Sponsored by:
Senator JOSEPH PENNACCHIO
District 26 (Essex, Morris and Passaic)
Senator ROBERT W. SINGER
District 30 (Monmouth and Ocean)

Co-Sponsored by:
Senator Holzapfel

SYNOPSIS
Broadens riot; enhances penalties for certain crimes committed during riot; creates new crimes of mob intimidation and cyber-intimidation by publication; establishes duty in municipality to permit law enforcement to respond appropriately.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning riot and amending and supplementing various sections of law.

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

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

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

   (1) With purpose to commit or facilitate the commission of a crime;
   (2) With purpose to prevent or coerce official action; or
   (3) When he or any other participant, known to him, uses or plans to use a firearm or other deadly weapon.

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

A person commits a riot if he participates in a violent public disturbance involving an assembly of three or more persons, acting with a common intent to assist each other in violent and disorderly conduct, resulting in:

   (1) Injury to another person;
   (2) Damage to property; or
   (3) Imminent danger of injury to another person or damage to property.

A person who commits a riot when he or any other participant, known to him, uses or plans to use a firearm or other deadly weapon is guilty of a crime of the third degree. Otherwise riot is a crime of the fourth degree.

b. A person commits aggravated riot if, in the course of committing a riot, he:

   (1) Participates with 25 or more other persons;
   (2) Causes serious bodily injury to a person not participating in the riot;
   (3) Causes property damage in excess of $5,000;
   (4) Displays, uses, threatens to use, or attempts to use a deadly weapon; or
   (5) By force, or threat of force, endangers the safe movement of a vehicle traveling on a public street, highway, or road.

A person who commits aggravating riot is guilty of a crime of the second degree.

c. A person commits inciting a riot if he willfully incites another person to participate in a riot, resulting in a riot or imminent

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.
danger of a riot. A person who commits inciting a riot is guilty of a crime of the third degree.

d. A person commits aggravated inciting a riot if he:

(1) Incites a riot resulting in serious bodily harm to another person not participating in the riot;

(2) Incites a riot resulting in property damage in excess of $5,000; or

(3) Supplies a deadly weapon to another person or teaches another person to prepare a deadly weapon with intent that the deadly weapon be used in a riot for an unlawful purpose.

A person who commits aggravated inciting a riot is guilty of a crime of the second degree.

A person arrested for a violation of subsection a. through d. of this section shall be held in custody until brought before the court for a pretrial detention hearing.

Subsection a. through subsection d. of this section shall not be construed to prohibit constitutionally protected activity such as a peaceful protest.

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

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

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

2C:33-7. a. [A] It shall be unlawful for a person, [who,]

having no legal privilege to do so, to purposely or recklessly obstruct any highway or other public passage whether alone or with others[, commits a petty disorderly persons offense].

"Obstructs" means renders impassable without unreasonable inconvenience or hazard and shall include standing on or remaining in the street, highway, or road. No person shall be deemed guilty of recklessly obstructing in violation of this subsection solely because of a gathering of persons to hear him speak or otherwise communicate, or solely because of being a member of such a gathering.

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

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

or

(2) To maintain public safety by dispersing those gathered in dangerous proximity to a fire or other hazard.
An order to move, addressed to a person whose speech or other lawful behavior attracts an obstructing audience, shall not be deemed reasonable if the obstruction can be readily remedied by police control of the size or location of the gathering.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Any school board member, school administrator, teacher, school bus driver, or other employee of a public or nonpublic
school or school board while clearly identifiable as being engaged
in the performance of the person's duties or because of the person's
status as a member or employee of a public or nonpublic school or
school board or any school bus driver employed by an operator
under contract to a public or nonpublic school or school board while
clearly identifiable as being engaged in the performance of the
person's duties or because of the person's status as a school bus
driver; or
(e) Any employee of the Division of Child Protection and
Permanency while clearly identifiable as being engaged in the
performance of the employee's duties or because of the status as an
employee of the division; or
(f) Any justice of the Supreme Court, judge of the Superior
Court, judge of the Tax Court or municipal judge while clearly
identifiable as being engaged in the performance of judicial duties
or because of the status as a member of the judiciary; or
(g) Any operator of a motorbus or the operator's supervisor or
any employee of a rail passenger service while clearly identifiable
as being engaged in the performance of the person's duties or
because of the status as an operator of a motorbus or as the
operator's supervisor or as an employee of a rail passenger service;
or
(h) Any Department of Corrections employee, county
correctional police officer, juvenile correctional police officer, State
juvenile facility employee, juvenile detention staff member,
juvenile detention officer, probation officer or any sheriff,
undersheriff, or sheriff's officer acting in the performance of the
person's duties while in uniform or exhibiting evidence of the
person's authority or because of the status as a Department of
Corrections employee, county correctional police officer, juvenile
correctional police officer, State juvenile facility employee, juvenile
detention staff member, juvenile detention officer, probation
officer, sheriff, undersheriff, or sheriff's officer; or
(i) Any employee, including any person employed under
contract, of a utility company as defined in section 2 of P.L.1971,
c.224 (C.2A:42-86) or a cable television company subject to the
provisions of the "Cable Television Act," P.L.1972, c.186
(C.48:5A-1 et seq.) while clearly identifiable as being engaged in
the performance of the employee's duties in regard to connecting,
disconnecting, or repairing or attempting to connect, disconnect, or
repair any gas, electric, or water utility, or cable television or
telecommunication service; or
(j) Any health care worker employed by a licensed health care
facility to provide direct patient care, any health care professional
licensed or otherwise authorized pursuant to Title 26 or Title 45 of
the Revised Statutes to practice a health care profession, except a
direct care worker at a State or county psychiatric hospital or State
developmental center or veterans' memorial home, while clearly
identifiable as being engaged in the duties of providing direct
patient care or practicing the health care profession; or
(k) Any direct care worker at a State or county psychiatric
hospital or State developmental center or veterans’ memorial home,
while clearly identifiable as being engaged in the duties of
providing direct patient care or practicing the health care
profession, provided that the actor is not a patient or resident at the
facility who is classified by the facility as having a mental illness or
developmental disability; or
(6) Causes bodily injury to another person while fleeing or
attempting to elude a law enforcement officer in violation of
subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
other provision of law to the contrary, a person shall be strictly
liable for a violation of this paragraph upon proof of a violation of
subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
violation of subsection c. of N.J.S.2C:20-10 which resulted in
bodily injury to another person; or
(7) Attempts to cause significant bodily injury to another or
causes significant bodily injury purposely or knowingly or, under
circumstances manifesting extreme indifference to the value of
human life recklessly causes such significant bodily injury; or
(8) Causes bodily injury by knowingly or purposely starting a
fire or causing an explosion in violation of N.J.S.2C:17-1 which
results in bodily injury to any emergency services personnel
involved in fire suppression activities, rendering emergency
medical services resulting from the fire or explosion or rescue
operations, or rendering any necessary assistance at the scene of the
fire or explosion, including any bodily injury sustained while
responding to the scene of a reported fire or explosion. For
purposes of this paragraph, “emergency services personnel” shall
include, but not be limited to, any paid or volunteer firefighter, any
person engaged in emergency first-aid or medical services and any
law enforcement officer. Notwithstanding any other provision of
law to the contrary, a person shall be strictly liable for a violation of
this paragraph upon proof of a violation of N.J.S.2C:17-1 which
resulted in bodily injury to any emergency services personnel; or
(9) Knowingly, under circumstances manifesting extreme
indifference to the value of human life, points or displays a firearm,
as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of
a law enforcement officer; or
(10) Knowingly points, displays or uses an imitation firearm, as
defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a
law enforcement officer with the purpose to intimidate, threaten, or
attempt to put the officer in fear of bodily injury or for any unlawful
purpose; or
(11) Uses or activates a laser sighting system or device, or a
system or device which, in the manner used, would cause a
reasonable person to believe that it is a laser sighting system or
device, against a law enforcement officer acting in the performance
of the officer’s duties while in uniform or exhibiting evidence of the
officer’s authority. As used in this paragraph, "laser sighting system
or device" means any system or device that is integrated with or
affixed to a firearm and emits a laser light beam that is used to
assist in the sight alignment or aiming of the firearm; or
(12) Attempts to cause significant bodily injury or causes
significant bodily injury purposely or knowingly or, under
circumstances manifesting extreme indifference to the value of
human life, recklessly causes significant bodily injury to a person
who, with respect to the actor, meets the definition of a victim of
domestic violence, as defined in subsection d. of section 3 of
P.L.1991, c.261 (C.2C:25-19); or
(13) Knowingly or, under circumstances manifesting extreme
indifference to the value of human life, recklessly obstructs the
breathing or blood circulation of a person who, with respect to the
actor, meets the definition of a victim of domestic violence, as
defined in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19), by applying pressure on the throat or neck or blocking the nose
or mouth of such person, thereby causing or attempting to cause
bodily injury; or
(14) Attempts to cause or purposely, knowingly or recklessly
causes bodily injury to another in the course of a riot.
Aggravated assault under paragraphs (1) and (6) of subsection b.
of this section is a crime of the second degree; under paragraphs
(2), (7), (9), and (10) of subsection b. of this section is a crime of
the third degree; under paragraphs (3) and (4) of subsection b. of
this section is a crime of the fourth degree; and under paragraph (5)
of subsection b. of this section is a crime of the third degree if the
victim suffers bodily injury, or if, during the course of a riot or
aggravated riot a person enumerated in subparagraph (a), (b) or (c)
of paragraph (5) of subsection b. is struck with or an object is
thrown at the victim, in which case the presumption of non-
imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first
offense of a crime of the third degree shall not apply, and a
mandatory period of six months imprisonment shall apply,
otherwise it is a crime of the fourth degree. Aggravated assault
under paragraph (8) of subsection b. of this section is a crime of the
third degree if the victim suffers bodily injury; if the victim suffers
significant bodily injury or serious bodily injury it is a crime of the
second degree. Aggravated assault under paragraph (11) of
subsection b. of this section is a crime of the third degree. Aggravated assault under paragraph (12) of subsection b. of this
section is a crime of the third degree but the presumption of non-
imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first
offense of a crime of the third degree shall not apply. Aggravated
assault under paragraph (13) of subsection b. of this section is a
crime of the second degree. **Aggravated assault under paragraph**
(14) of subsection b. of this section is a crime of the third degree.

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

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

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

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

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

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

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

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

It shall be no defense to a prosecution for a violation of
subparagraph (a) or (b) of paragraph (3) of this subsection that the
defendant was unaware that the prohibited conduct took place while
on or within 1,000 feet of any school property or while driving
through a school crossing. Nor shall it be a defense to a prosecution
under subparagraph (a) or (b) of paragraph (3) of this subsection
that no juveniles were present on the school property or crossing
zone at the time of the offense or that the school was not in session.
(4) Assault by auto or vessel is a crime of the third degree if the person purposely drives a vehicle in an aggressive manner directed at another vehicle and serious bodily injury results and is a crime of the fourth degree if the person purposely drives a vehicle in an aggressive manner directed at another vehicle and bodily injury results. For purposes of this paragraph, "driving a vehicle in an aggressive manner" shall include, but is not limited to, unexpectedly altering the speed of the vehicle, making improper or erratic traffic lane changes, disregarding traffic control devices, failing to yield the right of way, or following another vehicle too closely.

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

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

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

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

(cf:P.L.2021, c.172)

4. N.J.S.2C:17-3 is amended to read as follows:

2C:17-3. a. Offense defined. A person is guilty of criminal mischief if he:

(1) Purposely or knowingly damages tangible property of another or damages tangible property of another recklessly or
negligently in the employment of fire, explosives or other
dangerous means listed in subsection a. of N.J.S.2C:17-2; or

(2) Purposely, knowingly or recklessly tampers with tangible
property of another so as to endanger person or property, including
the damaging or destroying of a rental premises by a tenant in
retaliation for institution of eviction proceedings; or

(3) Purposely, knowingly or recklessly, defaces, injures, or
otherwise damages by any means a memorial or historic property,
as defined in subsection d., and the value of the damage to the
memorial or historic property is greater than $200.00.

b. Grading.  (1) Criminal mischief is a crime of the third
degree if the actor purposely or knowingly, or recklessly causes
pecuniary loss of $2,000.00 or more, or, if the pecuniary loss is to a
memorial or historic property, and the value of the damage $200.00
or more.

(2) Criminal mischief is a crime of the fourth degree if the actor
causes pecuniary loss in excess of $500.00 but less than $2000.00.
It is a disorderly persons offense if the actor causes pecuniary loss
of $500.00 or less.

(3) Criminal mischief is a crime of the third degree if the actor
damages, defaces, eradicates, alters, receives, releases or causes the
loss of any research property used by the research facility, or
otherwise causes physical disruption to the functioning of the
research facility. The term "physical disruption" does not include
any lawful activity that results from public, governmental, or
research facility employee reaction to the disclosure of information
about the research facility.

(4) Criminal mischief is a crime of the fourth degree if the actor
damages, removes or impairs the operation of any device, including,
but not limited to, a sign, signal, light or other equipment, which
serves to regulate or ensure the safety of air traffic at any airport,
landing field, landing strip, heliport, helistop or any other aviation
facility; however, if the damage, removal or impediment of the
device recklessly causes bodily injury or damage to property, the
actor is guilty of a crime of the third degree, or if it recklessly
causes a death, the actor is guilty of a crime of the second degree.

(5) Criminal mischief is a crime of the fourth degree if the actor
interferes or tampers with any airport, landing field, landing strip,
heliport, helistop or any other aviation facility; however if the
interference or tampering with the airport, landing field, landing
strip, heliport, helistop or other aviation facility recklessly causes
bodily injury or damage to property, the actor is guilty of a crime of
the third degree, or if it recklessly causes a death, the actor is guilty
of a crime of the second degree.

(6) Criminal mischief is a crime of the third degree if the actor
tamper with a grave, crypt, mausoleum or other site where human
remains are stored or interred, with the purpose to desecrate,
destroy or steal such human remains or any part thereof.
(7) Criminal mischief is a crime of the third degree if the actor purposely or knowingly causes a substantial interruption or impairment of public communication, transportation, supply of water, oil, gas or power, or other public service. Criminal mischief is a crime of the second degree if the substantial interruption or impairment recklessly causes death.

(8) Criminal mischief is a crime of the fourth degree if the actor purposely or knowingly breaks, digs up, obstructs or otherwise tampers with any pipes or mains for conducting gas, oil or water, or any works erected for supplying buildings with gas, oil or water, or any appurtenances or appendages therewith connected, or injures, cuts, breaks down, destroys or otherwise tampers with any electric light wires, poles or appurtenances, or any telephone, telecommunications, cable television or telegraph wires, lines, cable or appurtenances.

c. (1) [A] Except as provided in paragraph (2) of this subsection, a person convicted of an offense of criminal mischief that involves an act of graffiti may, in addition to any other penalty imposed by the court, be required to pay to the owner of the damaged property monetary restitution in the amount of the pecuniary damage caused by the act of graffiti and to perform community service, which shall include removing the graffiti from the property, if appropriate. If community service is ordered, it shall be for either not less than 20 days or not less than the number of days necessary to remove the graffiti from the property.

(2) A court shall order any person convicted of violating paragraph (3) of subsection a. to pay restitution, which shall include the full cost of repair or replacement of such memorial or historic property.

d. As used in this section:

"Act of graffiti" means the drawing, painting or making of any mark or inscription on public or private real or personal property without the permission of the owner.

“Historic property” means any building, structure, site, or object that has been officially designated or approved for inclusion, or which meets the criteria for inclusion, in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) as a historic building, historic structure, historic site, or historic object through a federal, State, or local designation program.

“Memorial” means a plaque, statue, marker, flag, banner, cenotaph, religious symbol, painting, seal, tombstone, structure name, or display that is constructed and located with the intent of being permanently displayed or perpetually maintained; is dedicated to a historical person, an entity, an event, or a series of events; and honors or recounts the military service of any past or present United States Armed Forces military personnel, or the past or present
public service of a resident of the geographical area comprising the State or the United States.

e. A person convicted of an offense of criminal mischief that involves the damaging or destroying of a rental premises by a tenant in retaliation for institution of eviction proceedings, may, in addition to any other penalty imposed by the court, be required to pay to the owner of the property monetary restitution in the amount of the pecuniary damage caused by the damage or destruction. 
(cf: P.L.2014, c.69, s.2)

5. N.J.S.2C:18-2 is amended to read as follows:
2C:18-2. Burglary. a. Burglary defined. A person is guilty of burglary if, with purpose to commit an offense therein or thereon he:
   (1) Enters a research facility, structure, or a separately secured or occupied portion thereof unless the structure was at the time open to the public or the actor is licensed or privileged to enter;
   (2) Surreptitiously remains in a research facility, structure, or a separately secured or occupied portion thereof knowing that he is not licensed or privileged to do so; or
   (3) Trespasses in or upon utility company property where public notice prohibiting trespass is given by conspicuous posting, or fencing or other enclosure manifestly designed to exclude intruders.
   b. Grading. Burglary is a crime of the second degree if in the course of committing the offense, the actor:
      (1) Purposely, knowingly or recklessly inflicts, attempts to inflict or threatens to inflict bodily injury on anyone; [or]
      (2) Is armed with or displays what appear to be explosives or a deadly weapon; or
      (3) Is committed during a riot or an aggravated riot and the perpetration of the burglary is facilitated by conditions arising from the riot.
   Otherwise burglary is a crime of the third degree. An act shall be deemed “in the course of committing” an offense if it occurs in an attempt to commit an offense or in immediate flight after the attempt or commission. As used in this section, “conditions arising from the riot” means civil unrest, power outages, curfews, or a reduction in the presence of or response time for first responders or homeland security personnel. A person arrested for committing a burglary during a riot or aggravated riot may not be released until the person appears before a judge at a pretrial detention hearing. 
(cf: P.L.2009, c.283, s.2)

6. N.J.S.2C:20-2 is amended to read as follows:
2C:20-2. a. Consolidation of Theft and Computer Criminal Activity Offenses. Conduct denominated theft or computer criminal activity in this chapter constitutes a single offense, but each episode or transaction may be the subject of a separate
prosecution and conviction. A charge of theft or computer criminal activity may be supported by evidence that it was committed in any manner that would be theft or computer criminal activity under this chapter, notwithstanding the specification of a different manner in the indictment or accusation, subject only to the power of the court to ensure fair trial by granting a bill of particulars, discovery, a continuance, or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

b. Grading of theft offenses.

(1) Theft constitutes a crime of the second degree if:

(a) The amount involved is $75,000.00 or more;
(b) The property is taken by extortion;
(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the quantity is in excess of one kilogram;
(d) The property stolen is a person’s benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person’s health care and the amount involved is $75,000.00 or more;
(e) The property stolen is human remains or any part thereof; except that, if the human remains are stolen by deception or falsification of a document by which a gift of all or part of a human body may be made pursuant to P.L.2008, c.50 (C.26:6-77 et al.), the theft constitutes a crime of the first degree; [or]
(f) It is in breach of an obligation by a person in his capacity as a fiduciary and the amount involved is $50,000.00 or more;
(g) The property stolen is law enforcement equipment, valued at $300 or more, that is taken from an authorized emergency vehicle, as defined in R.S.39:1-1. However, if the property is stolen during a riot or an aggravated riot prohibited under N.J.S.2C:33-1 and the perpetration of the theft is facilitated by conditions arising from the riot; the theft is committed after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the theft is a crime of the second degree.

As used in this paragraph, the term “emergency medical equipment” means mechanical or electronic apparatus used to provide emergency services and care or to treat medical emergencies.

“Law enforcement equipment” means any property, device, or apparatus used by any law enforcement officer as defined in section 3 of P.L.1993, c. 220 (C.52:17B-161) in the officer’s official business.

“Conditions arising from the riot” means civil unrest, power outages, curfews, or a reduction in the presence of or response time for first responders or homeland security personnel.
“Conditions arising from the emergency” means civil unrest, power outages, curfews, voluntary or mandatory evacuations, or a reduction in the presence of or response time for first responders or homeland security personnel.

A person arrested for committing a theft during a riot or an aggravated riot may not be released until the person appears before a committing magistrate at a pretrial detention hearing.

(2) Theft constitutes a crime of the third degree if:

(a) The amount involved exceeds $500.00 but is less than $75,000.00;
(b) The property stolen is a firearm, motor vehicle, vessel, boat, horse, domestic companion animal or airplane;
(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the amount involved is less than $75,000.00 or is undetermined and the quantity is one kilogram or less;
(d) It is from the person of the victim;
(e) It is in breach of an obligation by a person in his capacity as a fiduciary and the amount involved is less than $50,000.00;
(f) It is by threat not amounting to extortion;
(g) It is of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant;
(h) The property stolen is a person’s benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person’s health care and the amount involved is less than $75,000.00;
(i) The property stolen is any real or personal property related to, necessary for, or derived from research, regardless of value, including, but not limited to, any sample, specimens and components thereof, research subject, including any warm-blooded or cold-blooded animals being used for research or intended for use in research, supplies, records, data or test results, prototypes or equipment, as well as any proprietary information or other type of information related to research;
(j) The property stolen is a New Jersey Prescription Blank as referred to in R.S.45:14-14;
(k) The property stolen consists of an access device or a defaced access device; [or]
(l) The property stolen consists of anhydrous ammonia and the actor intends it to be used to manufacture methamphetamine; or
(m) If the property is stolen during a riot or an aggravated riot prohibited under N.J.S.2C:33-1 and the perpetration of the theft is facilitated by conditions arising from the riot; the property is stolen after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the offender commits a crime of the second degree.
As used in this paragraph, the terms “conditions arising from a riot” and “conditions arising from the emergency” have the same meanings as provided in subparagraph (g) of paragraph (1) of this subsection. A person arrested for committing a theft during a riot or an aggravated riot may not be released until the person appears before a judge of the Superior Court at a pretrial detention hearing.

(3) Theft constitutes a crime of the fourth degree if the amount involved is at least $200.00 but does not exceed $500.00.

(4) Theft constitutes a disorderly persons offense if:

(a) The amount involved was less than $200.00; or

(b) The property stolen is an electronic vehicle identification system transponder.

The amount involved in a theft or computer criminal activity shall be determined by the trier of fact. The amount shall include, but shall not be limited to, the amount of any State tax avoided, evaded or otherwise unpaid, improperly retained or disposed of. Amounts involved in thefts or computer criminal activities committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense.

c. Claim of right. It is an affirmative defense to prosecution for theft that the actor:

(1) Was unaware that the property or service was that of another;

(2) Acted under an honest claim of right to the property or service involved or that he had a right to acquire or dispose of it as he did; or

(3) Took property exposed for sale, intending to purchase and pay for it promptly, or reasonably believing that the owner, if present, would have consented.

d. Theft from spouse. It is no defense that theft or computer criminal activity was from or committed against the actor’s spouse, except that misappropriation of household and personal effects, or other property normally accessible to both spouses, is theft or computer criminal activity only if it occurs after the parties have ceased living together.

(cf: P.L.2013, c. 58, s. 2)

7. N.J.S. 59:2-2 is amended to read as follows:

59:2-2. a. A public entity is liable for injury proximately caused by an act or omission of a public employee within the scope of his employment in the same manner and to the same extent as a private individual under like circumstances.

b. A public entity is not liable for an injury resulting from an act or omission of a public employee where the public employee is not liable.

c. A municipality has a duty to allow the municipal law enforcement agency to respond appropriately to protect persons and
property during a riot or an unlawful assembly based on the
availability of adequate equipment to its municipal law enforcement
officers and relevant State and federal laws. If the governing body
of a municipality or a person authorized by the governing body of
the municipality breaches that duty, the municipality is civilly liable
for any damages including damages arising from personal injury,
wrongful death, or property damages proximately caused by the
municipality’s breach of duty.
(cf: P.L.1972, c.45, s.59:2-
8.
8. a. (New section) Mob intimidation. It is unlawful for a
person, assembled with two or more other persons and acting with a
common intent, to use force or threaten to use imminent force, to
compel or induce, or attempt to compel or induce, another person to
do or refrain from doing any act or to assume, abandon, or maintain
a particular viewpoint against his or her will.
b. A person who violates subsection a. commits a disorderly
persons offense.
c. A person arrested for a violation of this section shall be held
in custody until brought before the court for a pretrial detention
hearing.
9. (New section) Cyber-intimidation by publication. As used
in this section, the term:
“Electronically publish” means to disseminate, post, or otherwise
disclose information to an Internet site or forum.
“Harass” has the same meaning as provided in N.J.S.2C:33-
It is unlawful for a person to electronically publish another
person’s personal identification information with the intent to, or
with the intent that a third party will use the information to:
Incite violence or commit a crime against the person; or
Threaten or harass the person, placing such person in reasonable
fear of bodily harm.
A person who violates this section commits a crime of the fourth
degree.
10. (New section) Affirmative defense in civil action; party
convicted of riot.
a. In a civil action for damages for personal injury, wrongful
death, or property damage, it is an affirmative defense that such
action arose from an injury or damage sustained by a participant
acting in furtherance of a riot. The affirmative defense authorized
by this section shall be established by evidence that the participant
has been convicted of a riot or an aggravated riot prohibited under
N.J.S.2C:33-1 or by proof of the commission of such crime by a
preponderance of the evidence.
b. In a civil action in which a defendant raises an affirmative
defense under this section, the court must, on motion by the
defendant, stay the action during the pendency of a criminal action
that forms the basis for the defense, unless the court finds that a
conviction in the criminal action would not form a valid defense
under this section.

11. (New section) If the tentative budget of a municipality
contains a funding reduction to the operating budget of the
municipal law enforcement agency, the municipal attorney or a
member of the governing body who objects to the funding
reduction, may file an appeal to the Division of Local Government
Services in the Department of Community Affairs within 30 days
after the day the tentative budget is posted to the official website of
the municipality.

12. This act shall take effect immediately.

STATEMENT

This omnibus bill addresses riot and certain violent crime
committed during the course of riot. Presently, a person is guilty of
riot if he participates with four or more others in a course of
disorderly conduct with an unlawful purpose, enumerated in the
statute. This bill amends subsection b. of N.J.S.2C:33-1, riot, and
expands the categories of riot to include aggravated riot, inciting a
riot and aggravated inciting a riot. Under the bill, a person commits
riot if he participates in a violent public disturbance involving
an assembly of three or more persons, acting with a common intent
to assist each other in violent and disorderly conduct, resulting in
(1) Injury to another person; (2) Damage to property; or (3)
Imminent danger of injury to another person or damage to property.
A person who commits a riot when he or any other participant,
known to him, uses or plans to use a firearm or other deadly weapon
is guilty of a crime of the third degree. A crime of the third degree
is punishable by up to 5 years imprisonment, a fine of up to
$15,000, or both. Otherwise riot is a crime of the fourth degree. A
crime of the fourth degree is punishable by up to 18 months
imprisonment, a fine of up to $10,000, or both.

New subsection b. is added to N.J.S.2C:33-1 to provide a person
commits aggravated riot if, in the course of committing a riot, he:
(1) Participates with 25 or more other persons; (2) Causes serious
bodily injury to a person not participating in the riot; (3) Causes
property damage in excess of $5,000; (4) Displays, uses, threatens
to use, or attempts to use a deadly weapon; or (5) By force, or threat
of force, endangers the safe movement of a vehicle traveling on a
public street, highway, or road. A person who commits aggravating
riot commits a crime of the second degree. A crime of the second
degree is punishable by up to 10 years imprisonment, a fine of up to $150,000, or both.

New subsection c. is added to N.J.S.2C:33-1 to provide a person commits inciting a riot if he willfully incites another person to participate in a riot, resulting in a riot or imminent danger of a riot. A person who commits inciting a riot commits a crime of the third degree.

New subsection d. is added to N.J.S.2C:33-1 to provide a person commits aggravated inciting a riot if he (1) Incites a riot resulting in serious bodily harm to another person not participating in the riot; (2) Incites a riot resulting in property damage in excess of $5,000; or (3) Supplies a deadly weapon to another person or teaches another person to prepare a deadly weapon with intent that the deadly weapon be used in a riot for an unlawful purpose. A person who commits aggravated inciting a riot commits a crime of the second degree.

Under the bill, a person arrested for a violation of N.J.S.2C:33-1 shall be held in custody until brought before the court for a pretrial detention hearing. The bill does not prohibit constitutionally protected activity such as a peaceful protest.

The bill amends N.J.S.2C:33-7, obstructing highways or other passages, to provide that it shall be unlawful for a person, having no legal privilege to do so, to purposely or recklessly obstruct any highway or other public passage whether alone or with others. No person shall be deemed in violation of this subsection solely because of a gathering of persons to hear him speak or otherwise communicate, or solely because of being a member of such a gathering. The amendment leaves intact subsection b. of N.J.S.2C:33-7, which concerns refusal to obey a reasonable official request or order to move.

The bill amends N.J.S.2C:12-1, Assault. Currently, paragraph (5) of subsection b. enumerates specific circumstances when aggravated assault occurs. This bill adds that a person is guilty of aggravated assault if he attempts to cause or purposely, knowingly or recklessly causes bodily injury to another in the course of a riot. Aggravated assault under this circumstance is a crime of the third degree, punishable by up to five years imprisonment, a fine of up to $15,000, or both.

Paragraph (5) of subsection b. of N.J.S.2C:12-1 further elevates simple assault to aggravated assault when committed against certain categories of persons, including when committed against a law enforcement officer acting in the performance of the officer’s duties while in uniform or exhibiting evidence of authority or because of the officer’s status as a law enforcement officer, and is graded as a crime of the third degree. Under the bill, if, in the course of a riot, an object is thrown at certain emergency personnel including law enforcement officers, or if the emergency personnel is struck, whether or not with an object, the presumption of non-
imprisonment for a first offense of a crime of the third degree shall
not apply, and a mandatory period of six months imprisonment shall
apply.

The bill amends N.J.S.2C:17-3, criminal mischief, to add an
additional category to the offense. Under the new provision, a
person is guilty of criminal mischief if he without the consent of the
owner thereof, willfully and maliciously defaces, injures, or
otherwise damages by any means a memorial or historic property,
and the value of the damage to the memorial or historic property is
greater than $200. The bill grades this offense as a crime of the
third degree where the damage is to a memorial or historic property.
The bill provides that “historic property” means any building,
structure, site, or object that has been officially designated or
approved for inclusion, or which meets the criteria for inclusion, in
the New Jersey Register of Historic Places pursuant to P.L.1970,
c.268 (C.13:1B-15.128 et seq.) as a historic building, historic
structure, historic site, or historic object through a federal, state, or
local designation program. “Memorial” means a plaque, statue,
marker, flag, banner, cenotaph, religious symbol, painting, seal,
tombstone, structure name, or display that is constructed and
located with the intent of being permanently displayed or
perpetually maintained; is dedicated to a historical person, an entity,
an event, or a series of events; and honors or recounts the military
service of any past or present United States Armed Forces military
personnel, or the past or present public service of a resident of the
geographical area comprising the state or the United States. A court
shall order any person convicted of violating this provision to pay
restitution, which shall include the full cost of repair or replacement
of such memorial or historic property.

The bill amends N.J.S.A.2C:18-2, burglary, to add an additional
circumstance to the grading scheme. Under the bill, burglary is a
crime of the second degree if it occurs during a riot or an
aggravated riot and the perpetration of the burglary is facilitated by
conditions arising from the riot. The section is further amended to
provide that “conditions arising from the riot,” means civil unrest,
power outages, curfews, or a reduction in the presence of or
response time for first responders or homeland security personnel.
A person arrested for committing a burglary during a riot or
aggravated riot may not be released until the person appears before
a judge at a pretrial detention hearing.

The bill amends N.J.S.A.2C:20-2, theft, to add an additional
circumstances to the grading scheme. Under the bill, theft is a
crime of the second degree if the property stolen is law enforcement
equipment, valued at $300 or more, that is taken from an authorized
emergency vehicle, as defined in R.S.39:1-1. “Emergency medical
equipment” means mechanical or electronic apparatus used to
provide emergency services and care or to treat medical
emergencies. “Law enforcement equipment” means any property,
device, or apparatus used by any law enforcement officer as defined in section 3 of P.L.1993, c.220, (C.52:17B-161) in the officer’s official business. If the property is stolen during a riot or an aggravated riot prohibited under section N.J.S.2C:33-1 and the perpetration of the theft is facilitated by conditions arising from the riot; the theft is committed after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the theft is a crime of the second degree. Under the bill, the term “conditions arising from the riot” means civil unrest, power outages, curfews, or a reduction in the presence of or response time for first responders or homeland security personnel and the term “conditions arising from the emergency” means civil unrest, power outages, curfews, voluntary or mandatory evacuations, or a reduction in the presence of or response time for first responders or homeland security personnel.

Third degree theft is elevated to a crime of the second degree if the property is stolen during a riot or an aggravated riot prohibited under N.J.S.2C:33-1 and the perpetration of the theft is facilitated by conditions arising from the riot; the property is stolen after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency.

A person arrested for committing a theft during a riot crime, or other crime amended by the bill, may not be released until the person appears before a judge at a pretrial detention hearing.

The bill amends N.J.S.59:2-2, concerning public entity liability to provide that a municipality has a duty to allow the municipal law enforcement agency to respond appropriately to protect persons and property during a riot or an unlawful assembly based on the availability of adequate equipment to its municipal law enforcement officers and relevant State and federal laws.

The bill creates the new offenses of mob intimidation and cyber-intimidation by publication. Under the bill, mob intimidation occurs when a person, assembled with two or more other persons and acting with a common intent, to use force or threaten to use imminent force, to compel or induce, or attempt to compel or induce, another person to do or refrain from doing any act or to assume, abandon, or maintain a particular viewpoint against his or her will. A person who violates this section commits a disorderly persons offense. A disorderly persons offense is punishable by up to 6 months imprisonment, a fine of up to $1,000, or both. A person arrested for a violation of this section shall be held in custody until brought before the court for a pretrial detention hearing.

Under the bill, cyber-intimidation by publication occurs when a person electronically publishes another person’s personal identification information with the intent to, or with the intent that a third party will use the information to (a) Incite violence or commit a crime against the person; or (b) Threaten or harass the person,
placing such person in reasonable fear of bodily harm. A person
who violates this subsection commits a crime of the fourth degree.
The bill establishes an affirmative defense in action for personal
injury, wrongful death, or property damage that action arose from
an injury or damage sustained by a participant acting in furtherance
of a riot.

The bill establishes a procedure to appeal law enforcement
funding reduction proposal in local budgets.

This bill is modeled closely on Florida Laws ch.6; 2021 Fla. HB
1.