

**ASSAULT AT A YOUTH SPORTS EVENT**  
**(N.J.S.A. 2C:12-1f)**

Defendant is charged in count \_\_\_\_\_ of this indictment with assault at a youth sports event. Defendant is charged with violating a provision of our law that provides that:

A person who commits a simple assault... 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...

In order for you to convict the defendant of this offense, the State must prove the following elements beyond a reasonable doubt:

1. That the defendant committed a simple assault;
2. That the simple assault occurred at a school or community sponsored youth sports event;
3. That the simple assault occurred in the presence of a child under 16 years of age at a school or community sponsored youth sports event.

The first element that the State must prove beyond a reasonable doubt is that the defendant committed a simple assault .

**[CHARGE APPROPRIATE SUBSECTION OF SIMPLE ASSAULT**  
**N.J.S.A. 2C:12-1a, as facts warrant]**

**1. CHARGE IF SIMPLE ASSAULT, N.J.S.A. 2C:12-1a(1) is alleged :**

A person commits a simple assault if he attempts to cause or purposely, knowingly or recklessly causes bodily injury to another. In order for you to find the defendant committed a simple assault, the State must prove, beyond a reasonable doubt:

1. That the defendant attempted to cause or actually caused bodily injury to another.
2. That the defendant acted purposely, or knowingly or recklessly.

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Bodily injury is defined as physical pain, illness or any impairment of the physical condition.

A person acts purposely with respect to causing bodily injury if it is a person's conscious object to cause bodily injury. A person acts purposely with respect to attendant circumstances if a person is aware of the existence of such circumstances or a person believes or hopes that they exist. One can be deemed to be acting purposely if one acts with design, with a purpose, with a particular object, if one really means to do what (he/she) does.

A person acts knowingly with respect to causing bodily injury if a person is aware that (his/her) conduct is of that nature, or that such circumstances exist or a person is aware of a high probability of their existence. A person acts knowingly with respect to a result of (his/her) conduct if a person is aware that it is practically certain that (his/her) conduct will cause bodily injury. One is said to act knowingly if one acts with knowledge, if one acts consciously, if (he/she) comprehends (his/her) acts.

A person acts recklessly with respect to causing bodily injury when a person consciously disregards a substantial and unjustifiable risk that the material element exists or will result from (his/her) conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to the actor its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation. One is said to act recklessly if one acts with recklessness, with scorn for the consequences, heedlessly, foolhardily.

The nature of the purpose or knowledge or recklessness with which the defendant acted toward the victim of the assault is a question of fact for you the jury to decide. Purpose and knowledge and recklessness are conditions of the mind which cannot be seen and can only be

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determined by inferences from conduct, words or acts. It is not necessary for the State to produce a witness or witnesses who could testify that the defendant stated, for example, that (his/her) purpose was to cause bodily injury. It is within your power to find that proof of purpose or knowledge or recklessness has been furnished beyond a reasonable doubt by inferences which may arise from the nature of the acts and the surrounding circumstances.

For you to find that the defendant caused bodily injury to **(insert name of victim)**, the State must prove beyond a reasonable doubt that (he/she) would not have been injured but for the defendant's conduct.<sup>1</sup>

**[IF AN ATTEMPT IS ALLEGED, CHARGE APPROPRIATE  
MODEL CHARGE ON ATTEMPT, N.J.S.A. 2C:5-1]**

**OR**

**2. CHARGE IF SIMPLE ASSAULT, N.J.S. A. 2C:12-1a(2) is alleged:**

A person commits a simple assault if he negligently causes bodily injury to another with a deadly weapon. In order for you to find the defendant committed a simple assault, the State must prove, beyond a reasonable doubt

1. that the defendant caused bodily injury to another;
2. that the defendant caused the bodily injury by use of a deadly weapon;
3. that the defendant acted negligently.

Bodily Injury is defined as physical pain, illness, or any impairment of the physical condition of another.

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<sup>1</sup> N.J.S.A. 2C:2-3a(1). If causation is contested, a fuller explanation of causation may be needed. N.J.S.A. 2C:2-3.

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Deadly Weapon is defined as any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury.

A person acts negligently with respect to causing bodily injury when he/she should be aware of a substantial and unjustifiable risk that the material element exists or will result from his/her conduct. The risk must be of such a nature and degree that the actor's failure to perceive it, considering the nature and purpose of his/her conduct and the circumstance known to him/her, involves a gross deviation from the standard of care that a reasonable person would observe in the actor's situation. A person is said to act negligently if the person acts with carelessness, when compared to how a reasonable person should act under the circumstances as they exist at the time of the assault.<sup>2</sup>

**OR**

### **SIMPLE ASSAULT, N.J.S.A. 2C:12-1a(3) (SUBSTANTIAL STEP)<sup>3</sup>:**

A person commits a simple assault if he attempts, by physical menace, to put another in fear of imminent serious bodily injury.

In order for you to find the defendant committed a simple assault, the State must prove, beyond a reasonable doubt:

1. that the defendant purposely attempted to put **(NAME OF VICTIM)** in fear of imminent serious bodily injury.
2. that the defendant did so by physical menace.

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<sup>2</sup> State v. Brown, 228 N.J.Super 211 (App Div 1988), rev'd on other grounds 118 N.J. 595 (1990).

<sup>3</sup> This charge is applicable to an attempt under a "substantial step" theory. N.J.S.A. 2C:5-1a(3). If the facts of the case warrant, the charge should be tailored to address the appropriate attempt theory. See N.J.S.A. 2C:5-1a.

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The first element that the State must prove is whether the defendant purposely attempted to put the **(NAME OF VICTIM)** in fear of imminent serious bodily injury.

An attempt occurs, in the context of this charge, if the defendant purposely does or omits to do anything which, under the circumstances as a reasonable person would believe them to be, is an act or omission constituting a substantial step in the course of conduct planned to culminate in (his/her) putting the victim in imminent fear of serious bodily injury.

In order to find that the defendant attempted to put another in fear of imminent serious bodily injury, you must find that he/she did so purposely.

A defendant acts purposely with respect to the nature of (his/her) conduct or a result thereof if it is (his/her) conscious object to engage in conduct of that nature or to cause such a result. A person acts purposely with respect to attendant circumstances if (he/she) is aware of the existence of such circumstances or (he/she) believes or hopes that they exist.

Purpose is a condition of the mind which cannot be seen and can only be determined by inferences from conduct, words or acts. It is not necessary for the State to produce a witness or witnesses who could testify that the defendant stated, for example, that (his/her) purpose was to put the victim in fear of imminent bodily injury. It is within your power to find that proof of purpose has been furnished beyond a reasonable doubt by inferences which may arise from the nature of the acts and the surrounding circumstances.

To find that the defendant committed a simple assault by attempting to put **(NAME OF VICTIM)** in imminent fear of serious bodily injury by physical menace, the State must prove beyond a reasonable doubt that the defendant had the purpose to put the victim in imminent fear of serious bodily injury. The State must also prove beyond a reasonable doubt that the defendant purposely did or omitted to do anything, which, under the circumstances as a

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reasonable person would believe them to be, is an act or omission that is a substantial step in the course of conduct planned to culminate in (his/her) putting the victim in fear of imminent serious bodily injury. However, the step taken must strongly show the defendant's criminal purpose. That is, the step taken must be substantial and not just a very remote preparatory act, and must show that the accused has a firmness of criminal purpose.

Serious bodily injury means bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Imminent means likely to happen without delay.<sup>4</sup>

The State must prove beyond a reasonable doubt that the defendant attempted to put the victim in imminent fear of serious bodily injury by means of physical menace. Physical menace is accomplished through an act or acts which are physically threatening acts.<sup>5</sup> Words alone are insufficient to constitute physical menace.

### **RESUMPTION OF MAIN CHARGE:**

The second element that the State must prove beyond a reasonable doubt is that the simple assault occurred at a school or community sponsored youth sports event.

A 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

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<sup>4</sup> Cf. the Model Charge for terroristic threats (N.J.S.A. 2C:12-3b).

<sup>5</sup> The 1971 Model Commentary to the Proposed Criminal Code stated that 2C:12-1a(3) codified preexisting New Jersey law. See State v. Drayton, 114 N.J.Super. 490 (App. Div. 1971) and cases cited therein for treatment of how physical menace was interpreted by pre-2C caselaw.

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organized by or affiliated with a county or municipal recreation department. This term does not include collegiate, semi-professional or professional sporting events.<sup>6</sup>

The third element that the State must prove beyond a reasonable doubt is that the defendant committed the simple assault in the presence of a child under 16 years of age at a school or community sponsored youth sports event.<sup>7</sup>

It shall not be a defense to this charge that the defendant did not know that a child under 16 years of age was present or that the defendant believed a child who was present was 16 years of age or older, even if such belief was reasonable.

If you find that the State has proved each element of the offense beyond a reasonable doubt, then you must find the defendant guilty. If, however, you find that the State has failed to prove any element of the offense beyond a reasonable doubt, then you must find the defendant not guilty.

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<sup>6</sup>

N.J.S.A. 2C:12-1f

<sup>7</sup>

Trial courts should note that N.J.S.A. 2C:12-1f does not define "presence." Specific language addressing the meaning of presence should be included in any instruction if the facts and circumstances of the case warrant.