offense to a crime of the fourth degree if the
21 desecration occurs during a riot. The term desecrate is clarified to
22 include conduct such as actual destruction or the toppling of a
23 monument.

24 The bill amends N.J.S.2C:12-1, Assault. Currently, the statute
25 enumerates the circumstances when aggravated assault occurs; this
26 bill adds the additional circumstance. Under the bill, a person is
27 guilty of aggravated assault if he attempts to cause or purposely,
28 knowingly or recklessly causes bodily injury to another in the
29 course of a riot. Aggravated assault under this circumstance is a
30 crime of the third degree, punishable by up to five years
31 imprisonment, a fine of up to \$15,000, or both.

32 Additionally, paragraph (5) of subsection b. of N.J.S.A.2C:12-1
33 elevates simple assault to aggravated assault when committed
34 against certain categories of persons, including when committed
35 against a law enforcement officer acting in the performance of the
36 officer's duties while in uniform or exhibiting evidence of authority
37 or because of the officer's status as a law enforcement officer, and
38 is graded as a crime of the third degree. Under the bill, if, in the
39 course of a riot, an object is thrown at a law enforcement officer, or
40 if the law enforcement officer is struck, whether or not with an
41 object, the presumption of non-imprisonment for a first offense of a
42 crime of the third degree shall not apply, and a mandatory period of
43 six months imprisonment shall apply.

44 The bill creates the new crime of promotion of violent,
45 disorderly assembly. A person promotes violent, disorderly
46 assembly if he conspires with others as an organizer, supervisor,
47 financier or manager to commit any crime specified in chapters 11
48 through 18, 20, 33, 35, or 37 of Title 2C of the New Jersey Statutes;

1 N.J.S.2C:34-1; N.J.S.2C:39-3; N.J.S.2C:39-4; section 1 of
2 P.L.1998, c.26 (C.2C:39-4.1); N.J.S.2C:39-5; or N.J.S.2C:39-9 in
3 the course of a riot or at the site of a peaceable assembly.
4 Promotion of violent, disorderly assembly is a crime of one degree
5 higher than the most serious underlying crime referred to in
6 subsection a. of this section, except that where the underlying
7 offense is a crime of the first degree, promotion of violent,
8 disorderly assembly is a first degree crime and the defendant, upon
9 conviction, and notwithstanding the provisions of paragraph (1) of
10 subsection a of N.J.S.2C:43-6, shall be sentenced to an ordinary
11 term of imprisonment between 15 and 30 years.

12 This bill is based upon a legislation concept entitled,
13 “Combatting Violence, Disorder and Looting and Law Enforcement
14 Protection Act,” articulated in the media concerning an
15 announcement made by Florida Governor Ron DeSantis.