

ASSEMBLY, No. 395

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman HECK and Assemblyman GARRETT

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

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

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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 assault
8 if he:

9 (1) Attempts to cause or purposely, knowingly or recklessly causes
10 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 imminent
14 serious bodily injury.

15 **[Simple]** Except as provided in subsections d., e. and f. of this
16 section, simple assault is a disorderly persons offense unless
17 committed in a fight or scuffle entered into by mutual consent, in
18 which case it is a 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) and (2)
2 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 (6) Causes bodily injury to another person while fleeing or
17 attempting to elude a law enforcement officer in violation of
18 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
19 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
20 other provision of law to the contrary, a person shall be strictly liable
21 for a violation of this subsection upon proof of a 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 which resulted in serious
24 bodily injury to another person.

25 Aggravated assault under subsection b. (1) and b. (6) is a crime of
26 the second degree; under subsection b. (2) [and b. (7)] is a crime of the
27 third degree; under subsection b. (3) and b. (4) is a crime of the fourth
28 degree; and under subsection b. (5) is a crime of the third degree if the
29 victim suffers bodily injury, otherwise it is a crime of the fourth
30 degree.

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

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

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

43 e. A person who commits a simple assault as defined in subsection
44 a. of this section is guilty of a crime of the fourth degree if the person
45 acted, at least in part, with ill will, hatred or bias toward, and with a
46 purpose to intimidate, an individual or group of individuals because of

1 race, color, religion, sexual orientation, or ethnicity.

2 f. A person who commits a simple assault as defined in subsection
3 a. of this section is guilty of a crime of the fourth degree if the victim
4 suffers severe bodily injury, disfigurement, a fractured bone, disease,
5 incapacitating mental anguish or chronic pain.

6 (cf: P.L.1993, c.219, s.2)

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8 2. This act shall take effect immediately.

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STATEMENT

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13 Currently, a person who purposely, knowingly or recklessly causes
14 bodily injury to another is guilty of the disorderly persons offense of
15 assault. A disorderly persons offense is punishable by a term of
16 imprisonment of up to six months, a fine of up to \$1,000, or both.
17 The statute defines "bodily injury" as "physical pain, illness or any
18 impairment of physical condition."

19 Current law also provides that a person will be guilty of the second
20 degree crime of aggravated assault if he inflicts "serious bodily injury"
21 upon another. The statute defines "serious bodily injury" as "bodily
22 injury which creates a substantial risk of death or which causes
23 serious, permanent disfigurement, or protracted loss or impairment of
24 the function of any bodily member or organ." Thus, there appears to
25 be a gap in the law between those assaults which are prosecuted as
26 disorderly persons offenses, and those assaults which are prosecuted
27 as crimes of the second degree. This bill would fill the gap to provide
28 that an assault which results in injuries that are less severe than
29 "serious bodily injuries" will constitute a crime of the fourth degree.
30 The new category would include assaults causing the victim to suffer
31 severe bodily injury, disfigurement, a fractured bone, disease,
32 incapacitating mental anguish or chronic pain.

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38 Makes assault a fourth degree crime if defendant purposely, knowingly
or recklessly causes certain bodily injury.