

ASSEMBLY, No. 383

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman HECK

1 AN ACT concerning assaults on victims of domestic violence and  
2 amending N.J.S.2C:12-1.

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

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

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

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

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

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

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

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

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

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

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

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

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

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

3 (a) Any law enforcement officer acting in the performance of his  
4 duties while in uniform or exhibiting evidence of his authority; or

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

8 (c) Any person engaged in emergency first-aid or medical services  
9 acting in the performance of his duties while in uniform or otherwise  
10 clearly identifiable as being engaged in the performance of emergency  
11 first-aid or medical services; or

12 (d) Any school board member or school administrator, teacher or  
13 other employee of a school board while clearly identifiable as being  
14 engaged in the performance of his duties or because of his status as a  
15 member or employee of a school board; or

16 (e) Any person protected from the assailant under the provisions  
17 of "the Prevention of Domestic Violence Act of 1991," P.L.1991,  
18 c.261 (C.2C:25-17 et seq.) or under the provisions of P.L.1981, c.426  
19 (C.2C:25-1 et seq.); or

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

29 Aggravated assault under subsections b. (1) and b. (6) is a crime of  
30 the second degree; under subsection b. (2) is a crime of the third  
31 degree; under subsections b. (3) and b. (4) is a crime of the fourth  
32 degree; and under subsection b. (5) is a crime of the third degree if the  
33 victim suffers bodily injury, or if the victim is known or believed to be  
34 pregnant, otherwise it is a crime of the fourth degree.

35 c. A person is guilty of assault by auto or vessel when the person  
36 drives a vehicle or vessel recklessly and causes either serious bodily  
37 injury or bodily injury to another. Assault by auto or vessel is a crime  
38 of the fourth degree if serious bodily injury results and is a disorderly  
39 persons offense if bodily injury results.

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

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

1 e. A person who commits a simple assault as defined in subsection  
2 a. of this section is guilty of a crime of the fourth degree if the person  
3 acted, at least in part, with ill will, hatred or bias toward, and with a  
4 purpose to intimidate, an individual or group of individuals because of  
5 race, color, religion, sexual orientation, or ethnicity.

6 (cf: P.1995, c.6, s.1)

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8 2. This act shall take effect immediately.

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11 STATEMENT

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13 In New Jersey in 1993, there were 66,248 reported incidents of  
14 domestic violence, a 27% increase from the 53,321 reported offenses  
15 in 1992, and women were the victims in 83% of these cases. The  
16 number of domestic violence complaints that had prior court orders  
17 issued against the offender increased from 12,051 in 1992 to 15,631  
18 in 1993, a 30% increase. The frequency is therefore more than one act  
19 of domestic violence every eight minutes.

20 Presently, when prosecutors and victims of domestic violence seek  
21 to use the criminal statutes to punish perpetrators, the structure of the  
22 assault laws create a problem. There is a gap in procedure and  
23 punishment between simple assault and aggravated assault; these  
24 offenses are distinguished essentially by the nature of the injury  
25 intended. In instances in which the gap between a simple assault and  
26 an aggravated assault was too great to tolerate, the Legislature has  
27 enacted special categories of victims, and has enhanced simple assault  
28 based on the circumstances regardless of the injuries.

29 This bill expands the categories of persons protected by amending  
30 N.J.S.A.2C:12-1 to provide that a simple assault committed against a  
31 person protected from the assailant by the "Prevention of Domestic  
32 Violence Act," shall be upgraded to aggravated assault.

33 Under the bill, an aggravated assault committed against this  
34 category of persons is a crime of the third degree if the victim suffers  
35 bodily injury, or if the victim is known or believed to be pregnant,  
36 otherwise it is a crime of the fourth degree.

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42 Upgrades simple assault committed against domestic violence victims  
to aggravated assault.