

ASSEMBLY, No. 1400

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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SYNOPSIS

Includes certain armed security officers regulated by “Detective Melvin Vincent Santiago’s Law” in crimes of assault and disarming an officer.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning offenses against certain armed security officers
2 and amending N.J.S.2C:12-1 and P.L.1996, c.14.

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 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 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

45 (d) Any school board member, school administrator, teacher,
46 school bus driver or other employee of a public or nonpublic school
47 or school board while clearly identifiable as being engaged in the
48 performance of his duties or because of his status as a member or

- 1 employee of a public or nonpublic school or school board or any
2 school bus driver employed by an operator under contract to a
3 public or nonpublic school or school board while clearly
4 identifiable as being engaged in the performance of his duties or
5 because of his status as a school bus driver; or
- 6 (e) Any employee of the Division of Child Protection and
7 Permanency while clearly identifiable as being engaged in the
8 performance of his duties or because of his status as an employee of
9 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 because of his
25 status as a Department of Corrections employee, county corrections
26 officer, juvenile corrections officer, State juvenile facility
27 employee, juvenile detention staff member, juvenile detention
28 officer, probation officer, sheriff, undersheriff, or sheriff's officer;
29 or
- 30 (i) Any employee, including any person employed under
31 contract, of a utility company as defined in section 2 of P.L.1971,
32 c.224 (C.2A:42-86) or a cable television company subject to the
33 provisions of the "Cable Television Act," P.L.1972, c.186
34 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in
35 the performance of his duties in regard to connecting, disconnecting
36 or repairing or attempting to connect, disconnect or repair any gas,
37 electric or water utility, or cable television or telecommunication
38 service; or
- 39 (j) Any health care worker employed by a licensed health care
40 facility to provide direct patient care, any health care professional
41 licensed or otherwise authorized pursuant to Title 26 or Title 45 of
42 the Revised Statutes to practice a health care profession, except a
43 direct care worker at a State or county psychiatric hospital or State
44 developmental center or veterans' memorial home, while clearly
45 identifiable as being engaged in the duties of providing direct
46 patient care or practicing the health care profession; or
- 47 (k) Any direct care worker at a State or county psychiatric
48 hospital or State developmental center or veterans' memorial home,

1 while clearly identifiable as being engaged in the duties of
2 providing direct patient care or practicing the health care
3 profession, provided that the actor is not a patient or resident at the
4 facility who is classified by the facility as having a mental illness or
5 developmental disability; or

6 (l) Any armed security officer regulated pursuant to P.L.2004,
7 c.134 (C.45:19A-1 et seq.) and sections 5 and 6 of P.L.2015, c.295
8 (C.45:19A-6.1 and 45:19A-6.2) in the performance of his duties
9 while in uniform or because of his status as an armed security
10 officer;

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

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

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

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

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

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

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

25 Aggravated assault under paragraphs (1) and (6) of subsection b.
26 of this section is a crime of the second degree; under paragraphs
27 (2), (7), (9) and (10) of subsection b. of this section is a crime of the
28 third degree; under paragraphs (3) and (4) of subsection b. of this
29 section is a crime of the fourth degree; and under paragraph (5) of
30 subsection b. of this section is a crime of the third degree if the
31 victim suffers bodily injury, otherwise it is a crime of the fourth
32 degree. Aggravated assault under paragraph (8) of subsection b. of
33 this section is a crime of the third degree if the victim suffers bodily
34 injury; if the victim suffers significant bodily injury or serious
35 bodily injury it is a crime of the second degree. Aggravated assault
36 under paragraph (11) of subsection b. of this section is a crime of
37 the third degree. Aggravated assault under paragraph (12) or (13)
38 of subsection b. of this section is a crime of the third degree but the
39 presumption of non-imprisonment set forth in subsection e. of
40 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall
41 not apply.

42 c. (1) A person is guilty of assault by auto or vessel when the
43 person drives a vehicle or vessel recklessly and causes either
44 serious bodily injury or bodily injury to another. Assault by auto or
45 vessel is a crime of the fourth degree if serious bodily injury results
46 and is a disorderly persons offense if bodily injury results. Proof
47 that the defendant was operating a hand-held wireless telephone
48 while driving a motor vehicle in violation of section 1 of P.L.2003,

1 c.310 (C.39:4-97.3) may give rise to an inference that the defendant
2 was driving recklessly.

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

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

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

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

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

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

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

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

39 (4) Assault by auto or vessel is a crime of the third degree if the
40 person purposely drives a vehicle in an aggressive manner directed
41 at another vehicle and serious bodily injury results and is a crime of
42 the fourth degree if the person purposely drives a vehicle in an
43 aggressive manner directed at another vehicle and bodily injury
44 results. For purposes of this paragraph, "driving a vehicle in an
45 aggressive manner" shall include, but is not limited to,
46 unexpectedly altering the speed of the vehicle, making improper or
47 erratic traffic lane changes, disregarding traffic control devices,

1 failing to yield the right of way, or following another vehicle too
2 closely.

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

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

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

13 f. A person who commits a simple assault as defined in
14 paragraph (1), (2) or (3) of subsection a. of this section in the
15 presence of a child under 16 years of age at a school or community
16 sponsored youth sports event is guilty of a crime of the fourth
17 degree. The defendant shall be strictly liable upon proof that the
18 offense occurred, in fact, in the presence of a child under 16 years
19 of age. It shall not be a defense that the defendant did not know
20 that the child was present or reasonably believed that the child was
21 16 years of age or older. The provisions of this subsection shall not
22 be construed to create any liability on the part of a participant in a
23 youth sports event or to abrogate any immunity or defense available
24 to a participant in a youth sports event. As used in this act, "school
25 or community sponsored youth sports event" means a competition,
26 practice or instructional event involving one or more interscholastic
27 sports teams or youth sports teams organized pursuant to a
28 nonprofit or similar charter or which are member teams in a youth
29 league organized by or affiliated with a county or municipal
30 recreation department and shall not include collegiate, semi-
31 professional or professional sporting events.
32 (cf: P.L.2017, c.240)

33
34 2. Section 1 of P.L.1996, c.14 (C.2C:12-11) is amended to read
35 as follows:

36 1. a. A person who knowingly takes or attempts to exercise
37 unlawful control over a firearm or other weapon in the possession
38 of a law enforcement or corrections officer or any armed security
39 officer regulated pursuant to P.L.2004, c.134 (C.45:19A-1 et seq.)
40 and sections 5 and 6 of P.L.2015, c.295 (C.45:19A-6.1 and 45:19A-
41 6.2) when that officer is acting in the performance of his duties, and
42 either is in uniform or exhibits evidence of his authority, is guilty of
43 a crime of the second degree.

44 b. A person violating the provisions of subsection a. of this
45 section shall be guilty of a crime of the first degree if:

46 (1) The person fires or discharges the firearm;

47 (2) The person uses or threatens to use the firearm or weapon
48 against the officer or any other person; or

1 (3) The officer or another person suffers serious bodily injury.
2 (cf: P.L.1996, c.14, s.1)

3
4 3. This act shall take effect immediately.
5

6
7 STATEMENT
8

9 This bill would upgrade simple assault to aggravated assault if
10 the act is committed against an armed security officer. The bill also
11 provides that the crime of disarming a law enforcement officer
12 would apply to armed security officers.

13 Under N.J.S.2C:12-1, simple assault is generally a disorderly
14 persons offense, punishable by a term of imprisonment of up to six
15 months, a fine of up to \$1,000, or both. Under the bill, an act of
16 simple assault committed against an armed security officer in the
17 performance of the officer's duties while in uniform or because of
18 his status as an armed security officer would be graded as
19 aggravated assault. Aggravated assault under these circumstances
20 would be a crime of the third degree if the victim suffers bodily
21 injury; otherwise it would be a crime of the fourth degree.

22 The bill also amends section 1 of P.L.1996, c.14 (C.2C:12-11),
23 concerning disarming a law enforcement officer, to add armed
24 security officers to the provisions of the statute. Currently, the
25 statute provides that a person who knowingly takes or attempts to
26 exercise unlawful control over a firearm or other weapon in the
27 possession of a law enforcement or corrections officer, when that
28 officer is acting in the performance of his duties or exhibiting
29 evidence of his authority, is guilty of a crime of the second degree.
30 It is a crime of the first degree if the person violating the statute
31 fires the firearm, uses or threatens to use the firearm or or weapon,
32 or if the officer or another person suffers serious bodily injury.

33 The bill applies to armed security guards regulated by the
34 "Security Officer Registration Act," P.L.2004, c.134 (C.45:19A-1 et
35 seq.), and by sections 5 and 6 of P.L.2015, c.295 (C.45:19A-6.1 and
36 45:19A-6.2), known as "Detective Melvin Vincent Santiago's
37 Law."

38 A crime of the first degree is generally punishable by a term of
39 imprisonment of 10 to 20 years or a fine of up to \$200,000, or both;
40 a crime of the second degree, by a term of five to 10 years or a fine
41 up to \$150,000, or both; a crime of the third degree, by a term of
42 three to five years or a fine up to \$15,000, or both, and a crime of
43 the fourth degree, by a term up to 18 months or a fine up to
44 \$10,000, or both.