

STATE OF NEW YORK

3461

2025-2026 Regular Sessions

IN SENATE

January 27, 2025

Introduced by Sen. HELMING -- 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 creating the crime of stalking a police officer or peace officer

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

1 Section 1. Section 120.40 of the penal law, as added by chapter 635 of
2 the laws of 1999, paragraph b of subdivision 5 as amended by chapter 23
3 of the laws of 2024 and paragraph c of subdivision 5 as amended by
4 section 7 of part NN of chapter 55 of the laws of 2018, is amended to
5 read as follows:

6 § 120.40 Definitions.

7 For purposes of sections 120.45, 120.50, 120.55 [~~and~~], 120.60 and
8 120.80 of this article:

9 1. "Kidnapping" shall mean a kidnapping crime defined in article one
10 hundred thirty-five of this chapter.

11 2. "Unlawful imprisonment" shall mean an unlawful imprisonment felony
12 crime defined in article one hundred thirty-five of this chapter.

13 3. "Sex offense" shall mean a felony defined in article one hundred
14 thirty of this chapter, sexual misconduct, as defined in section 130.20
15 of this chapter, sexual abuse in the third degree as defined in section
16 130.55 of this chapter or sexual abuse in the second degree as defined
17 in section 130.60 of this chapter.

18 4. "Immediate family" means the spouse, former spouse, parent, child,
19 sibling, or any other person who regularly resides or has regularly
20 resided in the household of a person.

21 5. "Specified predicate crime" means:

22 a. a violent felony offense;

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

LBD07230-01-5

1 b. a crime defined in section 130.20, 130.25, 130.30, 130.55, 130.60,
2 130.70, 255.25, 255.26 or 255.27, or formerly defined in section 130.40
3 or 130.45;

4 c. assault in the third degree, as defined in section 120.00; menacing
5 in the first degree, as defined in section 120.13; menacing in the
6 second degree, as defined in section 120.14; coercion in the first
7 degree, as defined in section 135.65; coercion in the second degree, as
8 defined in section 135.61; coercion in the third degree, as defined in
9 section 135.60; aggravated harassment in the second degree, as defined
10 in section 240.30; harassment in the first degree, as defined in section
11 240.25; menacing in the third degree, as defined in section 120.15;
12 criminal mischief in the third degree, as defined in section 145.05;
13 criminal mischief in the second degree, as defined in section 145.10[7];
14 criminal mischief in the first degree, as defined in section 145.12;
15 criminal tampering in the first degree, as defined in section 145.20;
16 arson in the fourth degree, as defined in section 150.05; arson in the
17 third degree, as defined in section 150.10; criminal contempt in the
18 first degree, as defined in section 215.51; endangering the welfare of a
19 child, as defined in section 260.10; or

20 d. stalking in the fourth degree, as defined in section 120.45; stalk-
21 ing in the third degree, as defined in section 120.50; stalking in the
22 second degree, as defined in section 120.55; stalking a police officer
23 or peace officer as defined in section 120.80; or

24 e. an offense in any other jurisdiction which includes all of the
25 essential elements of any such crime for which a sentence to a term of
26 imprisonment in excess of one year or a sentence of death was authorized
27 and is authorized in this state irrespective of whether such sentence
28 was imposed.

29 § 2. The penal law is amended by adding a new section 120.80 to read
30 as follows:

31 § 120.80 Stalking a police officer or peace officer.

32 A person is guilty of stalking a police officer or peace officer when:

33 1. Such person intentionally, and for no legitimate purpose, engages
34 in a course of conduct directed at a specific police officer, peace
35 officer or a person who they know or reasonably should know is a member
36 of such officer's immediate family, and knows or reasonably should know
37 that such conduct is likely to cause reasonable fear of material harm to
38 the physical health, safety or property of such officer or member of
39 such officer's immediate family;

40 2. Such person intentionally, and for no legitimate purpose, engages
41 in a course of conduct directed at a specific police officer, peace
42 officer or a person who they know or reasonably should know is a member
43 of such officer's immediate family, and knows or reasonably should know
44 that such conduct causes material harm to the mental or emotional health
45 of such officer or member of such officer's immediate family, where such
46 conduct consists of the following, telephoning or initiating communi-
47 cation or contact with such officer or a member of such officer's imme-
48 diated family, and the actor was previously clearly informed to cease
49 that conduct; or

50 3. Such person intentionally, and for no legitimate purpose,
51 approaches, within one hundred yards, the private residence or place of
52 lodging of a police officer or peace officer, without the consent of
53 such officer, for reasons related to the officer's status or service as
54 a police officer or peace officer and such purposes are for the purpose
55 of harming or intimidating the officer or the officer's immediate fami-
56 ly.

1 For purposes of subdivision two of this section, "following" shall
2 include the unauthorized tracking of a police officer, peace officer, or
3 such officer's immediate family member movements or location through the
4 use of a global positioning system or other device.

5 Stalking a police officer or peace officer is a class E felony.

6 § 3. Paragraph (t) and (u) of subdivision 4 of section 510.10 of the
7 criminal procedure law, paragraph (t) as amended and paragraph (u) as
8 added by section 2 of subpart B of part UU of chapter 56 of the laws of
9 2022, are amended and a new paragraph (v) is added to read as follows:

10 (t) any felony or class A misdemeanor involving harm to an identifi-
11 able person or property, or any charge of criminal possession of a
12 firearm as defined in section 265.01-b of the penal law, where such
13 charge arose from conduct occurring while the defendant was released on
14 [~~his or her~~] their own recognizance, released under conditions, or had
15 yet to be arraigned after the issuance of a desk appearance ticket for a
16 separate felony or class A misdemeanor involving harm to an identifiable
17 person or property, or any charge of criminal possession of a firearm as
18 defined in section 265.01-b of the penal law, provided, however, that
19 the prosecutor must show reasonable cause to believe that the defendant
20 committed the instant crime and any underlying crime. For the purposes
21 of this subparagraph, any of the underlying crimes need not be a quali-
22 fying offense as defined in this subdivision. For the purposes of this
23 paragraph, "harm to an identifiable person or property" shall include
24 but not be limited to theft of or damage to property. However, based
25 upon a review of the facts alleged in the accusatory instrument, if the
26 court determines that such theft is negligible and does not appear to be
27 in furtherance of other criminal activity, the principal shall be
28 released on [~~his or her~~] their own recognizance or under appropriate
29 non-monetary conditions; [~~or~~]

30 (u) criminal possession of a weapon in the third degree as defined in
31 subdivision three of section 265.02 of the penal law or criminal sale of
32 a firearm to a minor as defined in section 265.16 of the penal law[+];
33 or

34 (v) stalking a police officer or peace officer as defined under
35 section 120.80 of the penal law.

36 § 4. Paragraphs (xx) and (xxi) of paragraph (b) of subdivision 1 of
37 section 530.20 of the criminal procedure law, paragraph (xx) as amended
38 and paragraph (xxi) as added by section 4 of subpart C of part UU of
39 chapter 56 of the laws of 2022, are amended and a new paragraph (xxii)
40 is added to read as follows:

41 (xx) any felony or class A misdemeanor involving harm to an identifi-
42 able person or property, or any charge of criminal possession of a
43 firearm as defined in section 265.01-b of the penal law where such
44 charge arose from conduct occurring while the defendant was released on
45 [~~his or her~~] their own recognizance, released under conditions, or had
46 yet to be arraigned after the issuance of a desk appearance ticket for a
47 separate felony or class A misdemeanor involving harm to an identifiable
48 person or property, provided, however, that the prosecutor must show
49 reasonable cause to believe that the defendant committed the instant
50 crime and any underlying crime. For the purposes of this subparagraph,
51 any of the underlying crimes need not be a qualifying offense as defined
52 in this subdivision. For the purposes of this paragraph, "harm to an
53 identifiable person or property" shall include but not be limited to
54 theft of or damage to property. However, based upon a review of the
55 facts alleged in the accusatory instrument, if the court determines that
56 such theft is negligible and does not appear to be in furtherance of

1 other criminal activity, the principal shall be released on [~~his or her~~
2 ~~their~~ own recognizance or under appropriate non-monetary conditions;
3 [~~or~~]

4 (xxi) criminal possession of a weapon in the third degree as defined
5 in subdivision three of section 265.02 of the penal law or criminal sale
6 of a firearm to a minor as defined in section 265.16 of the penal
7 law[~~+~~]; or

8 (xxii) stalking a police officer or peace officer as defined under
9 section 120.80 of the penal law.

10 § 5. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the
11 criminal procedure law, paragraph (t) as amended and paragraph (u) as
12 added by section 4 of subpart B of part UU of chapter 56 of the laws of
13 2022, are amended and a new paragraph (v) is added to read as follows:

14 (t) any felony or class A misdemeanor involving harm to an identifi-
15 able person or property, or any charge of criminal possession of a
16 firearm as defined in section 265.01-b of the penal law, where such
17 charge arose from conduct occurring while the defendant was released on
18 [~~his or her~~ ~~their~~ own recognizance, released under conditions, or had
19 yet to be arraigned after the issuance of a desk appearance ticket for a
20 separate felony or class A misdemeanor involving harm to an identifiable
21 person or property, or any charge of criminal possession of a firearm as
22 defined in section 265.01-b of the penal law, provided, however, that
23 the prosecutor must show reasonable cause to believe that the defendant
24 committed the instant crime and any underlying crime. For the purposes
25 of this subparagraph, any of the underlying crimes need not be a quali-
26 fying offense as defined in this subdivision. For the purposes of this
27 paragraph, "harm to an identifiable person or property" shall include
28 but not be limited to theft of or damage to property. However, based
29 upon a review of the facts alleged in the accusatory instrument, if the
30 court determines that such theft is negligible and does not appear to be
31 in furtherance of other criminal activity, the principal shall be
32 released on [~~his or her~~ ~~their~~ own recognizance or under appropriate
33 non-monetary conditions; [~~or~~]

34 (u) criminal possession of a weapon in the third degree as defined in
35 subdivision three of section 265.02 of the penal law or criminal sale of
36 a firearm to a minor as defined in section 265.16 of the penal law[~~+~~];
37 or

38 (v) stalking a police officer or peace officer as defined under
39 section 120.80 of the penal law.

40 § 6. This act shall take effect on the thirtieth day after it shall
41 have become a law.