SENATE, No. 2503

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 28, 2020

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SYNOPSIS
Increases strangulation assault to crime of second degree.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning strangulation assault and amending N.J.S.2C:12-1.

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

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 the person:
   (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 the person:
      (1) Attempts to cause serious bodily injury to another, or causes 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 subsection f. of N.J.S.2C:39-1, 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 paragraph (1), (2), or (3) of subsection a. of this section upon:
         (a) Any law enforcement officer acting in the performance of the officer's duties while in uniform or exhibiting evidence of authority or because of the officer's status as a law enforcement officer; or
         (b) Any paid or volunteer firefighter acting in the performance of the firefighter's duties while in uniform or otherwise clearly identifiable as being engaged in the performance of the duties of a
uniform or otherwise clearly identifiable as being engaged in the
performance of emergency first-aid or medical services; or
(d) Any school board member, school administrator, teacher,
school bus driver, or other employee of a public or nonpublic
school or school board while clearly identifiable as being engaged
in the performance of the person's duties or because of the person's
status as a member or employee of a public or nonpublic school or
school board or any school bus driver employed by an operator
under contract to a public or nonpublic school or school board while
clearly identifiable as being engaged in the performance of the
person's duties or because of the person's status as a school bus
driver; or
(e) Any employee of the Division of Child Protection and
Permanency while clearly identifiable as being engaged in the
performance of the employee's duties or because of the status as an
employee of the division; or
(f) Any justice of the Supreme Court, judge of the Superior
Court, judge of the Tax Court or municipal judge while clearly
identifiable as being engaged in the performance of judicial duties
or because of the status as a member of the judiciary; or
(g) Any operator of a motorbus or the operator's supervisor or
any employee of a rail passenger service while clearly identifiable
as being engaged in the performance of the person's duties or
because of the status as an operator of a motorbus or as the
operator's supervisor or as an employee of a rail passenger service;
or
(h) Any Department of Corrections employee, county
correctional police officer, juvenile correctional police officer, State
juvenile facility employee, juvenile detention staff member,
juvenile detention officer, probation officer or any sheriff,
undersheriff, or sheriff's officer acting in the performance of the
person's duties while in uniform or exhibiting evidence of the
person's authority or because of the status as a Department of
Corrections employee, county correctional police officer, juvenile
correctional police officer, State juvenile facility employee, juvenile
detention staff member, juvenile detention officer, probation
officer, sheriff, undersheriff, or sheriff's officer; or
(i) Any employee, including any person employed under
contract, of a utility company as defined in section 2 of P.L.1971,
c.224 (C.2A:42-86) or a cable television company subject to the
provisions of the "Cable Television Act," P.L.1972, c.186
licensed or otherwise authorized pursuant to Title 26 or Title 45 of
the Revised Statutes to practice a health care profession, except a
direct care worker at a State or county psychiatric hospital or State
developmental center or veterans' memorial home, while clearly
identifiable as being engaged in the duties of providing direct
patient care or practicing the health care profession; or

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

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

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

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

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

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

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

Aggravated assault under paragraphs (1) and (6) of subsection b. of this section is a crime of the second degree; under paragraphs (2), (7), (9), and (10) of subsection b. of this section is a crime of the third degree; under paragraphs (3) and (4) of subsection b. of this section is a crime of the fourth degree; and under paragraph (5) of subsection b. of this section is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree. Aggravated assault under paragraph (8) of subsection b. of this section is a crime of the third degree if the victim suffers bodily injury; if the victim suffers significant bodily injury or serious bodily injury it is a crime of the second degree. Aggravated assault under paragraph (11) of subsection b. of this section is a crime of the third degree. Aggravated assault under paragraph (12) [or (13)] of subsection b. of this section is a crime of the third degree but the presumption of non-imprisonment set forth in subsection e. of
and is a disorderly persons offense if bodily injury results. Proof
that the defendant was operating a hand-held wireless telephone
while driving a motor vehicle in violation of section 1 of P.L.2003,
c.310 (C.39:4-97.3) may give rise to an inference that the defendant
was driving recklessly.

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

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

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

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

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

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

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

It shall be no defense to a prosecution for a violation of
subparagraph (a) or (b) of paragraph (3) of this subsection that the
defendant was unaware that the prohibited conduct took place while
on or within 1,000 feet of any school property or while driving
through a school crossing. Nor shall it be a defense to a prosecution
under subparagraph (a) or (b) of paragraph (3) of this subsection
that no juveniles were present on the school property or crossing
zone at the time of the offense or that the school was not in session.
unexpectedly altering the speed of the vehicle, making improper or
erratic traffic lane changes, disregarding traffic control devices,
missing to yield the right of way, or following another vehicle too
closely.

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

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

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

cf: P.L.2019, c.219, s.3

2. This act shall take effect immediately.

STATEMENT

Currently, under N.J.S. 2C:12-1b.(13), strangulation is graded as
In 2019, the New Jersey Domestic Violence Fatality Near
Fatality Review Board published the 2018 Annual Report, Fatality
By Strangulation. In the domestic violence context, the report
declared that strangulation is one of the strongest predictors for the
subsequent homicide of victims of domestic violence, and
referenced research showing that victims of attempted strangulation
are seven times more likely of becoming a homicide victim, when
compared to victims without a strangulation history, and that non-
fatal strangulation are tactics used by abusers in a coercive manner
against their victims as a method of power and control.