

2762

2011-2012 Regular Sessions

I N S E N A T E

February 1, 2011

Introduced by Sen. HASSELL-THOMPSON -- read twice and ordered printed,
and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to the definition of serious
offense

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY,
DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 17 of section 265.00 of the penal law is
2 amended by adding a new paragraph (c) to read as follows:
3 (C) AN OFFENSE WHICH WOULD CONSTITUTE A FAMILY OFFENSE PURSUANT TO
4 SECTION EIGHT HUNDRED TWELVE OF THE FAMILY COURT ACT, WHERE THE VICTIM
5 OF SUCH OFFENSE WAS A "FAMILY OR HOUSEHOLD MEMBER" AS DEFINED IN THAT
6 SECTION. WHERE ALLEGATIONS OF CONDUCT WHICH WOULD CONSTITUTE A
7 VIOLATION UNDER THIS CHAPTER HAVE BEEN SUSTAINED AFTER A FACT FINDING
8 HEARING IN FAMILY COURT THE RESPONDENT MAY MOTION THE COURT TO VACATE
9 THE "SERIOUS OFFENSE" DESIGNATION MADE APPLICABLE UNDER THIS SECTION
10 THREE YEARS AFTER DISPOSITION OF THE FAMILY COURT CASE. WHEN CONSIDERING
11 THE MOTION TO VACATE THE "SERIOUS OFFENSE" DESIGNATION THE COURT SHALL
12 CONSIDER: (I) THE SERIOUSNESS AND CIRCUMSTANCES OF THE OFFENSE; (II) THE
13 EXTENT OF HARM CAUSED BY THE OFFENSE; (III) THE HISTORY, CHARACTER AND
14 CONDITION OF THE RESPONDENT; (IV) THE POSITION OF THE PETITIONER; AND
15 (V) THE IMPACT VACATING THE "SERIOUS OFFENSE" DESIGNATION MAY HAVE ON
16 PUBLIC SAFETY. UPON DECIDING THE MOTION THE COURT MUST SET ITS REASONS
17 THEREFOR UPON THE RECORD.
18 S 2. This act shall take effect immediately.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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