

SENATE, No. 4028

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED NOVEMBER 4, 2021

Sponsored by:

Senator ROBERT W. SINGER

District 30 (Monmouth and Ocean)

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Broadens offenses of 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 revising various
2 parts of the statutory law and supplementing Title 2C of the New
3 Jersey Statutes.

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

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

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

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

14 (2) With purpose to prevent or coerce official action; **【or】**

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

17 (4) When he, with six or more others, causes damage to property
18 or injury to another person.

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

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

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

31

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

33 2C:33-2. Disorderly Conduct. a. Improper behavior. A
34 person is guilty of a petty disorderly persons offense, if with
35 purpose to cause public inconvenience, annoyance or alarm, or
36 recklessly creating a risk thereof he

37 (1) Engages in fighting or threatening, or in violent or
38 tumultuous behavior; or

39 (2) Creates a hazardous or physically dangerous condition by
40 any act which serves no legitimate purpose of the actor.

41 b. Offensive language. A person is guilty of a petty disorderly
42 persons offense if, in a public place, and with purpose to offend the
43 sensibilities of a hearer or in reckless disregard of the probability of
44 so doing, he addresses unreasonably loud and offensively coarse or
45 abusive language, given the circumstances of the person present and
46 the setting of the utterance, to any person present.

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 "Public" means affecting or likely to affect persons in a place to
2 which the public or a substantial group has access; among the
3 places included are highways, transport facilities, schools, prisons,
4 apartment houses, places of business or amusement, or any
5 neighborhood.

6 c. A person is guilty of a crime of the fourth degree if during a
7 riot he commits a violation of this section in a place of public
8 accommodation, resort or amusement.

9 "Place of public accommodation, resort or amusement" shall
10 have the same meaning as in R.S.10:1-5.

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

12
13 3. N.J.S.2C:33-7 is amended to read as follows:

14 2C:33-7. Obstructing Highways and Other Public Passages. a.
15 A person, who, having no legal privilege to do so, purposely or
16 recklessly obstructs any highway or other public passage whether
17 alone or with others, commits a petty disorderly persons offense. A
18 person who violates this section in a course of riot as defined in
19 N.J.S.2C:33-1 or disorderly conduct as defined in subsection a. of
20 N.J.S.2C:33-2, commits a crime of the fourth degree. "Obstructs"
21 means renders impassable without unreasonable inconvenience or
22 hazard. No person shall be deemed guilty of recklessly obstructing
23 in violation of this subsection solely because of a gathering of
24 persons to hear him speak or otherwise communicate, or solely
25 because of being a member of such a gathering.

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

29 (1) To prevent obstruction of a highway or other public passage;
30 or

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

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

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

38
39 4. N.J.S.2C:33-9 is amended to read as follows:

40 2C:33-9. Desecration of venerated objects. A person commits a
41 disorderly persons offense if he purposely desecrates any public
42 monument, insignia, symbol, or structure, or place of worship or
43 burial. It is a crime of the fourth degree if the desecration occurs
44 during the course of a riot. "Desecrate" means defacing, damaging,
45 destroying, toppling or polluting.

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

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

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

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

6 (2) Negligently causes bodily injury to another with a deadly
7 weapon; or

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

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

13 b. Aggravated assault. A person is guilty of aggravated assault
14 if the person:

15 (1) Attempts to cause serious bodily injury to another, or causes
16 injury purposely or knowingly or under circumstances manifesting
17 extreme indifference to the value of human life recklessly causes
18 such injury; or

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

21 (3) Recklessly causes bodily injury to another with a deadly
22 weapon; or

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

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

29 (a) Any law enforcement officer acting in the performance of
30 the officer's duties while in uniform or exhibiting evidence of
31 authority or because of the officer's status as a law enforcement
32 officer; or

33 (b) Any paid or volunteer firefighter acting in the performance
34 of the firefighter's duties while in uniform or otherwise clearly
35 identifiable as being engaged in the performance of the duties of a
36 firefighter; or

37 (c) Any person engaged in emergency first-aid or medical
38 services acting in the performance of the person's duties while in
39 uniform or otherwise clearly identifiable as being engaged in the
40 performance of emergency first-aid or medical services; or

41 (d) Any school board member, school administrator, teacher,
42 school bus driver, or other employee of a public or nonpublic
43 school or school board while clearly identifiable as being engaged
44 in the performance of the person's duties or because of the person's
45 status as a member or employee of a public or nonpublic school or
46 school board or any school bus driver employed by an operator
47 under contract to a public or nonpublic school or school board while

1 person's duties or because of the person's status as a school bus
2 driver; or

3 (e) Any employee of the Division of Child Protection and
4 Permanency while clearly identifiable as being engaged in the
5 performance of the employee's duties or because of the status as an
6 employee of the division; or

7 (f) Any justice of the Supreme Court, judge of the Superior
8 Court, judge of the Tax Court or municipal judge while clearly
9 identifiable as being engaged in the performance of judicial duties
10 or because of the status as a member of the judiciary; or

11 (g) Any operator of a motorbus or the operator's supervisor or
12 any employee of a rail passenger service while clearly identifiable
13 as being engaged in the performance of the person's duties or
14 because of the status as an operator of a motorbus or as the
15 operator's supervisor or as an employee of a rail passenger service;
16 or

17 (h) Any Department of Corrections employee, county
18 correctional police officer, juvenile correctional police officer, State
19 juvenile facility employee, juvenile detention staff member,
20 juvenile detention officer, probation officer or any sheriff,
21 undersheriff, or sheriff's officer acting in the performance of the
22 person's duties while in uniform or exhibiting evidence of the
23 person's authority or because of the status as a Department of
24 Corrections employee, county correctional police officer, juvenile
25 correctional police officer, State juvenile facility employee, juvenile
26 detention staff member, juvenile detention officer, probation
27 officer, sheriff, undersheriff, or sheriff's officer; or

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

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

45 (k) Any direct care worker at a State or county psychiatric
46 hospital or State developmental center or veterans' memorial home,
47 while clearly identifiable as being engaged in the duties of

1 providing direct patient care or practicing the health care
2 profession, provided that the actor is not a patient or resident at the
3 facility who is classified by the facility as having a mental illness or
4 developmental disability; or

5 (6) Causes bodily injury to another person while fleeing or
6 attempting to elude a law enforcement officer in violation of
7 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
8 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
9 other provision of law to the contrary, a person shall be strictly
10 liable for a violation of this paragraph upon proof of a violation of
11 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
12 violation of subsection c. of N.J.S.2C:20-10 which resulted in
13 bodily injury to another person; or

14 (7) Attempts to cause significant bodily injury to another or
15 causes significant bodily injury purposely or knowingly or, under
16 circumstances manifesting extreme indifference to the value of
17 human life recklessly causes such significant bodily injury; or

18 (8) Causes bodily injury by knowingly or purposely starting a
19 fire or causing an explosion in violation of N.J.S.2C:17-1 which
20 results in bodily injury to any emergency services personnel
21 involved in fire suppression activities, rendering emergency
22 medical services resulting from the fire or explosion or rescue
23 operations, or rendering any necessary assistance at the scene of the
24 fire or explosion, including any bodily injury sustained while
25 responding to the scene of a reported fire or explosion. For
26 purposes of this paragraph, "emergency services personnel" shall
27 include, but not be limited to, any paid or volunteer firefighter, any
28 person engaged in emergency first-aid or medical services and any
29 law enforcement officer. Notwithstanding any other provision of
30 law to the contrary, a person shall be strictly liable for a violation of
31 this paragraph upon proof of a violation of N.J.S.2C:17-1 which
32 resulted in bodily injury to any emergency services personnel; or

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

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

42 (11) Uses or activates a laser sighting system or device, or a
43 system or device which, in the manner used, would cause a
44 reasonable person to believe that it is a laser sighting system or
45 device, against a law enforcement officer acting in the performance
46 of the officer's duties while in uniform or exhibiting evidence of the
47 officer's authority. As used in this paragraph, "laser sighting system

1 or device" means any system or device that is integrated with or
2 affixed to a firearm and emits a laser light beam that is used to
3 assist in the sight alignment or aiming of the firearm; or

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

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

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

21 Aggravated assault under paragraphs (1) and (6) of subsection b.
22 of this section is a crime of the second degree; under paragraphs
23 (2), (7), (9), and (10) of subsection b. of this section is a crime of
24 the third degree; under paragraphs (3) and (4) of subsection b. of
25 this section is a crime of the fourth degree; and under paragraph (5)
26 of subsection b. of this section is a crime of the third degree if the
27 victim suffers bodily injury, or if, during the course of a riot, an
28 object is thrown at or strikes a law enforcement officer, described in
29 subparagraph (a) of paragraph (5) of this subsection, or the law
30 enforcement officer is otherwise struck, the presumption of non-
31 imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first
32 offense of a crime of the third degree shall not apply, and a
33 mandatory period of six months imprisonment shall apply,
34 otherwise it is a crime of the fourth degree. Aggravated assault
35 under paragraph (8) of subsection b. of this section is a crime of the
36 third degree if the victim suffers bodily injury; if the victim suffers
37 significant bodily injury or serious bodily injury it is a crime of the
38 second degree. Aggravated assault under paragraph (11) of
39 subsection b. of this section is a crime of the third degree.
40 Aggravated assault under paragraph (12) or (13) of subsection b. of
41 this section is a crime of the third degree but the presumption of
42 non-imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a
43 first offense of a crime of the third degree shall not apply.
44 Aggravated assault under paragraph (14) of this subsection is a
45 crime of the third degree.

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

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

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

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

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

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

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

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

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

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

44 (4) Assault by auto or vessel is a crime of the third degree if the
45 person purposely drives a vehicle in an aggressive manner directed
46 at another vehicle and serious bodily injury results and is a crime of
47 the fourth degree if the person purposely drives a vehicle in an

1 aggressive manner directed at another vehicle and bodily injury
2 results. For purposes of this paragraph, "driving a vehicle in an
3 aggressive manner" shall include, but is not limited to,
4 unexpectedly altering the speed of the vehicle, making improper or
5 erratic traffic lane changes, disregarding traffic control devices,
6 failing to yield the right of way, or following another vehicle too
7 closely.

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

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

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

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

37 (cf: P.L.2019, c.219, s.3)

38
39 6. (New section) Crime of promotion of violent, disorderly
40 assembly. a. A person promotes violent, disorderly assembly if he
41 conspires with others as an organizer, supervisor, financier or
42 manager to commit any crime specified in chapters 11 through 18,
43 20, 33, 35, or 37 of Title 2C of the New Jersey Statutes;
44 N.J.S.2C:34-1; N.J.S.2C:39-3; N.J.S.2C:39-4; section 1 of
45 P.L.1998, c.26 (C.2C:39-4.1); N.J.S.2C:39-5; or N.J.S.2C:39-9 in
46 the course of a riot or at the site of a peaceable assembly.

1 primary and secondary school, high school, academy, college and
2 university, or any educational institution under the supervision of
3 the regents of the State of New Jersey. Under these circumstances,
4 the offense is a crime of the fourth degree.

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

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

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

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

35 The bill creates the new crime of promotion of violent,
36 disorderly assembly. A person promotes violent, disorderly
37 assembly if he conspires with others as an organizer, supervisor,
38 financier or manager to commit any crime specified in chapters 11
39 through 18, 20, 33, 35, or 37 of Title 2C of the New Jersey Statutes;
40 N.J.S.2C:34-1; N.J.S.2C:39-3; N.J.S.2C:39-4; section 1 of
41 P.L.1998, c.26 (C.2C:39-4.1); N.J.S.2C:39-5; or N.J.S.2C:39-9 in
42 the course of a riot or at the site of a peaceable assembly.
43 Promotion of violent, disorderly assembly is a crime of one degree
44 higher than the most serious underlying crime referred to in
45 subsection a. of this section, except that where the underlying
46 offense is a crime of the first degree, promotion of violent,
47 disorderly assembly is a first degree crime and the defendant, upon

1 conviction, and notwithstanding the provisions of paragraph (1) of
2 subsection a of N.J.S.2C:43-6, shall be sentenced to an ordinary
3 term of imprisonment between 15 and 30 years.

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