

2C:11-4

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 2C:11-4 (Assault committee while eluding police officer)

LAWS OF: 1991 CHAPTER: 341

Bill No: S1192

Sponsor(s): McManimon

Date Introduced: Pre-filed

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly: December 2, 1991

Senate: March 29, 1990

Date of Approval: January 7, 1992

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: No

Hearings: No

See newspaper clipping -- attached

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[FIRST REPRINT]

SENATE, No. 1192

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Senator McMANIMON

1 AN ACT concerning ¹[eluding a law enforcement officer]
2 penalties for motor vehicle operators fleeing or attempting to
3 elude law enforcement officers,¹ and amending N.J.S.2C:11-4,
4 N.J.S.2C:12-1 and N.J.S.2C:29-2.

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

8 1. N.J.S.2C:11-4 is amended to read as follows:

9 2C:11-4. Manslaughter. a. Criminal homicide constitutes
10 aggravated manslaughter when [the]¹]:

11 (1) ~~The~~ the¹ actor recklessly causes death under circumstances
12 manifesting extreme indifference to human life¹; or

13 (2) It is committed under circumstances manifesting extreme
14 indifference to human life while the actor knowingly flees or
15 attempts to elude any law enforcement officer, in violation of
16 N.J.S.2C:29-2, however, nothing herein shall preclude prosecution
17 for murder where applicable]¹.

18 b. Criminal homicide constitutes manslaughter when:

19 (1) It is committed recklessly; or]

20 (2) A homicide which would otherwise be murder under section
21 2C:11-3 is committed in the heat of passion resulting from a
22 reasonable provocation; or

23 (3) ¹[It is committed while the actor knowingly flees or
24 attempts to elude any law enforcement officer, in violation of
25 N.J.S.2C:29-2, however, nothing herein shall preclude prosecution
26 for murder or aggravated manslaughter where applicable] The
27 actor causes the death of another person while fleeing or
28 attempting to elude a law enforcement officer in violation of
29 subsection b. of N.J.S.2C:29-2. Notwithstanding the provision of
30 any other law to the contrary, the actor shall be strictly liable
31 for a violation of this paragraph upon proof of a violation of
32 subsection b. of N.J.S.2C:29-2 which resulted in the death of
33 another person]¹.

34 c. Aggravated manslaughter is a crime of the first degree and
35 upon conviction thereof a person may, notwithstanding the
36 provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, be
37 sentenced to an ordinary term of imprisonment between 10 and
38 30 years. Manslaughter is a crime of the second degree¹;
39 however, a person convicted under paragraph (3) of subsection b.
40 of this section may, notwithstanding the provisions of paragraph

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJL committee amendments adopted March 7, 1991.

1 (2) of subsection a. of N.J.S.2C:43-6, be sentenced to an ordinary
2 term of imprisonment between five and 15 years¹.

3 (cf: P.L.1986, c.172, s.1)

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

5 2C:12-1. Assault. a. Simple assault. A person is guilty of
6 assault if he:

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

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

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

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

16 b. Aggravated assault. A person is guilty of aggravated
17 assault if he:

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

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

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

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

30 (5) Commits a simple assault as defined in subsection a. (1) and
31 (2) of this section upon

32 (a) Any law enforcement officer acting in the performance of
33 his duties while in uniform or exhibiting evidence of his authority;
34 or

35 (b) Any paid or volunteer fireman acting in the performance of
36 his duties while in uniform or otherwise clearly identifiable as
37 being engaged in the performance of the duties of a fireman; or

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

42 (d) Any school board member or school administrator, teacher
43 or other employee of a school board while clearly identifiable as
44 being engaged in the performance of his duties or because of his
45 status as a member or employee of a school board; or

46 (6) Causes serious bodily injury to another¹[under
47 circumstances manifesting extreme indifference to human life
48 while the actor knowingly flees or attempts to elude any law
49 enforcement officer in violation of N.J.S.2C:29-2] person while

1 fleeing or attempting to elude a law enforcement officer in
2 violation of subsection b. of N.J.S.2C:29-2. Notwithstanding any
3 other provision of law to the contrary, a person shall be strictly
4 liable for a violation of this subsection upon proof of a violation
5 of subsection b. of N.J.S.2C:29-2 which resulted in serious bodily
6 injury to another person¹; or

7 (7) Causes bodily injury to another ¹[while the actor knowingly
8 fleees or attempts to elude any law enforcement officer in
9 violation of N.J.S.2C:29-2] person while fleeing or attempting to
10 elude a law enforcement officer in violation of subsection b. of
11 N.J.S.2C:29-2. Notwithstanding any other provision of law to the
12 contrary, a person shall be strictly liable for a violation of this
13 subsection upon proof of a violation of subsection b. of
14 N.J.S.2C:29-2 which resulted in bodily injury to another person¹.

15 Aggravated assault under subsection b. (1) ¹and b.(6)¹ is a
16 crime of the second degree; under subsection b. (2) ¹and b.(7)¹ is a
17 crime of the third degree; under subsection b. (3) and b. (4) is a
18 crime of the fourth degree; [and] ¹and¹ under subsection b. (5) is
19 a crime of the third degree if the victim suffers bodily injury,
20 otherwise it is a crime of the fourth degree¹; under subsection
21 b.(6) is a crime of the second degree and under subsection b. (7) is
22 a crime of the third degree if the victim suffers serious bodily
23 injury, and is a crime of the fourth degree if the victim suffers
24 bodily injury]¹.

25 c. A person is guilty of assault by auto when the person drives
26 a vehicle recklessly and causes either serious bodily injury or
27 bodily injury to another. Assault by auto is a crime of the fourth
28 degree if serious bodily injury results and is a disorderly persons
29 offense if bodily injury results.

30 d. A person who is employed by a facility as defined in section
31 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault
32 as defined in paragraph (1) or (2) of subsection a. of this section
33 upon an institutionalized elderly person as defined in section 2 of
34 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
35 degree.

36 ¹e. A person who commits a simple assault as defined in
37 subsection a. of this section is guilty of a crime of the fourth
38 degree if the person acted, at least in part with ill will, hatred or
39 bias toward, and with a purpose to intimidate, an individual or
40 group of individuals because of race, color, religion, sexual
41 orientation, or ethnicity.¹

42 (cf: P.L.1990, c.87, s.1)

43 3. N.J.S.2C:29-2 is amended to read as follows:

44 2C:29-2. Resisting Arrest; Eluding Officer.

45 a. A person is guilty of a disorderly persons offense if he
46 purposely prevents a law enforcement officer from effecting a
47 lawful arrest, except that he is guilty of a crime of the fourth
48 degree if he:

49 1. Uses or threatens to use physical force or violence against

1 the law enforcement officer or another; or

2 2. Uses any other means to create a substantial risk of causing
3 physical injury to the public servant or another.

4 It is not a defense to a prosecution under this subsection that
5 the law enforcement officer was acting unlawfully in making the
6 arrest, provided he was acting under color of his official
7 authority and provided the law enforcement officer announces his
8 intention to arrest prior to the resistance.

9 b. Any person, while operating a motor vehicle on any street
10 or highway in this State, who knowingly flees or attempts to
11 elude any police or law enforcement officer after having received
12 any signal from such officer to bring the vehicle to a full stop is a
13 disorderly person; except that ¹if the flight or attempt to elude
14 creates a substantial risk of injury to another, the person is guilty
15 of a crime of the fourth degree], a person is guilty of a crime of
16 the fourth degree if the flight or attempt to elude creates a risk
17 of death or injury to any person. For purposes of this section,
18 there shall be a permissive inference that the person's conduct
19 during a flight or attempt to elude creates a risk of death or
20 injury to any person if the conduct involves a violation of chapter
21 4 of Title 39 of the Revised Statutes. In addition to the penalty
22 prescribed under this subsection or any other section of law, the
23 court shall order the suspension of that person's driver's license
24 for a period of not less than six months or more than two years.
25 If that license is suspended at the time such order is issued, the
26 suspension so ordered shall commence on the date of the
27 termination of the existing suspension.

28 The court shall collect the license which is being suspended and
29 forward it to the Division of Motor Vehicles along with a report
30 of the suspension. If the court is unable to collect the license,
31 the court shall nevertheless forward the report to the division.
32 The report from the court to the division shall include the
33 complete name, address, date of birth, eye color, sex and driver's
34 license number, if known, of the person whose license has been
35 suspended and shall indicate the first and last calendar day of the
36 suspension period ordered by the court under this subsection. If
37 the person is the holder of a license from another jurisdiction, the
38 court shall not collect the license but shall notify the division and
39 the division shall notify the appropriate officials in the licensing
40 state. The court, however, shall in accordance with the
41 provisions of this subsection, suspend the person's non-resident
42 driving privileges.

43 For the purposes of this subsection, it shall be a rebuttable
44 presumption that the owner of a vehicle was the operator of the
45 vehicle at the time of the offense.

46 (cf: P.L.1989, c.84, s.1)

47 4. This act shall take effect immediately.

S1192 [1R]

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1

CRIMINAL JUSTICE

2

3

Creates penalties for causing death or personal injury while

4

fleeing or attempting to elude police with a motor vehicle.

1 license number, if known, of the person whose license has been
2 suspended and shall indicate the first and last calendar day of the
3 suspension period ordered by the court under this subsection. If
4 the person is the holder of a license from another jurisdiction, the
5 court shall not collect the license but shall notify the division and
6 the division shall notify the appropriate officials in the licensing
7 state. The court, however, shall in accordance with the
8 provisions of this subsection, suspend the person's non-resident
9 driving privileges.

10 For the purposes of this subsection, it shall be a rebuttable
11 presumption that the owner of a vehicle was the operator of the
12 vehicle at the time of the offense.

13 (cf: P.L.1989, c.84, s.1)

14 4. This act shall take effect immediately.

15 16 SPONSORS' STATEMENT

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18
19 This bill amends N.J.S.2C:11-4 to provide that if a person
20 causes the death of another while attempting to elude a police
21 officer under circumstances manifesting extreme indifference to
22 human life, that person is guilty of aggravated manslaughter.
23 Aggravated manslaughter is a crime of the first degree. Other
24 deaths caused when fleeing or eluding a law enforcement officer
25 would be manslaughter, a crime of the second degree.

26 This bill also amends N.J.S.2C:12-1 concerning aggravated
27 assault to provide that if a person causes serious bodily injury to
28 another while attempting to elude a police officer under
29 circumstances manifesting extreme indifference to human life,
30 that person is guilty of a crime of the second degree. If the
31 circumstances do not indicate extreme indifference to human life
32 but another person suffers bodily injury, it is a crime of the third
33 degree. Otherwise it is a crime of the fourth degree. This bill
34 further amends N.J.S.2C:29-2 to upgrade the offense of eluding a
35 police officer while operating a motor vehicle from a disorderly
36 persons offense to a crime of the fourth degree if the flight or
37 attempt creates a substantial risk of injury to another.

38 39 40 CRIMINAL JUSTICE

41
42 Upgrades assault while knowingly fleeing or attempting to elude a
43 law enforcement officer; includes fleeing as a factor in criminal
44 homicide.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1192

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 1990

The Senate Judiciary Committee reports favorably Senate Bill No. 1192.

The bill would amend the present statutes governing manslaughter (N.J.S. 2C:11-4) and assault (N.J.S. 2C:12-1) to clarify the applicability of these statutes to situations where a death or injury has resulted from a person fleeing or attempting to elude a law enforcement officer. This bill would also upgrade the offense of eluding a law enforcement officer in certain circumstances.

MANSLAUGHTER (N.J.S. 2C:11-4)

Under this bill, a person would be guilty of aggravated manslaughter if a homicide is committed under circumstances manifesting extreme indifference to human life while the person fleeing or attempting to elude a law enforcement officer. Aggravated manslaughter is a crime of the first degree and is punishable by between 10 and 30 years imprisonment.

A person would be guilty of manslaughter if a homicide results from a person's fleeing or attempting to elude a law enforcement officer. Manslaughter is a crime of the second degree and is punishable by between 5 and 10 years imprisonment.

ASSAULT (N.J.S. 2C:12-1)

This bill provides for the following three gradations of aggravated assault if bodily injury results from fleeing or eluding a law enforcement officer:

Aggravated assault is a crime of the second degree if serious bodily injury occurs under circumstances manifesting extreme indifference to human life.

Aggravated assault is a crime of the third degree (between 3 and 5 years imprisonment) if serious bodily injury occurs.

Aggravated assault is a crime of the fourth degree (up to 18 months imprisonment) if bodily injury occurs.

ELUDING OFFICER (2C:29-2)

Presently, eluding or fleeing a law enforcement officer is graded as a disorderly persons offense (up to six months imprisonment). The bill would upgrade the offense to a crime of the fourth degree if the flight or attempt to elude creates a substantial risk of injury.

This bill was prefiled for introduction in the 1990 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

SENATE, No. 1192

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 7, 1991

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 1192.

The bill amends the present statutes governing manslaughter, N.J.S.A.2C:11-4 and assault, N.J.S.A.2C:12-1 to clarify the applicability of these statutes to situations where a death or injury has resulted from a person fleeing or attempting to elude a law enforcement officer while operating a motor vehicle. This bill amends N.J.S.A.2C:29-2 to upgrade the offense of eluding a law enforcement officer in certain circumstances.

MANSLAUGHTER (N.J.S.A.2C:11-4)

As amended, the bill adds a third category to criminal homicide concerning causing the death of another while fleeing or attempting to elude a law enforcement officer while operating a motor vehicle in violation of subsection b. of N.J.S.A.2C:29-2. Proof of a violation of subsection b. of N.J.S.A.2C:29-2 which results in the death of another person establishes the criminal homicide. Manslaughter is a crime of the second degree and is punishable by between 5 and 10 years imprisonment, a fine not to exceed \$100,000 or both. However, if the person is guilty of manslaughter under the circumstances of fleeing or eluding a law enforcement officer while operating a motor vehicle then the term of imprisonment shall range from five to 15 years. Prior to amendment the bill would have categorized criminal homicide while fleeing a law enforcement officer as aggravated manslaughter. The bill does not amend N.J.S.A.2C:11-5, the third degree crime of death by auto, which also constitutes criminal homicide. N.J.S.A.2C:11-5 provides that if an indictment for manslaughter is brought in a case involving the operation of a motor vehicle, death by auto shall be considered a lesser-included offense.

ASSAULT (N.J.S.A.2C:12-1)

The bill as amended adds two categories to the crime of aggravated assault. If serious bodily injury results from fleeing or eluding a law enforcement officer as described in new paragraph (6) of subsection b. of N.J.S.A.2C:12-1 then the aggravated assault is a crime of the second degree. A crime of the second degree is punishable by between 5 and 10 years imprisonment, a fine not to

exceed \$100,000 or both. If bodily injury results from fleeing or eluding a law enforcement officer as described in new paragraph (7) of subsection b. of N.J.S.A.2C:12-1 then the aggravated assault is a crime of the third degree and is punishable by between 3 and 5 years imprisonment, a fine not to exceed \$7,500 or both. Prior to amendment the bill would have permitted a crime of the fourth degree category for some cases of bodily injury while eluding a law enforcement officer if the victim suffered bodily injury as opposed to serious bodily injury. The bill as amended does not make that distinction and grades the new paragraph (7) category of aggravated assault as crimes of the third degree.

ELUDING OFFICER (N.J.S.A.2C:29-2)

Presently, fleeing or attempting to elude while operating a motor vehicle after having received a signal to stop is a disorderly persons offense under subsection b. of N.J.S.A.2C:29-2. The bill would upgrade the offense to a crime of the fourth degree if the flight or attempt to elude creates a risk of injury or death to any person. As amended, there shall be a permissive inference that a flight or attempt to elude in a motor vehicle creates a risk of death or injury to another if the conduct involves a violation of chapter 4 of Title 39.

This bill is identical to the Assembly Committee Substitute for Assembly Bills Nos. 722 and 1945.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001

Contact: JON SHURE
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Release: TUESDAY
JANUARY 7, 1992

GOVERNOR SIGNS LAW TOUGHENING PENALTIES IN CASES OF PERSONS FLEEING FROM POLICE

Gov. Jim Florio today signed into law a measure that clarifies the law and in some cases increases the penalties for persons involved in fleeing from law enforcement authorities.

Gov. Florio said, "When the police come to us and say they need some help, it's our duty to provide it. We need to give law enforcement people the tools they need to protect us. Theirs is a difficult and often thankless job, and this is a way we can tell them we appreciate what they do."

S-1192 Aca/A-722/1945 Acs (Sen. McManimon, sponsor) amends the statutes concerning manslaughter and assault. It clarifies how the law applies to cases where a death or injury has resulted from a person fleeing or trying to get away from a law enforcement officer while operating a motor vehicle.

It also upgrades the offense of eluding a police officer in certain situations. The law aims to address a problem that has grown more severe in recent years: deaths and injuries caused by people fleeing from police.

In addition, the law increases the potential penalties for someone convicted of manslaughter under the circumstances of using a motor vehicle to flee from police. The maximum prison term would be 15 years instead of the 10 that accompanies other manslaughter convictions.

In cases where no one is killed or injured, but the risk of that happening is created, the new law upgrades fleeing from police in a motor vehicle from a disorderly persons offense to a fourth degree offense.

The legislation was supported by the county prosecutors and by police organizations seeking a tool to help deal with the increasing problem of damage and injury caused by car chases and other instances of persons fleeing from police in motor vehicles.

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