

# SENATE, No. 2503

## STATE OF NEW JERSEY

### 219th LEGISLATURE

INTRODUCED MAY 28, 2020

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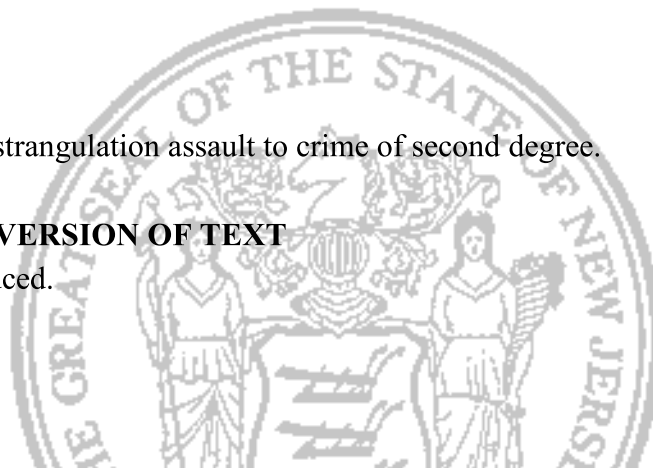
**Vainieri Huttle, Swain, Assemblyman Auth and Assemblywoman Murphy**

**SYNOPSIS**

Increases strangulation assault to crime of second degree.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning strangulation assault 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 the person:

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 the person:

21 (1) Attempts to cause serious bodily injury to another, or causes  
22 injury purposely or knowingly or under circumstances manifesting  
23 extreme indifference to the value of human life recklessly causes  
24 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 subsection f. of N.J.S.2C:39-1, at or in the direction of another,  
32 whether or not the actor believes it to be loaded; or

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

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

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

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

3 (d) Any school board member, school administrator, teacher,  
4 school bus driver, or other employee of a public or nonpublic  
5 school or school board while clearly identifiable as being engaged  
6 in the performance of the person's duties or because of the person's  
7 status as a member or employee of a public or nonpublic school or  
8 school board or any school bus driver employed by an operator  
9 under contract to a public or nonpublic school or school board while  
10 clearly identifiable as being engaged in the performance of the  
11 person's duties or because of the person's status as a school bus  
12 driver; or

13 (e) Any employee of the Division of Child Protection and  
14 Permanency while clearly identifiable as being engaged in the  
15 performance of the employee's duties or because of the status as an  
16 employee of the division; or

17 (f) Any justice of the Supreme Court, judge of the Superior  
18 Court, judge of the Tax Court or municipal judge while clearly  
19 identifiable as being engaged in the performance of judicial duties  
20 or because of the status as a member of the judiciary; or

21 (g) Any operator of a motorbus or the operator's supervisor or  
22 any employee of a rail passenger service while clearly identifiable  
23 as being engaged in the performance of the person's duties or  
24 because of the status as an operator of a motorbus or as the  
25 operator's supervisor or as an employee of a rail passenger service;  
26 or

27 (h) Any Department of Corrections employee, county  
28 correctional police officer, juvenile correctional police officer, State  
29 juvenile facility employee, juvenile detention staff member,  
30 juvenile detention officer, probation officer or any sheriff,  
31 undersheriff, or sheriff's officer acting in the performance of the  
32 person's duties while in uniform or exhibiting evidence of the  
33 person's authority or because of the status as a Department of  
34 Corrections employee, county correctional police officer, juvenile  
35 correctional police officer, State juvenile facility employee, juvenile  
36 detention staff member, juvenile detention officer, probation  
37 officer, sheriff, undersheriff, or sheriff's officer; or

38 (i) Any employee, including any person employed under  
39 contract, of a utility company as defined in section 2 of P.L.1971,  
40 c.224 (C.2A:42-86) or a cable television company subject to the  
41 provisions of the "Cable Television Act," P.L.1972, c.186

1 licensed or otherwise authorized pursuant to Title 26 or Title 45 of  
2 the Revised Statutes to practice a health care profession, except a  
3 direct care worker at a State or county psychiatric hospital or State  
4 developmental center or veterans' memorial home, while clearly  
5 identifiable as being engaged in the duties of providing direct  
6 patient care or practicing the health care profession; or

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

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

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

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

1 attempt to put the officer in fear of bodily injury or for any unlawful  
2 purpose; or

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

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

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

27 Aggravated assault under paragraphs (1) and (6) of subsection b.  
28 of this section is a crime of the second degree; under paragraphs  
29 (2), (7), (9), and (10) of subsection b. of this section is a crime of  
30 the third degree; under paragraphs (3) and (4) of subsection b. of  
31 this section is a crime of the fourth degree; and under paragraph (5)  
32 of subsection b. of this section is a crime of the third degree if the  
33 victim suffers bodily injury, otherwise it is a crime of the fourth  
34 degree. Aggravated assault under paragraph (8) of subsection b. of  
35 this section is a crime of the third degree if the victim suffers bodily  
36 injury; if the victim suffers significant bodily injury or serious  
37 bodily injury it is a crime of the second degree. Aggravated assault  
38 under paragraph (11) of subsection b. of this section is a crime of  
39 the third degree. Aggravated assault under paragraph (12) **【or (13)】**  
40 of subsection b. of this section is a crime of the third degree but the  
41 presumption of non-imprisonment set forth in subsection e. of

1 and is a disorderly persons offense if bodily injury results. Proof  
2 that the defendant was operating a hand-held wireless telephone  
3 while driving a motor vehicle in violation of section 1 of P.L.2003,  
4 c.310 (C.39:4-97.3) may give rise to an inference that the defendant  
5 was driving recklessly.

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

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

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

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

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

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

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

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

1 unexpectedly altering the speed of the vehicle, making improper or  
2 erratic traffic lane changes, disregarding traffic control devices,  
3 failing to yield the right of way, or following another vehicle too  
4 closely.

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

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

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

15 f. A person who commits a simple assault as defined in  
16 paragraph (1), (2), or (3) of subsection a. of this section in the  
17 presence of a child under 16 years of age at a school or community  
18 sponsored youth sports event is guilty of a crime of the fourth  
19 degree. The defendant shall be strictly liable upon proof that the  
20 offense occurred, in fact, in the presence of a child under 16 years  
21 of age. It shall not be a defense that the defendant did not know  
22 that the child was present or reasonably believed that the child was  
23 16 years of age or older. The provisions of this subsection shall not  
24 be construed to create any liability on the part of a participant in a  
25 youth sports event or to abrogate any immunity or defense available  
26 to a participant in a youth sports event. As used in this act, "school  
27 or community sponsored youth sports event" means a competition,  
28 practice, or instructional event involving one or more  
29 interscholastic sports teams or youth sports teams organized  
30 pursuant to a nonprofit or similar charter or which are member  
31 teams in a youth league organized by or affiliated with a county or  
32 municipal recreation department and shall not include collegiate,  
33 semi-professional or professional sporting events.  
34 (cf: P.L.2019, c.219, s.3)

35

36 2. This act shall take effect immediately.

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38

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STATEMENT

40

41 Currently, under N.J.S. 2C:12-1b.(13), strangulation is graded as

1       In 2019, the New Jersey Domestic Violence Fatality Near  
2       Fatality Review Board published the 2018 Annual Report, Fatality  
3       By Strangulation. In the domestic violence context, the report  
4       declared that strangulation is one of the strongest predictors for the  
5       subsequent homicide of victims of domestic violence, and  
6       referenced research showing that victims of attempted strangulation  
7       are seven times more likely of becoming a homicide victim, when  
8       compared to victims without a strangulation history, and that non-  
9       fatal strangulation are tactics used by abusers in a coercive manner  
10      against their victims as a method of power and control.