STATE OF NEW YORK

4741

2025-2026 Regular Sessions

IN SENATE

February 12, 2025

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

AN ACT to amend the penal law, the general business law and the labor law, in relation to schemes to defraud and establishing the crime of harassment of a legal services client; and to repeal certain provisions of the penal law relating thereto

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

Section 1. Legislative intent. The legislature finds that fraudulent schemes and unethical practices, particularly by legal professionals entrusted with significant responsibilities, undermine public trust and harm clients. This act aims to strengthen protections against such conduct, ensure accountability, and uphold fairness and transparency in legal services and professional interactions.

§ 2. Sections 190.60 and 190.65 of the penal law are REPEALED and five new sections 190.60, 190.62, 190.64, 190.66 and 190.68 are added to read as follows:

§ 190.60 Scheme to defraud in the fifth degree.

A person is guilty of scheme to defraud in the fifth degree when they engage in a systematic, ongoing course of conduct with intent to defraud more than one person or to obtain property from more than one person by false pretenses, representations, or promises, and so obtain property from one or more such persons.

Scheme to defraud in the fifth degree is a class A misdemeanor.

§ 190.62 Scheme to defraud in the fourth degree.

A person is guilty of scheme to defraud in the fourth degree when they:

1. Engage in such conduct with intent to defraud ten or more persons; or

2. Obtain property exceeding one thousand dollars in value; or

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

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3. Defraud individuals, including two or more vulnerable elderly persons; or

4. Dispose of solid waste on the property of others, causing damage exceeding one thousand dollars.

Scheme to defraud in the fourth degree is a class E felony.

§ 190.64 Scheme to defraud in the third degree.

A person is guilty of scheme to defraud in the third degree when they:

1. Engage in such conduct with intent to defraud twenty-five or more persons; or

2. Obtain property exceeding three thousand dollars in value; or

3. Defraud individuals, including two or more vulnerable elderly persons, obtaining property exceeding one thousand dollars in value.

Scheme to defraud in the third degree is a class D felony.

§ 190.66 Scheme to defraud in the second degree.

A person is guilty of scheme to defraud in the second degree when they:

1. Engage in such conduct with intent to defraud one hundred or more persons; or

2. Obtain property exceeding fifty thousand dollars in value; or

3. Defraud individuals, including two or more vulnerable elderly persons, obtaining property exceeding three thousand dollars in value.

Scheme to defraud in the second degree is a class C felony.

§ 190.68 Scheme to defraud in the first degree.

A person is guilty of scheme to defraud in the first degree when they:

1. Engage in such conduct with intent to defraud one thousand or more persons; or

2. Obtain property exceeding one million dollars in value; or

3. Defraud individuals, including two or more vulnerable elderly persons, obtaining property exceeding fifty thousand dollars in value.

Scheme to defraud in the first degree is a class B felony.

§ 3. Subdivision 2 of section 496.06 of the penal law, as added by section 14 of subpart A of part H of chapter 55 of the laws of 2014, is amended to read as follows:

2. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 190.60 (scheme to defraud in the [~~second~~] fifth degree); section 190.62 (scheme to defraud in the fourth degree); section 190.64 (scheme to defraud in the third degree); section 190.66 (scheme to defraud in the second degree); or section [~~190.65~~] 190.68 (scheme to defraud in the first degree).

§ 4. Paragraph f of subdivision 1 of section 410 of the general business law, as amended by chapter 189 of the laws of 2018, is amended to read as follows:

f. Conviction of any of the following crimes subsequent to the issuance of a license or registration pursuant to this article: fraud pursuant to sections 170.10, 170.15, 176.15, 176.20, 176.25, 176.30, 190.62, 190.64, 190.66 and [~~190.65~~] 190.68; falsifying business records pursuant to section 175.10; grand larceny pursuant to article 155; bribery pursuant to sections 180.03, 180.08, 180.15, 180.25, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.45, 200.50; perjury pursuant to sections 210.10, 210.15, 210.40; assault pursuant to sections 120.05, 120.10, 120.11, 120.12; robbery pursuant to article 160; homicide pursuant to sections 125.25 and 125.27; manslaughter pursuant to sections 125.15 and

125.20; kidnapping and unlawful imprisonment pursuant to sections 135.10, 135.20 and 135.25; unlawful weapons possession pursuant to sections 265.02, 265.03 and 265.04; criminal use of a weapon pursuant to sections 265.08 and 265.09; criminal sale of a weapon pursuant to sections 265.11 and 265.12; compelling prostitution pursuant to section 230.33; sex trafficking pursuant to section 230.34; sex trafficking of a child pursuant to section 230.34-a; and sex offenses pursuant to article 130 of the penal law. Provided, however, that for the purposes of this article, none of the following shall be considered criminal convictions or reported as such: (i) a conviction for which an executive pardon has been issued pursuant to the executive law; (ii) a conviction which has been vacated and replaced by a youthful offender finding pursuant to article seven hundred twenty of the criminal procedure law, or the applicable provisions of law of any other jurisdiction; or (iii) a conviction the records of which have been expunged or sealed pursuant to the applicable provisions of the laws of this state or of any other jurisdiction; and (iv) a conviction for which other evidence of successful rehabilitation to remove the disability has been issued.

§ 5. Clause (ii) of subparagraph 2 of paragraph b of subdivision 3 of section 220-b of the labor law, as amended by chapter 7 of the laws of 2008, is amended to read as follows:

(ii) coercion in the first degree as defined in section 135.65 of the penal law, grand larceny in the fourth degree as defined in section 155.30 of the penal law, grand larceny in the third degree as defined in section 155.35 of the penal law, grand larceny in the second degree as defined in section 155.40 of the penal law, grand larceny in the first degree as defined in section 155.42 of the penal law, forgery in the second degree as defined in section 170.10 of the penal law, forgery in the first degree as defined in section 170.15 of the penal law, criminal possession of a forged instrument in the second degree as defined in section 170.25 of the penal law, criminal possession of a forged instrument in the first degree as defined in section 170.30 of the penal law, criminal possession of forgery devices as defined in section 170.40 of the penal law, falsifying business records in the first degree as defined in section 175.10 of the penal law, tampering with public records in the first degree as defined in section 175.25 of the penal law, offering a false instrument for filing in the first degree as defined in section 175.35 of the penal law, issuing a false certificate as defined in section 175.40 of the penal law, insurance fraud in the fourth degree as defined in section 176.15 of the penal law, insurance fraud in the third degree as defined in section 176.20 of the penal law, insurance fraud in the second degree as defined in section 176.25 of the penal law, insurance fraud in the first degree as defined in section 176.30 of the penal law, aggravated insurance fraud as defined in section 176.35 of the penal law, commercial bribing in the first degree as defined in section 180.03 of the penal law, commercial bribe receiving in the first degree as defined in section 180.08 of the penal law, bribing a labor official as defined in section 180.15 of the penal law, bribe receiving by a labor official as defined in section 180.25 of the penal law, criminal impersonation in the second degree as defined in section 190.25 of the penal law, criminal impersonation in the first degree as defined in section 190.26 of the penal law, criminal usury in the second degree as defined in section 190.40 of the penal law, criminal usury in the first degree as defined in section 190.42 of the penal law, scheme to defraud in the first degree as defined in section [~~190.65~~] 190.68 of the penal law, bribery in the third degree as defined

in section 200.00 of the penal law, bribery in the second degree as defined in section 200.03 of the penal law, bribery in the first degree as defined in section 200.04 of the penal law, bribe receiving in the third degree as defined in section 200.10 of the penal law, bribe receiving in the second degree as defined in section 200.11 of the penal law, bribe receiving in the first degree as defined in section 200.12 of the penal law, rewarding official misconduct in the second degree as defined in section 200.20 of the penal law, rewarding official misconduct in the first degree as defined in section 200.22 of the penal law, bribe giving for public office as defined in section 200.45 of the penal law, or the attempted commission of any of the offenses set forth in this paragraph, provided that such offense constitutes a felony; or

§ 6. 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 145.12 relating to criminal mischief; article one hundred fifty relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health care fraud; article one hundred sixty relating to robbery; sections 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of stolen property; sections 165.72 and 165.73 relating to trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating to criminal diversion of prescription medications and prescriptions; sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 200.56, 215.00, 215.05 and 215.19 relating to bribery; sections 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage fraud, sections 190.40 and 190.42 relating to criminal usury; [~~section 190.65~~] sections 190.62, 190.64, 190.66 and 190.68 relating to schemes to defraud; any felony defined in article four hundred ninety-six; sections 205.60 and 205.65 relating to hindering prosecution; sections 210.10, 210.15, and 215.51 relating to perjury and contempt; section 215.40 relating to tampering with physical evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60, 220.65 and 220.77 relating to controlled substances; sections 225.10 and 225.20 relating to gambling; sections 230.25, 230.30, and 230.32 relating to promoting prostitution; section 230.34 relating to sex trafficking; section 230.34-a relating to sex trafficking of a child; sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity; sections 263.10 and 263.15 relating to promoting a sexual performance by a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the provisions of section 265.10 which constitute a felony relating to firearms and other dangerous weapons; sections 265.14 and 265.16 relating to criminal sale of a firearm; section 265.50 relating to the criminal manufacture, sale or transport of an undetectable firearm, rifle or shotgun; section 275.10, 275.20, 275.30, or 275.40 relating to unauthor-

ized recordings; and sections 470.05, 470.10, 470.15 and 470.20 relating to money laundering; or

§ 7. Paragraph (d) of subdivision 2 of section 155.05 of the penal law is amended to read as follows:

(d) By false promise.

(i) A person obtains property by false promise when, pursuant to a scheme to defraud, [~~he~~] such person obtains property of another by means of a representation, express or implied, that [~~he~~] such person or a third person will [~~in the future~~] engage in [~~particular~~] future conduct, [~~and when he does not intend to engage in such conduct or, as the case may be, does not believe that the third person intends~~] while intending not to engage in such conduct.

[~~In any prosecution for larceny based upon a false promise, the defendant's intention or belief that the promise would not be performed may not be established by or inferred from the fact alone that such promise was not performed. Such a finding may be based only upon evidence establishing that the facts and circumstances of the case are wholly consistent with guilty intent or belief and wholly inconsistent with innocent intent or belief, and excluding to a moral certainty every hypothesis except that of the defendant's intention or belief that the promise would not be performed;~~]

(ii) In cases involving lawyers obtaining property from multiple clients, property obtained from multiple clients across counties may be aggregated into a single larceny count.

(iii) The defendant's intention not to perform the promise must be proven by evidence wholly consistent with guilty intent and excluding all innocent explanations.

§ 8. Title N of the penal law is amended by adding a new article 243 to read as follows:

ARTICLE 243

HARASSMENT OF LEGAL SERVICES CLIENTS

Section 243.00 Harassment of a legal services client in the second degree.

243.05 Harassment of a legal services client in the first degree.

§ 243.00 Harassment of a legal services client in the second degree.

A lawyer is guilty of harassment of a legal services client in the second degree when, with intent to induce a client to retain services or pay unreasonable fees, such lawyer intentionally:

1. Fails to return the client's documents upon request; or

2. Fails to return unused funds from a retainer upon request.

Harassment of a legal services client in the second degree is a class A misdemeanor.

§ 243.05 Harassment of a legal services client in the first degree.

A lawyer is guilty of harassment of a legal services client in the first degree when, with intent to induce a client to retain services or pay unreasonable fees, such lawyer threatens, expressly or impliedly, to reveal confidential information, including but not limited to the client's immigration status.

Harassment of a legal services client in the first degree is a class E felony.

§ 9. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, para-

graph, section or part of this act directly involved in the controversy in which the judgment shall have been rendered.

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