

# When Is a Motor Vehicle Accident a Crime?

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Accidents happen.

New Jersey defines a motor vehicle as “...all vehicles propelled otherwise than by muscular power...” and this includes trucks, boats, motorcycles, jet skis and other forms of transportation. Sometimes, motor vehicle accidents result in criminal charges. Other times, no criminal charges are filed even when the accident results in death or serious bodily injury. When can criminal charges be filed? Who gets to decide when and if those criminal charges are filed? What kind of charges and penalties can be sought?

## What happens when someone is injured or killed in a motor vehicle accident?

When someone is injured or killed in a motor vehicle accident, local law enforcement conducts an investigation often in conjunction with the county prosecutor’s office. While the length of an accident investigation may vary, the goal is to determine whether criminal charges are appropriate, given the circumstances of the accident. In most cases, the ultimate decision to file criminal charges is made by the county prosecutor’s office.

## When can criminal charges be brought against a driver who kills or injures another person in a motor vehicle accident?

In general, there are six situations in New Jersey in which criminal charges may be filed against a driver who kills or injures another person in a motor vehicle accident. These include:

1. When a driver operates a motor vehicle recklessly. This may include accidents that happen while the driver is using a mobile phone.
2. When a driver operates a motor vehicle while under the influence of alcohol or drugs or refuses to provide a breath sample for testing.
3. When a driver directs aggressive behavior toward another vehicle. This includes “road rage” behavior like changing speeds unexpectedly, making erratic or improper lane changes, disregarding traffic lights and signage, failing to yield the right of way, or following too closely.
4. When a driver causes an accident while fleeing or trying to flee from law enforcement.
5. When the accident is a “hit and run,” where an involved driver knowingly leaves the scene of an accident without reporting the accident to law enforcement and/or attempting to help those who may have been injured.
6. When a driver operates a motor vehicle without a valid license due to not being licensed or having a suspended license.

## What kinds of criminal charges can be filed against a driver who kills or injures another in a motor vehicle accident? What are the penalties if convicted of those charges?

Indictable (i.e., felony-level) offenses include crimes of the First, Second, Third, and Fourth Degree like aggravated manslaughter, death by auto or vessel, assault by auto or vessel, and leaving the scene of an accident. Indictable crimes (i.e., felony-level offenses) are prosecuted in the superior court of the county where the accident happened.

Disorderly persons (i.e., misdemeanor-level offenses) include certain minor assault by auto offenses. Disorderly persons offenses are prosecuted in the municipal court of the town where the accident happened.

The seriousness of the charge(s) filed determines the penalties a driver faces if convicted.

## First Degree Crimes Stemming from a Motor Vehicle Accident

First Degree crimes are the most serious charges in the State of New Jersey.

*Aggravated Manslaughter.* Recklessly causing the death of another under circumstances manifesting extreme indifference to the value of human life. If convicted, the driver faces between 10 and 30 years in New Jersey State Prison and must serve 85% of their sentence without parole. A convicted driver can have their license suspended and faces mandatory fines and penalties.

*Aggravated Manslaughter.* Causing the death of another person while fleeing or attempting to elude a law enforcement officer. This is a **strict liability** crime, meaning that the person's mental state is irrelevant. Upon proof that the driver was fleeing or attempting to elude a law enforcement officer, the driver is strictly liable for the death that resulted. If convicted, the driver faces between 10 and 20 years in New Jersey State Prison and must serve 85% of their sentence without parole. A convicted driver can have their license suspended and faces mandatory fines and penalties.

*Death by Auto a/k/a Vehicular Homicide.* Causing the death of another by recklessly driving a vehicle or vessel while under the influence of alcohol or drugs AND while on school property or within 1,000 feet of school property or while driving through a school crossing. If convicted, the driver faces between 10 and 20 years in New Jersey State Prison and must serve 85% of their sentence without parole. A convicted driver will have their license suspended for a period of time between 5 years to life and faces mandatory fines and penalties.

## Second Degree Crimes Stemming from a Motor Vehicle Accident

*Death by Auto or Vessel a/k/a Vehicular Homicide.* Causing the death of another by driving a vehicle or vessel recklessly. If convicted, the driver faces between 5 and 10 years in New Jersey State Prison and, under certain circumstances, may be required to serve 85% of their sentence without parole. A convicted driver can have their license suspended and faces mandatory fines and penalties.

*Knowingly Leaving the Scene of Accident.* A motor vehicle operator who knows he/she is involved in an accident and knowingly leaves the scene of that accident can be prosecuted for this crime if the accident results in the death of another person. If convicted, the driver faces between 5 and 10 years in New Jersey State Prison. A convicted driver can have their license suspended and faces mandatory

finest and penalties.

*Leaving the Scene of a Boating Accident.* A vessel operator who knows he/she is involved in an accident and knowingly leaves the scene of that accident can be prosecuted for this crime if the accident results in the death of another person. If convicted, the operator faces between 5 and 10 years in New Jersey State Prison.

*Assault by Auto.* Causing serious bodily injury to another when driving a motor vehicle or vessel while intoxicated AND while on school property or within 1,000 feet of school property or while driving through a school crossing. If convicted, the driver / operator faces between 5 and 10 years in New Jersey State Prison. A convicted driver can have their license suspended and faces mandatory fines and penalties.

## Third Degree Crimes Stemming from a Motor Vehicle Accident

*Death by Auto or Vessel a/k/a Vehicular Homicide.* Causing the death of another by driving a vehicle or vessel recklessly (nothing other than failing to maintain a lane). If convicted, the driver faces a sentence of up to 5 years in New Jersey State Prison. A convicted driver can have their license suspended and faces mandatory fines and penalties.

*Leaving the Scene of a Boating Accident.* A vessel operator who knows he/she is involved in an accident and knowingly leaves the scene of that accident can be prosecuted for this crime if the accident results in serious bodily injury to another person. If convicted, the operator faces up to 5 years in New Jersey State Prison.

*Assault by Auto.* Causing serious bodily injury to another when driving a motor vehicle or vessel while intoxicated. If convicted, the driver / operator faces up to 5 years in New Jersey State Prison. A convicted driver can have their license suspended and faces mandatory fines and penalties.

## Fourth Degree Crimes Stemming from a Motor Vehicle Accident

*Assault by Auto.* Causing serious bodily injury to another when driving a motor vehicle or vessel recklessly. If convicted, the driver / operator faces up to 18 months in New Jersey State Prison. A convicted driver can have their license suspended and faces mandatory fines and penalties.

*Assault by Auto.* Causing bodily injury to another when driving a motor vehicle or vessel while intoxicated. If convicted, the driver / operator faces up to 18 months in New Jersey State Prison. A convicted driver can have their license suspended and faces mandatory fines and penalties.

## Disorderly Persons Offenses Stemming from a Motor Vehicle Accident

*Assault by Auto.* Causing bodily injury to another when driving a motor vehicle or vessel recklessly. If convicted, the driver / operator faces up to 6 months in the county jail. A convicted driver can have their license suspended and faces mandatory fines and penalties.

## Do criminal charges prevent an injured party from filing a civil lawsuit against you?

No. The filing of criminal charges doesn't prevent another party injured in an accident from filing a civil lawsuit against you and vice versa. In the civil suit, someone injured in the accident seeks monetary damages for injuries and other losses they've endured as a result of the accident that you caused. In the event that criminal charges are filed, it is important to ensure that the outcome of the criminal case does not adversely impact any civil liability that you might have.

## Should you hire a lawyer if you've been involved in a motor vehicle accident?

Our team of criminal defense attorneys has experience prosecuting and defending these matters in Superior Courts and Municipal Courts throughout New Jersey.

If you or your loved one has been charged following a motor vehicle accident, please contact our team [online](#) or by phone at [973-627-7300](tel:973-627-7300).