

STATE OF NEW YORK

3556

2023-2024 Regular Sessions

IN SENATE

February 1, 2023

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

AN ACT to amend the penal law and the criminal procedure law, in relation to criminalizing acting as a runner or soliciting or employing a runner to procure patients or clients

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 176.00 of the penal law is amended by adding four
2 new subdivisions 6, 7, 8 and 9 to read as follows:

3 6. "Provider" means an attorney, a health care professional, an owner
4 or operator of a health care practice or facility, any person who
5 creates the impression that he or she, or his or her practice can
6 provide legal or health care services, any person employed or acting on
7 behalf of any such person, or any person providing management or
8 consulting services to any such person.

9 7. "Public media" means telephone directories, professional directo-
10 ries, newspapers and other periodicals, radio and television, bill-
11 boards, and mailed or electronically transmitted written communications
12 that do not involve direct contact with a specific prospective client,
13 patient, or customer.

14 8. "Runner" means a person who, for a pecuniary benefit, procures or
15 attempts to procure a client, patient or customer at the direction of,
16 request of or in cooperation with a provider whose purpose is to seek to
17 obtain benefits under a contract of insurance or assert a claim against
18 an insured or an insurance carrier for providing services to the client,
19 patient or customer, or to obtain benefits under or assert a claim
20 against a state or federal health care benefits program or prescription
21 drug assistance program. "Runner" shall not include (a) a person who
22 procures or attempts to procure clients, patients or customers for a
23 provider through public media; (b) a person who refers clients, patients
24 or customers as otherwise authorized by law; or (c) a person who, as an

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

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agent, broker or employee of a health maintenance organization as defined in section forty-four hundred one of the public health law, seeks to sell health maintenance organization coverage or health insurance coverage to an individual or group.

9. "Pecuniary benefit" means goods, money, property, services or anything of value, or an agreement to confer or receive any such goods, money, property, services, or thing of value.

§ 2. The penal law is amended by adding three new sections 176.85, 176.90 and 176.95 to read as follows:

§ 176.85 Unlawful procurement of clients, patients or customers in the third degree.

A person is guilty of unlawful procurement of clients, patients or customers in the third degree when he or she knowingly:

1. acts as a runner on one or more occasions; or

2. uses, solicits, directs, hires or employs another person to act as a runner on one or more occasions.

Unlawful procurement of clients, patients or customers in the third degree is a class A misdemeanor.

§ 176.90 Unlawful procurement of clients, patients or customers in the second degree.

A person is guilty of unlawful procurement of clients, patients or customers in the second degree when he or she knowingly:

1. acts as a runner on one or more occasions for a pecuniary benefit that in the aggregate exceeds two thousand five hundred dollars in value or acts as a runner on five or more occasions; or

2. uses, solicits, directs, hires or employs one or more persons to act as a runner on one or more occasions for a pecuniary benefit that in the aggregate exceeds two thousand five hundred dollars in value or uses, solicits, directs, hires or employs one or more persons to act as a runner on five or more occasions.

Unlawful procurement of clients, patients or customers in the second degree is a class E felony.

§ 176.95 Unlawful procurement of clients, patients or customers in the first degree.

A person is guilty of unlawful procurement of clients, patients or customers in the first degree when he or she knowingly:

1. acts as a runner on one or more occasions for a pecuniary benefit that in the aggregate exceeds five thousand dollars in value or acts as a runner on ten or more occasions; or

2. uses, solicits, directs, hires or employs one or more persons to act as a runner on one or more occasions for a pecuniary benefit that in the aggregate exceeds five thousand dollars or uses, solicits, directs, hires or employs one or more persons to act as a runner on ten or more occasions.

Unlawful procurement of clients, patients or customers in the first degree is a class D felony.

§ 3. Paragraph (a) of subdivision 1 of section 460.10 of the penal law, as amended by chapter 134 of the laws of 2019, is amended to read as follows:

(a) Any of the felonies set forth in this chapter: sections 120.05, 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relating to strangulation; sections 125.10 to 125.27 relating to homicide; sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25 relating to kidnapping; sections 135.35 and 135.37 relating to labor trafficking; section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and

1 145.12 relating to criminal mischief; article one hundred fifty relating
2 to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand
3 larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health
4 care fraud; article one hundred sixty relating to robbery; sections
5 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of
6 stolen property; sections 165.72 and 165.73 relating to trademark coun-
7 terfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and
8 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and
9 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and
10 176.30 relating to insurance fraud; sections 170.90 and 170.95 relating
11 to unlawful procurement of clients, patients and customers; sections
12 178.20 and 178.25 relating to criminal diversion of prescription medica-
13 tions and prescriptions; sections 180.03, 180.08, 180.15, 180.25,
14 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20,
15 200.22, 200.25, 200.27, 200.56, 215.00, 215.05 and 215.19 relating to
16 bribery; sections 187.10, 187.15, 187.20 and 187.25 relating to residen-
17 tial mortgage fraud, sections 190.40 and 190.42 relating to criminal
18 usury; section 190.65 relating to schemes to defraud; any felony defined
19 in article four hundred ninety-six; sections 205.60 and 205.65 relating
20 to hindering prosecution; sections 210.10, 210.15, and 215.51 relating
21 to perjury and contempt; section 215.40 relating to tampering with phys-
22 ical evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31,
23 220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60, 220.65 and
24 220.77 relating to controlled substances; sections 225.10 and 225.20
25 relating to gambling; sections 230.25, 230.30, and 230.32 relating to
26 promoting prostitution; section 230.34 relating to sex trafficking;
27 section 230.34-a relating to sex trafficking of a child; sections
28 235.06, 235.07, 235.21 and 235.22 relating to obscenity; sections 263.10
29 and 263.15 relating to promoting a sexual performance by a child;
30 sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the
31 provisions of section 265.10 which constitute a felony relating to
32 firearms and other dangerous weapons; sections 265.14 and 265.16 relat-
33 ing to criminal sale of a firearm; section 265.50 relating to the crimi-
34 nal manufacture, sale or transport of an undetectable firearm, rifle or
35 shotgun; section 275.10, 275.20, 275.30, or 275.40 relating to unauthor-
36 ized recordings; and sections 470.05, 470.10, 470.15 and 470.20 relating
37 to money laundering; or

38 § 4. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
39 procedure law, as amended by chapter 134 of the laws of 2019, is amended
40 to read as follows:

41 (b) Any of the following felonies: assault in the second degree as
42 defined in section 120.05 of the penal law, assault in the first degree
43 as defined in section 120.10 of the penal law, reckless endangerment in
44 the first degree as defined in section 120.25 of the penal law, promot-
45 ing a suicide attempt as defined in section 120.30 of the penal law,
46 strangulation in the second degree as defined in section 121.12 of the
47 penal law, strangulation in the first degree as defined in section
48 121.13 of the penal law, criminally negligent homicide as defined in
49 section 125.10 of the penal law, manslaughter in the second degree as
50 defined in section 125.15 of the penal law, manslaughter in the first
51 degree as defined in section 125.20 of the penal law, murder in the
52 second degree as defined in section 125.25 of the penal law, murder in
53 the first degree as defined in section 125.27 of the penal law, rape in
54 the third degree as defined in section 130.25 of the penal law, rape in
55 the second degree as defined in section 130.30 of the penal law, rape in
56 the first degree as defined in section 130.35 of the penal law, criminal

1 sexual act in the third degree as defined in section 130.40 of the penal
2 law, criminal sexual act in the second degree as defined in section
3 130.45 of the penal law, criminal sexual act in the first degree as
4 defined in section 130.50 of the penal law, sexual abuse in the first
5 degree as defined in section 130.65 of the penal law, unlawful imprison-
6 ment in the first degree as defined in section 135.10 of the penal law,
7 kidnapping in the second degree as defined in section 135.20 of the
8 penal law, kidnapping in the first degree as defined in section 135.25
9 of the penal law, labor trafficking as defined in section 135.35 of the
10 penal law, aggravated labor trafficking as defined in section 135.37 of
11 the penal law, custodial interference in the first degree as defined in
12 section 135.50 of the penal law, coercion in the first degree as defined
13 in section 135.65 of the penal law, criminal trespass in the first
14 degree as defined in section 140.17 of the penal law, burglary in the
15 third degree as defined in section 140.20 of the penal law, burglary in
16 the second degree as defined in section 140.25 of the penal law,
17 burglary in the first degree as defined in section 140.30 of the penal
18 law, criminal mischief in the third degree as defined in section 145.05
19 of the penal law, criminal mischief in the second degree as defined in
20 section 145.10 of the penal law, criminal mischief in the first degree
21 as defined in section 145.12 of the penal law, criminal tampering in the
22 first degree as defined in section 145.20 of the penal law, arson in the
23 fourth degree as defined in section 150.05 of the penal law, arson in
24 the third degree as defined in section 150.10 of the penal law, arson in
25 the second degree as defined in section 150.15 of the penal law, arson
26 in the first degree as defined in section 150.20 of the penal law, grand
27 larceny in the fourth degree as defined in section 155.30 of the penal
28 law, grand larceny in the third degree as defined in section 155.35 of
29 the penal law, grand larceny in the second degree as defined in section
30 155.40 of the penal law, grand larceny in the first degree as defined in
31 section 155.42 of the penal law, unlawful procurement of clients,
32 patients or customers in the second degree as defined in section 176.90
33 of the penal law, unlawful procurement of clients, patients or customers
34 in the first degree as defined in section 176.95 of the penal law,
35 health care fraud in the fourth degree as defined in section 177.10 of
36 the penal law, health care fraud in the third degree as defined in
37 section 177.15 of the penal law, health care fraud in the second degree
38 as defined in section 177.20 of the penal law, health care fraud in the
39 first degree as defined in section 177.25 of the penal law, robbery in
40 the third degree as defined in section 160.05 of the penal law, robbery
41 in the second degree as defined in section 160.10 of the penal law,
42 robbery in the first degree as defined in section 160.15 of the penal
43 law, unlawful use of secret scientific material as defined in section
44 165.07 of the penal law, criminal possession of stolen property in the
45 fourth degree as defined in section 165.45 of the penal law, criminal
46 possession of stolen property in the third degree as defined in section
47 165.50 of the penal law, criminal possession of stolen property in the
48 second degree as defined by section 165.52 of the penal law, criminal
49 possession of stolen property in the first degree as defined by section
50 165.54 of the penal law, trademark counterfeiting in the second degree
51 as defined in section 165.72 of the penal law, trademark counterfeiting
52 in the first degree as defined in section 165.73 of the penal law,
53 forgery in the second degree as defined in section 170.10 of the penal
54 law, forgery in the first degree as defined in section 170.15 of the
55 penal law, criminal possession of a forged instrument in the second
56 degree as defined in section 170.25 of the penal law, criminal

1 possession of a forged instrument in the first degree as defined in
2 section 170.30 of the penal law, criminal possession of forgery devices
3 as defined in section 170.40 of the penal law, falsifying business
4 records in the first degree as defined in section 175.10 of the penal
5 law, tampering with public records in the first degree as defined in
6 section 175.25 of the penal law, offering a false instrument for filing
7 in the first degree as defined in section 175.35 of the penal law, issu-
8 ing a false certificate as defined in section 175.40 of the penal law,
9 unlawful procurement of clients, patients or customers in the second
10 degree as defined in section 176.90 of the penal law, unlawful procure-
11 ment of clients, patients or customers in the first degree as defined in
12 section 176.95 of the penal law, criminal diversion of prescription
13 medications and prescriptions in the second degree as defined in section
14 178.20 of the penal law, criminal diversion of prescription medications
15 and prescriptions in the first degree as defined in section 178.25 of
16 the penal law, residential mortgage fraud in the fourth degree as
17 defined in section 187.10 of the penal law, residential mortgage fraud
18 in the third degree as defined in section 187.15 of the penal law, resi-
19 dential mortgage fraud in the second degree as defined in section 187.20
20 of the penal law, residential mortgage fraud in the first degree as
21 defined in section 187.25 of the penal law, escape in the second degree
22 as defined in section 205.10 of the penal law, escape in the first
23 degree as defined in section 205.15 of the penal law, absconding from
24 temporary release in the first degree as defined in section 205.17 of
25 the penal law, promoting prison contraband in the first degree as
26 defined in section 205.25 of the penal law, hindering prosecution in the
27 second degree as defined in section 205.60 of the penal law, hindering
28 prosecution in the first degree as defined in section 205.65 of the
29 penal law, sex trafficking as defined in section 230.34 of the penal
30 law, sex trafficking of a child as defined in section 230.34-a of the
31 penal law, criminal possession of a weapon in the third degree as
32 defined in subdivisions two, three and five of section 265.02 of the
33 penal law, criminal possession of a weapon in the second degree as
34 defined in section 265.03 of the penal law, criminal possession of a
35 weapon in the first degree as defined in section 265.04 of the penal
36 law, manufacture, transport, disposition and defacement of weapons and
37 dangerous instruments and appliances defined as felonies in subdivisions
38 one, two, and three of section 265.10 of the penal law, sections 265.11,
39 265.12 and 265.13 of the penal law, or prohibited use of weapons as
40 defined in subdivision two of section 265.35 of the penal law, relating
41 to firearms and other dangerous weapons, criminal manufacture, sale or
42 transport of an undetectable firearm, rifle or shotgun as defined in
43 section 265.50 of the penal law, or failure to disclose the origin of a
44 recording in the first degree as defined in section 275.40 of the penal
45 law;

46 § 5. This act shall take effect on the first of November next succeed-
47 ing the date upon which it shall have become a law.