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P.L. 2006, CHAPTER 78, *approved August 2, 2006*
Assembly Committee Substitute for Assembly, No. 2556

1 AN ACT concerning general definitions under the criminal code and
2 assault against certain school employees and amending
3 N.J.S.2C:1-14 and N.J.S.2C:12-1.

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

7
8 1. N.J.S.2C:1-14 is amended to read as follows:
9 2C:1-14. In this code, unless a different meaning plainly is
10 required:

11 a. "Statute" includes the Constitution and a local law or
12 ordinance of a political subdivision of the State;

13 b. "Act" or "action" means a bodily movement whether
14 voluntary or involuntary;

15 c. "Omission" means a failure to act;

16 d. "Conduct" means an action or omission and its accompanying
17 state of mind, or, where relevant, a series of acts and omissions;

18 e. "Actor" includes, where relevant, a person guilty of an
19 omission;

20 f. "Acted" includes, where relevant, "omitted to act";

21 g. "Person," "he," and "actor" include any natural person and,
22 where relevant, a corporation or an unincorporated association;

23 h. "Element of an offense" means (1) such conduct or (2) such
24 attendant circumstances or (3) such a result of conduct as

25 (a) Is included in the description of the forbidden conduct in the
26 definition of the offense;

27 (b) Establishes the required kind of culpability;

28 (c) Negatives an excuse or justification for such conduct;

29 (d) Negatives a defense under the statute of limitations; or

30 (e) Establishes jurisdiction or venue;

31 i. "Material element of an offense" means an element that does
32 not relate exclusively to the statute of limitations, jurisdiction,
33 venue or to any other matter similarly unconnected with (1) the
34 harm or evil, incident to conduct, sought to be prevented by the law
35 defining the offense, or (2) the existence of a justification or excuse
36 for such conduct;

37 j. "Reasonably believes" or "reasonable belief" designates a
38 belief the holding of which does not make the actor reckless or
39 criminally negligent;

40 k. "Offense" means a crime, a disorderly persons offense or a
41 petty disorderly persons offense unless a particular section in this
42 code is intended to apply to less than all three;

43 l. (Deleted by amendment, P.L.1991, c.91).

44 m. "Amount involved," "benefit," and other terms of value.
45 Where it is necessary in this act to determine value, for purposes 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 fixing the degree of an offense, that value shall be the fair market
2 value at the time and place of the operative act.

3 n. "Motor vehicle" shall have the meaning provided in R.S.39:1-
4 1.

5 o. "Unlawful taking of a motor vehicle" means conduct
6 prohibited under N.J.S.2C:20-10 when the means of conveyance
7 taken, operated or controlled is a motor vehicle.

8 p. "Research facility" means any building, laboratory,
9 institution, organization, school, or person engaged in research,
10 testing, educational or experimental activities, or any commercial or
11 academic enterprise that uses warm-blooded or cold-blooded
12 animals for food or fiber production, agriculture, research, testing,
13 experimentation or education. A research facility includes, but is
14 not limited to, any enclosure, separately secured yard, pad, pond,
15 vehicle, building structure or premises or separately secured portion
16 thereof.

17 q. "Communication" means any form of communication made
18 by any means, including, but not limited to, any verbal or written
19 communication, communications conveyed by any electronic
20 communication device, which includes but is not limited to, a wire,
21 radio, electromagnetic, photoelectric or photo-optical system,
22 telephone, including a cordless, cellular or digital telephone,
23 computer, video recorder, fax machine, pager, or any other means
24 of transmitting voice or data and communications made by sign or
25 gesture.

26 r. "School" means a public or nonpublic elementary or
27 secondary school within this State offering education in grades K
28 through 12, or any combination thereof, at which a child may
29 legally fulfill compulsory school attendance requirements.

30 (cf: P.L.2001, c.220, s.1)

31

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

33 2C:12-1. Assault. a. Simple assault. A person is guilty of
34 assault if he:

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

37 (2) Negligently causes bodily injury to another with a deadly
38 weapon; or

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

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

44 b. Aggravated assault. A person is guilty of aggravated assault
45 if he:

46 (1) Attempts to cause serious bodily injury to another, or causes
47 such injury purposely or knowingly or under circumstances

- 1 manifesting extreme indifference to the value of human life
2 recklessly causes such injury; or
- 3 (2) Attempts to cause or purposely or knowingly causes bodily
4 injury to another with a deadly weapon; or
- 5 (3) Recklessly causes bodily injury to another with a deadly
6 weapon; or
- 7 (4) Knowingly under circumstances manifesting extreme
8 indifference to the value of human life points a firearm, as defined
9 in section 2C:39-1f., at or in the direction of another, whether or not
10 the actor believes it to be loaded; or
- 11 (5) Commits a simple assault as defined in subsection a. (1), (2)
12 or (3) of this section upon:
- 13 (a) Any law enforcement officer acting in the performance of his
14 duties while in uniform or exhibiting evidence of his authority or
15 because of his status as a law enforcement officer; or
- 16 (b) Any paid or volunteer fireman acting in the performance of
17 his duties while in uniform or otherwise clearly identifiable as being
18 engaged in the performance of the duties of a fireman; or
- 19 (c) Any person engaged in emergency first-aid or medical
20 services acting in the performance of his duties while in uniform or
21 otherwise clearly identifiable as being engaged in the performance
22 of emergency first-aid or medical services; or
- 23 (d) Any school board member, school administrator, teacher,
24 school bus driver or other employee of a public or nonpublic school
25 or school board while clearly identifiable as being engaged in the
26 performance of his duties or because of his status as a member or
27 employee of a public or nonpublic school or school board or any
28 school bus driver employed by an operator under contract to a
29 public or nonpublic school or school board while clearly
30 identifiable as being engaged in the performance of his duties or
31 because of his status as a school bus driver; or
- 32 (e) Any employee of the Division of Youth and Family Services
33 while clearly identifiable as being engaged in the performance of
34 his duties or because of his status as an employee of the division; or
- 35 (f) Any justice of the Supreme Court, judge of the Superior
36 Court, judge of the Tax Court or municipal judge while clearly
37 identifiable as being engaged in the performance of judicial duties
38 or because of his status as a member of the judiciary; or
- 39 (g) Any operator of a motorbus or the operator's supervisor or
40 any employee of a rail passenger service while clearly identifiable
41 as being engaged in the performance of his duties or because of his
42 status as an operator of a motorbus or as the operator's supervisor or
43 as an employee of a rail passenger service; or
- 44 (h) Any Department of Corrections employee, county
45 corrections officer, juvenile corrections officer, State juvenile
46 facility employee, juvenile detention staff member, juvenile
47 detention officer, probation officer or any sheriff, undersheriff, or

1 sheriff's officer acting in the performance of his duties while in
2 uniform or exhibiting evidence of his authority; or

3 **【(D) (i)** Any employee, including any person employed under
4 contract, of a utility company as defined in section 2 of P.L.1971,
5 c.224 (C.2A:42-86) or a cable television company subject to the
6 provisions of the "Cable Television Act," P.L.1972, c.186
7 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in
8 the performance of his duties in regard to connecting, disconnecting
9 or repairing or attempting to connect, disconnect or repair any gas,
10 electric or water utility, or cable television or telecommunication
11 service; 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 subsection 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 subsection, "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 f. 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.

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

21 c. (1) A person is guilty of assault by auto or vessel when the
22 person drives a vehicle or vessel recklessly and causes either
23 serious bodily injury or bodily injury to another. Assault by auto or
24 vessel is a crime of the fourth degree if serious bodily injury results
25 and is a disorderly persons offense if bodily injury results.

26 (2) Assault by auto or vessel is a crime of the third degree if the
27 person drives the vehicle while in violation of R.S.39:4-50 or
28 section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily
29 injury results and is a crime of the fourth degree if the person drives
30 the vehicle while in violation of R.S.39:4-50 or section 2 of
31 P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

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

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

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

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

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

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

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

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

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

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

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

44 (cf: P.L.2005, c.2, s.1)

45

46 3. This act shall take effect immediately.

ACS for **A2556**

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4

Upgrades simple assault against a private school teacher to aggravated assault; adds definition of “school” to criminal code.

ASSEMBLY, No. 2556

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED FEBRUARY 23, 2006

Sponsored by:

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Assemblyman WILFREDO CARABALLO

District 29 (Essex and Union)

SYNOPSIS

Upgrades simple assault against private school teachers to aggravated assault.

CURRENT VERSION OF TEXT

As introduced.



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

3

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

6

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

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

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

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

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

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

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

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

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

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

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

33 (5) Commits a simple assault as defined in subsection a. (1), (2)
34 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 school board, including a
3 member, administrator, teacher, school bus driver or employee of a
4 charter school, while clearly identifiable as being engaged in the
5 performance of his duties or because of his status as a member or
6 employee of a school board or any school bus driver employed by
7 an operator under contract to a 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 Youth and Family Services
11 while clearly identifiable as being engaged in the performance of
12 his duties or because of his status as an employee of the division; or

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

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

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

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

37 j. Any member of a governing body of a nonpublic school,
38 nonpublic school administrator, nonpublic school teacher,
39 nonpublic school bus driver or other employee of a nonpublic
40 school while clearly identifiable as being engaged in the
41 performance of his duties or because of his status as a governing
42 body member, administrator, teacher, or employee of a nonpublic
43 school board or any school bus driver employed by an operator
44 under contract to a nonpublic school while clearly identifiable as
45 being engaged in the performance of his duties or because of his
46 status as a nonpublic school bus driver; or

47 (6) Causes bodily injury to another person while fleeing or
48 attempting to elude a law enforcement officer in violation of

1 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
2 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
3 other provision of law to the contrary, a person shall be strictly
4 liable for a violation of this subsection upon proof of a violation of
5 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
6 violation of subsection c. of N.J.S.2C:20-10 which resulted in
7 bodily injury to another person; or

8 (7) Attempts to cause significant bodily injury to another or
9 causes significant bodily injury purposely or knowingly or, under
10 circumstances manifesting extreme indifference to the value of
11 human life recklessly causes such significant bodily injury; or

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

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

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

36 (11) Uses or activates a laser sighting system or device, or a
37 system or device which, in the manner used, would cause a
38 reasonable person to believe that it is a laser sighting system or
39 device, against a law enforcement officer acting in the performance
40 of his duties while in uniform or exhibiting evidence of his
41 authority. As used in this paragraph, "laser sighting system or
42 device" means any system or device that is integrated with or
43 affixed to a firearm and emits a laser light beam that is used to
44 assist in the sight alignment or aiming of the firearm.

45 Aggravated assault under subsections b. (1) and b. (6) is a crime
46 of the second degree; under subsections b. (2), b. (7), b. (9) and b.
47 (10) is a crime of the third degree; under subsections b. (3) and b.
48 (4) is a crime of the fourth degree; and under subsection b. (5) is a

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

8 c. (1) A person is guilty of assault by auto or vessel when the
9 person drives a vehicle or vessel recklessly and causes either
10 serious bodily injury or bodily injury to another. Assault by auto or
11 vessel is a crime of the fourth degree if serious bodily injury results
12 and is a disorderly persons offense if bodily injury results.

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

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

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

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

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

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

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

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

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

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

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

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

30 (cf: P.L.2005, c.2, s.1)

31

32 2. This act shall take effect immediately.

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STATEMENT

36

37 This bill would upgrade the crime of simple assault committed
38 against a private school teacher to aggravated assault.

39 Specifically, a person commits aggravated assault under the bill
40 if the assault is committed against members of a governing body of
41 a nonpublic school, nonpublic school administrators, nonpublic
42 school teachers, nonpublic school bus drivers or other employees of
43 a nonpublic school. Aggravated assault under the bill is a crime of
44 the third degree if the victim suffers bodily injury; otherwise, it is a
45 crime of the fourth degree. Third degree crimes are punishable by
46 imprisonment of three-to-five years, a fine of up to \$15,000, or
47 both. Fourth degree crimes are punishable by imprisonment of up
48 to 18 months, a fine of up to \$10,000, or both.

1 Under current law, simple assault is upgraded to aggravated
2 assault when committed against school board members, school
3 administrators, teachers, school bus drivers and other school board
4 employees while clearly identifiable as being engaged in the
5 performance of their duties or because of their status as members or
6 employees of a school board or as school bus drivers. A recent
7 decision by the New Jersey Supreme Court upheld a lower court
8 opinion concluding that the statute did not apply to private school
9 teachers. This bill addresses this disparity by clarifying that simple
10 assault also constitutes aggravated assault when committed against
11 administrators, teachers, school bus drivers and other private school
12 employees.

13 The bill also clarifies that simple assault against school board
14 members, administrators, teachers, school bus drivers and
15 employees of charter schools constitutes aggravated assault.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2556

STATE OF NEW JERSEY

DATED: FEBRUARY 23, 2006

The Assembly Law and Public Safety Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2556.

This Assembly committee substitute clarifies that enhanced protections provided to public school employees under N.J.S.2C:12-1 also apply to private school employees. Specifically, the substitute elevates simple assault to aggravated assault when committed against employees and administrators of public and nonpublic schools and school boards. The substitute responds to the New Jersey Supreme Court's January 31, 2006 decision in State v. Cannarella (Docket No. A-6-05) affirming a lower court's holding that these enhanced protections apply only to public school employees. The Supreme Court concluded that the public policy arguments for applying the law to both public and nonpublic school teachers were compelling, but the court was constrained by the statutory language to hold that the aggravated assault upgrade applies only to public school employees. Accordingly, the Court recommended that the Legislature consider the issue.

While the Cannarella decision specifically addressed the statutory language in the assault statute upgrading simple assault against school employees, other provisions in the criminal code referring to "schools" could similarly be interpreted as applying only to public schools. To clarify that all school children, not just public school children, are entitled to enhanced protections found throughout the criminal code, the committee substitute also adds to N.J.S.2C:1-14, the general definition section of the code, a definition of "school." The term is defined in the substitute as "a public or nonpublic elementary or secondary school within this State offering education in grades K through 12, or any combination thereof, at which a child may legally fulfill compulsory school attendance requirements."

Adding the definition of "school" will ensure a safe and secure educational environment for all schoolchildren, not just those who attend public schools. For example, two other provisions of the assault statute intended to protect children also could be interpreted as protecting only public school students: assault by auto or vessel resulting in serious bodily injury if it occurs on school property used

for school purposes and committing assault in the presence of a child under 16 years of age at a school or community sponsored youth sports event.

There also are numerous other instances in the criminal code in which the term “school” could be misconstrued, including: Megan’s Law; vehicular manslaughter in a school zone; anti-stalking restraining orders; trespassing in a school; scope of domestic violence restraining orders; disorderly conduct in a public place; smoking in school or on school property; possession or consumption of alcohol by underage persons in school or on school property; pagers on school property; location of sexually oriented businesses; statement of legislative findings underlying the Comprehensive Drug Reform Act; distribution and possession of controlled dangerous substance in a school zone; exempting distribution to a juvenile on or near school property from treatment in lieu of incarceration; defrauding a drug test given in connection with employment as a school bus driver; possession of firearm on school property; and requiring mental evaluation in preparation of a presentence report upon conviction of specified offenses, including trespass in a school.

There is no sound justification for applying the criminal law differently based on whether a school is public or nonpublic. Under the substitute, all schools, public and nonpublic alike, and affected personnel and students, as the case may be, will receive enhanced protections. But the committee notes that, when appropriate, a more narrow or alternate definition of “school” may be used, as the code’s general definitions apply unless a different meaning plainly is required.

SENATE EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2556

STATE OF NEW JERSEY

DATED: JUNE 8, 2006

The Senate Education Committee reports favorably Assembly Committee Substitute for Assembly No. 2556.

This bill clarifies that enhanced protections provided to public school employees under N.J.S.2C:12-1 also apply to private school employees. Specifically, the bill elevates simple assault to aggravated assault when committed against employees and administrators of public and nonpublic schools and school boards. The bill responds to the New Jersey Supreme Court's January 31, 2006 decision in State v. Cannarella, 186 N.J. 63 (2006), affirming a lower court's holding that these enhanced protections apply only to public school employees. The Supreme Court concluded that the public policy arguments for applying the law to both public and nonpublic school teachers were compelling, but the court was constrained by the statutory language to hold that the aggravated assault upgrade applies only to public school employees. Accordingly, the Court recommended that the Legislature consider the issue.

While the Cannarella decision specifically addressed the statutory language in the assault statute upgrading simple assault against school employees, other provisions in the criminal code referring to "schools" could similarly be interpreted as applying only to public schools. To clarify that all school children, not just public school children, are entitled to enhanced protections found throughout the criminal code, this bill also adds to N.J.S.2C:1-14, the general definition section of the code, a definition of "school." The term is defined in the bill as "a public or nonpublic elementary or secondary school within this State offering education in grades K through 12, or any combination thereof, at which a child may legally fulfill compulsory school attendance requirements." When appropriate, a more narrow or alternate definition of "school" may be used, as the code's general definitions apply unless a different meaning plainly is required.

As reported by committee, this bill is identical to the Senate Committee Substitute for Senate Bill Nos. 1633 and 1740.

SENATE, No. 1633

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MARCH 13, 2006

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Senator JOSEPH V. DORIA, JR.

District 31 (Hudson)

SYNOPSIS

Includes private school administrators and teachers in the criminal statute upgrading certain assaults.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/9/2006)

1 AN ACT concerning assault 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., at or in the direction of another, whether or not
31 the 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 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 of a public
45 or private school, teacher of a public or private school, school bus

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

7 (e) Any employee of the Division of Youth and Family Services
8 while clearly identifiable as being engaged in the performance of
9 his 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
11 Court, judge of the Tax Court or municipal judge while clearly
12 identifiable as being engaged in the performance of judicial duties
13 or because of his status as a member of the judiciary; or

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

19 (h) Any Department of Corrections employee, county
20 corrections officer, juvenile corrections officer, State juvenile
21 facility employee, juvenile detention staff member, juvenile
22 detention officer, probation officer or any sheriff, undersheriff, or
23 sheriff's officer acting in the performance of his duties while in
24 uniform or exhibiting evidence of his authority; or

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

34 (6) Causes bodily injury to another person while fleeing or
35 attempting to elude a law enforcement officer in violation of
36 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
37 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
38 other provision of law to the contrary, a person shall be strictly
39 liable for a violation of this subsection upon proof of a violation of
40 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
41 violation of subsection c. of N.J.S.2C:20-10 which resulted in
42 bodily injury to another person; or

43 (7) Attempts to cause significant bodily injury to another or
44 causes significant bodily injury purposely or knowingly or, under
45 circumstances manifesting extreme indifference to the value of
46 human life recklessly causes such significant bodily injury; or

47 (8) Causes bodily injury by knowingly or purposely starting a
48 fire or causing an explosion in violation of N.J.S.2C:17-1 which

1 results in bodily injury to any emergency services personnel
2 involved in fire suppression activities, rendering emergency
3 medical services resulting from the fire or explosion or rescue
4 operations, or rendering any necessary assistance at the scene of the
5 fire or explosion, including any bodily injury sustained while
6 responding to the scene of a reported fire or explosion. For
7 purposes of this subsection, "emergency services personnel" shall
8 include, but not be limited to, any paid or volunteer fireman, any
9 person engaged in emergency first-aid or medical services and any
10 law enforcement officer. Notwithstanding any other provision of
11 law to the contrary, a person shall be strictly liable for a violation of
12 this paragraph upon proof of a violation of N.J.S.2C:17-1 which
13 resulted in bodily injury to any emergency services personnel; or

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

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

23 (11) Uses or activates a laser sighting system or device, or a
24 system or device which, in the manner used, would cause a
25 reasonable person to believe that it is a laser sighting system or
26 device, against a law enforcement officer acting in the performance
27 of his duties while in uniform or exhibiting evidence of his
28 authority. As used in this paragraph, "laser sighting system or
29 device" means any system or device that is integrated with or
30 affixed to a firearm and emits a laser light beam that is used to
31 assist in the sight alignment or aiming of the firearm.

32 Aggravated assault under subsections b. (1) and b. (6) is a crime
33 of the second degree; under subsections b. (2), b. (7), b. (9) and b.
34 (10) is a crime of the third degree; under subsections b. (3) and b.
35 (4) is a crime of the fourth degree; and under subsection b. (5) is a
36 crime of the third degree if the victim suffers bodily injury,
37 otherwise it is a crime of the fourth degree. Aggravated assault
38 under subsection b.(8) is a crime of the third degree if the victim
39 suffers bodily injury; if the victim suffers significant bodily injury
40 or serious bodily injury it is a crime of the second degree.
41 Aggravated assault under subsection b.(11) is a crime of the third
42 degree.

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

48 (2) Assault by auto or vessel is a crime of the third degree if the

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

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

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

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

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

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

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

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

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

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

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

46 f. A person who commits a simple assault as defined in
47 paragraph (1), (2) or (3) of subsection a. of this section in the
48 presence of a child under 16 years of age at a school or community

1 sponsored youth sports event is guilty of a crime of the fourth
2 degree. The defendant shall be strictly liable upon proof that the
3 offense occurred, in fact, in the presence of a child under 16 years
4 of age. It shall not be a defense that the defendant did not know
5 that the child was present or reasonably believed that the child was
6 16 years of age or older. The provisions of this subsection shall not
7 be construed to create any liability on the part of a participant in a
8 youth sports event or to abrogate any immunity or defense available
9 to a participant in a youth sports event. As used in this act, "school
10 or community sponsored youth sports event" means a competition,
11 practice or instructional event involving one or more interscholastic
12 sports teams or youth sports teams organized pursuant to a
13 nonprofit or similar charter or which are member teams in a youth
14 league organized by or affiliated with a county or municipal
15 recreation department and shall not include collegiate, semi-
16 professional or professional sporting events.

17 (cf:P.L. 2005, c.2)

18

19 2. This act shall take effect immediately.

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STATEMENT

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24 This bill amends the criminal statute concerning assault to
25 include private school administrators and private school teachers in
26 N.J.S.2C:12-1 b.(5) which upgrades simple assault when it is
27 committed on certain persons. Presently, any school board member,
28 school administrator, teacher, school bus driver or other employee
29 of a school board while clearly identifiable as being engaged in the
30 performance of his duties or because of his status as such is
31 included. The paragraph also applies to a member or employee of a
32 school board or any school bus driver employed by an operator
33 under contract to a school board while clearly identifiable as being
34 engaged in the performance of his duties or because of his status as
35 a school bus driver. An offense under subsection b. (5) is a crime
36 of the third degree if the victim suffers bodily injury, otherwise it is
37 a crime of the fourth degree.

38 A recent Appellate Division decision held that the assault
39 upgrade did not apply to a teacher in a private school because the
40 statute is not specific and the legislative history suggests that the
41 Legislature was addressing situations in public schools. Further,
42 many other State statutes specifically indicate "public or private"
43 schools. This bill is intended to overturn the decision in State v.
44 Cannarella, 376 N.J.Super 16 (2005) (App. Div. 2005) cert. granted
45 184 N.J. 210 (2005) by providing specific language including
46 administrators and teachers of private schools within the upgrade
47 provisions of the assault statute.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 1633 and 1740**

STATE OF NEW JERSEY

DATED: JUNE 8, 2006

The Senate Education Committee favorably reports a Senate Committee Substitute for Senate Bill Nos. 1633 and 1740.

This committee substitute clarifies that enhanced protections provided to public school employees under N.J.S.2C:12-1 also apply to private school employees. Specifically, the substitute elevates simple assault to aggravated assault when committed against employees and administrators of public and nonpublic schools and school boards. The substitute responds to the New Jersey Supreme Court's January 31, 2006 decision in State v. Cannarella, 186 N.J. 63 (2006), affirming a lower court's holding that these enhanced protections apply only to public school employees. The Supreme Court concluded that the public policy arguments for applying the law to both public and nonpublic school teachers were compelling, but the court was constrained by the statutory language to hold that the aggravated assault upgrade applies only to public school employees. Accordingly, the Court recommended that the Legislature consider the issue.

While the Cannarella decision specifically addressed the statutory language in the assault statute upgrading simple assault against school employees, other provisions in the criminal code referring to "schools" could similarly be interpreted as applying only to public schools. To clarify that all school children, not just public school children, are entitled to enhanced protections found throughout the criminal code, the substitute also adds to N.J.S.2C:1-14, the general definition section of the code, a definition of "school." The term is defined in the substitute as "a public or nonpublic elementary or secondary school within this State offering education in grades K through 12, or any combination thereof, at which a child may legally fulfill compulsory school attendance requirements." When appropriate, a more narrow or alternate definition of "school" may be used, as the code's general definitions apply unless a different meaning plainly is required.

As reported by committee, this committee substitute is identical to the Assembly Committee Substitute for Assembly Bill No. 2556.