

S T A T E O F N E W Y O R K

2111

2009-2010 Regular Sessions

I N S E N A T E

February 11, 2009

Introduced by Sens. GOLDEN, ALESİ, DeFRANCISCO, O. JOHNSON, LANZA, LARKIN, LAVALLE, MORAHAN, PADAVAN, ROBACH, SALAND, SEWARD, SKELOS -- 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 establishing the offense of unlawful violent recording, and including in the offense of conspiracy in the fourth degree, the commission of a crime involving physical injury while knowing an image thereof is being viewed, broadcast or recorded

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

1 Section 1. Subdivision 3 of section 105.10 of the penal law, as
2 amended by chapter 489 of the laws of 2000, is amended and a new subdi-
3 vision 4 is added to read as follows:
4 3. the felony of money laundering in the third degree as defined in
5 section 470.10 of this chapter, be performed, he or she agrees with one
6 or more persons to engage in or cause the performance of such
7 conduct[.]; OR
8 4. A CRIME INVOLVING THE CAUSING OF PHYSICAL INJURY TO ANOTHER PERSON
9 BE PERFORMED, WHEN HE OR SHE KNOWS THAT AN IMAGING DEVICE IS BEING USED
10 TO VIEW, BROADCAST OR RECORD THE COMMISSION OF SUCH CRIME. FOR THE
11 PURPOSES OF THIS SUBDIVISION, "IMAGING DEVICE" MEANS ANY MECHANICAL,
12 DIGITAL OR ELECTRONIC VIEWING DEVICE, CAMERA, CELLULAR PHONE OR ANY
13 OTHER INSTRUMENT CAPABLE OF RECORDING, STORING OR TRANSMITTING VISUAL
14 IMAGES THAT CAN BE UTILIZED TO OBSERVE A PERSON.
15 S 2. The penal law is amended by adding a new section 245.15 to read
16 as follows:
17 S 245.15 UNLAWFUL VIOLENT RECORDING.
18 1. A PERSON IS GUILTY OF UNLAWFUL VIOLENT RECORDING WHEN, HE OR SHE
19 COMMITS OR ATTEMPTS TO COMMIT ASSAULT IN THE THIRD DEGREE AS DEFINED IN
20 SECTION 120.00 OF THIS CHAPTER OR A VIOLENT FELONY OFFENSE AS DEFINED IN

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

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1 SUBDIVISION ONE OF SECTION 70.02 OF THIS CHAPTER, WHILE KNOWING THAT AN
2 IMAGING DEVICE IS BEING USED TO VIEW, BROADCAST OR RECORD THE COMMISSION
3 OR ATTEMPTED COMMISSION OF SUCH OFFENSE.

4 2. AS USED IN THIS SECTION, "IMAGING DEVICE" MEANS ANY MECHANICAL,
5 DIGITAL OR ELECTRONIC VIEWING DEVICE, CAMERA, CELLULAR PHONE OR ANY
6 OTHER INSTRUMENT CAPABLE OF RECORDING, STORING OR TRANSMITTING VISUAL
7 IMAGES THAT CAN BE UTILIZED TO OBSERVE A PERSON.

8 UNLAWFUL VIOLENT RECORDING IS A CLASS E FELONY.

9 S 3. Paragraph (d) of subdivision 1 of section 70.02 of the penal law,
10 as amended by chapter 7 of the laws of 2007, is amended to read as
11 follows:

12 (d) Class E violent felony offenses: an attempt to commit any of the
13 felonies of criminal possession of a weapon in the third degree as
14 defined in subdivision five, six, seven or eight of section 265.02 as a
15 lesser included offense of that section as defined in section 220.20 of
16 the criminal procedure law, persistent sexual abuse as defined in
17 section 130.53, aggravated sexual abuse in the fourth degree as defined
18 in section 130.65-a, falsely reporting an incident in the second degree
19 as defined in section 240.55 and placing a false bomb or hazardous
20 substance in the second degree as defined in section 240.61; AND
21 CONSPIRACY IN THE FOURTH DEGREE AS DEFINED IN SUBDIVISION FOUR OF
22 SECTION 105.10 AND UNLAWFUL VIOLENT RECORDING AS DEFINED IN SECTION
23 245.15 OF THIS CHAPTER.

24 S 4. Subdivision 2 of section 70.25 of the penal law, as amended by
25 chapter 56 of the laws of 1984, is amended to read as follows:

26 2. When more than one sentence of imprisonment is imposed on a person
27 for two or more offenses committed through a single act or omission, or
28 through an act or omission which in itself constituted one of the
29 offenses and also was a material element of the other, the sentences,
30 except if one or more of such sentences is for a violation of SUBDIVI-
31 SION FOUR OF SECTION 105.10 OR section 245.15 OR 270.20 of this chapter,
32 must run concurrently.

33 S 5. This act shall take effect on the first of November next succeed-
34 ing the date on which it shall have become a law.