

Simple Assault Defense

1. When, where, and how are simple assault cases filed in New Jersey?

A simple assault is an offense that entails either knowingly or negligently causing bodily harm, or putting a person in fear of bodily harm. It is the least serious of the category of assault offenses. A simple assault charge is most commonly charged in cases of fights or minor injuries. A simple assault has a maximum penalty of 6 months in a jail and/or a \$1000 fine.

The majority of simple assault cases are filed in your local municipal court. A simple assault is only considered to be a disorderly persons offense. A simple assault contains four possible culpability states. A person can be convicted of a simple assault by acting either purposefully, knowingly, recklessly, or negligently. This offense is often charged as an act of domestic violence, as part of a DWI case, a heated argument between neighbors, or as part of a police/citizen encounter. The role of the municipal court is to enable New Jersey-ites to resolve simple assault disputes before the situation becomes more violent.

2. What is New Jersey's law on simple assault?

New Jersey law as it pertains to simple assault is codified in N.J.S.A. 2C:12-1 and provides:

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

3. What type of charge is a simple assault offense?

A simple assault constitutes a disorderly persons offense. However, a simple assault becomes an indictable charge if it is committed upon a police officer, a fire fighter, or a school board employee. A DP simple assault could also be graded as a petty disorderly persons offense if the parties mutually agree or consent to a fight or a scuffle. Nonetheless, a disorderly

persons charge is still a criminal charge and it will still give you a criminal record.

4. How are simple assault charges graded?

A simple assault conviction is typically classified as a disorderly persons offense. Where the simple assault arises in the context of a consensual fight or scuffle, then it is a petty disorderly persons offense. If the intended victim of a simple assault is, however, a police officer or some other public official, then the offense becomes an indictable felony charge. If a simple assault is committed on a public official, such as police officer, then it is considered to be a third degree offense if it results in bodily injury but otherwise it is a fourth degree crime.

5. How can a person commit a simple assault in New Jersey?

Under New Jersey Law, there are three general ways a person can commit a simple assault. A person will be guilty of simple assault if he commits any one of the following acts:

- a. Attempts to cause or purposely, knowingly, or recklessly causes bodily injury to another person; or
- b. Negligently causes bodily injury to another person with a deadly weapon; or
- c. Attempts by physical danger to put another in fear of imminent serious bodily injury.

6. What is the range of punishment for a disorderly persons simple assault case?

The average range of a punishment/sentence for a simple assault case is as follows:

- a. Fines - Ranges from 0 to \$1000
- b. VCCB Assessment - \$50
- c. Safe Neighborhood Assessment - \$75
- d. Court Costs - \$33
- e. Domestic Violence Surcharge - \$100
- f. Jail Term - 0 to six months
- g. Restitution to the victim
- h. Probation

i. Loss of driving privileges

In the majority of simple assault cases, the defendant is given a term of probation and a suspended sentence. Moreover, most judges often issue a no contact order between the defendant and the victim. Additionally, most judges also will order restitution to the victim for medical expenses and any other losses.

If the simple assault is downgraded to a petty disorderly persons' offense, then the fine is a max of \$500 and a max jail term of 30 days.

7. What are some possible defenses to a simple assault charge?

A defendant who has been charged with a simple assault can make an application to dismiss the case on the grounds that it is *de minimis* in nature. The context and background of the case are the most important factors in these types of applications. If the facts of the case are too trivial then a *de minimis* application to dismiss the case should be filed.

8. Can a simple assault charge be reduced to a lesser charge?

Yes, a simple assault charge can be reduced to a lesser charge. This process is called a merger of a lesser included offense. Harassment is a lesser-included offense to simple assault and may therefore a simple assault charge may be downgraded to harassment where the proofs support such an amendment. Similarly, a person cannot be convicted of both harassment and simple assault insofar as harassment is a lesser included offense of simple assault.

9. What are some legal strategies to use to defend against a simple assault charge?

The best defense strategies against a simple assault case are to file a motion to dismiss the case, file a motion to suppress the evidence, contest the case on discovery issues, or try to convince the court to refer the case to the Municipal
In the majority of the cases, if the victim's injuries are not significant, then most simple assault cases can be downgraded to a municipal ordinance charge or even dismissed.

10. Can I be convicted for simple assault if I hit or strike someone by accident?

Yes, under New Jersey law it is quite possible to be convicted of a simple assault, even if you did not purposely hurt anyone. For example, if you were acting recklessly, or even if you were not trying to hurt anyone, but your reckless conduct did actually hurt someone, then you could be convicted for a simple assault. A person acts recklessly if he has consciously disregarded a

substantial and unjustifiable risk under the circumstances.

11. I have been charged with a simple assault charge in New Jersey. What should I do to defend against these charges?

A simple assault charge is a serious offense. Therefore, these types of cases should be contested vigorously. You should always try to:

- a. Negotiate to try to get your charges reduced;
- b. Try to build a self-defense case;
- c. File a motion(s) to dismiss the case for a lack of evidence if there are reasonable grounds; and
- d. File a simple assault charge against your accuser, if there are grounds to justify it.

12. How can a lawyer defend against a simple assault case?

Self-defense is one of the most common and effective arguments we use to fight against assault charges. The typical bar fight consists of two people who mutually agree to a fight. Therefore, it is always important to conduct a thorough investigation and answer the following questions such as;

- a. Were there any witnesses?
- b. Who threw the first punch?
- c. Were you fighting to protect yourself or your property?
- d. Were you fighting to protect another person?
- e. Did anyone use a weapon? (almost anything can be considered a weapon)

Additionally, when someone files charges for assault against you, then it is highly advisable to file counter charges against your accuser. This type of strategy can create a legal deadlock that could ultimately end with both sides dropping charges.

13. How can I be charged with a simple assault for resisting an illegal arrest?

Unfortunately, no New Jersey-it has a legal right to resist a valid arrest from a police officer no matter what the circumstances are. It is important to note that even if you are unlawfully arrested, if you should resist the arrest and commit an assault on the police officer, not only will you be charged with assault, but the penalties could be increased to a 3rd or

4th degree crime. Therefore, you should never fight with a police officer if you are arrested,

14. What are some important aspects of a simple assault case that must be thoroughly investigated?

- a. What is the extent of the injuries of the alleged victim?
- b. Did this person go to the hospital?
- c. Were there witnesses?
- d. How are the witnesses' stories differing, and how can we exploit that in court?
- e. Were you acting in self-defense?
- f. Are there any extenuating circumstances?
- g. Were there lapses in police procedure at any point?