

ASSEMBLY, No. 4697

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED OCTOBER 3, 2022

Sponsored by:

Assemblyman WILLIAM W. SPEARMAN

District 5 (Camden and Gloucester)

Assemblyman ALEX SAUICKIE

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblywoman ANNETTE CHAPARRO

District 33 (Hudson)

Co-Sponsored by:

**Assemblyman DeAngelo, Assemblywoman Piperno, Assemblyman Umba,
Assemblywoman Eulner, Assemblymen Catalano, McGuckin, Space,
Wirths, Assemblywoman Carter and Assemblyman Stanley**

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 introduced.



(Sponsorship Updated As Of: 5/18/2023)

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
10 assault if the person:

11 (1) Attempts to cause or purposely, knowingly or recklessly
12 causes 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
18 in a fight or scuffle entered into by mutual consent, in which case it
19 is a petty disorderly persons offense.

20 b. Aggravated assault. A person is guilty of aggravated assault
21 if 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
25 such 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
32 in 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
37 the officer's duties while in uniform or exhibiting evidence of
38 authority or because of the officer's status as a law enforcement
39 officer; or

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

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

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 uniform or otherwise clearly identifiable as being engaged in the
2 performance of 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
5 school or school board while clearly identifiable as being engaged
6 in the performance of the person's duties or because of the person's
7 status as a member or employee of a public or nonpublic school or
8 school board or any school bus driver employed by an operator
9 under contract to a public or nonpublic school or school board while
10 clearly identifiable as being engaged in the performance of the
11 person's duties or because of the person's status as a school bus
12 driver; or

13 (e) Any employee of the Division of Child Protection and
14 Permanency while clearly identifiable as being engaged in the
15 performance of the employee's duties or because of the status as an
16 employee of the division; or

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

21 (g) Any operator of a motorbus or the operator's supervisor or
22 any employee of a rail passenger service while clearly identifiable
23 as being engaged in the performance of the person's duties or
24 because of the status as an operator of a motorbus or as the
25 operator's supervisor or as an employee of a rail passenger service;
26 or

27 (h) Any Department of Corrections employee, county
28 correctional police officer, juvenile correctional police officer, State
29 juvenile facility employee, juvenile detention staff member,
30 juvenile detention officer, probation officer or any sheriff,
31 undersheriff, or sheriff's officer acting in the performance of the
32 person's duties while in uniform or exhibiting evidence of the
33 person's authority or because of the status as a Department of
34 Corrections employee, county correctional police officer, juvenile
35 correctional police officer, State juvenile facility employee, juvenile
36 detention staff member, juvenile detention officer, probation
37 officer, sheriff, undersheriff, or sheriff's officer; or

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

47 (j) Any health care worker employed by a licensed health care
48 facility to provide direct patient care, any health care professional

1 licensed or otherwise authorized pursuant to Title 26 or Title 45 of
2 the Revised Statutes to practice a health care profession, except a
3 direct care worker at a State or county psychiatric hospital or State
4 developmental center or veterans' memorial home, while clearly
5 identifiable as being engaged in the duties of providing direct
6 patient care or practicing the health care profession; or

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

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

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

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

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

46 (10) Knowingly points, displays or uses an imitation firearm, as
47 defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a
48 law enforcement officer with the purpose to intimidate, threaten, or

1 attempt to put the officer in fear of bodily injury or for any unlawful
2 purpose; or

3 (11) Uses or activates a laser sighting system or device, or a
4 system or device which, in the manner used, would cause a
5 reasonable person to believe that it is a laser sighting system or
6 device, against a law enforcement officer acting in the performance
7 of the officer's duties while in uniform or exhibiting evidence of the
8 officer's authority. As used in this paragraph, "laser sighting system
9 or device" means any system or device that is integrated with or
10 affixed to a firearm and emits a laser light beam that is used to
11 assist in the sight alignment or aiming of the firearm; or

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

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

27 Aggravated assault under paragraphs (1) and (6) of subsection b.
28 of this section is a crime of the second degree; under paragraphs
29 (2), (7), (9), and (10) of subsection b. of this section is a crime of
30 the third degree; under paragraphs (3) and (4) of subsection b. of
31 this section is a crime of the fourth degree; and under paragraph (5)
32 of subsection b. of this section is a crime of the third degree if the
33 victim suffers bodily injury, otherwise it is a crime of the fourth
34 degree, except: **[that]**

35 any aggravated assault under subparagraph (g) of paragraph (5)
36 of subsection b. of this section shall be a crime of the third
37 degree~~[,] ; and~~

38 any aggravated assault under subparagraph (a) of paragraph (5)
39 of subsection b. of this section shall be a crime of the second
40 degree. A prosecutor shall not permit a person charged under
41 subparagraph (a) of paragraph (5) of subsection b. of this section to
42 enter a plea of guilty to a lesser offense. A person who is convicted
43 shall serve a mandatory minimum term of imprisonment, without
44 eligibility for parole, for a term of five years.

45 Aggravated assault under paragraph (8) of subsection b. of this
46 section is a crime of the third degree if the victim suffers bodily
47 injury; if the victim suffers significant bodily injury or serious
48 bodily injury it is a crime of the second degree. Aggravated assault

1 under paragraph (11) of subsection b. of this section is a crime of
2 the third degree. Aggravated assault under paragraph (12) of
3 subsection b. of this section is a crime of the third degree but the
4 presumption of non-imprisonment set forth in subsection e. of
5 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall
6 not apply. Aggravated assault under paragraph (13) of subsection
7 b. of this section is a crime of the second degree.

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

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

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

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

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

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

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

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

45 It shall be no defense to a prosecution for a violation of
46 subparagraph (a) or (b) of paragraph (3) of this subsection that the
47 defendant was unaware that the prohibited conduct took place while
48 on or within 1,000 feet of any school property or while driving

1 through a school crossing. Nor shall it be a defense to a prosecution
2 under subparagraph (a) or (b) of paragraph (3) of this subsection
3 that no juveniles were present on the school property or crossing
4 zone at the time of the offense or that the school was not in session.

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

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

19 d. A person who is employed by a facility as defined in section
20 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
21 defined in paragraph (1) or (2) of subsection a. of this section upon
22 an institutionalized elderly person as defined in section 2 of
23 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
24 degree.

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

26 f. A person who commits a simple assault as defined in
27 paragraph (1), (2), or (3) of subsection a. of this section in the
28 presence of a child under 16 years of age at a school or community
29 sponsored youth sports event is guilty of a crime of the fourth
30 degree. The defendant shall be strictly liable upon proof that the
31 offense occurred, in fact, in the presence of a child under 16 years
32 of age. It shall not be a defense that the defendant did not know
33 that the child was present or reasonably believed that the child was
34 16 years of age or older. The provisions of this subsection shall not
35 be construed to create any liability on the part of a participant in a
36 youth sports event or to abrogate any immunity or defense available
37 to a participant in a youth sports event. As used in this act, "school
38 or community sponsored youth sports event" means a competition,
39 practice, or instructional event involving one or more
40 interscholastic sports teams or youth sports teams organized
41 pursuant to a nonprofit or similar charter or which are member
42 teams in a youth league organized by or affiliated with a county or
43 municipal recreation department and shall not include collegiate,
44 semi-professional or 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
48 read 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
5 or sheriff's officer or any municipal, county, or State law
6 enforcement officer while in the performance of the person's duties
7 or otherwise purposely subjects such employee to contact with a
8 bodily fluid commits an aggravated assault. If the victim suffers
9 bodily injury, this shall be a crime of the **【third degree】** second
10 degree and any person convicted shall serve a mandatory minimum
11 term of imprisonment, without eligibility for parole, for a term of
12 five years. Otherwise, this shall be a crime of the fourth degree. A
13 term of imprisonment imposed for this offense shall run
14 consecutively to any term of imprisonment currently being served
15 and to any other term imposed for another offense committed at the
16 time of the assault. Any person charged with assault with a bodily
17 fluid under this section shall have a blood sample drawn or other
18 biological sample collected to test for communicable diseases. Any
19 affirmative result for a communicable disease shall be disclosed to
20 the victim assaulted.

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

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

27

28 3. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 This bill upgrades certain penalties for assaulting a law
34 enforcement officer.

35 Under current law, it is a crime of the third degree to assault a
36 law enforcement officer if the victim is injured; otherwise, it is a
37 crime of the fourth degree. With this bill, the penalty for assaulting
38 a law enforcement officer would become a crime of the second
39 degree. Additionally, the defendant would not be allowed to enter a
40 guilty plea to a lesser charge and would be required to serve a
41 mandatory minimum term of imprisonment of five years, if
42 convicted.

43 This bill would also upgrade the penalty for assault with bodily
44 fluids. Under current law, it is a crime of the fourth degree for a
45 person to assault a Department of Corrections employee, county
46 correctional police officer, juvenile correctional police officer, State
47 juvenile facility employee, juvenile detention staff member,
48 probation officer, any sheriff, undersheriff or sheriff's officer, and

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1 any municipal, county, or State law enforcement officer. If the
2 victim suffers bodily injury, it is a crime of the third degree.

3 With this bill, the penalty would be upgraded to a crime of the
4 second degree and any person convicted would serve a mandatory
5 minimum term of imprisonment of five years. Additionally, any
6 person charged with assault with a bodily fluid would be required to
7 provide a blood sample or other biological sample drawn to be
8 tested for communicable diseases. Any positive results for a
9 communicable disease will be shared with the assault victim.

10 A crime of the second degree is punishable by five to 10 years
11 imprisonment, a fine of up to \$150,000, or both.