

[First Reprint]

ASSEMBLY, No. 4697

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED OCTOBER 3, 2022

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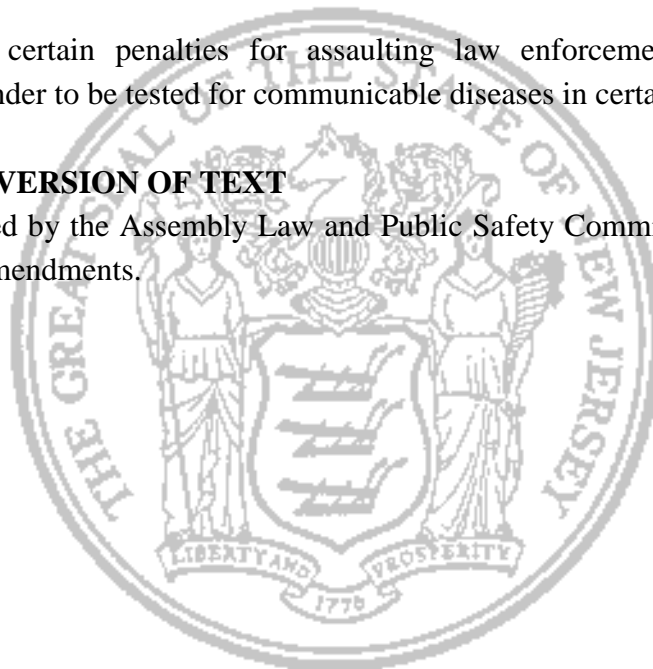
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Assemblywoman Eulner, Assemblymen Catalano, McGuckin, Space,
Wirths, Assemblywoman Carter, Assemblymen Stanley, Rooney,
Assemblywoman McKnight, Assemblymen DePhillips and Clifton**

SYNOPSIS

Upgrades certain penalties for assaulting law enforcement officer and requires offender to be tested for communicable diseases in certain instances.

CURRENT VERSION OF TEXT

As reported by the Assembly Law and Public Safety Committee on June 5, 2023, with amendments.



(Sponsorship Updated As Of: 11/20/2023)

1 AN ACT upgrading certain penalties for assault and requiring testing
2 for communicable diseases, and revising various parts of
3 statutory law.

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:12-1 is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (c) Any person engaged in emergency first-aid or medical services
44 acting in the performance of the person's duties while in uniform or

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALP committee amendments adopted June 5, 2023.

- 1 otherwise clearly identifiable as being engaged in the performance of
2 emergency first-aid or medical services; or
- 3 (d) Any school board member, school administrator, teacher,
4 school bus driver, or other employee of a public or nonpublic school or
5 school board while clearly identifiable as being engaged in the
6 performance of the person's duties or because of the person's status as
7 a member or employee of a public or nonpublic school or school board
8 or any school bus driver employed by an operator under contract to a
9 public or nonpublic school or school board while clearly identifiable as
10 being engaged in the performance of the person's duties or because of
11 the person's status as a school bus driver; or
- 12 (e) Any employee of the Division of Child Protection and
13 Permanency while clearly identifiable as being engaged in the
14 performance of the employee's duties or because of the status as an
15 employee of the division; or
- 16 (f) Any justice of the Supreme Court, judge of the Superior Court,
17 judge of the Tax Court or municipal judge while clearly identifiable as
18 being engaged in the performance of judicial duties or because of the
19 status as a member of the judiciary; or
- 20 (g) Any operator of a motorbus or the operator's supervisor or any
21 employee of a rail passenger service while clearly identifiable as being
22 engaged in the performance of the person's duties or because of the
23 status as an operator of a motorbus or as the operator's supervisor or as
24 an employee of a rail passenger service; or
- 25 (h) Any Department of Corrections employee, county correctional
26 police officer, juvenile correctional police officer, State juvenile
27 facility employee, juvenile detention staff member, juvenile detention
28 officer, probation officer or any sheriff, undersheriff, or sheriff's
29 officer acting in the performance of the person's duties while in
30 uniform or exhibiting evidence of the person's authority or because of
31 the status as a Department of Corrections employee, county
32 correctional police officer, juvenile correctional police officer, State
33 juvenile facility employee, juvenile detention staff member, juvenile
34 detention officer, probation officer, sheriff, undersheriff, or sheriff's
35 officer; or
- 36 (i) Any employee, including any person employed under contract,
37 of a utility company as defined in section 2 of P.L.1971, c.224
38 (C.2A:42-86) or a cable television company subject to the provisions
39 of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.)
40 while clearly identifiable as being engaged in the performance of the
41 employee's duties in regard to connecting, disconnecting, or repairing
42 or attempting to connect, disconnect, or repair any gas, electric, or
43 water utility, or cable television or telecommunication service; or
- 44 (j) Any health care worker employed by a licensed health care
45 facility to provide direct patient care, any health care professional
46 licensed or otherwise authorized pursuant to Title 26 or Title 45 of the
47 Revised Statutes to practice a health care profession, except a direct
48 care worker at a State or county psychiatric hospital or State

1 developmental center or veterans' memorial home, while clearly
2 identifiable as being engaged in the duties of providing direct patient
3 care or practicing the health care profession; or

4 (k) Any direct care worker at a State or county psychiatric hospital
5 or State developmental center or veterans' memorial home, while
6 clearly identifiable as being engaged in the duties of providing direct
7 patient care or practicing the health care profession, provided that the
8 actor is not a patient or resident at the facility who is classified by the
9 facility as having a mental illness or developmental disability; or

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

19 (7) Attempts to cause significant bodily injury to another or causes
20 significant bodily injury purposely or knowingly or, under
21 circumstances manifesting extreme indifference to the value of human
22 life recklessly causes such significant bodily injury; or

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

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

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

47 (11) Uses or activates a laser sighting system or device, or a
48 system or device which, in the manner used, would cause a reasonable

1 person to believe that it is a laser sighting system or device, against a
2 law enforcement officer acting in the performance of the officer's
3 duties while in uniform or exhibiting evidence of the officer's
4 authority. As used in this paragraph, "laser sighting system or device"
5 means any system or device that is integrated with or affixed to a
6 firearm and emits a laser light beam that is used to assist in the sight
7 alignment or aiming of the firearm; or

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

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

22 Aggravated assault under paragraphs (1) and (6) of subsection b. of
23 this section is a crime of the second degree; under paragraphs (2), (7),
24 (9), and (10) of subsection b. of this section is a crime of the third
25 degree; under paragraphs (3) and (4) of subsection b. of this section is
26 a crime of the fourth degree; and under paragraph (5) of subsection b.
27 of this section is a crime of the third degree if the victim suffers bodily
28 injury, otherwise it is a crime of the fourth degree, except: **[that]**

29 any aggravated assault under subparagraph (g) of paragraph (5) of
30 subsection b. of this section shall be a crime of the third degree**[,]** ;
31 and

32 any aggravated assault ¹of a law enforcement officer¹ under
33 subparagraph (a) of paragraph (5) of subsection b. of this section shall
34 be a crime of the second degree. A prosecutor shall not permit a
35 person charged under subparagraph (a) of paragraph (5) of subsection
36 b. of this section to enter a plea of guilty to a lesser offense. ¹**[A**
37 person who is convicted shall serve a mandatory minimum term of
38 imprisonment, without eligibility for parole, for a term of five years]
39 Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a
40 conviction for assaulting a law enforcement officer under
41 subparagraph (a) of paragraph (5) of subsection b. of this section shall
42 not merge with a conviction for any other criminal offense. A
43 mandatory term of incarceration pursuant to section 2 of P.L.1997,
44 c.117 (C.2C:43-7.2) shall not apply to a conviction for aggravated
45 assault of a law enforcement officer under subparagraph (a) of
46 paragraph (5) of subsection b. of this section unless the assault resulted
47 in bodily injury or serious bodily injury to the officer¹.

1 Aggravated assault under paragraph (8) of subsection b. of this
2 section is a crime of the third degree if the victim suffers bodily injury;
3 if the victim suffers significant bodily injury or serious bodily injury it
4 is a crime of the second degree. Aggravated assault under paragraph
5 (11) of subsection b. of this section is a crime of the third degree.
6 Aggravated assault under paragraph (12) of subsection b. of this
7 section is a crime of the third degree but the presumption of non-
8 imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first
9 offense of a crime of the third degree shall not apply. Aggravated
10 assault under paragraph (13) of subsection b. of this section is a crime
11 of the second degree.

12 c. (1) A person is guilty of assault by auto or vessel when the
13 person drives a vehicle or vessel recklessly and causes either serious
14 bodily injury or bodily injury to another. Assault by auto or vessel is a
15 crime of the fourth degree if serious bodily injury results and is a
16 disorderly persons offense if bodily injury results. Proof that the
17 defendant was operating a hand-held wireless telephone while driving
18 a motor vehicle in violation of section 1 of P.L.2003, c.310 (C.39:4-
19 97.3) may give rise to an inference that the defendant was driving
20 recklessly.

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

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

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

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

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

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

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

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

9 (4) Assault by auto or vessel is a crime of the third degree if the
10 person purposely drives a vehicle in an aggressive manner directed at
11 another vehicle and serious bodily injury results and is a crime of the
12 fourth degree if the person purposely drives a vehicle in an aggressive
13 manner directed at another vehicle and bodily injury results. For
14 purposes of this paragraph, "driving a vehicle in an aggressive
15 manner" shall include, but is not limited to, unexpectedly altering the
16 speed of the vehicle, making improper or erratic traffic lane changes,
17 disregarding traffic control devices, failing to yield the right of way, or
18 following another vehicle too closely.

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

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

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

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

45 (cf: P.L.2021, c.352, s.1)

46
47 2. Section 2 of P.L.1997, c. 182 (C.2C:12-13) is amended to read
48 as follows:

1 2. A person who throws a bodily fluid at a Department of
2 Corrections employee, county correctional police officer, juvenile
3 correctional police officer, State juvenile facility employee, juvenile
4 detention staff member, probation officer, any sheriff, undersheriff or
5 sheriff's officer ¹~~or,~~¹ any municipal, county, or State law
6 enforcement officer¹, a paid or volunteer firefighter, or a person
7 engaged in emergency first-aid or medical services¹ while in the
8 performance of the person's duties or otherwise purposely subjects
9 such employee ¹or volunteer¹ to contact with a bodily fluid commits
10 an aggravated assault.

11 If the victim suffers bodily injury, this shall be a crime of the
12 ~~third degree~~ second degree ¹and any person convicted shall serve a
13 mandatory minimum term of imprisonment, without eligibility for
14 parole, for a term of five years¹. Otherwise, this shall be a crime of
15 the fourth degree. A term of imprisonment imposed for this offense
16 shall run consecutively to any term of imprisonment currently being
17 served and to any other term imposed for another offense committed at
18 the time of the assault. Any person charged with assault with a bodily
19 fluid under this section shall have a blood sample drawn or other
20 biological sample collected to test for communicable diseases ¹at a
21 clinical laboratory licensed by the Department of Health pursuant to
22 the "New Jersey Clinical Laboratory Improvement Act," P.L.1975,
23 c.166 (C.45:9-42.26 et seq.)¹ . Any affirmative result for a
24 communicable disease shall be disclosed to the victim assaulted.

25 Nothing herein shall be deemed to preclude, if the evidence so
26 warrants, an indictment and conviction for a violation or attempted
27 violation of chapter 11 of Title 2C of the New Jersey Statutes or
28 subsection b. of N.J.S.2C:12-1 or any other provision of the criminal
29 laws.

30 (cf: P.L.2019, c.219, s.4)

31

32 3. This act shall take effect immediately.