

SENATE SUBSTITUTE FOR
SENATE, Nos. 88 and 559

STATE OF NEW JERSEY

ADOPTED MAY 22, 1997

Sponsored by Senators LIPMAN, BENNETT, CAFIERO,
Matheussen, Inverso, Sinagra, Bubba and Kosco

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
11 causes 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
15 imminent 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

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 actor believes it to be loaded; or

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

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

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

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

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

17 (e) Any employee of the Division of Youth and Family Services
18 while clearly identifiable as being engaged in the performance of his
19 duties or because of his status as an employee of the division; or

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

24 (g) Any person eligible for protection from the assailant under the
25 provisions of the "Prevention of Domestic Violence Act of 1991,"
26 P.L.1991, c.261 (C.2C:25-17 et seq.) or under the provisions of
27 P.L.1981, c.426 (C.2C:25-1 et seq.); or

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

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

41 Aggravated assault under subsections b. (1) and b. (6) is a crime
42 of the second degree; under subsections b. (2) and b. (7) is a crime of
43 the third degree; under subsections b. (3) and b. (4) is a crime of the
44 fourth degree; and under subsection b. (5) is a crime of the third
45 degree if the victim suffers bodily injury, or if the victim is known or

1 believed to be pregnant, otherwise it is a crime of the fourth degree.

2 c. A person is guilty of assault by auto or vessel when the person
3 drives a vehicle or vessel recklessly and causes either serious bodily
4 injury or bodily injury to another. Assault by auto or vessel is a crime
5 of the fourth degree if serious bodily injury results and is a disorderly
6 persons offense if bodily injury results.

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

9 d. A person who is employed by a facility as defined in section 2
10 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 an
12 institutionalized elderly person as defined in section 2 of P.L.1977,
13 c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

14 e. A person who commits a simple assault as defined in subsection
15 a. of this section is guilty of a crime of the fourth degree if the person
16 acted with a purpose to intimidate an individual or group of individuals
17 because of race, color, religion, gender, handicap, sexual orientation,
18 or ethnicity.
19 (cf: P.L.1997, c.42)

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21 2. This act shall take effect immediately.

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STATEMENT

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

35 This Senate floor substitute would expand the categories of
36 persons protected by amending N.J.S.2C:12-1 to provide that a simple
37 assault committed against a person eligible for protection from the
38 assailant by the "Prevention of Domestic Violence Act of 1991," shall
39 be upgraded to aggravated assault.

40 Under the provisions of the substitute, an aggravated assault
41 committed against this category of persons is a crime of the third
42 degree if the victim suffers bodily injury, or if the victim is known or
43 believed to be pregnant; otherwise it is a crime of the fourth degree.

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3 Upgrades simple assault committed against domestic violence victims

4 to aggravated assault.