

2C:12-1

LEGISLATIVE HISTORY CHECKLIST
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(Simple assault--penalties)

NJSA: 2C:12-1

LAWS OF: 1995 **CHAPTER:** 6

BILL NO: A550

SPONSOR(S): Struhltrager and Collins

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Judiciary
SENATE: Judiciary

AMENDED DURING PASSAGE: Yes Amendments during passage
Second reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** February 17, 1994
SENATE: November 10, 1995

DATE OF APPROVAL: January 10, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes Also attached: statement
1-17-94 with floor
amendments

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

P.L.1995, CHAPTER 6, approved January 10, 1995
1994 Assembly No. 550 (Second Reprint)

1 AN ACT concerning the harassing or threatening of certain
2 persons and ²the criteria to be considered in imposing sentence
3 in certain cases and² amending N.J.S.2C:12-1 ²and
4 N.J.S.2C:44-1².

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (c) Any person engaged in emergency first-aid or medical

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted January 27, 1994.

² Senate SJU committee amendments adopted October 13, 1994.

1 services acting in the performance of his duties while in uniform
2 or otherwise clearly identifiable as being engaged in the
3 performance of emergency first-aid or medical services; or

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

8 ²[(e) Any athletic coach, manager or sports official while being
9 engaged in or immediately following the performance of duties at
10 any athletic contest at any level of competition or cause of
11 such person's status as an athletic coach or sports official]²

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
15 in violation of subsection c. of N.J.S.2C:20-10. Notwithstanding
16 any other provision of law to the contrary, a person shall be
17 strictly liable for a violation of this subsection upon proof of a
18 violation of subsection b. of N.J.S.2C:29-2 or while operating a
19 motor vehicle in violation of subsection c. of N.J.S.2C:20-10
20 which resulted in bodily injury to another person.

21 ²[As used in this section, "sports official" means any person
22 who serves as a referee or umpire or who serves in a similar
23 capacity but may be known by a different title and who is duly
24 registered by, or a member of, a local, regional or national
25 organization engaged in part in providing education and training
26 to sports officials.]²

27 Aggravated assault under subsection b. (1) and b. (6) is a crime
28 of the second degree; under subsection b. (2) is a crime of the
29 third degree; under subsection b. (3) and b. (4) is a crime of the
30 fourth degree; and under subsection b. (5) is a crime of the third
31 degree if the victim suffers bodily injury, otherwise it is a crime
32 of the fourth degree.

33 c. A person is guilty of assault by auto or vessel when the
34 person drives a vehicle or vessel recklessly and causes either
35 serious bodily injury or bodily injury to another. Assault by auto
36 or vessel is a crime of the fourth degree if serious bodily injury
37 results and is a disorderly persons offense if bodily injury results.

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

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

47 e. A person who commits a simple assault as defined in
48 subsection a. of this section is guilty of a crime of the fourth
49 degree if the person acted, at least in part, with ill will, hatred or
50 bias toward, and with a purpose to intimidate, an individual or
51 group of individuals because of race, color, religion, sexual
52 orientation, or ethnicity.

53 (cf: P.L.1993, c.219, s.2)

54 ²2. N.J.S.2C:44-1 is amended to read as follows:

1 2C:44-1. Criteria for Withholding or Imposing Sentence of
2 Imprisonment. a. In determining the appropriate sentence to be
3 imposed on a person who has been convicted of an offense, the
4 court shall consider the following aggravating circumstances:

5 (1) The nature and circumstances of the offense, and the role
6 of the actor therein, including whether or not it was committed
7 in an especially heinous, cruel, or depraved manner;

8 (2) The gravity and seriousness of harm inflicted on the victim,
9 including whether or not the defendant knew or reasonably should
10 have known that the victim of the offense was particularly
11 vulnerable or incapable of resistance due to advanced age,
12 ill-health, or extreme youth, or was for any other reason
13 substantially incapable of exercising physical or mental
14 power of resistance;

15 (3) The risk that the defendant will commit another offense;

16 (4) A lesser sentence will depreciate the seriousness of the
17 defendant's offense because it involved a breach of the public
18 trust under chapters 27 and 30, or the defendant took advantage
19 of a position of trust or confidence to commit the offense;

20 (5) There is a substantial likelihood that the defendant is
21 involved in organized criminal activity;

22 (6) The extent of the defendant's prior criminal record and the
23 seriousness of the offenses of which he has been convicted;

24 (7) The defendant committed the offense pursuant to an
25 agreement that he either pay or be paid for the commission of
26 the offense and the pecuniary incentive was beyond that inherent
27 in the offense itself;

28 (8) The defendant committed the offense against a police or
29 other law enforcement officer, correctional employee or fireman,
30 acting in the performance of his duties while in uniform or
31 exhibiting evidence of his authority[, or]; the defendant
32 committed the offense because of the status of the victim as a
33 public servant; or the defendant committed the offense against a
34 sports official, athletic coach or manager, acting in or
35 immediately following the performance of his duties or because
36 of the person's status as a sports official, coach or manager;

37 (9) The need for deterring the defendant and others from
38 violating the law;

39 (10) The offense involved fraudulent or deceptive practices
40 committed against any department or division of State
41 government;

42 (11) The imposition of a fine, penalty or order of restitution
43 without also imposing a term of imprisonment would be perceived
44 by the defendant or others merely as part of the cost of doing
45 business, or as an acceptable contingent business or operating
46 expense associated with the initial decision to resort to unlawful
47 practices;

48 (12) The defendant committed the offense against a person
49 who he knew or should have known was 60 years of age or older,
50 or disabled;

51 (13) The defendant, while in the course of committing or
52 attempting to commit the crime, including the immediate flight
53 therefrom, used or was in possession of a stolen motor vehicle.

54 b. In determining the appropriate sentence to be imposed on a

- 1 person who has been convicted of an offense, the court may
2 properly consider the following mitigating circumstances:
- 3 (1) The defendant's conduct neither caused nor threatened
4 serious harm;
 - 5 (2) The defendant did not contemplate that his conduct would
6 cause or threaten serious harm;
 - 7 (3) The defendant acted under a strong provocation;
 - 8 (4) There were substantial grounds tending to excuse or justify
9 the defendant's conduct, though failing to establish a defense;
 - 10 (5) The victim of the defendant's conduct induced or
11 facilitated its commission;
 - 12 (6) The defendant has compensated or will compensate the
13 victim of his conduct for the damage or injury that he sustained,
14 or will participate in a program of community service;
 - 15 (7) The defendant has no history of prior delinquency or
16 criminal activity or has led a law-abiding life for a substantial
17 period of time before the commission of the present offense;
 - 18 (8) The defendant's conduct was the result of circumstances
19 unlikely to recur;
 - 20 (9) The character and attitude of the defendant indicate that
21 he is unlikely to commit another offense;
 - 22 (10) The defendant is particularly likely to respond
23 affirmatively to probationary treatment;
 - 24 (11) The imprisonment of the defendant would entail excessive
25 hardship to himself or his dependents;
 - 26 (12) The willingness of the defendant to cooperate with law
27 enforcement authorities;
 - 28 (13) The conduct of a youthful defendant was substantially
29 influenced by another person more mature than the defendant.
- 30 c. (1) A plea of guilty by a defendant or failure to so plead
31 shall not be considered in withholding or imposing a sentence of
32 imprisonment.
- 33 (2) When imposing a sentence of imprisonment the court shall
34 consider the defendant's eligibility for release under the law
35 governing parole, including time credits awarded pursuant to
36 Title 30 of the Revised Statutes, in determining the appropriate
37 term of imprisonment.
- 38 d. Presumption of imprisonment. The court shall deal with a
39 person who has been convicted of a crime of the first or second
40 degree by imposing a sentence of imprisonment unless, having
41 regard to the character and condition of the defendant, it is of
42 the opinion that his imprisonment would be a serious injustice
43 which overrides the need to deter such conduct by others.
44 Notwithstanding the provisions of subsection e. of this section,
45 the court shall deal with a person who has been convicted of theft
46 of a motor vehicle or of the unlawful taking of a motor vehicle
47 and who has previously been convicted of either offense by
48 imposing a sentence of imprisonment unless, having regard to the
49 character and condition of the defendant, it is of the opinion that
50 his imprisonment would be a serious injustice which overrides the
51 need to deter such conduct by others.
- 52 e. The court shall deal with a person convicted of an offense
53 other than a crime of the first or second degree, who has not
54 previously been convicted of an offense, without imposing

1 sentence of imprisonment unless, having regard to the nature and
2 circumstances of the offense and the history, character and
3 condition of the defendant, it is of the opinion that his
4 imprisonment is necessary for the protection of the public under
5 the criteria set forth in subsection a., except that this subsection
6 shall not apply if the person is convicted of any of the following
7 crimes of the third degree: theft of a motor vehicle; unlawful
8 taking of a motor vehicle; or eluding.

9 f. Presumptive Sentences. (1) Except for the crime of murder,
10 unless the preponderance of aggravating or mitigating factors, as
11 set forth in subsections a. and b., weighs in favor of a higher or
12 lower term within the limits provided in N.J.S.2C:43-6, when a
13 court determines that a sentence of imprisonment is warranted,
14 it shall impose sentence as follows:

15 (a) To a term of 20 years for aggravated manslaughter or
16 kidnapping pursuant to paragraph (1) of subsection c. of
17 N.J.S.2C:13-1 when the offense constitutes a crime of the first
18 degree;

19 (b) Except as provided in paragraph (a) of this subsection to a
20 term of 15 years for a crime of the first degree;

21 (c) To a term of seven years for a crime of the second degree;

22 (d) To a term of four years for a crime of the third degree; and

23 (e) To a term of nine months for a crime of the fourth degree.

24 In imposing a minimum term pursuant to 2C:43-6b., the
25 sentencing court shall specifically place on the record the
26 aggravating factors set forth in this section which justify the
27 imposition of a minimum term.

28 Unless the preponderance of mitigating factors set forth in
29 subsection b. weighs in favor of a lower term within the limits
30 authorized, sentences imposed pursuant to 2C:43-7a.(1) shall have
31 a presumptive term of life imprisonment. Unless the
32 preponderance of aggravating and mitigating factors set forth in
33 subsections a. and b. weighs in favor of a higher or lower term
34 within the limits authorized, sentences imposed pursuant to
35 2C:43-7a.(2) shall have a presumptive term of 50 years'
36 imprisonment; sentences imposed pursuant to 2C:43-7a.(3) shall
37 have a presumptive term of 15 years' imprisonment; and
38 sentences imposed pursuant to 2C:43-7a.(4) shall have a
39 presumptive term of seven years' imprisonment.

40 In imposing a minimum term pursuant to 2C:43-7b., the
41 sentencing court shall specifically place on the record the
42 aggravating factors set forth in this section which justify the
43 imposition of a minimum term.

44 (2) In cases of convictions for crimes of the first or second
45 degree where the court is clearly convinced that the mitigating
46 factors substantially outweigh the aggravating factors and where
47 the interest of justice demands, the court may sentence the
48 defendant to a term appropriate to a crime of one degree lower
49 than that of the crime for which he was convicted. If the court
50 does impose sentence pursuant to this paragraph, or if the court
51 imposes a noncustodial or probationary sentence upon conviction
52 for a crime of the first or second degree, such sentence shall not
53 become final for 10 days in order to permit the appeal of such
54 sentence by the prosecution.

1 g. Imposition of Noncustodial Sentences in Certain Cases. If
2 the court, in considering the aggravating factors set forth in
3 subsection a., finds the aggravating factor in paragraph a.(2) or
4 a.(12) and does not impose a custodial sentence, the court shall
5 specifically place on the record the mitigating factors which
6 justify the imposition of a noncustodial sentence.

7 h. Except as provided in section 2 of P.L.1993, c.123
8 (C.2C:43-11), the presumption of imprisonment as provided in
9 subsection d. of this section shall not preclude the admission of a
10 person to the Intensive Supervision Program, established pursuant
11 to the Rules Governing the Courts of the State of New Jersey.²
12 (cf: P.L.1993, c.135, s.1)

13 ²[2.] 3.2 This act shall take effect immediately.

14
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17
18 Upgrades assaults in certain cases and revises criteria to be
19 considered in imposing sentence in certain cases.

ASSEMBLY, No. 550

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblymen STUHLTRAGER and COLLINS

1 AN ACT concerning the harassing or threatening of certain
2 persons and amending N.J.S.2C:12-1.

3

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

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
17 it is a petty disorderly persons offense.

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

20 (1) Attempts to cause serious bodily injury to another, or
21 causes 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
30 defined in section 2C:39-1f., at or in the direction of another,
31 whether or not the actor believes it to be loaded; or

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

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

37 (b) Any paid or volunteer fireman acting in the performance of
38 his duties while in uniform or otherwise clearly identifiable as
39 being 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
42 or otherwise clearly identifiable as being engaged in the
43 performance 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 or school administrator, teacher
2 or other employee of a school board while clearly identifiable as
3 being engaged in the performance of his duties or because of his
4 status as a member or employee of a school board; or

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

12 (7) 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. Notwithstanding any other
15 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 which resulted in bodily injury to
18 another person.

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

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

30 As used in this section, "auto or vessel" means of conveyance
31 propelled otherwise than by muscular power.

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

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

44 (cf: P.L.1991, c.341, s.2)

45 2. This act shall take effect immediately.

46
47
48 STATEMENT

49
50 This bill amends N.J.S.2C:12-1 to upgrade the simple assault of
51 threatening or harassing certain persons while they are
52 performing their duties to aggravated assault, including
53 emergency personnel, paid or volunteer firefighters, law
54 enforcement officers, and school officials and teachers.

1 Under the provisions of the bill, any person who attempts, by
2 physical menace, to intimidate or frighten with the threat of
3 serious bodily injury any law enforcement officer, paid or
4 volunteer firefighter, member of a first aid or emergency
5 ambulance squad or school official, or teacher or certain school
6 officials while that individual is engaged in the performance of
7 his duties is guilty of a crime of the third degree if the victim
8 suffers bodily injury, otherwise it is a crime of the fourth
9 degree. Currently, such threats or acts of harassment are
10 classified as simple assault under paragraph (3) of subsection a. of
11 N.J.S.2C:12-1 and are treated as disorderly persons offenses or
12 petty disorderly persons offenses. The upgrading of simple
13 assault committed on the classes of persons listed in paragraph
14 (5) of subsection b. is limited presently to simple assaults
15 consisting of attempts to cause or purposely, knowingly or
16 recklessly causing bodily injury to another (paragraph (1) of
17 subsection a.) or negligently causing bodily injury to another with
18 a deadly weapon (paragraph (2) of subsection a.).

19 A crime of the fourth degree is punishable by a fine of not
20 more than \$7,500, imprisonment for a term of not more than
21 18 months or both. A crime of the third degree is punishable by a
22 fine of not more than \$7,500, imprisonment for a term of three to
23 five years or both.

24

25

26

27

28 Upgrades any simple assault against certain persons while acting
29 in performance of their duties to aggravated assault.

**ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE**

STATEMENT TO

ASSEMBLY, No. 550

STATE OF NEW JERSEY

DATED: JANUARY 20, 1994

The Assembly Judiciary, Law and Public Safety Committee reports favorably Assembly Bill No. 550.

This bill amends N.J.S.2C:12-1 to upgrade the simple assault of threatening or harassing certain persons while they are performing their duties to aggravated assault. The persons performing the duties include emergency personnel, paid or volunteer firefighters, law enforcement officers, and school officials and teachers.

Under the provisions of the bill, any person who attempts, by physical menace, to intimidate or frighten with the threat of imminent serious bodily injury any law enforcement officer, paid or volunteer firefighter, member of a first aid or emergency ambulance squad or school official, or teacher or certain school officials while that individual is engaged in the performance of his duties is guilty of a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree. Currently, such threats or acts of harassment are classified as simple assault under paragraph (3) of subsection a. of N.J.S.2C:12-1 and are treated as disorderly persons offenses or petty disorderly persons offenses. The upgrading of simple assault committed on the classes of persons listed in paragraph (5) of subsection b. is limited presently to simple assaults consisting of attempts to cause or purposely, knowingly or recklessly causing bodily injury to another (paragraph (1) of subsection a.) or negligently causing bodily injury to another with a deadly weapon (paragraph (2) of subsection a.).

A crime of the fourth degree is punishable by a fine of not more than \$7,500, imprisonment for a term of not more than 18 months or both. A crime of the third degree is punishable by a fine of not more than \$7,500, imprisonment for a term of three to five years or both.

This bill was prefiled for introduction in the 1994 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 550

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 13, 1994

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 550 [1R].

Presently, under subsection b. of N.J.S.2C:12-1, certain simple assaults committed against firefighters, law enforcement officers, school officials and teachers are classified as aggravated assault. This bill would provide that if the simple assault consisted of "an attempt by physical menace to put another in fear of imminent serious bodily," that simple assault would also be classified as aggravated assault if the victim of the assault was in one of the categories listed in subsection b. Presently in order for a simple assault to be classified as aggravated assault under 2C:12-1b, the assault would have to be consistent of either intentionally causing or attempting to cause bodily injury or negligently causing bodily injury with a deadly weapon.

This bill, as amended, would also provide that the circumstance of criminal offense being committed against an athletic coach, manager or sport official in the performance of his duties or because of that status would constitute an aggravating factor to be considered by the court in imposing sentence. As passed by the Assembly, the bill would have included athletic coaches, managers and sports officials to those covered by the provisions of N.J.S.2C:12-1b.

JUN 24 12:47



ASSEMBLY Amendments
(Proposed by Assemblyman Pascrell)

to

ASSEMBLY, No. 550

(Sponsored by Assemblymen Stuhltrager and Collins)

- Speaker
- Clerk (3)
- Majority Leader
- Minority Leader
- Sponsor of Aa
- Sponsor of Bill

REPLACE SECTION 1 TO READ:

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

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

- (1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or
- (2) Negligently causes bodily injury to another with a deadly weapon; or
- (3) Attempts by physical menace to put another in fear of imminent serious bodily injury.

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

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

- (1) Attempts to cause serious bodily injury to another, or causes such injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or
- (2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or
- (3) Recklessly causes bodily injury to another with a deadly weapon; or
- (4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in section 2C:39-1f., at or in the direction of another, whether or not the actor believes it to be loaded; or

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

- (a) Any law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority; or
- (b) Any paid or volunteer fireman acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of the duties of a fireman; or
- (c) Any person engaged in emergency first-aid or medical services acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of emergency first-aid or medical services; or
- (d) Any school board member or school administrator, teacher or other employee of a school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a member or employee of a school board; or

¹(e) Any athletic coach, manager or sports official while being engaged in or immediately following the performance of duties at any athletic contest at any level of competition or because of such person's status as an athletic coach or sports official: or¹

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

or while operating a motor vehicle in violation of subsection c. of N.J.S. 2C:20-10

or while operating a motor vehicle in violation of subsection c. of N.J.S. 2C:20-10

(7) Causes bodily injury to another person while fleeing or attempting to elude a law enforcement officer in violation of subsection b. of N.J.S.2C:29-2. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this subsection upon proof of a violation of subsection b. of N.J.S.2C:29-2 which resulted in bodily injury to another person.

¹As used in this section, "sports official" means any person who serves as a referee or umpire or who serves in a similar capacity but may be known by a different title and who is duly registered by, or a member of, a local, regional or national organization engaged in part in providing education and training to sports officials.¹

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

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

As used in this section, "auto ~~or~~ vessel" means ^{a means} of conveyance propelled otherwise than by muscular power.

for travel on water and

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

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

(cf: P.L.1991, c.341, s.2) (P.L.1993, c.341, s. 2)

STATEMENT

This bill amends N.J.S.2C:12-1 to upgrade the simple assault of threatening or harassing certain persons while they are performing their duties to aggravated assault, including emergency personnel, paid or volunteer firefighters, law enforcement officers, and school officials and teachers.

The amendments provide that threatening or harassing sports officials would also be upgraded to aggravated assault.