

409--B

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to establishing the crimes of menacing, assault and aggravated assault on a judge, district attorney or assistant district attorney

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

1 Section 1. The penal law is amended by adding a new section 120.71 to
2 read as follows:
3 S 120.71 ASSAULT ON A JUDGE OR DISTRICT ATTORNEY.
4 A PERSON IS GUILTY OF ASSAULT ON A JUDGE OR DISTRICT ATTORNEY WHEN,
5 WITH INTENT TO PREVENT A JUDGE OR DISTRICT ATTORNEY FROM PERFORMING OR
6 IN RETALIATION FOR HAVING PERFORMED, A LAWFUL DUTY, HE OR SHE CAUSES
7 SERIOUS PHYSICAL INJURY TO A PERSON WHOM HE OR SHE KNOWS OR REASONABLY
8 SHOULD KNOW TO BE A JUDGE OR DISTRICT ATTORNEY. FOR THE PURPOSES OF
9 THIS SECTION "DISTRICT ATTORNEY" SHALL INCLUDE ALL PERSONS APPOINTED BY
10 A DISTRICT ATTORNEY TO SERVE AS ASSISTANT DISTRICT ATTORNEY AND THOSE
11 PERSONS SERVING AS A SPECIAL PROSECUTOR WHEN SERVING IN SUCH CAPACITY.
12 ASSAULT ON A JUDGE OR DISTRICT ATTORNEY IS A CLASS C FELONY.
13 S 2. The penal law is amended by adding a new section 120.72 to read
14 as follows:
15 S 120.72 AGGRAVATED ASSAULT ON A JUDGE OR DISTRICT ATTORNEY.
16 A PERSON IS GUILTY OF AGGRAVATED ASSAULT ON A JUDGE OR DISTRICT ATTOR-
17 NEY WHEN, WITH INTENT TO PREVENT A JUDGE OR DISTRICT ATTORNEY FROM
18 PERFORMING OR IN RETALIATION FOR HAVING PERFORMED, A LAWFUL DUTY, AND
19 WITH INTENT TO CAUSE SERIOUS PHYSICAL INJURY TO A PERSON WHOM HE OR SHE
20 KNOWS OR REASONABLY SHOULD KNOW TO BE A JUDGE OR DISTRICT ATTORNEY, HE

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

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1 OR SHE CAUSES SUCH INJURY BY MEANS OF A DEADLY WEAPON OR DANGEROUS
2 INSTRUMENT. FOR THE PURPOSES OF THIS SECTION "DISTRICT ATTORNEY" SHALL
3 INCLUDE ALL PERSONS APPOINTED BY A DISTRICT ATTORNEY TO SERVE AS ASSIST-
4 ANT DISTRICT ATTORNEY AND THOSE PERSONS SERVING AS A SPECIAL PROSECUTOR
5 WHEN SERVING IN SUCH CAPACITY.

6 AGGRAVATED ASSAULT ON A JUDGE OR DISTRICT ATTORNEY IS A CLASS B FELO-
7 NY.

8 S 3. The penal law is amended by adding a new section 120.73 to read
9 as follows:

10 S 120.73 MENACING A JUDGE OR DISTRICT ATTORNEY.

11 A PERSON IS GUILTY OF MENACING A JUDGE OR DISTRICT ATTORNEY WHEN, WITH
12 INTENT TO PREVENT A JUDGE OR DISTRICT ATTORNEY FROM PERFORMING, OR IN
13 RETALIATION FOR HAVING PERFORMED, A LAWFUL DUTY, HE OR SHE INTENTIONALLY
14 PLACES OR ATTEMPTS TO PLACE A JUDGE OR DISTRICT ATTORNEY IN REASONABLE
15 FEAR OF PHYSICAL INJURY, SERIOUS PHYSICAL INJURY OR DEATH BY DISPLAYING
16 A DEADLY WEAPON, KNIFE, PISTOL, REVOLVER, RIFLE, SHOTGUN, MACHINE GUN OR
17 OTHER FIREARM, WHETHER OPERABLE OR NOT, WHERE THE DEFENDANT KNEW OR
18 REASONABLY SHOULD HAVE KNOWN THAT SUCH VICTIM WAS A JUDGE OR DISTRICT
19 ATTORNEY. FOR THE PURPOSES OF THIS SECTION "DISTRICT ATTORNEY" SHALL
20 INCLUDE ALL PERSONS APPOINTED BY A DISTRICT ATTORNEY TO SERVE AS ASSIST-
21 ANT DISTRICT ATTORNEY AND THOSE PERSONS SERVING AS A SPECIAL PROSECUTOR
22 WHEN SERVING IN SUCH CAPACITY.

23 MENACING A JUDGE OR DISTRICT ATTORNEY IS A CLASS D FELONY.

24 S 4. This act shall take effect immediately.