



**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"Law increases penalties for nonfatal strangulation of domestic partners in N.J. - New law increases penalties for nonfatal strangulation of domestic partner," The Press of Atlantic City, November 15, 2017

RH/CL

P.L.2017, CHAPTER 240, *approved November 13, 2017*

Assembly, No. 2061 (*Second Reprint*)

1 AN ACT concerning certain assaults and amending N.J.S.2C:12-1.

2

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

5

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

7 2C:12-1. Assault. a. Simple assault. A person is guilty of  
8 assault if he:

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

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

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

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

18 b. Aggravated assault. A person is guilty of aggravated assault  
19 if he:

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

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

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

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

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

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

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

40 (c) Any person engaged in emergency first-aid or medical  
41 services acting in the performance of his duties while in uniform or

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AJU committee amendments adopted February 8, 2016.

<sup>2</sup>Assembly AAP committee amendments adopted June 20, 2016.

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

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

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

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

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

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

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

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

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

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

17 (13)<sup>1</sup> [Causes bodily injury to another by strangling the person in  
18 the course of committing an act] Knowingly <sup>2</sup>or, under  
19 circumstances manifesting extreme indifference to the value of  
20 human life, recklessly<sup>2</sup> obstructs the breathing or blood circulation  
21 of a person who, with respect to the actor, meets the definition of a  
22 victim<sup>1</sup> of domestic violence, as defined in <sup>1</sup>subsection d. of<sup>1</sup>  
23 section 3 of P.L.1991, c.261 (C.2C:25-19), <sup>1</sup>[against the person] by  
24 applying pressure on the throat or neck or blocking the nose or  
25 mouth of such person, thereby causing or attempting to cause bodily  
26 injury<sup>1</sup>.

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 the  
30 third degree; under paragraphs (3) and (4) of subsection b. of this  
31 section is a crime of the fourth degree; and under **[paragraph]**  
32 **<sup>1</sup>[paragraphs] paragraph<sup>1</sup> (5) <sup>1</sup>[and (13)]<sup>1</sup>** of subsection b. of this  
33 section is a crime of the third degree if the victim suffers bodily  
34 injury, otherwise it is a crime of the fourth degree. Aggravated  
35 assault under paragraph (8) of subsection b. of this section is a  
36 crime of the third degree if the victim suffers bodily injury; if the  
37 victim suffers significant bodily injury or serious bodily injury it is  
38 a crime of the second degree. Aggravated assault under paragraph  
39 (11) of subsection b. of this section is a crime of the third degree.  
40 Aggravated assault under paragraph (12) <sup>1</sup>or (13)<sup>1</sup> of subsection b.  
41 of this section is a crime of the third degree but the presumption of  
42 non-imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a  
43 first offense of a crime of the third degree shall not apply.

44 c. (1) A person is guilty of assault by auto or vessel when the  
45 person drives a vehicle or vessel recklessly and causes either  
46 serious bodily injury or bodily injury to another. Assault by auto or  
47 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 interscholastic  
29 sports teams or youth sports teams organized pursuant to a  
30 nonprofit or similar charter or which are member teams in a youth  
31 league organized by or affiliated with a county or municipal  
32 recreation department and shall not include collegiate, semi-  
33 professional or professional sporting events.  
34 (cf: P.L.2015, c.100, s.1)

35  
36 2. This act shall take effect immediately.  
37  
38  
39

40  
41 \_\_\_\_\_  
42 Provides that strangulation of victim resulting in bodily injury  
43 during commission of act of domestic violence constitutes  
aggravated assault.



# ASSEMBLY, No. 2061

## STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**Assemblyman TROY SINGLETON**

**District 7 (Burlington)**

**Assemblyman JOSEPH A. LAGANA**

**District 38 (Bergen and Passaic)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblywoman ELIZABETH MAHER MUOIO**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman MARLENE CARIDE**

**District 36 (Bergen and Passaic)**

**Assemblywoman L. GRACE SPENCER**

**District 29 (Essex)**

**Assemblywoman GABRIELA M. MOSQUERA**

**District 4 (Camden and Gloucester)**

**Assemblywoman CLEOPATRA G. TUCKER**

**District 28 (Essex)**

**Co-Sponsored by:**

**Assemblymen Wimberly, Coughlin, Assemblywoman Quijano and  
Assemblyman C.A.Brown**

**SYNOPSIS**

Provides that strangulation of victim resulting in bodily injury during commission of act of domestic violence constitutes aggravated assault.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.

1 AN ACT concerning certain assaults and amending N.J.S.2C:12-1.

2

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

5

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

7 2C:12-1. Assault. a. Simple assault. A person is guilty of  
8 assault if he:

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

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

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

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

18 b. Aggravated assault. A person is guilty of aggravated assault  
19 if he:

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

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

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

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

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

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

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

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

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

**Matter underlined thus is new matter.**

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

1 providing direct patient care or practicing the health care  
2 profession, provided that the actor is not a patient or resident at the  
3 facility who is classified by the facility as having a mental illness or  
4 developmental disability; or

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

14 (7) Attempts to cause significant bodily injury to another or  
15 causes significant bodily injury purposely or knowingly or, under  
16 circumstances manifesting extreme indifference to the value of  
17 human life recklessly causes such significant bodily injury; or

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

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

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

43 (11) Uses or activates a laser sighting system or device, or a  
44 system or device which, in the manner used, would cause a  
45 reasonable person to believe that it is a laser sighting system or  
46 device, against a law enforcement officer acting in the performance  
47 of his duties while in uniform or exhibiting evidence of his  
48 authority. As used in this paragraph, "laser sighting system or

1 device" means any system or device that is integrated with or  
2 affixed to a firearm and emits a laser light beam that is used to  
3 assist in the sight alignment or aiming of the firearm; or

4 (12) Causes bodily injury to another by strangling the person in  
5 the course of committing an act of domestic violence, as defined in  
6 section 3 of P.L.1991, c.261 (C.2C:25-19), against the person.

7 Aggravated assault under **【**subsections b. (1) and b. (6)  
8 paragraphs (1) and (6) of subsection b. of this section is a crime of  
9 the second degree; under **【**subsections b. (2), b. (7), b. (9) and b.  
10 (10)**】** paragraphs (2), (7), (9), and (10) of subsection b. of this  
11 section is a crime of the third degree; under **【**subsections b. (3) and  
12 b. (4)**】** paragraphs (3) and (4) of subsection b. of this section is a  
13 crime of the fourth degree; and under **【**subsection b. (5) b.(12)  
14 paragraphs (5) and (12) of subsection b. of this section is a crime of  
15 the third degree if the victim suffers bodily injury, otherwise it is a  
16 crime of the fourth degree. Aggravated assault under **【**subsection  
17 b.(8)**】** paragraph (8) of subsection b. of this section is a crime of the  
18 third degree if the victim suffers bodily injury; if the victim suffers  
19 significant bodily injury or serious bodily injury it is a crime of the  
20 second degree. Aggravated assault under **【**subsection b. (11)  
21 paragraph (11) of subsection b. of this section is a crime of the third  
22 degree.

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

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

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

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

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

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

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

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

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

21 (4) Assault by auto or vessel is a crime of the third degree if the  
22 person purposely drives a vehicle in an aggressive manner directed  
23 at another vehicle and serious bodily injury results and is a crime of  
24 the fourth degree if the person purposely drives a vehicle in an  
25 aggressive manner directed at another vehicle and bodily injury  
26 results. For purposes of this paragraph, "driving a vehicle in an  
27 aggressive manner" shall include, but is not limited to,  
28 unexpectedly altering the speed of the vehicle, making improper or  
29 erratic traffic lane changes, disregarding traffic control devices,  
30 failing to yield the right of way, or following another vehicle too  
31 closely.

32 As used in this **[section]** subsection, "vessel" means a means of  
33 conveyance for travel on water and propelled otherwise than by  
34 muscular power.

35 d. A person who is employed by a facility as defined in section  
36 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as  
37 defined in paragraph (1) or (2) of subsection a. of this section upon  
38 an institutionalized elderly person as defined in section 2 of  
39 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth  
40 degree.

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

42 f. A person who commits a simple assault as defined in  
43 paragraph (1), (2) or (3) of subsection a. of this section in the  
44 presence of a child under 16 years of age at a school or community  
45 sponsored youth sports event is guilty of a crime of the fourth  
46 degree. The defendant shall be strictly liable upon proof that the  
47 offense occurred, in fact, in the presence of a child under 16 years  
48 of age. It shall not be a defense that the defendant did not know

1 that the child was present or reasonably believed that the child was  
2 16 years of age or older. The provisions of this subsection shall not  
3 be construed to create any liability on the part of a participant in a  
4 youth sports event or to abrogate any immunity or defense available  
5 to a participant in a youth sports event. As used in this act, "school  
6 or community sponsored youth sports event" means a competition,  
7 practice or instructional event involving one or more interscholastic  
8 sports teams or youth sports teams organized pursuant to a  
9 nonprofit or similar charter or which are member teams in a youth  
10 league organized by or affiliated with a county or municipal  
11 recreation department and shall not include collegiate, semi-  
12 professional or professional sporting events.  
13 (cf: P.L.2012, c.22, s.2)

14

15 2. This act shall take effect immediately.

16

17

18

STATEMENT

19

20 This bill as amended would upgrade simple assault to aggravated  
21 assault when a person causes bodily injury by strangling the victim in  
22 the course of an act of domestic violence.

23 "Bodily injury" is defined in N.J.S.2C:11-1 as physical pain, illness  
24 or any impairment of physical condition.

25 Under the provisions of the bill as amended, causing bodily injury  
26 to another by strangling the person in the course of committing an act  
27 of domestic violence, as defined in section 3 of P.L.1991, c.261  
28 (C.2C:25-19), against the person would constitute the third degree  
29 crime of aggravated assault. If the person does not suffer bodily  
30 injury, strangling the person in the course of committing an act of  
31 domestic violence against the person would constitute the fourth  
32 degree crime of aggravated assault. A crime of the third degree is  
33 punishable by a term of imprisonment of three to five years, a fine of  
34 up to \$15,000, or both; a crime of the fourth degree, by a term of  
35 imprisonment of up to 18 months, a fine of up to \$10,000, or both.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 2061**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 8, 2016

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2061.

This bill, as amended, would upgrade the offense of assault in a domestic violence context when the defendant knowingly obstructs the victim's breathing or circulation under certain circumstances.

Under current law, a person is guilty of simple assault if he attempts to cause or causes bodily injury to another. Simple assault is generally a disorderly persons offense, punishable by a term of imprisonment of up to six months or a fine of up to \$1,000, or both.

Under the bill as amended, simple assault would be upgraded to the crime of aggravated assault if the defendant knowingly 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. As introduced, this bill would have upgraded simple assault to aggravated assault when the defendant "causes bodily injury by strangling the victim in the course of an act of domestic violence." The committee amended this language to more specifically set out the elements of the offense.

This aggravated assault on a domestic violence victim would be a crime of the third degree. A crime of the third degree is generally punishable by a term of three to five years or a fine up to \$15,000, or both. Under current law, there is generally a presumption of non-imprisonment for a first offense of a crime of the third degree. The committee amendments remove this presumption of non-imprisonment for crimes committed under the circumstances set out in the bill.

This bill was pre-filed for introduction in the 2016-2017 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed. These changes included updating N.J.S.2C:12-1 to reflect the enactment of P.L.2015, c.98 and P.L.2015, c.100, both of which amended that section.



COMMITTEE AMENDMENTS:

1. In paragraph (13) of subsection b. of N.J.S.2C:12-1, the amendments change the language “causes bodily injury to another by strangling the person” to “knowingly 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.”

2. The amendments provide that aggravated assault under the bill would be a crime of the third degree, and remove the presumption of non-imprisonment that generally applies to a first offense of a crime of the third degree.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 2061

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 20, 2016

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2061 (1R), with committee amendments.

As amended, this bill upgrades the offense of assault in a domestic violence context when the defendant knowingly obstructs the victim's breathing or circulation under certain circumstances.

Under current law, a person is guilty of simple assault if the person attempts to cause or causes bodily injury to another. Simple assault is generally a disorderly persons offense, punishable by a term of imprisonment of up to six months or a fine of up to \$1,000, or both.

The bill provides that simple assault will be upgraded to aggravated assault if the defendant 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, 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 on a domestic violence victim under the circumstances set out in the bill will be a crime of the third degree. A crime of the third degree is generally punishable by a term of three to five years or a fine up to \$15,000, or both. Under current law, there is generally a presumption of non-imprisonment for a first offense of a crime of the third degree. The bill eliminates this presumption of non-imprisonment for crimes committed under the circumstances set out in the bill.

### FISCAL IMPACT:

This bill has not been certified as requiring a fiscal note.

### COMMITTEE AMENDMENTS:

The amendments provide that a person is guilty of the crime if the person commits the acts specified in the bill "under circumstances manifesting extreme indifference to the value of human life, recklessly." As referred to committee, the bill had provided that a

defendant would be guilty of the crime only if he committed these actions “knowingly.” The expansion of the bill to encompass actions that are committed “recklessly” would facilitate prosecutions.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

[Second Reprint]

**ASSEMBLY, No. 2061**

# **STATE OF NEW JERSEY**

DATED: JUNE 15, 2017

The Senate Law and Public Safety Committee reports favorably Assembly Bill No. 2061 (2R).

As reported by the committee, this bill upgrades the offense of assault when the defendant causes bodily injury by strangling a victim of domestic violence.

Specifically, the bill upgrades simple assault to aggravated assault if the defendant 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, 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.

A person is guilty of simple assault if the person attempts to cause or causes bodily injury to another. Simple assault is a disorderly persons offense, punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both. Aggravated assault committed against a victim of domestic violence as set forth in the bill is a crime of the third degree. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine up to \$15,000, or both. The presumption of non-imprisonment generally applicable to third degree and fourth degree crimes committed by first-time offenders is eliminated under the bill.

As reported by the committee, Assembly Bill No. 2061 (2R) is identical to Senate Bill No. 3209, also reported by the committee on this same date.

# SENATE, No. 3209

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MAY 18, 2017

**Sponsored by:**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senators Allen and Beck**

**SYNOPSIS**

Provides that strangulation of victim resulting in bodily injury during commission of act of domestic violence constitutes aggravated assault.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/6/2017)**

1 AN ACT concerning certain assaults and amending N.J.S.2C:12-1.

2

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

5

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

7 2C:12-1. Assault. a. Simple assault. A person is guilty of  
8 assault if he:

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

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

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

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

18 b. Aggravated assault. A person is guilty of aggravated assault  
19 if he:

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

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

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

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

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

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

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

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

44 (d) Any school board member, school administrator, teacher,  
45 school bus driver or other employee of a public or nonpublic school

**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 or school board while clearly identifiable as being engaged in the  
2 performance of his duties or because of his status as a member or  
3 employee of a public or nonpublic school or school board or any  
4 school bus driver employed by an operator under contract to a  
5 public or nonpublic school or school board while clearly  
6 identifiable as being engaged in the performance of his duties or  
7 because of his status as a school bus driver; or

8 (e) Any employee of the Division of Child Protection and  
9 Permanency while clearly identifiable as being engaged in the  
10 performance of his duties or because of his status as an employee of  
11 the division; or

12 (f) Any justice of the Supreme Court, judge of the Superior  
13 Court, judge of the Tax Court or municipal judge while clearly  
14 identifiable as being engaged in the performance of judicial duties  
15 or because of his status as a member of the judiciary; or

16 (g) Any operator of a motorbus or the operator's supervisor or  
17 any employee of a rail passenger service while clearly identifiable  
18 as being engaged in the performance of his duties or because of his  
19 status as an operator of a motorbus or as the operator's supervisor or  
20 as an employee of a rail passenger service; or

21 (h) Any Department of Corrections employee, county  
22 corrections officer, juvenile corrections officer, State juvenile  
23 facility employee, juvenile detention staff member, juvenile  
24 detention officer, probation officer or any sheriff, undersheriff, or  
25 sheriff's officer acting in the performance of his duties while in  
26 uniform or exhibiting evidence of his authority or because of his  
27 status as a Department of Corrections employee, county corrections  
28 officer, juvenile corrections officer, State juvenile facility  
29 employee, juvenile detention staff member, juvenile detention  
30 officer, probation officer, sheriff, undersheriff, or sheriff's officer;  
31 or

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

41 (j) Any health care worker employed by a licensed health care  
42 facility to provide direct patient care, any health care professional  
43 licensed or otherwise authorized pursuant to Title 26 or Title 45 of  
44 the Revised Statutes to practice a health care profession, except a  
45 direct care worker at a State or county psychiatric hospital or State  
46 developmental center or veterans' memorial home, while clearly  
47 identifiable as being engaged in the duties of providing direct  
48 patient care or practicing the health care profession; or

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

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

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

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

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

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

45 (11) Uses or activates a laser sighting system or device, or a  
46 system or device which, in the manner used, would cause a  
47 reasonable person to believe that it is a laser sighting system or  
48 device, against a law enforcement officer acting in the performance



1 of his duties while in uniform or exhibiting evidence of his  
2 authority. As used in this paragraph, "laser sighting system or  
3 device" means any system or device that is integrated with or  
4 affixed to a firearm and emits a laser light beam that is used to  
5 assist in the sight alignment or aiming of the firearm; or

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

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

21 Aggravated assault under paragraphs (1) and (6) of subsection b.  
22 of this section is a crime of the second degree; under paragraphs  
23 (2), (7), (9) and (10) of subsection b. of this section is a crime of the  
24 third degree; under paragraphs (3) and (4) of subsection b. of this  
25 section is a crime of the fourth degree; and under paragraph (5) of  
26 subsection b. of this section is a crime of the third degree if the  
27 victim suffers bodily injury, otherwise it is a crime of the fourth  
28 degree. Aggravated assault under paragraph (8) of subsection b. of  
29 this section is a crime of the third degree if the victim suffers bodily  
30 injury; if the victim suffers significant bodily injury or serious  
31 bodily injury it is a crime of the second degree. Aggravated assault  
32 under paragraph (11) of subsection b. of this section is a crime of  
33 the third degree. Aggravated assault under paragraph (12) or (13)  
34 of subsection b. of this section is a crime of the third degree but the  
35 presumption of non-imprisonment set forth in subsection e. of  
36 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall  
37 not apply.

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

47 (2) Assault by auto or vessel is a crime of the third degree if the  
48 person drives the vehicle while in violation of R.S.39:4-50 or

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

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

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

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

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

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

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

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

35 (4) Assault by auto or vessel is a crime of the third degree if the  
36 person purposely drives a vehicle in an aggressive manner directed  
37 at another vehicle and serious bodily injury results and is a crime of  
38 the fourth degree if the person purposely drives a vehicle in an  
39 aggressive manner directed at another vehicle and bodily injury  
40 results. For purposes of this paragraph, "driving a vehicle in an  
41 aggressive manner" shall include, but is not limited to,  
42 unexpectedly altering the speed of the vehicle, making improper or  
43 erratic traffic lane changes, disregarding traffic control devices,  
44 failing to yield the right of way, or following another vehicle too  
45 closely.

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

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

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

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

27 (cf: P.L.2015, c.100, s.1)

28

29 2. This act shall take effect immediately.

30

31

32

### STATEMENT

33

34 This bill upgrades the offense of assault in a domestic violence  
35 context when the defendant knowingly obstructs the victim's breathing  
36 or circulation under certain circumstances.

37 Under current law, a person is guilty of simple assault if the person  
38 attempts to cause or causes bodily injury to another. Simple assault is  
39 generally a disorderly persons offense, punishable by a term of  
40 imprisonment of up to six months or a fine of up to \$1,000, or both.

41 The bill provides that simple assault will be upgraded to  
42 aggravated assault if the defendant knowingly or, under circumstances  
43 manifesting extreme indifference to the value of human life, recklessly  
44 obstructs the breathing or blood circulation of a person who, with  
45 respect to the actor, meets the definition of a victim of domestic  
46 violence, by applying pressure on the throat or neck or blocking the  
47 nose or mouth of such person, thereby causing or attempting to cause  
48 bodily injury.

**S3209 GREENSTEIN, SARLO**

8

1       Aggravated assault on a domestic violence victim under the  
2 circumstances set out in the bill will be a crime of the third degree. A  
3 crime of the third degree is generally punishable by a term of three to  
4 five years or a fine up to \$15,000, or both. Under current law, there is  
5 generally a presumption of non-imprisonment for a first offense of a  
6 crime of the third degree. The bill eliminates this presumption of non-  
7 imprisonment for crimes committed under the circumstances set out in  
8 the bill.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### SENATE, No. 3209

# STATE OF NEW JERSEY

DATED: JUNE 15, 2017

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 3209.

As reported by the committee, this bill upgrades the crime of assault when the defendant causes bodily injury by strangling a victim of domestic violence.

Specifically, the bill upgrades simple assault to aggravated assault if the defendant 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, 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.

A person is guilty of simple assault if the person attempts to cause or causes bodily injury to another. Simple assault is a disorderly persons offense, punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both. Aggravated assault committed against a victim of domestic violence as set forth in the bill is a crime of the third degree. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine up to \$15,000, or both. The presumption of non-imprisonment generally applicable to third degree and fourth degree crimes committed by first-time offenders is eliminated under the bill.

As reported by the committee, Senate Bill No. 3209 is identical to Assembly Bill No. 2061 (2R), also reported by the committee on this same date.

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## Governor Christie Takes Action On Pending Legislation

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**A-2061 /S-3209 (Gusciora, Singleton, Lagana, Lampitt, Muoio, Caride, Mosquera, Tucker, Greenstein, Sarlo) -**  
Provides that strangulation of victim resulting in bodily injury during commission of act of domestic violence constitutes aggravated assault

###

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