

2C:12-1
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2021 **CHAPTER:** 172

NJSA: 2C:12-1 (Increases strangulation assault to crime of second degree.)

BILL NO: S2503 (Substituted for A4588)

SPONSOR(S) Ruiz, M. Teresa and others

DATE INTRODUCED: 5/28/2020

COMMITTEE: **ASSEMBLY:** Judiciary
SENATE: Law & Public Safety
Budget & Appropriations

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** 5/20/2021

SENATE: 1/28/2021

DATE OF APPROVAL: 7/12/2021

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Introduced bill enacted) Yes

S2503

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Judiciary

SENATE: Yes Law & Public Safety
Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

A4588

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Judiciary

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

Brent Johnson. "N.J. increases the penalty for strangulation Gov. signs domestic violence measure days after allegedly abducted mom is found dead.." South Jersey Times (NJ), July 14, 2021: 001.

RH/CL

P.L. 2021, CHAPTER 172, *approved July 12, 2021*

Senate, No. 2503

1 AN ACT concerning strangulation assault and amending
2 N.J.S.2C:12-1.

3

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

6

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

8 2C:12-1. Assault. a. Simple assault. A person is guilty of
9 assault if the person:

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

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

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

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

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

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

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

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

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

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

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

39 (b) Any paid or volunteer firefighter acting in the performance
40 of the firefighter's duties while in uniform or otherwise clearly

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 identifiable as being engaged in the performance of the duties of a
2 firefighter; or

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

7 (d) Any school board member, school administrator, teacher,
8 school bus driver, or other employee of a public or nonpublic
9 school or school board while clearly identifiable as being engaged
10 in the performance of the person's duties or because of the person's
11 status as a member or employee of a public or nonpublic school or
12 school board or any school bus driver employed by an operator
13 under contract to a public or nonpublic school or school board while
14 clearly identifiable as being engaged in the performance of the
15 person's duties or because of the person's status as a school bus
16 driver; or

17 (e) Any employee of the Division of Child Protection and
18 Permanency while clearly identifiable as being engaged in the
19 performance of the employee's duties or because of the status as an
20 employee of the division; or

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

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

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

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

1 repair any gas, electric, or water utility, or cable television or
2 telecommunication service; or

3 (j) Any health care worker employed by a licensed health care
4 facility to provide direct patient care, any health care professional
5 licensed or otherwise authorized pursuant to Title 26 or Title 45 of
6 the Revised Statutes to practice a health care profession, except a
7 direct care worker at a State or county psychiatric hospital or State
8 developmental center or veterans' memorial home, while clearly
9 identifiable as being engaged in the duties of providing direct
10 patient care or practicing the health care profession; or

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

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

27 (7) Attempts to cause significant bodily injury to another or
28 causes significant bodily injury purposely or knowingly or, under
29 circumstances manifesting extreme indifference to the value of
30 human life recklessly causes such significant bodily injury; or

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

46 (9) Knowingly, under circumstances manifesting extreme
47 indifference to the value of human life, points or displays a firearm,

1 as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of
2 a law enforcement officer; or

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

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

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

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

32 Aggravated assault under paragraphs (1) and (6) of subsection b.
33 of this section is a crime of the second degree; under paragraphs
34 (2), (7), (9), and (10) of subsection b. of this section is a crime of
35 the third degree; under paragraphs (3) and (4) of subsection b. of
36 this section is a crime of the fourth degree; and under paragraph (5)
37 of subsection b. of this section is a crime of the third degree if the
38 victim suffers bodily injury, otherwise it is a crime of the fourth
39 degree. Aggravated assault under paragraph (8) of subsection b. of
40 this section is a crime of the third degree if the victim suffers bodily
41 injury; if the victim suffers significant bodily injury or serious
42 bodily injury it is a crime of the second degree. Aggravated assault
43 under paragraph (11) of subsection b. of this section is a crime of
44 the third degree. Aggravated assault under paragraph (12) **[or (13)]**
45 of subsection b. of this section is a crime of the third degree but the
46 presumption of non-imprisonment set forth in subsection e. of
47 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall

1 not apply. Aggravated assault under paragraph (13) of subsection
2 b. of this section is a crime of the second degree.

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

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

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

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

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

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

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

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

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

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

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

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

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

22 f. A person who commits a simple assault as defined in
23 paragraph (1), (2), or (3) of subsection a. of this section in the
24 presence of a child under 16 years of age at a school or community
25 sponsored youth sports event is guilty of a crime of the fourth
26 degree. The defendant shall be strictly liable upon proof that the
27 offense occurred, in fact, in the presence of a child under 16 years
28 of age. It shall not be a defense that the defendant did not know
29 that the child was present or reasonably believed that the child was
30 16 years of age or older. The provisions of this subsection shall not
31 be construed to create any liability on the part of a participant in a
32 youth sports event or to abrogate any immunity or defense available
33 to a participant in a youth sports event. As used in this act, "school
34 or community sponsored youth sports event" means a competition,
35 practice, or instructional event involving one or more
36 interscholastic sports teams or youth sports teams organized
37 pursuant to a nonprofit or similar charter or which are member
38 teams in a youth league organized by or affiliated with a county or
39 municipal recreation department and shall not include collegiate,
40 semi-professional or professional sporting events.
41 (cf: P.L.2019, c.219, s.3)

42
43 2. This act shall take effect immediately.

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46 STATEMENT

47
48 Currently, under N.J.S. 2C:12-1b.(13), strangulation is graded as
49 a crime of the third degree, punishable by up to five years

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1 imprisonment, a fine of up to \$15,000, or both. This bill elevates
2 strangulation, committed in the domestic violence context against a
3 victim of domestic violence, to a crime of the second degree,
4 punishable by up to 10 years imprisonment, a fine of up to
5 \$150,000, or both.

6 In 2019, the New Jersey Domestic Violence Fatality Near
7 Fatality Review Board published the 2018 Annual Report, Fatality
8 By Strangulation. In the domestic violence context, the report
9 declared that strangulation is one of the strongest predictors for the
10 subsequent homicide of victims of domestic violence, and
11 referenced research showing that victims of attempted strangulation
12 are seven times more likely of becoming a homicide victim, when
13 compared to victims without a strangulation history, and that non-
14 fatal strangulation are tactics used by abusers in a coercive manner
15 against their victims as a method of power and control.

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Increases strangulation assault to crime of second degree.

CHAPTER 172

AN ACT concerning strangulation assault and amending N.J.S.2C:12-1.

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

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

Assault.

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.

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, 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.

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.

2. This act shall take effect immediately.

Approved July 12, 2021.

SENATE, No. 2503

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 28, 2020

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator JOSEPH P. CRYAN

District 20 (Union)

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Assemblywoman AURA K. DUNN

District 25 (Morris and Somerset)

Co-Sponsored by:

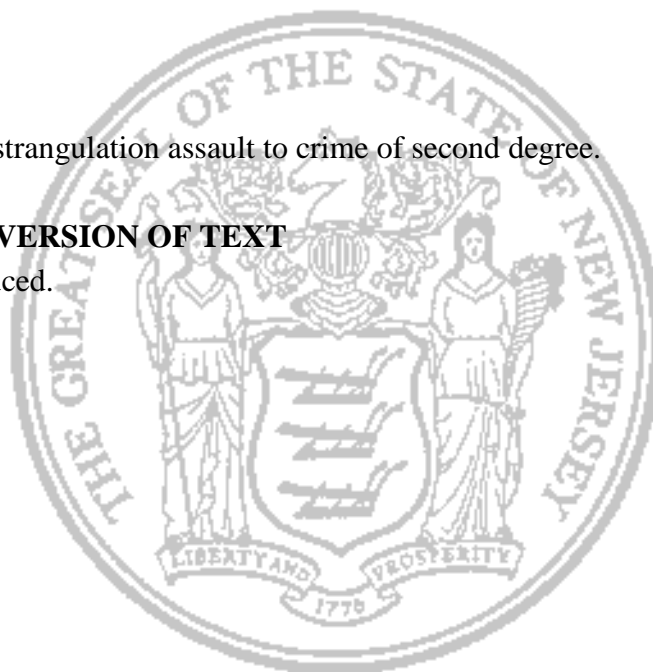
Senators Gill, Greenstein, O'Scanlon, Oroho, Singleton, Assemblywomen Vainieri Huttle, Swain, Assemblyman Auth and Assemblywoman Murphy

SYNOPSIS

Increases strangulation assault to crime of second degree.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/20/2021)

1 AN ACT concerning strangulation assault and amending
2 N.J.S.2C:12-1.

3

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

6

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

8 2C:12-1. Assault. a. Simple assault. A person is guilty of
9 assault if the person:

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

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

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

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

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

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

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

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

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

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

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

39 (b) Any paid or volunteer firefighter acting in the performance
40 of 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
44 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. Aggravated assault under paragraph (8) of subsection b. of
35 this section is a crime of the third degree if the victim suffers bodily
36 injury; if the victim suffers significant bodily injury or serious
37 bodily injury it is a crime of the second degree. Aggravated assault
38 under paragraph (11) of subsection b. of this section is a crime of
39 the third degree. Aggravated assault under paragraph (12) **【or (13)】**
40 of subsection b. of this section is a crime of the third degree but the
41 presumption of non-imprisonment set forth in subsection e. of
42 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall
43 not apply. Aggravated assault under paragraph (13) of subsection
44 b. of this section is a crime of the second degree.

45 c. (1) A person is guilty of assault by auto or vessel when the
46 person drives a vehicle or vessel recklessly and causes either
47 serious bodily injury or bodily injury to another. Assault by auto or
48 vessel is a crime of the fourth degree if serious bodily injury results

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

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

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

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

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

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

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

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

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

42 (4) Assault by auto or vessel is a crime of the third degree if the
43 person purposely drives a vehicle in an aggressive manner directed
44 at another vehicle and serious bodily injury results and is a crime of
45 the fourth degree if the person purposely drives a vehicle in an
46 aggressive manner directed at another vehicle and bodily injury
47 results. For purposes of this paragraph, "driving a vehicle in an
48 aggressive manner" shall include, but is not limited to,

1 unexpectedly altering the speed of the vehicle, making improper or
2 erratic traffic lane changes, disregarding traffic control devices,
3 failing to yield the right of way, or following another vehicle too
4 closely.

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

8 d. A person who is employed by a facility as defined in section
9 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
10 defined in paragraph (1) or (2) of subsection a. of this section upon
11 an institutionalized elderly person as defined in section 2 of
12 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
13 degree.

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

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

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

35

36 2. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 Currently, under N.J.S. 2C:12-1b.(13), strangulation is graded as
42 a crime of the third degree, punishable by up to five years
43 imprisonment, a fine of up to \$15,000, or both. This bill elevates
44 strangulation, committed in the domestic violence context against a
45 victim of domestic violence, to a crime of the second degree,
46 punishable by up to 10 years imprisonment, a fine of up to
47 \$150,000, or both.

1 In 2019, the New Jersey Domestic Violence Fatality Near
2 Fatality Review Board published the 2018 Annual Report, Fatality
3 By Strangulation. In the domestic violence context, the report
4 declared that strangulation is one of the strongest predictors for the
5 subsequent homicide of victims of domestic violence, and
6 referenced research showing that victims of attempted strangulation
7 are seven times more likely of becoming a homicide victim, when
8 compared to victims without a strangulation history, and that non-
9 fatal strangulation are tactics used by abusers in a coercive manner
10 against their victims as a method of power and control.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2503

STATE OF NEW JERSEY

DATED: MAY 12, 2021

The Assembly Judiciary Committee reports favorably Senate Bill No. 2503.

Currently, under N.J.S. 2C:12-1b.(13), strangulation is graded as a crime of the third degree, punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. This bill elevates strangulation committed in the domestic violence context against a victim of domestic violence to a crime of the second degree, punishable by a term of five to 10 years imprisonment, a fine of up to \$150,000, or both.

This bill is identical to Assembly, No. 4588, which was also released by the committee on this date

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 2503

STATE OF NEW JERSEY

DATED: DECEMBER 11, 2020

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 2503.

As reported by the committee, this bill upgrades strangulation assault to a second degree crime.

Under current law, strangulation is a third degree crime, punishable by up to five years imprisonment, a fine of up to \$15,000, or both. This bill elevates strangulation, committed in the domestic violence context against a victim of domestic violence, to a second degree crime, punishable by up to 10 years imprisonment, a fine of up to \$150,000, or both.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2503

STATE OF NEW JERSEY

DATED: JANUARY 21, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2503.

As reported by the committee, this bill upgrades strangulation assault to a second degree crime.

Under current law, strangulation is a third degree crime, punishable by up to five years imprisonment, a fine of up to \$15,000, or both. This bill elevates strangulation, committed in the domestic violence context against a victim of domestic violence, to a second degree crime, punishable by up to 10 years imprisonment, a fine of up to \$150,000, or both.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill would generate indeterminate additional costs for the Department of Corrections (DOC). Under the provisions of the bill, this crime would be upgraded to a second degree crime, making the sentence longer by up to five years. The OLS does not have sufficient information to quantify the impact.

The State may also receive indeterminate revenue from additional fines and penalties imposed on individuals convicted of the upgraded crime; however, the State's ability to collect criminal fines and penalties has historically been limited.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 2503
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JANUARY 19, 2021

SUMMARY

Synopsis: Increases strangulation assault to crime of second degree.

Type of Impact: State expenditure and revenue increases.

Agencies Affected: Department of Corrections; Judiciary.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that this bill would generate indeterminate additional costs for the Department of Corrections (DOC). Under the provisions of the bill, this crime would be upgraded to a second degree crime, making the sentence longer by up to five years. The OLS does not have sufficient information to quantify the impact.
- The State may also receive indeterminate revenue from additional fines and penalties imposed on individuals convicted of the upgraded crime; however, the State's ability to collect criminal fines and penalties has historically been limited.

BILL DESCRIPTION

This bill upgrades strangulation assault to a second degree crime.

Under current law, strangulation is a third degree crime, punishable by up to five years imprisonment, a fine of up to \$15,000, or both. This bill elevates strangulation, committed in the domestic violence context against a victim of domestic violence, to a second degree crime, punishable by up to 10 years imprisonment, a fine of up to \$150,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill would generate indeterminate additional costs for the DOC. Under the provisions of the bill, this crime would be upgraded to a second degree crime, making the sentence longer by up to five years. The OLS does not have sufficient information to quantify the impact. The OLS notes that according to the DOC, the average annual cost to house an inmate in a State prison facility during FY 2019 totaled \$50,191. The marginal costs for food, wages and clothing per day were approximately \$8.60 per inmate.

According to the Judiciary's 2019 report to the Governor and the Legislature, in 2019, of the 34,721 complaints indicating domestic violence, 2,033 complaints (5.9 percent) alleged aggravated assault against a domestic violence victim involving strangulation. It is unclear as to how many individuals were convicted on the basis of these complaints. While strangulation cases are not limited to domestic violence situations, studies show a high incidence of strangulation in domestic violence cases. There is insufficient information on the exact number of individuals incarcerated for the crime of strangulation in New Jersey State prisons.

The State may also receive indeterminate revenue from additional fines and penalties imposed on individuals convicted of the upgraded crime. However, the State's ability to collect criminal fines and penalties has historically been limited.

Section: Judiciary
Analyst: Anuja Pande Joshi
Assistant Research Analyst
Approved: Thomas Koenig
Assistant Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 4588

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED AUGUST 25, 2020

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Assemblywoman AURA K. DUNN

District 25 (Morris and Somerset)

Co-Sponsored by:

**Assemblywomen Vainieri Huttle, Swain, Assemblyman Auth and
Assemblywoman Murphy**

SYNOPSIS

Increases strangulation assault to crime of second degree.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/20/2021)

1 AN ACT concerning strangulation assault and amending
2 N.J.S.2C:12-1.

3

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

6

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

8 2C:12-1. Assault. a. Simple assault. A person is guilty of
9 assault if the person:

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

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

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

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

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

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

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

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

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

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

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

39 (b) Any paid or volunteer firefighter acting in the performance
40 of 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
44 services acting in the performance of the person's duties while in
45 uniform or otherwise clearly identifiable as being engaged in the

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

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

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

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

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

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

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

45 (10) Knowingly points, displays or uses an imitation firearm, as
46 defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a
47 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. Aggravated assault under paragraph (8) of subsection b. of
35 this section is a crime of the third degree if the victim suffers bodily
36 injury; if the victim suffers significant bodily injury or serious
37 bodily injury it is a crime of the second degree. Aggravated assault
38 under paragraph (11) of subsection b. of this section is a crime of
39 the third degree. Aggravated assault under paragraph (12) [or (13)]
40 of subsection b. of this section is a crime of the third degree but the
41 presumption of non-imprisonment set forth in subsection e. of
42 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall
43 not apply. Aggravated assault under paragraph (13) of subsection
44 b. of this section is a crime of the second degree.

45 c. (1) A person is guilty of assault by auto or vessel when the
46 person drives a vehicle or vessel recklessly and causes either
47 serious bodily injury or bodily injury to another. Assault by auto or
48 vessel is a crime of the fourth degree if serious bodily injury results

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

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

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

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

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

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

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

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

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

42 (4) Assault by auto or vessel is a crime of the third degree if the
43 person purposely drives a vehicle in an aggressive manner directed
44 at another vehicle and serious bodily injury results and is a crime of
45 the fourth degree if the person purposely drives a vehicle in an
46 aggressive manner directed at another vehicle and bodily injury
47 results. For purposes of this paragraph, "driving a vehicle in an
48 aggressive manner" shall include, but is not limited to,

1 unexpectedly altering the speed of the vehicle, making improper or
2 erratic traffic lane changes, disregarding traffic control devices,
3 failing to yield the right of way, or following another vehicle too
4 closely.

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

8 d. A person who is employed by a facility as defined in section
9 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
10 defined in paragraph (1) or (2) of subsection a. of this section upon
11 an institutionalized elderly person as defined in section 2 of
12 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
13 degree.

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

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

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

35

36 2. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 Currently, under N.J.S. 2C:12-1b.(13), strangulation is graded as
42 a crime of the third degree, punishable by up to five years
43 imprisonment, a fine of up to \$15,000, or both. This bill elevates
44 strangulation, committed in the domestic violence context against a
45 victim of domestic violence, to a crime of the second degree,
46 punishable by up to 10 years imprisonment, a fine of up to
47 \$150,000, or both.

1 In 2019, the New Jersey Domestic Violence Fatality Near
2 Fatality Review Board published the 2018 Annual Report, Fatality
3 By Strangulation. In the domestic violence context, the report
4 declared that strangulation is one of the strongest predictors for the
5 subsequent homicide of victims of domestic violence, and
6 referenced research showing that victims of attempted strangulation
7 are seven times more likely of becoming a homicide victim, when
8 compared to victims without a strangulation history, and that non-
9 fatal strangulation are tactics used by abusers in a coercive manner
10 against their victims as a method of power and control.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4588

STATE OF NEW JERSEY

DATED: MAY 12, 2021

The Assembly Judiciary Committee reports favorably Assembly Bill No. 4588.

Currently, under N.J.S. 2C:12-1b.(13), strangulation is graded as a crime of the third degree, punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. This bill elevates strangulation committed in the domestic violence context against a victim of domestic violence to a crime of the second degree, punishable by a term of imprisonment of five to 10 years, a fine of up to \$150,000, or both.

This bill is identical to Senate, No. 2503, which was also released by the committee on this date.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4588
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: MAY 21, 2021

SUMMARY

Synopsis: Increases strangulation assault to crime of second degree.

Type of Impact: State expenditure and revenue increases.

Agencies Affected: Department of Corrections; The Judiciary.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that this bill would generate indeterminate additional costs for the Department of Corrections (DOC). Under the provisions of the bill, this crime would be upgraded to a second degree crime, making the sentence longer by up to five years. The OLS does not have sufficient information to quantify the exact fiscal impact.
- The State may also receive indeterminate revenue from additional fines and penalties imposed on individuals convicted of the upgraded crime; however, the State's ability to collect criminal fines and penalties has historically been limited.

BILL DESCRIPTION

This bill upgrades strangulation assault to a second degree crime.

Under current law, strangulation is graded as a crime of the third degree, punishable by up to five years imprisonment, a fine of up to \$15,000, or both. This bill elevates strangulation, committed in the domestic violence context against a victim of domestic violence, to a crime of the second degree, punishable by up to 10 years imprisonment, a fine of up to \$150,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Although the Judiciary did not provide a formal fiscal note but noted that data collected from the Judiciary's automated criminal case tracking system (Promis/Gavel) reveals that in calendar year 2019 there were 257 convictions of an aggravated assault against a domestic violence victim involving strangulation under NJSA 2C:12-1(b)13. All 257 convictions were via a guilty plea, meaning there were no convictions for this crime resulting from a trial.

The Judiciary pointed out that "although it is logical that increasing the consequences for a conviction of this crime would lead to an increased trial rate and result in an impact on Judicial resources, the Judiciary is unable to estimate with any certainty how many additional trials (and possible appeals) may result. In this regard, the Judiciary is unable to ascertain the fiscal impact this bill would have on Judiciary revenue or expenditures."

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill would generate indeterminate additional costs for the DOC. Under the provisions of the bill, this crime would be upgraded to a second degree crime, making the sentence longer by up to five years. The OLS does not have sufficient information to quantify the impact. The OLS notes that according to the DOC, the average annual cost to house an inmate in a State prison facility during FY 2019 totaled \$50,191. The marginal costs for food, wages and clothing per day were approximately \$8.60 per inmate.

In 2019, the New Jersey Domestic Violence Fatality Near Fatality Review Board published the 2018 Annual Report, Fatality By Strangulation. In the domestic violence context, the report declared that strangulation is one of the strongest predictors for the subsequent homicide of victims of domestic violence, and referenced research showing that victims of attempted strangulation are seven times more likely of becoming a homicide victim, when compared to victims without a strangulation history, and that non-fatal strangulation are tactics used by abusers in a coercive manner against their victims as a method of power and control.

According to the Judiciary's 2019 report to the Governor and the Legislature, in 2019, of the 34,721 complaints indicating domestic violence, 2,033 complaints (5.9 percent) alleged aggravated assault against a domestic violence victim involving strangulation. While strangulation cases are not limited to domestic violence situations, studies show a high incidence of strangulation in domestic violence cases. There is insufficient information on the exact number of individuals incarcerated for the crime of strangulation in New Jersey State prisons.

The State may also receive indeterminate revenue from additional fines and penalties imposed on individuals convicted of the upgraded crime. However, the State's ability to collect criminal fines and penalties has historically been limited.

Section: Judiciary

Analyst: Anuja Pande Joshi
Associate Fiscal Analyst

Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).