

STATE OF NEW YORK

1190

2025-2026 Regular Sessions

IN SENATE

January 8, 2025

Introduced by Sens. ADDABBO, CLEARE, COMRIE, FERNANDEZ, GOUNARDES, JACKSON, KRUEGER, MATTERA, MAY, PARKER, PERSAUD, RAMOS, SCARCELLA-SPANTON, SEPULVEDA, SKOUFIS, STAVISKY, WEIK -- 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 on duty auxiliary police officers

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

1 Section 1. Section 10.00 of the penal law is amended by adding a new
2 subdivision 23 to read as follows:

3 23. "On-duty auxiliary police officer" means a member of an auxiliary
4 police program that is organized and maintained by a state or local
5 police department who is acting as an auxiliary police officer at the
6 time of the act or omission.

7 § 2. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the
8 penal law, paragraph (b) as amended by chapter 94 of the laws of 2020
9 and paragraph (c) as amended by chapter 23 of the laws of 2024, are
10 amended to read as follows:

11 (b) Class C violent felony offenses: an attempt to commit any of the
12 class B felonies set forth in paragraph (a) of this subdivision; aggra-
13 vated criminally negligent homicide as defined in section 125.11, aggra-
14 vated manslaughter in the second degree as defined in section 125.21,
15 aggravated sexual abuse in the second degree as defined in section
16 130.67, assault on a peace officer, police officer, firefighter or emer-
17 gency medical services professional as defined in section 120.08,
18 assault on an on-duty auxiliary police officer as defined in section
19 120.08-a, assault on a judge as defined in section 120.09, gang assault
20 in the second degree as defined in section 120.06, strangulation in the
21 first degree as defined in section 121.13, aggravated strangulation as
22 defined in section 121.13-a, burglary in the second degree as defined in
23 section 140.25, robbery in the second degree as defined in section

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

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1 160.10, criminal possession of a weapon in the second degree as defined
2 in section 265.03, criminal use of a firearm in the second degree as
3 defined in section 265.08, criminal sale of a firearm in the second
4 degree as defined in section 265.12, criminal sale of a firearm with the
5 aid of a minor as defined in section 265.14, aggravated criminal
6 possession of a weapon as defined in section 265.19, soliciting or
7 providing support for an act of terrorism in the first degree as defined
8 in section 490.15, hindering prosecution of terrorism in the second
9 degree as defined in section 490.30, and criminal possession of a chemi-
10 cal weapon or biological weapon in the third degree as defined in
11 section 490.37.

12 (c) Class D violent felony offenses: an attempt to commit any of the
13 class C felonies set forth in paragraph (b); reckless assault of a child
14 as defined in section 120.02, assault in the second degree as defined in
15 section 120.05, menacing a police officer or peace officer as defined in
16 section 120.18, menacing an on-duty auxiliary police officer as defined
17 in section 120.21, stalking in the first degree, as defined in subdivi-
18 sion one of section 120.60, strangulation in the second degree as
19 defined in section 121.12, rape in the second degree as defined in
20 section 130.30, a crime formerly defined in section 130.45, sexual abuse
21 in the first degree as defined in section 130.65, course of sexual
22 conduct against a child in the second degree as defined in section
23 130.80, aggravated sexual abuse in the third degree as defined in
24 section 130.66, facilitating a sex offense with a controlled substance
25 as defined in section 130.90, labor trafficking as defined in paragraphs
26 (a) and (b) of subdivision three of section 135.35, criminal possession
27 of a weapon in the third degree as defined in subdivision five, six,
28 seven, eight, nine or ten of section 265.02, criminal sale of a firearm
29 in the third degree as defined in section 265.11, intimidating a victim
30 or witness in the second degree as defined in section 215.16, soliciting
31 or providing support for an act of terrorism in the second degree as
32 defined in section 490.10, and making a terroristic threat as defined in
33 section 490.20, falsely reporting an incident in the first degree as
34 defined in section 240.60, placing a false bomb or hazardous substance
35 in the first degree as defined in section 240.62, placing a false bomb
36 or hazardous substance in a sports stadium or arena, mass transportation
37 facility or enclosed shopping mall as defined in section 240.63, aggra-
38 vated unpermitted use of indoor pyrotechnics in the first degree as
39 defined in section 405.18, and criminal manufacture, sale, or transport
40 of an undetectable firearm, rifle or shotgun as defined in section
41 265.50.

42 § 3. Section 120.05 of the penal law is amended by adding a new subdivi-
43 sion 10-a to read as follows:

44 10-a. With the intent to prevent an on-duty auxiliary police officer
45 from performing a lawful duty, by means including releasing or failing
46 to control an animal under circumstances evincing the actor's intent
47 that the animal obstruct the lawful activity of such on-duty auxiliary
48 police officer, such person causes physical injury to such on-duty
49 auxiliary police officer.

50 § 4. The penal law is amended by adding a new section 120.08-a to read
51 as follows:

52 § 120.08-a Assault on an on-duty auxiliary police officer.

53 A person is guilty of assault on an on-duty auxiliary police officer
54 when, with intent to prevent an on-duty auxiliary police officer from
55 performing a lawful duty, such person causes serious physical injury to
56 such an on-duty auxiliary police officer.

Assault on an on-duty auxiliary police officer is a class C felony.

§ 5. Section 120.13 of the penal law, as amended by chapter 765 of the laws of 2005, is amended to read as follows:

§ 120.13 Menacing in the first degree.

A person is guilty of menacing in the first degree when ~~[he or she]~~ such person commits the crime of menacing in the second degree and has been previously convicted of the crime of menacing in the second degree or the crime of menacing a police officer or peace officer, or the crime of menacing an on-duty auxiliary police officer within the preceding ten years.

Menacing in the first degree is a class E felony.

§ 6. The penal law is amended by adding a new section 120.21 to read as follows:

§ 120.21 Menacing an on-duty auxiliary police officer.

A person is guilty of menacing an on-duty auxiliary police officer when such person intentionally places or attempts to place an on-duty auxiliary police officer in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon, knife, pistol, revolver, rifle, shotgun, machine gun or other firearm, whether operable or not, where such officer was in the course of performing such officer's official duties and the defendant knew or reasonably should have known that such victim was an on-duty auxiliary police officer.

Menacing an on-duty auxiliary police officer is a class D felony.

§ 7. The penal law is amended by adding a new section 195.09 to read as follows:

§ 195.09 Obstructing the duties of an on-duty auxiliary police officer by means of a self-defense spray device.

A person is guilty of obstructing the duties of an on-duty auxiliary police officer by means of a self-defense spray device when, with the intent to prevent an on-duty auxiliary police officer from performing a lawful duty, such person causes temporary physical impairment to an on-duty auxiliary police officer by intentionally discharging a self-defense spray device, as defined in paragraph fourteen of subdivision a of section 265.20 of this part, thereby causing such temporary physical impairment.

Obstructing the duties of an on-duty auxiliary police officer by means of a self-defense spray device is a class D felony.

§ 8. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.