

# LEGISLATIVE HISTORY CHECKLIST

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## *LAWS of 1999*

**CHAPTER:** 77

**NJSA:** 2C:12-1

(Imitation firearms -- criminal charges)

**BILL NO:** S1369 (Substituted for ACS for A2422/A2444)

**SPONSOR(S):** Bennett and Palaia

**DATE INTRODUCED:** September 24, 1998

**COMMITTEE:**

**ASSEMBLY:** ~~~~

**SENATE:** Law and Public Safety

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**

**ASSEMBLY:** February 18, 1999

**SENATE:** December 10, 1998

**DATE OF APPROVAL:** April 30, 1999

### THE FOLLOWING ARE ATTACHED IF AVAILABLE:

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**FINAL TEXT OF BILL** *Yes* Senate Committee Substitute  
(Amendments during passage denoted by superscript numbers)

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### **SCS for S1369**

**SPONSORS STATEMENT:** *No*

**COMMITTEE STATEMENT:**

**ASSEMBLY:** *No*

**SENATE:** *Yes*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

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## S1369

**SPONSORS STATEMENT:** *Yes*  
(Begins on page 2 of original bill)

**COMMITTEE STATEMENT:**

**ASSEMBLY:** *No*

**SENATE:** *No*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

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## ACS for A2422/A2444

**SPONSORS STATEMENT:** *No*

**COMMITTEE STATEMENT:**

**ASSEMBLY:** *Yes*

(Identical to Senate Statement for SCS for 1369)

**SENATE:** *No*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

**ACS for A2422/A2444** *Yes*

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## A2422

**SPONSORS STATEMENT:** *Yes*  
(Bill and Sponsor's Statement identical to S1369)

**COMMITTEE STATEMENT:**

**ASSEMBLY:** *No*

**SENATE:** *No*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

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## A2444

**SPONSORS STATEMENT:** *Yes*  
(Begins on page 4 of original bill)

**COMMITTEE STATEMENT:**

**ASSEMBLY:** *No*

**SENATE:** *No*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

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**GOVERNOR'S ACTIONS**

**VETO MESSAGE:** *No*

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

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**THE FOLLOWING WERE PRINTED:**

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**REPORTS:** *No*

**HEARINGS:** *No*

**NEWSPAPER ARTICLES:** *No*

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P.L. 1999, CHAPTER 77, *approved April 30, 1999*

Senate Committee Substitute for  
Senate, No. 1369

1 AN ACT concerning firearms 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 assault  
8 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 in  
16 a fight or scuffle entered into by mutual consent, in which case it is a  
17 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 recklessly  
23 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 in  
30 section 2C:39-1f., at or in the direction of another, whether or not the  
31 actor believes it to be loaded; or

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

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

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

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

**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 clearly identifiable as being engaged in the performance of emergency  
2 first-aid or medical services; or

3 (d) Any school board member or school administrator, teacher or  
4 other employee of a school board while clearly identifiable as being  
5 engaged in the performance of his duties or because of his status as a  
6 member or employee of a school board; or

7 (e) Any employee of the Division of Youth and Family Services  
8 while clearly identifiable as being engaged in the performance of his  
9 duties or because of his status as an employee of the division; or

10 (f) Any justice of the Supreme Court, judge of the Superior Court,  
11 judge of the Tax Court or municipal judge while clearly identifiable as  
12 being engaged in the performance of judicial duties or because of his  
13 status as a member of the judiciary; 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 liable  
19 for a violation of this subsection 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 bodily  
22 injury to another person;

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

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

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

45 (10) Knowingly points, displays or uses an imitation firearm, as  
46 defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a

1 law enforcement officer with the purpose to intimidate, threaten or  
2 attempt to put the officer in fear of bodily injury or for any unlawful  
3 purpose.

4 Aggravated assault under subsections b. (1) and b. (6) is a crime  
5 of the second degree; under subsections b. (2) ~~and~~, b. (7), b. (9)  
6 and b. (10) is a crime of the third degree; under subsections b. (3) and  
7 b. (4) is a crime of the fourth degree; and under subsection b. (5) is a  
8 crime of the third degree if the victim suffers bodily injury, otherwise  
9 it is a crime of the fourth degree. Aggravated assault under subsection  
10 b. (8) is a crime of the third degree if the victim suffers bodily injury;  
11 if the victim suffers significant bodily injury or serious bodily injury it  
12 is a crime of the second degree.

13 c. A person is guilty of assault by auto or vessel when the person  
14 drives a vehicle or vessel recklessly and causes either serious bodily  
15 injury or bodily injury to another. Assault by auto or vessel is a crime  
16 of the fourth degree if serious bodily injury results and is a disorderly  
17 persons offense if bodily injury results.

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

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

25 e. A person who commits a simple assault as defined in subsection  
26 a. of this section is guilty of a crime of the fourth degree if the person  
27 acted with a purpose to intimidate an individual or group of individuals  
28 because of race, color, religion, gender, handicap, sexual orientation,  
29 or ethnicity.

30 (cf: P.L.1997, c.119)

31

32 2. This act shall take effect immediately.

33

34

35

36

37 Establishes use of a firearm or imitation firearm against a law  
38 enforcement officer as a crime of the third degree.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1369**

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 23, 1998

The Senate Law and Public Safety Committee reports favorably a Senate Committee Substitute for Senate Bill No. 1369.

Under this committee substitute, a person who knowingly points or displays a firearm at or in the direction of a law enforcement officer would be guilty of a crime of the third degree. The substitute further provides that a person who knowingly points, displays or uses an imitation firearm at or in the direction of a law enforcement officer, to intimidate, threaten or attempt to put the officer in fear of bodily injury or for any unlawful purpose, also would be guilty of a crime of the third degree. A crime of the third degree is punishable by a fine of up to \$15,000, imprisonment for a term of three to five years, or both.

It is the committee's understanding that current law does not afford law enforcement much latitude in charging a person who uses an imitation firearm against an officer. The only charge available is under subsection e. of N.J.S.2C:39-4, possession of an imitation firearm for an unlawful purpose. Under that subsection, prosecutors must establish intent on the part of the defendant and, even if they are successful in doing so, such possession is only punishable as a crime of the fourth degree. A crime of the fourth degree is punishable by a fine of up to \$10,000, imprisonment for a term of up to 18 months, or both.

**SENATE, No. 1369**

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**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

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INTRODUCED SEPTEMBER 24, 1998

**Sponsored by:**

**Senator JOHN O. BENNETT**

**District 12 (Monmouth)**

**Senator JOSEPH A. PALAIA**

**District 11 (Monmouth)**

**SYNOPSIS**

Establishes use of an imitation firearm against a law enforcement officer as a crime of the second degree.

**CURRENT VERSION OF TEXT**

As introduced.





S1369 BENNETT, PALAIA

2

1 AN ACT concerning imitation firearms in certain cases and amending  
2 N.J.S.2C:39-4.

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:39-4 is amended to read as follows:

8 2C:39-4. Possession of weapons for unlawful purposes.

9 a. Firearms. Any person who has in his possession any firearm  
10 with a purpose to use it unlawfully against the person or property of  
11 another is guilty of a crime of the second degree.

12 b. Explosives. Any person who has in his possession or carries any  
13 explosive substance with a purpose to use it unlawfully against the  
14 person or property of another is guilty of a crime of the second degree.

15 c. Destructive devices. Any person who has in his possession any  
16 destructive device with a purpose to use it unlawfully against the  
17 person or property of another is guilty of a crime of the second degree.

18 d. Other weapons. Any person who has in his possession any  
19 weapon, except a firearm, with a purpose to use it unlawfully against  
20 the person or property of another is guilty of a crime of the third  
21 degree.

22 e. Imitation firearms. (1) Any person who has in his possession an  
23 imitation firearm under circumstances that would lead an observer to  
24 reasonably believe that it is possessed for an unlawful purpose is guilty  
25 of a crime of the fourth degree.

26 (2) It shall be a crime of the second degree for a person to point,  
27 brandish or otherwise use or display an imitation firearm against any  
28 law enforcement officer in order:

29 (a) to intimidate, threaten or attempt to put that officer in fear of  
30 bodily violence;

31 (b) to interfere, impede or attempt to obstruct in any way that  
32 officer in the performance of his official duties; or

33 (c) to commit or attempt to commit any crime or offense.

34 (cf: P.L.1989, c.120, s.2)

35

36 2. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 This bill would establish the use of an imitation firearm against any  
42 law enforcement officer as a crime of the second degree. A crime of  
43 the second degree is punishable by a fine of up to \$150,000;

**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 imprisonment for a term of five to 10 years, or both.

2 Under the provisions of the bill, any person who points, brandishes  
3 or otherwise uses or displays an imitation firearm against any law  
4 enforcement officer in order to (1) to intimidate, threaten or attempt  
5 to put that officer in fear of bodily violence; (2) to interfere, impede  
6 or attempt to obstruct in any way that officer in the performance of  
7 his official duties; or (3) to commit or attempt to commit any crime  
8 or offense is guilty of a crime of the second degree.

9 Current law does not afford law enforcement much latitude in  
10 charging a person who uses an imitation firearm against an officer.  
11 The only charge available is under subsection e. of N.J.S.2C:39-4,  
12 possession of an imitation firearm for an unlawful purpose. Under that  
13 subsection, prosecutors must establish intent on the part of the  
14 defendant and, even if they are successful in doing so, such possession  
15 is only punishable as a crime of the fourth degree. A crime of the  
16 fourth degree is punishable by a fine of up to \$10,000; imprisonment  
17 for a term of up to 18 months; or both.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 2422 and 2444

# STATE OF NEW JERSEY

DATED: DECEMBER 3, 1998

The Assembly Law and Public Safety Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 2422 and 2444.

Under this committee substitute, a person who knowingly points or displays a firearm at or in the direction of a law enforcement officer is guilty of a crime of the third degree. The substitute further provides that a person who knowingly points, displays or uses an imitation firearm at or in the direction of a law enforcement officer to intimidate, threaten or attempt to put the officer in fear of bodily injury or for any unlawful purpose also would be guilty of a crime of the third degree. A crime of the third degree is punishable by a fine of up to \$15,000, imprisonment for a term of three to five years, or both.

It is the committee's understanding that current law does not afford law enforcement much latitude in charging a person who uses an imitation firearm against an officer. The only charge available is under subsection e. of N.J.S.2C:39-4, possession of an imitation firearm for an unlawful purpose. Under that subsection, prosecutors must establish intent on the part of the defendant and, even if they are successful in doing so, such possession is only punishable as a crime of the fourth degree. A crime of the fourth degree is punishable by a fine of up to \$10,000, imprisonment for a term of up to 18 months, or both.

This committee substitute is identical to the Senate Committee Substitute for Senate, No. 1369, which was reported by the Senate Law and Public Safety Committee on November 23, 1998.

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, Nos. 2422 and 2444**

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**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

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ADOPTED DECEMBER 3, 1998

**Sponsored by:**

**Assemblyman TOM SMITH**

**District 11 (Monmouth)**

**Assemblyman STEVE CORODEMUS**

**District 11 (Monmouth)**

**Assemblyman JOHN S. WISNIEWSKI**

**District 19 (Middlesex)**

**Assemblyman JAMES W. HOLZAPFEL**

**District 10 (Monmouth and Ocean)**

**Co-Sponsored by:**

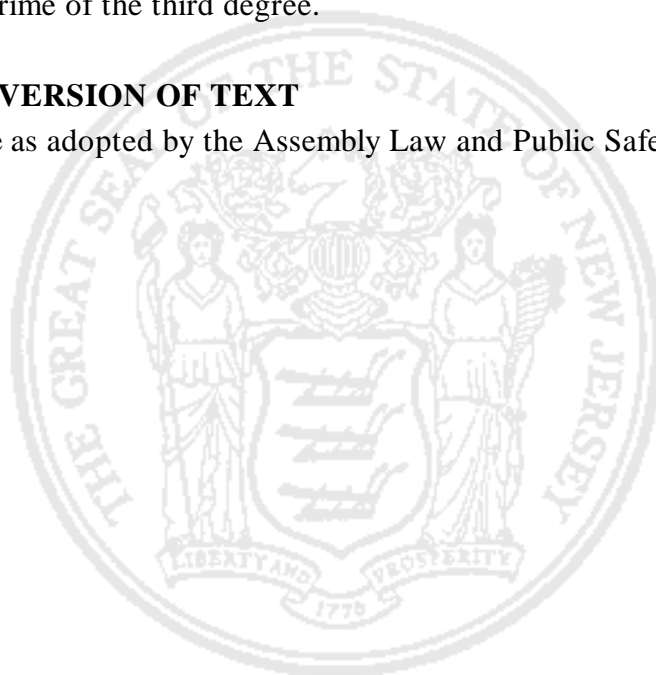
**Assemblyman LeFevre**

**SYNOPSIS**

Establishes use of a firearm or imitation firearm against a law enforcement officer as a crime of the third degree.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Law and Public Safety Committee.



1 AN ACT concerning firearms 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 assault  
8 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 in  
16 a fight or scuffle entered into by mutual consent, in which case it is a  
17 petty disorderly persons offense.

18 b. Aggravated assault. A person is guilty of aggravated assault if  
19 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 recklessly  
23 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 in  
30 section 2C:39-1f., at or in the direction of another, whether or not the  
31 actor believes it to be loaded; or

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

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

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

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

43 (d) Any school board member or school administrator, teacher or

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

**Matter underlined thus is new matter.**

1 other employee of a school board while clearly identifiable as being  
2 engaged in the performance of his duties or because of his status as a  
3 member or employee of a school board; or

4 (e) Any employee of the Division of Youth and Family Services  
5 while clearly identifiable as being engaged in the performance of his  
6 duties or because of his status as an employee of the division; or

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

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

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

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

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

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

1       Aggravated assault under subsections b. (1) and b. (6) is a crime  
2 of the second degree; under subsections b. (2) **[and]**, b. (7), b. (9)  
3 and b. (10) is a crime of the third degree; under subsections b. (3) and  
4 b. (4) is a crime of the fourth degree; and under subsection b. (5) is a  
5 crime of the third degree if the victim suffers bodily injury, otherwise  
6 it is a crime of the fourth degree. Aggravated assault under subsection  
7 b. (8) is a crime of the third degree if the victim suffers bodily injury;  
8 if the victim suffers significant bodily injury or serious bodily injury it  
9 is a crime of the second degree.

10       c. A person is guilty of assault by auto or vessel when the person  
11 drives a vehicle or vessel recklessly and causes either serious bodily  
12 injury or bodily injury to another. Assault by auto or vessel is a crime  
13 of the fourth degree if serious bodily injury results and is a disorderly  
14 persons offense if bodily injury results.

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

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

22       e. A person who commits a simple assault as defined in subsection  
23 a. of this section is guilty of a crime of the fourth degree if the person  
24 acted with a purpose to intimidate an individual or group of individuals  
25 because of race, color, religion, gender, handicap, sexual orientation,  
26 or ethnicity.

27 (cf: P.L.1997, c.119)

28

29       2. This act shall take effect immediately.

# ASSEMBLY, No. 2422

## STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED SEPTEMBER 17, 1998

**Sponsored by:**

**Assemblyman TOM SMITH**

**District 11 (Monmouth)**

**Assemblyman STEVE CORODEMUS**

**District 11 (Monmouth)**

**SYNOPSIS**

Establishes use of an imitation firearm against a law enforcement officer as a crime of the second degree.

**CURRENT VERSION OF TEXT**

As introduced.





1 AN ACT concerning imitation firearms in certain cases and amending  
2 N.J.S.2C:39-4.

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:39-4 is amended to read as follows:

8 2C:39-4. Possession of weapons for unlawful purposes.

9 a. Firearms. Any person who has in his possession any firearm with  
10 a purpose to use it unlawfully against the person or property of  
11 another is guilty of a crime of the second degree.

12 b. Explosives. Any person who has in his possession or carries any  
13 explosive substance with a purpose to use it unlawfully against the  
14 person or property of another is guilty of a crime of the second degree.

15 c. Destructive devices. Any person who has in his possession any  
16 destructive device with a purpose to use it unlawfully against the  
17 person or property of another is guilty of a crime of the second degree.

18 d. Other weapons. Any person who has in his possession any  
19 weapon, except a firearm, with a purpose to use it unlawfully against  
20 the person or property of another is guilty of a crime of the third  
21 degree.

22 e. Imitation firearms. (1) Any person who has in his possession an  
23 imitation firearm under circumstances that would lead an observer to  
24 reasonably believe that it is possessed for an unlawful purpose is guilty  
25 of a crime of the fourth degree.

26 (2) It shall be a crime of the second degree for a person to point,  
27 brandish or otherwise use or display an imitation firearm against any  
28 law enforcement officer in order:

29 (a) to intimidate, threaten or attempt to put that officer in fear of  
30 bodily violence;

31 (b) to interfere, impede or attempt to obstruct in any way that  
32 officer in the performance of his official duties; or

33 (c) to commit or attempt to commit any crime or offense.

34 (cf: P.L.1989, c.120, s.2)

35

36 2. This act shall take effect immediately.

37

38

39 STATEMENT

40

41 This bill would establish the use of an imitation firearm against any  
42 law enforcement officer as a crime of the second degree. A crime of  
43 the second degree is punishable by a fine of up to \$150,000;

**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 imprisonment for a term of five to 10 years, or both.

2 Under the provisions of the bill, any person who points, brandishes  
3 or otherwise uses or displays an imitation firearm against any law  
4 enforcement officer in order to (1) to intimidate, threaten or attempt  
5 to put that officer in fear of bodily violence; (2) to interfere, impede  
6 or attempt to obstruct in any way that officer in the performance of  
7 his official duties; or (3) to commit or attempt to commit any crime  
8 or offense is guilty of a crime of the second degree.

9 Current law does not afford law enforcement much latitude in  
10 charging a person who uses an imitation firearm against an officer.  
11 The only charge available is under subsection e. of N.J.S.2C:39-4,  
12 possession of an imitation firearm for an unlawful purpose. Under that  
13 subsection, prosecutors must establish intent on the part of the  
14 defendant and, even if they are successful in doing so, such possession  
15 is only punishable as a crime of the fourth degree. A crime of the  
16 fourth degree is punishable by a fine of up to \$10,000; imprisonment  
17 for a term of up to 18 months; or both.

# ASSEMBLY, No. 2444

## STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED SEPTEMBER 17, 1998

**Sponsored by:**

**Assemblyman JOHN S. WISNIEWSKI**

**District 19 (Middlesex)**

**Assemblyman JAMES W. HOLZAPFEL**

**District 10 (Monmouth and Ocean)**

**Co-Sponsored by:**

**Assemblymen LeFevre, Zecker and Connors**

**SYNOPSIS**

Upgrades penalties for unlawful possession of imitation firearm and unauthorized possession of imitation firearm on school property.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/7/1999)**

1 AN ACT concerning imitation firearms and amending N.J.S.2C:39-4  
2 and N.J.S.2C:39-5.

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:39-4 is amended to read as follows:

8 2C:39-4. Possession of weapons for unlawful purposes.

9 a. Firearms. Any person who has in his possession any firearm with  
10 a purpose to use it unlawfully against the person or property of  
11 another is guilty of a crime of the second degree.

12 b. Explosives. Any person who has in his possession or carries any  
13 explosive substance with a purpose to use it unlawfully against the  
14 person or property of another is guilty of a crime of the second degree.

15 c. Destructive devices. Any person who has in his possession any  
16 destructive device with a purpose to use it unlawfully against the  
17 person or property of another is guilty of a crime of the second degree.

18 d. Other weapons. Any person who has in his possession any  
19 weapon, except a firearm, with a purpose to use it unlawfully against  
20 the person or property of another is guilty of a crime of the third  
21 degree.

22 e. Imitation firearms. Any person who has in his possession an  
23 imitation firearm under circumstances that would lead an observer to  
24 reasonably believe that it is possessed for an unlawful purpose is guilty  
25 of a crime of the **fourth** third degree.

26 (cf: P.L.1989, c.120, s.2)

27

28 2. N.J.S.2C:39-5 is amended to read as follows:

29 2C:39-5. Unlawful Possession of Weapons.

30 a. Machine guns. Any person who knowingly has in his possession  
31 a machine gun or any instrument or device adaptable for use as a  
32 machine gun, without being licensed to do so as provided in  
33 N.J.S.2C:58-5, is guilty of a crime of the third degree.

34 b. Handguns. Any person who knowingly has in his possession any  
35 handgun, including any antique handgun without first having obtained  
36 a permit to carry the same as provided in N.J.S.2C:58-4, is guilty of  
37 a crime of the third degree.

38 c. Rifles and shotguns. (1) Any person who knowingly has in his  
39 possession any rifle or shotgun without having first obtained a firearms  
40 purchaser identification card in accordance with the provisions of  
41 N.J.S.2C:58-3, is guilty of a crime of the third degree.

42 (2) Unless otherwise permitted by law, any person who knowingly  
43 has in his possession any loaded rifle or shotgun is guilty of a crime of

**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 the third degree.

2 d. Other weapons. Any person who knowingly has in his  
3 possession any other weapon under circumstances not manifestly  
4 appropriate for such lawful uses as it may have is guilty of a crime of  
5 the fourth degree.

6 e. Firearms or other weapons in educational institutions.

7 (1) Any person who knowingly has in his possession any firearm in  
8 or upon any part of the buildings or grounds of any school, college,  
9 university or other educational institution, without the written  
10 authorization of the governing officer of the institution, is guilty of a  
11 crime of the third degree, irrespective of whether he possesses a valid  
12 permit to carry the firearm or a valid firearms purchaser identification  
13 card.

14 (2) Any person who knowingly possesses any weapon enumerated  
15 in paragraphs (3) and (4) of subsection r. of N.J.S.2C:39-1 or any  
16 components which can readily be assembled into a firearm or other  
17 weapon enumerated in subsection r. of N.J.S.2C:39-1 or any other  
18 weapon under circumstances not manifestly appropriate for such  
19 lawful use as it may have, while in or upon any part of the buildings or  
20 grounds of any school, college, university or other educational  
21 institution without the written authorization of the governing officer  
22 of the institution is guilty of a crime of the fourth degree.

23 (3) Any person who knowingly has in his possession any imitation  
24 firearm in or upon any part of the buildings or grounds of any school,  
25 college, university or other educational institution, without the written  
26 authorization of the governing officer of the institution, or while on  
27 any school bus is **[a disorderly person]** guilty of a crime of the fourth  
28 degree, irrespective of whether he possesses a valid permit to carry a  
29 firearm or a valid firearms purchaser identification card.

30 f. Assault firearms. Any person who knowingly has in his  
31 possession an assault firearm is guilty of a crime of the third degree  
32 except if the assault firearm is licensed pursuant to N.J.S.2C:58-5;  
33 registered pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) or  
34 rendered inoperable pursuant to section 12 of P.L.1990, c.32  
35 (C.2C:58-13).

36 g. (1) The temporary possession of a handgun, rifle or shotgun by  
37 a person receiving, possessing, carrying or using the handgun, rifle, or  
38 shotgun under the provisions of section 1 of P.L.1992, c.74  
39 (C.2C:58-3.1) shall not be considered unlawful possession under the  
40 provisions of subsection b. or c. of this section.

41 (2) The temporary possession of a firearm by a person receiving,  
42 possessing, carrying or using the firearm under the provisions of  
43 section 1 of P.L.1997, c.375 (C.2C:58-3.2) shall not be considered  
44 unlawful possession under the provisions of this section.

45 (cf: P.L.1997, c.375, s.2)

1       3. This act shall take effect immediately.

2

3

4

STATEMENT

5

6       This bill upgrades the penalties for possessing an imitation firearm  
7 for an unlawful purpose and for possessing an imitation firearm on  
8 school property.

9       Under current law, possessing an imitation firearm for an unlawful  
10 purpose is a crime of the fourth degree. This bill would upgrade that  
11 penalty to a crime of the third degree. A crime of the fourth degree is  
12 punishable by imprisonment for a term of up to 18 months; a fine of up  
13 to \$10,000; or both. A crime of the third degree is punishable by  
14 imprisonment for a term of three to five years, a fine of up to \$15,000;  
15 or both.

16       The illegal possession of an imitation firearm on school property is  
17 a disorderly persons offense. This bill would upgrade that penalty to  
18 a crime of the fourth degree. A disorderly persons offense is  
19 punishable by imprisonment for a term of up to six months; a fine of  
20 up to \$1,000; or both. A crime of the fourth degree is punishable by  
21 imprisonment for a term of up to 18 months; a fine of up to \$10,000;  
22 or both.

*Office of the Governor*  
**NEWS RELEASE**

PO BOX 004  
TRENTON, NJ 08625

CONTACT: Gene Herman  
609-777-2600

RELEASE: April 30, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

**ACS for A-1209**, sponsored by Assembly Members Joseph V. Doria, Jr. (D-Hudson) and Francis J. Blee (R-Atlantic), provides a supplemental appropriation to the Department of Military and Veterans' Affairs (MAVA) in the amount of \$50,000 for a pilot program to transport homebound veterans to and from Veterans Administration (VA) clinic sites and from the clinics to VA hospitals. The clinic sites are in Hackensack, Trenton, Fort Dix, Cape May, Elizabeth and Vineland.

**A-505**, sponsored by Assembly Member Gerald H. Zecker (R- Essex/Passaic), provides for parity among New Jersey depository institutions with respect to lending practices. The State Bank Parity Act of 1981 was intended to permit even competition among New Jersey lending institutions (banks, savings banks, savings and loan associations and credit unions) by permitting each lending institution to charge a rate of interest permitted to any other lending institution. Recent court decisions have construed the act to be limited only to the periodic percentage rate of interest charged on an outstanding balance. The bill provides that parity applies all other fees and charges such as, but not limited to, late charges and collection fees.

**A-1277**, sponsored by Assembly Members Alex DeCroce (R- Essex/Morris/Passaic) and Carol J. Murphy (R- Essex/Morris/Passaic), permits a board of education to use school facilities for child care services that are provided by either the board, a board approved sponsor, or a licensed child care program. The child care programs allowed under the bill will be available before or after regular school hours for any school age child who attends school within the school district. The bill supplements current law which permits school facilities to be used only for education purposes, library purposes, election purposes, the holding of social, recreational or civic meetings that are approved by the board or the holding of meetings or events where admission fees are charged, subject to the approval of the board.

**A-1581**, sponsored by Assembly Members Barbara Wright (R- Mercer/Middlesex), John C. Gibson (R-Cape May/Atlantic/Cumberland) and Joseph V. Doria, Jr. (D-Hudson) and Senators John O. Bennett (R-Monmouth) and Joseph F. Vitale (D-Middlesex), allows advanced practice nurses to order and prescribe controlled dangerous substances under limited circumstances to patients in end-of-life situations or with terminal illnesses. Under previous law, nurse practitioners had no authority to prescribe controlled dangerous

substances.

**A-1396**, sponsored by Assembly Members Steve Corodemus (R-Monmouth) and Tom Smith (R-Monmouth), repeals the \$2 per bushel surcharge on clams harvested through the depuration clam relay program in Monmouth County. Although the bill repeals the surcharge, it does not repeal the Monmouth County Clam Depuration and Relay Program Fund. The last two state budgets have included a \$150,000 appropriation to the fund.

**S-271**, sponsored by Senators Wynona M. Lipman (D-Essex/Union) and Richard J. Codey (D-Essex), and Assembly Members Guy F. Talarico (R-Bergen) and Rose Marie Heck (R-Bergen), changes the legal doctrine of retreat regarding the use of deadly force with respect to domestic violence committed by cohabitant spouses or cohabitant household members in a shared dwelling. The doctrine of retreat is part of the law of self-defense. In New Jersey, a person may use deadly force in self-defense if that force is necessary to protect against death or serious bodily injury. One of the exceptions to this rule is that a person cannot use deadly force if the use of such force can be safely avoided by retreating from the situation. The bill deletes the provision that a person must retreat from a cohabitant in the person's home.

**S-534**, sponsored by Senator Jack Sinagra (R-Middlesex) and Assembly Member Barbara Wright (R-Mercer/Middlesex), permanently designates the first Sunday in May as "Loyal Heart Award Day" in New Jersey in order to honor and provide public recognition to caregivers of persons with disabilities. The Loyal Heart Award was initiated in 1994 by Elayne Hyman Risley, chairwoman of the Middlesex County Chapter Coalition on Women and Disabilities, to recognize the contributions made by caregivers for persons with disabilities.

**S-993**, sponsored by Senators Robert E. Littell (R- Sussex/Hunterdon/Morris) and Peter A. Inverso (R-Mercer/Middlesex) and Assembly Members Leonard Lance (R-Warren/Hunterdon/Mercer) and Francis J. Blee (R-Atlantic), appropriates \$4,532,000 from the Jobs, Education and Competitiveness Fund to the Commission on Higher Education for construction projects at various county colleges. The bill allocates \$226,000 to Essex County College for the reconfiguration of instructional space of the gymnasium and appropriates \$306,000 to Essex County College for the improvement of the Martin Luther King Library. It also appropriates \$2 million to Hudson County College for the acquisition and renovation of the Culinary Arts Institute and \$1 million to Passaic County Community College for an addition to the academic facility.

**S-1064**, sponsored by Senators Andrew R. Ciesla (R-Monmouth/Ocean) and Diane B. Allen (R-Burlington/Camden) and Assembly Members Gerald H. Zecker (R-Essex/Passaic) and James W. Holzapfel (R- Monmouth/Ocean), exempts real estate licensees from the consumer fraud law under certain



circumstances. Under the bill, if a real estate licensee communicates any false, misleading or deceptive information provided to him by or on behalf of the seller of the real estate, but the real estate licensee had no actual knowledge and made a reasonable and diligent inquiry to determine the accuracy of the information, the exemption will apply. The real estate licensee can still be held liable for compensatory damages under the act and is not exempt for fraudulent actions made with an intent to deceive.

**S-1369**, sponsored by Senators John O. Bennett (R-Monmouth) and Joseph A. Palaia (R-Monmouth) and Assembly members Tom Smith (R- Monmouth), Steve Corodemus (R-Monmouth), John S. Wisniewski (D- Middlidesex) and James W. Holzapfel (R-Monmouth/Ocean), establishes the use of a firearm or imitation firearm against a law enforcement officer as a crime of the third degree. A third- degree crime is punishable by a three-to-five year term of imprisonment or a \$15,000 fine or both.

**S-1372**, sponsored by Senator James S. Cafiero (R-Cape May/Atlantic/Cumberland) and Assembly Members Nicholas Asselta (R- Cape May/Atlantic/Cumberland) and John C. Gibson (R-Cape May/Atlantic/Cumberland), authorizes the New Jersey Real Estate Commission to promulgate rules concerning the forms of monies that real estate brokers and their agents may hold as escrow agents or as temporary custodians of the funds in real estate transactions. Under previous law, real estate brokers could only accept monies in the form of cash or negotiable instruments, such as checks and money orders.

**S-1461**, sponsored by Senator Robert W. Singer (R-Burlington/Monmouth/Ocean) and Assembly Members Joseph R. Malone (R-Burlington/Monmouth/Ocean) and Melvin Cottrell (R-Burlington/Monmouth/Ocean), appropriates \$250,000 from the General Fund to the Department of Military and Veterans' Affairs for the Korean Veterans' Memorial Fund. The Fund was created in July, 1996 by legislation that also created the Korean Veterans' Memorial Committee. The Fund will be used to pay for the construction and maintenance of the memorial, which will be built in Atlantic City. It is anticipated that \$2 million will be needed to build and maintain the memorial.

**S-1467**, sponsored by Senator Raymond J. Zane (R-Cumberland/Gloucester/Salem) and Assembly Members Charles "Ken" Zisa (D-Bergen) and Michael Patrick Carroll (R-Morris), provides that writs of execution issued by the Special Civil Part of the Superior Court be valid for two years. Under previous law, writs of execution against personal property issued by the Special Civil Part of the Superior Court were valid for only one year.